

## Chapter Four

### Bali—an attractive soft target?

I think Australians, as a whole, thought of Bali as the safest place on earth to be.<sup>1</sup>

It remains the case, though, that the intelligence agencies did not collect intelligence that pointed specifically to Bali as a venue, or to the fact of an attack at the time and place when it occurred. Based on this intelligence, the government did warn Australians, through its travel advisory process, of a somewhat increased level of risk in travelling in Indonesia but did not specifically identify Bali as a particular point of risk.<sup>2</sup>

4.1 On numerous occasions, the Committee sought to explore the extent to which the mere fact of there being a concentration of Westerners in Bali—particularly Australians—should have been taken into account by the intelligence agencies in making their assessments of the risks to Australians in Indonesia.

4.2 The consistent view put to the Committee by the agencies was that the presence of large numbers of Australians in Bali did not make Bali more vulnerable to terrorist attack than other places in Indonesia that tourists might frequent—such as Jakarta and Yogyakarta. The reply was usually accompanied by the statement that the agencies did not have any information specifically related to Bali that would justify singling Bali out.

4.3 The majority of the Committee has some difficulty accepting the first element of this response. The second element is accepted and understood by the Committee.

4.4 On the matter of 'singling out' one location from another, it is obvious that the possession of threat information specific to a location would warrant its 'singling out'. But the Committee also considers that it is not only the possession of 'specific information' that might justify a differentiation between locations. Such differentiation or 'singling out' may well occur because the overall intelligence assessment (or what ONA called 'analytical judgement') justifies it.

4.5 If one only differentiated threats according to *specific* information becoming available about the realisation of that threat at place 'A' as opposed to place 'B', differentiation of threats might be a rare event. While only specific information could be used to identify a particular location as a definite target and thus prompt the issuing of the highest level of threat alert, it is perfectly proper that agencies' analytical

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1 *Transcript of Evidence*, 25 September 2003, p199 (David Marshall, son of Bali victim)

2 *Transcript of Evidence*, 27 November 2003, pp. 313–314 (White, ASPI).

judgements about the vulnerability of, and risk attached to, a particular place might prompt a warning to be issued in respect of that place.

4.6 The Committee appreciates that ASIO had a threat assessment of HIGH across all Indonesia (and hence Bali as well), from December 2001, and that this meant that there was 'Current intent and capability to attack Australia's interests...established circumstantially, but not confirmed by reliable intelligence'. The Committee also knows that ASIO's next (and highest) level corresponds to 'Current intention to attack Australia's interests is confirmed by reliable intelligence'—and that such confirmation was *never* available to Australian agencies.

I would like to say very clearly that no-one—not DFAT, not ONA and not anybody else—is suggesting that there was at any time in any discussion either with the minister or with DFAT any suggestion that there was any specific actionable information that related to the possibility of a bomb in Bali. It is very important that we all understand that.<sup>3</sup>

4.7 There nevertheless remains a considerable spectrum of risk between the threat 'established circumstantially but not confirmed' and the threat 'confirmed by reliable intelligence'. The parameters of 'established circumstantially' are relatively broad—the parameters of 'reliably confirmed' are very tight.

4.8 In the Committee's view, the boundaries of the penultimate threat category are fairly flexible, and the existence of carefully defined categories should not limit an agency's capacity, nor dilute its obligation, to be as illuminating as possible about a threat, and to give optimal guidance and information, within the envelope of that particular threat assessment level.

4.9 This is not to invite analysts into the realm of pure conjecture or the drawing of excessively long bows. It is merely to remind agencies—and the consumers of the intelligence that agencies deliver—that intelligence is not just about assembling specific information about things that are (more or less) known. It is about analysing, contextualising and interpreting that information in order to deliver to decision-makers a balanced account about the way an enemy might act or a threat unfold.

