



Politics and the environment in Indonesia

Jennifer Marohasy

In North Queensland, environmental activists occasionally hold up a prop such as a dead fish, to illustrate a point and provide television footage of an alleged incidence of pollution. In Indonesia, in the recent campaign to jail Richard Ness, activists used as their icon a dead baby.

Richard Ness, President of an Indonesian subsidiary of Newmont Mining Corporation, was accused in 2004 of knowingly polluting Buyat Bay, its fringing coral reefs, and its local villagers, with mercury and arsenic.

Beyond Buyat Bay in North Sulawesi is a forest of coconut palms and then steep jungle-clad mountains. For years, small local miners have worked the upper reaches of the Totok River digging narrow but deep vertical shafts reinforced with flimsy pieces of wood in search of gold. Men with torches strapped to their heads are lowered down the shafts and heavy bags of ore are lifted to the surface by way of pulley systems.

These miners use mercury to process the ore. The waste slurry, also known as tailings, along with the mercury bottles are washed into the Totok River which eventually empties into Totok Bay to the north of Buyat Bay.

In 1994, Newmont started building a gold mine in the same mountainous region of North Sulawesi. But instead of narrow shafts, Newmont had a permit for an open-cut mine that would use cyanide rather than mercury to process the gold. Furthermore, as part of the approval process, the Newmont mine had a detailed plan for disposing of the mine's tailings, with engineering studies suggesting that the best option, after a three-stage detoxification process, was an outfall pipe a kilometre off shore and 82 metres down on the bottom of Buyat Bay.

The Newmont mine operated successfully for eight years alongside the small miners in the mountains above Buyat Bay. The Newmont mine employed over 700 Indonesians with many new graduates getting their first job with Newmont Minahasa Raya. Over the life of the mine, 60 tonnes of gold was extracted and over US\$50 million paid in taxes and royalties to the Indonesian Government. Every day, Newmont monitored the quality and volume of its tailings and reported these statistics to the Indonesian Government along with a detailed monthly environmental report. The mine and its operations appeared to meet all relevant environmental and workplace health and safety standards.

But even before the mine opened, environmental activists were mobilising against Newmont.

Indeed, six months before the first tailings were placed on the floor of Buyat Bay in March 1996, the local Manado

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The opposite page shows an illegal mining village near Buyat Bay.

When asked why activists targeted Newmont, rather than illegal gold miners, a local doctor replied, 'Attacking Newmont the NGOs will be rewarded with dollars, but if they went up against the illegal miners they would be confronted with sabres.'

Post published an article claiming that Buyat villagers had been poisoned by the mine's tailings.

This was the first of a long list of fabrications by activists in their pursuit of Newmont and its local boss, Richard Ness.

When I visited Indonesia in April this year and asked why the environmental activists targeted Newmont, rather than, for example, the illegal gold miners in the upper reaches of the Totok River, a local medical doctor replied, 'Attacking Newmont the NGOs will be rewarded with dollars, but if they went up against the illegal miners they would be confronted with sabres.'

A local journalist told me that the story was 'sexy' because ordinary Indonesians liked the idea of a poor fishing village taking on a big American mining company—the classic David versus Goliath battle. No-one wanted to believe that the fishermen were being manipulated by NGOs or that the American boss, Richard Ness, was an honest man.

The scheduled closure of the mine in 2004 coincided with elections in Indonesia, a global campaign against the submarine placement of mine tailings and the death of a five-month-old baby girl known as Andini.

Demonstrations were organised in Manado, the capital of North Sulawesi. Baby Andini was a feature at the demonstrations, with activists presenting her to the local Governor at the second big rally. They claimed that she was suffering mercury poisoning. The Governor insisted the baby be taken immediately to the Manado hospital where she was examined by Dr Winsy Warouw. The doctor determined that the baby was suffering from severe malnutrition and suggested that she be admitted to hospital. The mother, accompanied by an activist, refused to accept the diagnosis or admit her baby for treatment.

Several months later, baby Andini died.

Dr Sandra Rotty, the doctor in charge at the local



health clinic, said that the baby died of an upper respiratory tract infection for which the parents refused to give the baby medication. Acute respiratory infections are a major killer of children under five years of age in countries such as Indonesia, with more than half of these deaths associated with malnutrition.

But Rignolda Djamiluddin, the head of a local environmental NGO, issued a press release claiming that the baby had died from Minamata-like symptoms and urged officials to close Buyat Bay to fishing.

