

## **Mining a Scandal**

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Prices of oil, gold, nickel and other commodities have soared in recent years thanks to a boom in global demand, yet here's a market conundrum: Why is foreign investment lagging in the mining sector of one of the countries richest in these natural resources?

The country is Indonesia, and part of the answer has to do with a high-profile criminal trial involving an American mining executive charged with causing sickness and death due to pollution. If the businessman is found guilty -- a verdict is due tomorrow -- watch for investor confidence to fall further. "The outcome of this case could have a chilling effect on foreign investment in Indonesia," says John Strongman, an expert on international mining for the World Bank.

The defendant is Richard Ness, president of a Indonesian unit of the Colorado-based Newmont Mining Corp., one of the world's largest gold producers. The charge is that a gold mine operated by Newmont dumped arsenic and mercury into Buyat Bay on the northern tip of Sulawesi Island in 2003. Stephen Moore and Jonathan Burns wrote about the case in these pages last year, raising doubts about the scientific evidence and the political motivations of the accusers.

The accusation of pollution in Buyat Bay rests on a single testing of the water by local police officials, who found high levels of contaminants. Duplicate samples found no trace of metals. Independent tests by the World Health Organization and other international disease control groups have consistently found the water to be safe. The fish harvest continues to grow with no signs of mercury.

The story won international headlines in 2004 when the New York Times implicated Newmont in the death of a baby girl. The Times story was based on interviews with Dr. Jane Pangemanan, the health official who was the source for the charges of sickness and death due to water poisoning. Dr. Pangemanan retracted her accusations against Newmont during the trial, calling them "premature because there has never been any scientific, comprehensive, detailed and thorough study or proof on the diseases suffered" by the villagers.

Then there's the role of NGOs. Late last year Simon Sembiring, the Director General of the Ministry of Mines and Energy, was quoted by news agencies as saying that the charges are a result of political agitation by anti-mining environmental groups (often organized and funded by Americans).

Meanwhile as Mr. Ness's trial proceeds into its 20th month, the local mining industry is in collapse. International mining companies rank Indonesia as the fourth-worst investment climate among 40 nations, behind Russia, Zimbabwe and Kazakhstan. Investment in Indonesian mines has tumbled to \$500 million last year from more than \$2 billion in 1995, according to PriceWaterhouseCoopers. No new mines have opened in nearly a decade in part because of a government viewed as inhospitable to the industry.

Last month Indonesia passed a long-awaited investment law that provides tax breaks and other incentives aimed at attracting foreign investment. That's a positive step. But widespread corruption, entrenched bureaucracy and a shaky legal system persist. In the World Bank's annual ease-of-doing-business rankings, Indonesia recently placed 130 out of 175 countries surveyed. A guilty verdict in the Newmont case would not only send an innocent man to prison, it would wreak further damage to Indonesia's ability to import capital for development. The biggest injustice is that the poor in Indonesia will suffer most.