4.10 No less an authority on these matters than the CIA, in an *Analytic Workbook for Intelligence* observes: 'The classical function of intelligence is to make predictions about the future'.<sup>4</sup> This is not 'crystal ball' nonsense. It is about drawing (usually very limited) pieces of information out of the noise of data and misinformation, and relying largely on the skill, knowledge, experience and the in-the-shoes-of-the-terrorist imagination of the analyst to fashion sound advice about what might play out in any situation. This advice becomes a key consideration for the policy makers or the

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3 *Transcript of Evidence*, 23 June 2004, p. 528 (Gordon, ONA).

4 T G Belden, *Analytic Workbook for Intelligence* Produced by the Analysis Training Branch (OTE-IT-ATB), p. 98.

operational commanders who have to make the decisions about effective responses to possible events.

4.11 So what does this mean for the way a threat assessment might have been developed for Bali, and not just for Indonesia as a whole?

4.12 Jemaah Islamiah had managed to remain very much in the shadows for several years. The Australian agencies had been very surprised at what they learned in December 2001 from the Singapore investigations. They stressed to the Committee the near impossibility of extracting information about (let alone from) tightly knit, cell-based groups of carefully recruited militants, who combined modern telephony and internet with traditional, direct word-of-mouth communications.

4.13 Analysts would therefore have been very much reliant on what they were able to glean more generally about how these groups operated; what they knew specifically from the groups' declared intentions; what they understood to be their links with international terrorists; what was appreciated about the phenomenon of bin Laden-inspired 'global jihad'; what was known about the ready availability of weapons and explosives, the porousness of borders, and the limited domestic constraints on extremist activity.

4.14 And so throughout 2002, Australia's intelligence agencies spent much of their time focused on the rise and rise of regional extremism, and assessing the terrorist threat to Australians and Australian interests. What they discerned was undoubted danger – but specific details about how that danger would be made manifest were simply not available and could not readily be unearthed.

4.15 Australia's growing profile as an ally of the United States, and the ardent portrayal of Australia by extremists as an anti-Islamic, 'crusader' country, no doubt drew both the ire and attention of terrorist cells seeking soft targets among the US-led group of Western nations. In Indonesia this was compounded by what was widely-regarded in that country as an Australian betrayal with respect to its intervention in East Timor.

4.16 As well, it seems self-evident —given JI's previous history of avoiding detection and its almost family-like cell-based structure—that it would have been extremely unlikely that agencies would find themselves suddenly in possession of specific information about a JI terrorist attack in any particular place in Indonesia.

4.17 The Committee has noted earlier how Osama bin Laden's fatwah-like declarations, international developments in the War on Terror and Australia's burgeoning anti-terrorist profile combined to prompt ASIO to issue updated threat advice. Under these conditions it also seems inescapable that there would sooner or later be a significant terrorist attack somewhere in the archipelago. It was also increasingly likely— given the tightening of physical security around diplomatic and military installations—that the attack would be against a 'soft target'.

4.18 Thus armed with an array of what the CIA's *Analytic Workbook* calls 'combinations and hierarchies of descriptive and inferential evidence' the Australian agencies' intelligence officers would have set about their job of analysing, weighing up, hypothesising, comparing, challenging, testing, checking, linking—in short, carrying out all the myriad tasks of intelligence assessment.

These requirements all involve inference based upon an often enormous amount of data. Our essential message...is that the analyst, attempting to bring order out of chaos in such inferences, must apply both deductive and inductive reasoning in the generation and use of the principal ingredients of such inferences: hypotheses, evidence and assumptions.<sup>5</sup>

4.19 The Committee was struck by the following account, by ONA's David Farmer, of how intelligence analysts go about their business. He offered it in response to a question about the way he assessed localities and institutions to be potential targets.

The way that I developed my trade craft—I was formerly in the Army Intelligence Corps—is that we would identify what we believed would be the most likely courses of action of our enemy. We would try and put ourselves in the shoes of our enemy, and it was through that trade craft that Bali and those sorts of targets were foremost in my mind.<sup>6</sup>

4.20 To some extent it seems to the Committee self-evident that an analyst—especially when they were involved with assessing threats to their country's nationals or their country's interests—would 'try and put [themselves] in the shoes of [the] enemy'. It is from precisely this type of analytical strategy that clubs and bars patronised by Westerners emerged - along with airports, schools and expatriates' businesses - as the 'attractive', 'high on terrorists' lists', 'very viable' targets that they were variously labelled in Australian and foreign intelligence reports, briefings and in evidence from analysts appearing before the Committee.