Minamata is a disease of the central nervous system named after a city in Japan where the release of mercury from factory waste into Minamata Bay in the mid twentieth century resulted in the death of at least 2,000 people. The mercury bio-accumulated in fish, which was later caught and eaten by villagers, but it was not until the disease reached epidemic levels that mercury poisoning was diagnosed. By then, the local fishing industry had been destroyed and a generation of children were to grow up suffering the effects of chronic mercury poisoning.

Despite intense and growing media interest in the claims of mercury poisoning at Buyat Bay, Andini's parents refused to allow an autopsy to be performed on the dead baby.

Researchers nevertheless arrived in droves to investigate the allegations of mercury pollution, including experts from Japan's Minamata Institute, sponsored by the World Health Organisation. Their report, issued on 8 September 2004, concluded that there was no mercury poisoning in Buyat Bay and that exposure levels were higher in Totok than Buyat Bay. A CSIRO study came to similar conclusions.

But there was one medical doctor, Jane Pangamanan, who supported the contention that Andini was poisoned and she travelled to Jakarta with several villagers, including the dead baby's mother, Masna Stirman.



The Newmont mine near Buyat Bay in operation

Canadian journalist Kendyl Salcito reported on the saga as part of her Master's thesis:

The villagers came to Jakarta in waves after Andini died, complaining of 'Minamata-like symptoms,' meaning poisoning by mercury. Masna was first, accompanied by her sister, her sister's infant, and a fisherman. The four arrived in the Jakarta airport in late July. As Masna exited the plane, she broke down in tears while cameras rolled. TV crews followed her and the others to the hospital. That evening shots of the patients in hospital wards dominated news broadcasts.

Over the ensuing days, droves of villagers were flown in by a yet undisclosed network of politicians and activists. Patients switched hospitals, NGOs held street protests, Masna conducted a prayer gathering to honor Andini's memory, and reporters were kept abreast with text messages. By the time police lab results were scheduled to be announced, declaring the bay polluted or safe, 22 villagers (almost one tenth of Buyat Pantai's population) were in Jakarta hospitals, including the town's sickliest cancer victims. One woman was rolled off the plane on a gurney.

The police announced that the bay was polluted with dissolved mercury.

The BBC, *The Australian*, French and Asian newswires, and China's *Xinhua News* immediately condemned the company's irresponsible practices. NGOs began demanding arrests. A September 8th *New York Times* story depicted a scene of devastation, echoed in 'years of complaints by local fishermen' caused by Newmont's mine waste disposal system. 'First the fish began to disappear. Then the villagers began developing strange rashes and bumps,' the *Times* story began, turning

more damning each paragraph. With the world watching, NGOs pressed for sanctions against the mine and incarceration for Newmont officials. The police and government, suddenly under the international community's microscope, responded to NGO demands, taking the Buyat scandal to a national level. It seemed not to matter that Jakarta hospital's diagnoses and World Health Organisation water tests had ruled out mercury poisoning.

The Indonesian Legal Aid Institute organised for three villagers and Dr Pangamanan to file a police complaint against Newmont and for the three villagers to also file a civil suit against Newmont for US\$543 million in damages.

It is now well-known that the police subsequently jailed five senior Newmont executives. But in fact one of the first Newmont employee to be incarcerated was Jerry Konjansow—and he was not some big-shot American executive. Jerry was the environmental superintendent at the mine. He was 33 years old and had worked for Newmont since graduating from the local university, majoring in environmental science. According to the police

case file, Jerry was first taken in for questioning by police on Wednesday 15 September 2004 and was then arrested on 22 September and taken to the bowels of the Jakarta prison.

On the same day, the police arrested his colleagues David Sompie and Putra Wijayatri, before also incarcerating American Bill Long. The next day, Australian Phil Turner was summoned. Turner had had time to leave the country, but instead fronted the police in solidarity with his colleagues. Turner was also jailed.

Richard Ness was the last to be summoned by the police. The case file indicates that the police also intended to jail Ness, but at three in the morning he was released—ostensibly because he had a heart condition. He was to report to the police station twice weekly.

Jerry Konjansow and his colleagues, including Phil Turner, spent 32 days in prison but were never charged. It was only Ness who was eventually charged on the basis that he had knowingly polluted Buyat Bay.

The criminal trial dragged on for nearly two years, with 54 court sessions. I attended the reading of the verdict in Manado on 24 April 2007—criminal case number 284/Pid.B/2005/PN.Manado.

On the morning of the verdict, it was rumoured that there would be 10,000 demonstrators, that effigies of Ness and the chief judge would be burnt, that an army platoon was on stand-by, and that the court house could be bombed.

