

THE PRACTICE OF CORPORATE SOCIAL RESPONSIBILITY OF PT NEWMONT MINAHASA, SOUTH EAST MINAHASA, NORTH SULAWESI, INDONESIA

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Abstract

PT Newmont Minahasa Raya (PT NMR) adalah perusahaan pertambangan emas di Indonesia. Saham pengendali dimiliki oleh orang asing, sedangkan saham minoritas dipegang oleh orang Indonesia. PT. NMR menggunakan Sistem Pembuangan Tailing di Dasar Laut (SPTDL) untuk membuang limbah tailing yang membuat polusi Teluk Buyat dengan bahan beracun dan berbahaya (B3), sehingga merusak ekosistem perairan, mencemari keanekaragaman hayati, merubah bentang lahan perairan, dan merusak kesehatan serta keselamatan warga sekitar. PT NMR digugat oleh Wahana Lingkungan Hidup Indonesia (WALHI) atas pencemaran yang terjadi di Teluk Buyat. Banyak pro dan kontra dan penelitian dilakukan di sekitar Buyat. Sebagian besar menyatakan bahwa kerusakan lingkungan diakibatkan oleh pembuangan limbah dari PT NMR. Salah satu penelitian diadakan oleh tim ahli dari Audit Kesehatan Departemen Kesehatan di Buyat dan Ratatotok, bahwa logam berat Arsenic, Antimon dan Merkuri menyebabkan warga Teluk Buyat terkontaminasi penyakit minamata. Pemerintah Indonesia pernah menggugat pidana dan perdata kepada PT NMR akan tetapi kalah. Salah satu penyebabnya adalah terdapat kontrak kerja antara perusahaan dan pemerintah tentang penyelesaian sengketa. Akhirnya Pemerintah Indonesia mengajukan gugatan melalui pengadilan arbitrase internasional.

Key words : *corporate social responsibilities, profit, people, planet*

INTRODUCTION

Indonesia is one of the country with absolute advantage in the world. Indonesia has some of the world's largest deposits of gold, tin, nickel and copper. Lots of the mine companies exploring the mine resources.

Indonesian government always give the chance to foreign companies to make an investment in Indonesia. It should be coordinated, regulated and facilitated well by the government of the country for the wealth and prosperity, especially for local community around the company.

Newmont is one of the gold company in Indonesia. There was two mining Newmont companies, first at North Sulawesi and second at Nusa Tenggara Timur (NTT).

PT Newmont Minahasa Raya was established in 1996. PT Newmont Minahasa Raya (PT NMR) was a joint venture company between Newmont Gold Company (USA), which had 80 percent of all shares, and an Indonesian company, PT Tanjung Serapung (Indonesia) owned 20 percent of shares. PT NMR was located in South East Minahasa, some 80 km south of Manado, the capital of North Sulawesi. The nearest village are Desa Ratatotok dan Buyat. About 685 permanent employees of PT NMR came from those villages. PT NMR was the third company of Newmont International which contributed to the economy of Indonesia included royalties, taxes and various direct and indirect benefits.

The company at NTT is still exist until now, but the company at North Sulawesi has closed. Mine closure activities at North Sulawesi were completed in 2004 while post-mining environmental monitoring had been continuing until 2008.

ISSUES

A few years ago, there had been a lot of news about the environmental damage caused by the production activity of PT NMR. Since the first operation, PT. NMR had been claimed by the local communities, and also one of the Indonesia's largest environment Non Governmental Organization (NGO), namely Wahana Lingkungan Hidup Indonesia (WALHI), which have made a research there. The others are Jaringan Advokasi Tambang (JATAM), Sam Ratulangi University (UNSRAT) Manado, the Environment Department's research which was coordinated by the Ministry of Environment, etc.

Content of the claims was PT NMR used Submarine Tailing Disposal (STD) to throw out the garbage dump to the sea. The tailing was a residual mineral processing which generally consists of fine-granuled stones after its valuable metal was taken. For a long time, mining mills usually precipitate this tailing in the land within pond or lake.

Many external parties have made research at Buyat area and almost all of their results are the same, there had been a various environmental destroy took place because of the improperly uses of the STD.

The summary of the environmental destroyal are as follows:

1. Tailing dumped into the water by Newmont's now-defunct Mesel Gold Mine on Sulawesi Island polluted the Buyat Bay by danger and poisonous chemical and materials (B3). It destroyed Buyat Bay watering ecosystem, polluted variety of its biological life, and changed watering areal ranges in this Buyat Bay. Supporting researches are listed in the table below :