4.21 Applying the intelligence 'trade craft' to the circumstances and dynamics of regional terrorism, and to the 'combinations and hierarchies of descriptive and inferential evidence' that was increasingly available to Australian analysts from December 2001, the majority of the Committee believes that a case can reasonably be made for assessing Bali's vulnerability as differentiable from other possible targets in Indonesia—including other soft targets. This case can be further supported by the fact that, in Bali, there was a distinctively large concentration of Australians and other Westerners in a place of symbolic and economic significance. Bali was, in the words of one witness familiar with security issues, 'the biggest soft target around if you were after Australians'.<sup>7</sup>

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5 David Schum (adapted) , *Analytic Workbook for Intelligence* Produced by the Analysis Training Branch (OTE-IT-ATB), p. 14.

6 *Transcript of Evidence*, 28 May 2004, p. 444 (Farmer, ONA).

7 *Transcript of Evidence*, 27 November 2003, p. 316 (White, ASPI).

4.22 Before pressing such a case, however, the views of the intelligence agencies about the vulnerability of Bali should be clearly set out.

With regard to...the likelihood of looking at soft targets, yes, there was a likelihood, but all the information we [DIO] had up until that stage...related to other targets, such as Western embassies and targets of that type, which you would not categorise as soft targets. So, whilst [one] can speculate about the likelihood of soft targets, there was no firm information about that...[T]hroughout Indonesia and in fact throughout South–East Asia there are many locations where Westerners gather at what you might call soft targets...You would think of Bali but you would not only think of Bali.<sup>8</sup>

No, we [DIO] did not discuss [Bali's] particular attractiveness as you say. There were a range of indicators from the intelligence which suggested that there were a range of attractive targets across South–East Asia, including locations such as embassies, a number of facilities and industrial complexes which were owned by Western companies, and Western businesses in some of the major cities in Indonesia. There were things like Western schools and nightclubs on that list as well. I suppose I would disagree slightly with the implication in your question that there was a particularly attractive target in Bali that stood out amongst all the others. It was one of a range of attractive targets.<sup>9</sup>

Within the [ministerial] brief itself we [ONA] covered a range of possible targets. Hotels, nightclubs, airlines and the airport in Denpasar were all covered. We did not do those specifically because there were Australians there; it was because they were seen to be very viable targets for Jemaah Islamiah.<sup>10</sup>

We [ONA] gave to the officers present essentially the same brief we gave to the Minister for Foreign Affairs....We answered the question pretty much in the same way by addressing why we thought those sorts of targets would be high on JI's list.<sup>11</sup>

[T]here were Australians elsewhere in Indonesia too. There was nothing specific about Bali in the intelligence that we had...There was no basis for us [ONA] to point at Bali as a more likely target than anywhere else.<sup>12</sup>

I still think that would have been giving an artificial precision to the intelligence, which did not point specifically at Bali. The issue of where Australians were is more in the field of threat assessment and travel advisory activity. Our [ONA's] role is to give a reading of the intelligence as we see it.

I [ASIO] draw attention to the fact that...there are a whole range of Western interests in South–East Asia which terrorists could have targeted if

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8 *Transcript of Evidence*, 28 May 2004, p. 422 (Lewincamp, DIO).

9 *Transcript of Evidence*, 28 May 2004, p. 427 (Lewincamp, DIO).

10 *Transcript of Evidence*, 28 May 2004, p. 434 (Farmer, ONA).

11 *Transcript of Evidence*, 28 May 2004, p. 439 (Farmer, ONA).