The panel of five judges found Richard Ness not guilty on all charges. To quote from his son Eric's blog:

The final ruling is unambiguous because it is based primarily on substance and technical facts. When I sat in the court and listened to the ruling I noted that each of the prosecution's evidence was rejected soundly and decisively. The Judges had applied the most objective scientific knowledge and techniques to develop their argument for each rejection of prosecution's claim.

... It must be stated that the court's decision was not just a simple victory where my Dad and Newmont were acquitted of any wrongdoing but the judgment had a list of more than 50 points outlining why these allegations were not only unfounded but also it categorically stated that no environmental crime was committed in Buyat by Newmont. The decision was a slam dunk in all respects yet some are still trying to spin it as a victory by technicality.

As part of the reading of the verdict, the panel of judges explained that baby Andini died from malnutrition, not mercury poisoning, and that the baby's parents refused her medication. But still much of the reporting in Indonesia and internationally repeated the allegation of mercury poisoning.

After the reading of the verdict, Richard Ness refused to be ushered out of the court room via the back door. Instead, flanked by his two sons, he descended from the court house into a throng of angry demonstrators and proudly walked up the busy boulevard.

Incredibly, at June 2007, the Ministry of Environment is supporting an appeal.

THE 'BIG' MINE

In the Mountains above Buyat Bay there was the Newmont Mine and there was what the locals, with some irony, referred to as 'The Big Mine'—the network of caves and mine shafts dug by the illegal miners.

Illegal miners are so common in Indonesia they have their own acronym, PETI. It is short for *Pertambangan Tanpa Izin* which translates as mining without a permit.

It is estimated there are over 60,000 PETI in Indonesia and perhaps 5,000 in the Minahasa Regency of North Sulawesi.

The ore from these mines is processed in trommels which consist of rows of large drums, turned on their side, connected and rotated by belts powered by loud and smelly diesel engines.

The ore is crushed in the drums, and mercury added to the crushed ore. It bonds with the gold forming

an amalgam. This amalgam is then collected and heated with the mercury evaporating leaving the gold.

When Newmont first decided to build a modern mine in the mountains above Buyat Bay, Richard Ness and his technical team decided to research the PETI miner's method of processing the ore with a view to improving both the amount of gold recovered and to reduce the incidence of poisoning through inhalation of mercury vapour.

Newmont technicians have demonstrated that with some modifications, the amount of gold recovered using essentially traditional methods, can be increased from 40 to 80 per cent and that the mercury fumes can also be safely trapped and this mercury recycled. While Newmont was able to demonstrate these results to the PETI and the regulatory agencies as part of its commitment to community development, there was resistance to change and the improved technology was never adopted.



Demonstrations outside the court on the morning of the verdict.

One problem for the Indonesian Government is that environmental activists, working with their friends in the local and international media, ran a convincing campaign. There had already been a successful trial by media with Ness portrayed as guilty.

Meanwhile, in the mountains above Buyat Bay, artisan miners are still lowered down narrow, poorly reinforced, mine shafts. Occasionally a shaft collapses, lives are lost and families grieve. This industry is illegal in Indonesia and so there are no statistics on such workplace health and safety issues. The 60,000 or more small miners in Indonesia are mostly ignored by government, activists and journalists alike—despite their obvious environmental impact and studies which indicate that their use of mercury results in poisonings of people and wildlife.

But one of the biggest human health issues is not mine collapses or mercury poisoning—it is malnutrition, with an estimated 13 million children under the age of five suffering from chronic malnutrition in Indonesia today.

In the Buyat Bay saga, environmental activists succeeded in bringing the world's attention to the baby's plight, but they then refused to acknowledge the diagnosis. Instead they wrongly convinced the baby's mother that she had mercury poisoning and that all assistance from doctors and specialists must be refused. The inevitable occurred, and in death, the

baby became an even more potent symbol.

Dr Warouw examined Andini at the request of the North Sulawesi Governor in late February 2004. He told me 'The baby's expression was good she laughed and played with me. If a baby has Minamata poisoning it has a blank expression and will only look back. Not even cry.'

Instead of appealing the verdict and continuing to pursue Ness (who has a growing following of supporters), the Indonesian government should perhaps consider prosecuting some of the activists whose unfounded campaign against Newmont has put in jeopardy Indonesia's investment reputation.

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Eric Ness has a website with translations of all testimonies in the criminal trial and copies of official reports including from the Minamata Institute and CSIRO at www.richardness.org. **Kendyl Salcito's** Master's thesis is entitled 'Tall Tailings: Truth and Friction in the Buyat Mining Scandal' and was submitted April 20, 2007 to the University of British Columbia's School of Journalism. **Jennifer Marohasy** is writing a book on the saga and visited Indonesia as a guest of Newmont Mining Corporation.