12 *Transcript of Evidence*, 24 September 2003, p. 122 (Jones, ONA).

they had so wished. It was by no means self-evident that they would attack in Bali above other places. They could have, for instance, targeted certain Western interests in Thailand...in Malaysia...American clubs. They could have targeted other clubs... (and).. businesses. So, looking at the facts, I have some difficulty in reaching the conclusion that Bali should have been singled out above other targets.<sup>13</sup>

We [ASIO] could not separate out Bali from the rest of Indonesia. We were very conscious of the terrorist threat posed by JI and we were very conscious that it could pose a threat quite differently to Laskar Jihad.<sup>14</sup>

As I said, from a threat assessment perspective we did not believe there was a basis for any part of Indonesia to be less or more [at risk], and indeed we were only asked specifically about Bali on one occasion in the lead-up to Bali. We were asked quite specifically by Qantas whether there was a basis for treating Bali separately to the rest of Indonesia—and having a lower threat level—and the answer to that was no.<sup>15</sup>

We [ASIO] made the broad judgment in respect of Indonesia. We felt confident in making that judgment on the basis of the material we had available. We had no material over and above that which would have enabled us sensibly to distinguish Bali from the rest of Indonesia.<sup>16</sup>

I think I would today be answering different questions from you and others if we had taken it upon ourselves to make a judgment on Bali. If, as a result of that, a plane load of Australians had gone off to Jakarta and had been staying at the Marriott hotel when it was blown up, I would now be being asked on what basis we took it upon ourselves to make judgments on Bali when we did not have any information to base them on—and as a result of which Australians changed their holiday plans and were killed. There was no basis for us to separate out Bali from the rest of Indonesia. The fact is that 30,000 to 40,000 Australians went to Bali a year. It did not automatically follow from that fact alone that it was a more likely target for an attack than another city or another area in Indonesia frequented by westerners, including Australians.<sup>17</sup>

I have heard a lot of figures bandied around about Australians in Bali at the time. The actual figures are that an estimated 10,000 Australians were registered in Indonesia. Of those, about 5,000 were in Jakarta alone. In addition to that estimated number of residents, there were at certain peak periods about 10,000 Australian visitors to Bali prior to the attacks. It varied, depending on the season. ... Let us be very clear about what we actually said about Bali in the advisories. It gets misrendered a lot. We said:

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13 *Transcript of Evidence*, 28 May 2004, p. 460 (Richardson, ASIO).

14 *Transcript of Evidence*, 28 May 2004, p. 461 (Richardson, ASIO).

15 *Transcript of Evidence*, 24 September 2003, p. 160 (Richardson, ASIO).

16 *Transcript of Evidence*, 24 September 2003, p. 160 (Richardson, ASIO).

17 *Transcript of Evidence*, 24 September 2003, p. 167 (Richardson, ASIO).

*Tourist services elsewhere in Indonesia—and I will come to what that means in a moment—are operating normally, including Bali.*

This followed a paragraph which divided Indonesia into certain regions which were regarded on the basis not of terrorism but of more overt, direct threat as being particularly dangerous. This was on the basis of the information we had. The information we had suggested that certain regions should be off limits as far as Australians were concerned. We gave our best possible advice on those regions. Subregional variation had nothing to do with terrorism.<sup>18</sup>

4.23 The Committee notes that, according to the Bali Tourism Authority, the numbers of Australian tourists in Bali are much greater than the numbers conveyed above. Over 183,000 Australians visited Bali in 2002. In 2001 it was nearly 239,000 Australians. In the six months before the Bali bombing the average number of Australians visiting Bali each month was in excess of 20,000.<sup>19</sup>

4.24 In the Committee's view, the fact that around 200,000 Australians visited Bali each year is of itself sufficient reason to pay particular attention to Bali in the promulgation of both threat assessments and travel advisories, and not to simply blend Bali in with the rest of Indonesia. In the case of travel advice, high numbers of tourists travelling to Bali requiring information justified the inclusion by DFAT of facts about the 'normal' state of tourist services there.

4.25 In the Committee's view, these high numbers also justified the inclusion in information for tourists of facts about Bali not being exempt from terrorist attack nor being any less at risk than other places in Indonesia—especially given the widely-held (and clearly inappropriate) view of Australians that Bali *was* safe and different from other places in Indonesia.

4.26 The Committee is not here pressing the case for being more alarmist. It is rather a matter of attempting to convey the most informed and balanced advice consistent with the prime responsibility to safeguard Australians and Australian interests.

Intelligence and security agencies have been aware of the potential to easily panic portions of the community and also the diplomatic consequences that can often stem from raising threat levels in those countries with which we might sometimes have a delicate diplomatic relationship. I certainly think in the past that was the case, but the events of September 11 made it clear to everybody that we can no longer have that luxury and that we should err on the side of caution whenever the need might arise—whenever there is any

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18 *Transcript of Evidence*, 24 September 2003, p. 181 (Kemish, DFAT).

19 Bali Tourism Authority *Direct Foreign Tourists to Bali by Nationality by Month* at [http://www.balitourismauthority.net/news/Statistic\\_Nationality.xls](http://www.balitourismauthority.net/news/Statistic_Nationality.xls)

credible information that suggests that there is an extant threat to Australian civilians either here or overseas.<sup>20</sup>

4.27 If the task of a good intelligence analyst is to:

- 'put oneself into the shoes of the enemy'
- 'bring order out of chaos... [through] deductive and inductive reasoning in the generation and use of the principal ingredients of...hypotheses, evidence and assumptions'
- develop plausible, defensible narratives about the way an enemy might act or a threat unfold
- 'look at a historical development;...where a situation has evolved from and...to try and anticipate where it is going'

then it seems reasonable to the Committee to apply itself to such tasks in the case of Bali—much as ONA analysts did in their April 2002 seminar exercise in America, or as any intelligence unit might do as they go about exploring scenarios and testing hypotheses.

4.28 The Committee has already rehearsed at length elsewhere in this report the sequence of intelligence reporting relating to the terrorist threat in Indonesia in the twelve months leading up to the Bali bombing. In short, the threat was high—officially so from September 2001; Australia's profile as a supporter of US action was growing, and Australia was being increasingly portrayed as anti-Islamic; it was increasingly clear that JI had the intention, capability and resources to mount terrorist attacks including against soft targets and including Australians.

4.29 One witness, whose son died in the Bali bombings, stressed to the Committee the broader international context of Australia's involvement in US-led actions and what he saw as the inevitable consequences.

Where my anger came from was the fact that I knew something had to occur at some time. We had lit the flame and the pot was certainly going to boil over somewhere at some time.<sup>21</sup>

4.30 Other factors were also at play. It was apparent that JI had links with al-Qaeda, and that Osama bin-Laden-inspired jihadism was energising Indonesian militants. The Indonesian authorities were either unable or unwilling to act against them. Indeed, the secular Muslim government was held in almost as much contempt by the radicals as their nemesis the West.

4.31 Osama bin-Laden had identified Australia as a crusader force—a declaration of almost fatwah dimensions that, as ASIO noted, had traditionally preceded actual

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20 *Transcript of Evidence*, 20 November 2003, p. 253 (Dr D Wright–Neville).

21 *Transcript of Evidence* 25 September 2003, p245 (Brian Deegan, father of Bali victim)



attacks. And within Indonesia there had been increasing physical violence against Westerners and their activities—especially tourist and recreational activities—that had long been regarded as decadent and offensive by many Muslims.

4.32 To the militants nursing their potent grievances, and looking for suitable soft targets against which to exact their revenge, it is likely that Bali (along with other sites) would have been drawn into their strategic landscape.

4.33 It is worth noting at this point that at the time of the 2000 National Census there were 214,598 non-Balinese living in Bali. They accounted for 6.8% of the total population in Bali.<sup>22</sup> These figures also show that in the previous 5 years over 50,000 people had migrated to Bali from East and Central Java and Yogyakarta. Muslim extremists entering Bali would therefore probably not have had much trouble blending in with their compatriots, or finding support and assistance.

4.34 Bali also enjoyed some qualities that distinguished it from other tourist destinations. It was internationally renowned as the tourist destination of choice in Indonesia for Westerners who wanted to let their hair down. It held a special place, in the Australian psyche at least, as a safe holiday destination, with a Balinese (largely Hindu) population that seemed more tolerant or indulgent of Western tourists' mores and behaviour than their Javanese Muslim counterparts.

The fact that there was an explosion—the fact that young Australian children were killed, maimed, their lives destroyed—was not a surprise to me at all. What was a surprise to me is that it occurred in Bali.

Joshua would never have gone—would never have left these shores—had I known for one moment that Bali was a possible haven for terrorism...

You can rest assured that he would not have gone. Bali is a Hindu island, removed from the balance of Indonesia, which is Muslim. Bali is a fun-loving haven for Australian children.<sup>23</sup>

I think it needs to be understood that, in the mind of the travelling public and in the mind of the industry, whilst Bali is legally a part of Indonesia, Bali was never ever considered to be part of Indonesia. It was always out there on its own.<sup>24</sup>

4.35 Westerners gathered in large numbers in the clubs and bars that were concentrated in the centre of Bali, and there was virtually no security presence. The relatively small number of Muslims inhabiting Bali reduced the likelihood of collateral Muslim casualties should a strike be mounted, and in any event there was a

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22 From Background Paper prepared for the Committee by the Parliamentary Library Research Service.

23 *Transcript of Evidence* 25 September 2003, p238 (Brian Deegan, father of Bali victim)

24 *Transcript of Evidence* 20 November 2003, p271 (Hatton, Australian Federation of Travel Agents)

strong sentiment amongst Indonesian radicals, notably Laskar Jihad, that non-Muslim communities should be cleared out of the region.

4.36 In the light of all these considerations, the Committee finds it difficult to agree with assessments that Bali was not 'any more vulnerable than any other part of Indonesia'.<sup>25</sup> It was, in the Committee's view, *more* vulnerable than many if not most parts—especially given the fiercely anti-Western, jihad-inspired and self-righteous anger of Indonesia's Islamic extremists.

4.37 Accepting completely that there was no *specific* threat confirmed by reliable intelligence that would identify Bali as a target, there was nevertheless sufficient circumstantial evidence and analytical judgements that would identify it as distinctly attractive to terrorists. Indeed, this seems to have been precisely what motivated ONA analysts Farmer and Gordon to come to their conclusions about Bali being an attractive symbolic target that would have an impact on Westerners, and damage Indonesia's fragile economy and its secular government.

4.38 The Committee *agrees* that there was no specific intelligence about an attack on Bali that would have enabled countervailing measures to be taken. It *agrees* that Bali was not the only soft target in Indonesia. It *agrees* that it was not inevitable that Bali would be attacked. The Committee contends, however, that the available intelligence—the 'considered analysis of all the information available...not speculation'<sup>26</sup>—was sufficient to merit a differentiation of Bali from other parts of Indonesia on the grounds of its vulnerability and attractiveness.

4.39 Such a differentiation may have been able to have been reflected, even if minimally, in the Travel Advisories issued by DFAT. The Committee has already suggested elsewhere in this report the suggested inclusion: "Bali has long been considered a safe haven, but the risks of terrorism are as high there as elsewhere in Indonesia". This would have balanced to some extent the benign projection conveyed by the specific and headlined factually-correct advice that 'tourism services were operating normally including Bali'.

4.40 Whether that would have made any difference to the decisions individual travellers might have made is not the focus of concern here. The point of this discussion is to focus on the performance of agencies and to judge that performance against the information that was available to agencies that would have informed their decision-making.

4.41 The Committee notes that on two occasions ASIO's Dennis Richardson put the following argument to the Committee.

Indeed, I would have had a problem in saying that in Bali there was a greater threat than elsewhere, because we would have been doing it on the

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25 *Transcript of Evidence*, 19 June 2003, p. 41 (Richardson, ASIO).

26 *Transcript of Evidence*, 20 June 2003, pp. 81–85 (Farmer, ONA).

seat of our pants, and my concern in such circumstances would be that you could unintentionally shepherd people into an attack. My own view is that prior to Bali there was no basis to suggest that any area of Indonesia was less at threat than others; equally there was no basis to judge that any area of Indonesia was at higher threat. If we had said, 'Look, there's Bali, it is an obvious area and we should single Bali out,' what questions would I now be answering if Australians had changed their travel plans and gone to Jogjakarta or elsewhere and terrorists who were planning things, having seen the travel advisories, also went off to Jogjakarta or wherever and attacked there? I would be answering a different set of questions...

What is in the public domain is the travel advisories in this context. I am talking about the threat assessments and the threat assessments must have a certain logical and rational rigour around them, as frustrating as that might be.<sup>27</sup>

4.42 The Committee agrees that threat assessments have 'a certain logical and rational rigour around them' and in doing so disagrees with Mr Richardson that to say Bali was at greater risk would have been a 'seat of the pants' assessment.

4.43 Logic and reason are intellectual processes that analysts apply to the plethora of data they are confronted with in order to come up with considered judgements. The Committee has consistently affirmed those processes, and believes that it is precisely those processes that justify Bali being identified as being particularly vulnerable. The Committee concurs entirely with the view that rejects intelligence work as simple empiricism and defends intelligence as a work of analysis and judgement:

Frankly, perhaps there is not a more fundamental point I should emphasise than this: there is a real difference between data, or pure information if you like, and intelligence. Intelligence is analysed and has judgement. It draws on professional expertise to make judgements. That is the difference...A quality, high-grade intelligence organisation has the best analysts and also manages those analysts. The data streams are very important, of course, but if you do not have the quality analysts you are not really in the game.<sup>28</sup>

4.44 Turning to the argument that to single out Bali as a risk could have prompted tourists to go elsewhere and risk being blown up at the other location, the Committee makes several points:

- (i) If the argument is applicable here, it is equally applicable to any threat assessment including one which highlights, on the basis of specific information, a risk at location "A". To highlight a (genuine) risk at "A" always contains the possibility that people will go elsewhere—and in a generally high threat environment, going elsewhere may indeed also prove fatal. This is an

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27 *Transcript of Evidence*, 24 September 2003, p158 (Richardson, ASIO)

28 *Transcript of Evidence* 20 November 2003, p296 (Prof Ross Babbage)

inescapable feature of any warning, and to that extent the argument is not as strong as it might first appear.

- (ii) Tourists choose Bali for very particular reasons, for a special kind of holiday—for a "Bali experience". Should they be 'warned off' Bali, it seems unlikely that they would simply opt for another Indonesian destination. In any event, if having been 'warned off' Bali, tourists *did* choose to go to another place in Indonesia, according to the prevailing assessment they would have been at no less (or more) a risk in that other place anyway—which makes the argument redundant.

4.45 The Committee understands and acknowledges that threat assessments are not travel advisories. But the Committee reiterates two basic points:

- (i) The threat assessment that labelled Indonesia as HIGH, and said in the report to QANTAS that Bali could not be considered 'exempt from attack', was correct. It could, however, have gone further to state that Bali, because of the concentration of Westerners there, would be a distinctly attractive soft target, with its clubs and bars likely to be high on JI's list of targets.
- (ii) The travel advisories, along with the general warning about the risks of terrorism, could justifiably have gone further to highlight the fact that Bali, although traditionally regarded as safe, would be an attractive soft target and was at no less a risk (perhaps even more at risk) than other places in Indonesia. This fact would have given appropriate balance to the consistently stated fact that tourist services were 'normal', which conveyed a benign message about Bali's risk status. Given that Bali *was* and always has been clearly distinguished from the rest of Indonesia in the mind of the ordinary Australian tourist, it is entirely appropriate for travel advisories to similarly distinguish Bali from the rest of Indonesia and to tailor the advice to take the confident (but misguided) disposition of the ordinary Australian tourist into account.

### **Compensation for victims of the Bali bombings**

4.46 One difficult issue raised before this Committee was the unequal access to compensation or financial assistance for victims, survivors and relatives of those killed in the Bali bombings. Although this issue is outside the inquiry's terms of reference, it nevertheless warrants recognition in this report. The Committee has been deeply moved by the grief and suffering of those who were injured or lost loved ones in the bombings, and would like their situation dealt with in the best possible way.

4.47 The Commonwealth government has provided assistance in kind to victims of the Bali bombing, including medical costs, counselling and certain travel costs. Yet it has ruled out providing compensation to victims or their families in the form of a

lump sum. The Prime Minister stated as reasoning for this stance that the Bali bombings, while horrific, occurred overseas, and that there is no link to the direct responsibility of the Australian government.<sup>29</sup>

4.48 Some victims and their families see the lack of official compensation as an ongoing injustice. Had their injuries been sustained in criminal attack on Australian territory, they would have been entitled to compensation under a state 'victims of crime' compensation scheme. In paying compensation, state governments are not admitting to liability for crimes, but providing some recompense to crime victims for their loss or suffering. Yet because the Bali bombings occurred overseas, most state schemes will not provide compensation. While compensation would obviously not bring back a loved one or heal injuries sustained in the bombings, it could at least give some relief to those who have suffered most from this tragedy.

4.49 It has been pointed out to this Committee that there is an inequity in treatment across state boundaries. South Australian victims of the Bali bombing received compensation under South Australia's victims of crime compensation scheme, which can compensate for crimes committed outside the state. This was not available to Bali bombing victims in other states that do not compensate for crimes committed outside state boundaries. Mr Brian Deegan told the committee that this is not fair, saying that:

There have been a number of victims who have given evidence here today. I challenge you to tell me which ones are entitled to compensation and which ones are not, which ones should be and which ones should not. Should my son receive it but two beautiful girls that were burnt, their lives almost destroyed, not receive it? No.<sup>30</sup>

4.50 On a later occasion, Mr Deegan added:

It is just unfair, and it is unfair that the kids of Australia are being denied the compensation that they are entitled to. In South Australia we have 55 people who have been awarded compensation, but that stops on the imaginary border. In Victoria we have a girl who has lost an arm. In Queensland we have a boy who has lost his legs. That boy, Ben, wanted to be here today. Where is he? He is in hospital undergoing his 14<sup>th</sup> operation

These people are entitled to justice. There is no doubt about that. You might think they could go to Indonesia. The problem is they cannot, because under international law they need the imprimatur of the Australian government to do that, and the Australian government are not going to provide that. The Australian government are obliged to look after Australian children and they are obliged to give me justice.<sup>31</sup>

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29 Transcript of the Prime Minister, Interview with Paul Bongiorno, 17 August 2003, found at <http://www.pm.gov.au/news/interviews/Interview441.html>, accessed 9 August 2004

30 *Transcript of Evidence*, 25 September 2003, p.245 (Deegan)

31 *Transcript of Evidence*, 20 November 2003, p.287 (Deegan)

4.51 The fall-out from the Bali bombings has highlighted the inconsistencies in the compensation available to victims of crime across Australia. While this is clearly outside the terms of reference of this inquiry, it is a matter that could be considered by Commonwealth and State Attorneys-General.

4.52 A related issue is whether the Commonwealth should establish a national compensation scheme for victims of Commonwealth crimes, which would include terrorist attacks. In 1980 the Australian Law Reform Commission commented on the lack of a federal criminal injuries compensation scheme for victims of Commonwealth offences.<sup>32</sup> In 1985, Australia endorsed a UN resolution on basic principles of justice for victims of crime and abuse of power. This resolution encourages 'the establishment, strengthening and expansion of national funds for compensation to victims'.<sup>33</sup> Yet to date there is no national scheme in place in Australia. Although the Committee does not take a view on this issue, it does suggest that it warrants further consideration by the Commonwealth government.

#### **Recommendation 4**

**4.53 The Committee recommends that**

- **the Commonwealth government prepare a green paper on the establishment of a national compensation scheme for victims of terrorism related crimes that fall within the Commonwealth jurisdiction; and**
- **the national council of Attorneys-General develop a proposal for the harmonisation of state laws dealing with compensation for victims of crimes so as to provide for circumstances such as terrorist attack.**

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32 Australian Law Reform Commission, Report no. 15, *Sentencing of Federal Offenders* (interim), 1980

33 UN General Assembly Resolution A/RES/40/34 of 29 November 1985, "Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power"