Table 1: Researches Held by WALHI&Local Community, and Sam Ratulangi University

| No | Time of research | Research by | Results | Statement published by: |
|----|------------------|---|---|---|
| 1 | June 2000 | WALHI & local community mapping, PSL-Sam Ratulangi University (UNSRAT) Manado | <ul style="list-style-type: none"> • Tailings dump has destroyed the ecosystem of the sea like coral reef and mangrove, the certain species also has dissapeared because of the danger and poisonous chemical tailings dumped into the sea. • The tailing waste deposit, has also been found in 13 meters depth. Meanwhile, PT. NMR states that existed wastes from disposal piping end stay in 82 meters depth and such tailing will not appear into surface, or will not destroy Buyat Bay ecosystem, because it is hidden by thermoclinical layer. Such thermoclinical layer in according to PT NMR serve to sustain of tailing waste increasing or spread into surface. • Bathymetrical measurement (using of same coordinate points and same method with measurement conducted by PT. NMR) were: in opening of the disposal piping end, in 70-80 m depth, it has been formed a wide plain in 550 to 750 m radius and has become to make degree of slopes in Buyat Bay changes from 50 degrees in 1997 to 2.20 degrees in 1999. • Based on underwater documentation : some destroyal facts in 10 meters depth. In 25 meters depth, water in Buyat Bay has been very muddy and disturbed for diving. The tailing waste distribution produced by PT. NMR has been deposited (distributed) in nearly all watering of the Buyat Bay. Its tailing waste thickness has ranged to 22 meters, respectively. | <ul style="list-style-type: none"> • Moudy Gerungan, as WALHI Local Executive at North Sulawesi • Emmy Hafid, as WALHI national Executive Managing Director • Longgena Ginting, as Coordinator of Advocation Division of WALHI |

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|---|-----------|---------------------------|---|----------|
| 2 | 1999-2000 | Universitas Sam Ratulangi | Watering has contained heavy metal, including poison dangerous : 1.The mercury (Hg) content in watering around pipe opening end as large 34 ppb. Such concentration has passed threshold value. 2.The arsenic (As) content in tailing waste is in form of mud has been staying in Seawater Quality Standard threshold value. For Fishing Culture, it has also passed threshold value. | Magazine |
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On 19 July 2000 at Jakarta, Emmy Hafid as the National Executive Managing Director and Moudy Gerungan as the North Sulawesi Local Executive of the WALHI made statement as follows:

- To claim government for conducting of independent investigation with members from government, non-government organizations, and PT. Newmont itself.
- To assure government for taking of contemporary stopping of all PT NMR activities until it is obtained an independent research findings and considers such research output.

From a variety of research conducted by many parties as said above, PT. Newmont Minahasa Raya (NMR) alleged some informational manipulation and make environmental crimes that result in an environment destroyal in this Buyat Bay watering area, North Sulawesi.

2. The Buyat Community Healthy Interference

The Buyat Beach's peoples faced with difficulties in obtaining hygienic water since Newmont started to operate in 1996. Pollution produced by PT Newmont cause the villagers to drink water and eat fishes that contained heavy metal. The research that supported this conclusion is listed in the table below :

Table 2: Research Held by Doctor Team from RSCM

| No | Time of research | Research by | Results | Statement published by : |
|----|------------------|---------------------------|--|---|
| 1 | July 2003 | Docter team from the RSCM | <ul style="list-style-type: none"> • People healthy in Buyat Village, Ratotok, Kabupaten Minahasa Selatan, North Sulawesi suffered 'minamata' illness, showing those victims perceive a positive contamination from mercury, mangaan, antimone and arsenic heavy metals by gold milling of PT. Newmont Minahasa Raya that pollute the Buyat Bay. The minamata illness was also suffered by more than 100 other persons in Buyat Village, Rataotok, Kabupaten Minahasa, North Sulawesi Province. | Albert Pangem anan, SH, as the lawyer of the local community. |

FOLLOWED UP FROM THE COMPANY AND GOVERNMENT

The summary of the followed up from government and company, are described as follows :

Table 3 : The Summary of the Action from the Company, Government, and Other Parties After the Issues Raised

| No | Time | Action by several parties | Purpose/Result/Reason/Statement | Statement made by/Published by |
|----|-----------------------------------|--|---|---|
| 1 | Oct to Nov 2004 | Research of The Ministry of Healthy Team throughout its Directorate of Contagious Illness Elimination and Environmental Sanitation (P2MPL) | <ul style="list-style-type: none"> •Its research specific objective was to understand illness pattern in Buyat region by examining of mercury, arsenic, and antimone contents in people's blood and hair. •Result : 80 % people at Buyat and Ratatotok were sick because of various diseases but there has not been available indicated proof that heavy metal such as arsenic and mercury may result in a specific illness at Buyat Bay, North Sulawesi. Another conclusion said that heavy metallic content as such arsenic and mercury contained within Buyat people community is still far from normal threshold value. •There was no relationship between problems of Buyat people's healthy and heavy metal. | Prof. Dr. Haryoto Kusnopranto and Newmont party |
| 2 | After the previous research above | Research of Public Healthy Postgraduate, Sam Ratulangi University, joined with the Institute of Minamata Disease, Japan. | The majority of Buyat and Ratatotok people had been contaminated by heavy metal such as arsenic, antimone and mercury | Dr. Jane Pangemanan, a lecturer of Public Healthy Postgraduate program at Universitas Sam Ratulangi |

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| 3 | After the previous research above | Research of the Ministry of Environmental Affairs (KLH) which coordinated Integrated Team researches across departments | Pollution resources as heavy metal pollution pathway are drinking water and fish consumption. This healthy audit must be directed to understand causal relationship between illness pain and pollution sources found by such Integrated Team. This introduced some polemic within polluting cases in Buyat Bay on the KLH criminal and civil claims toward PT. MNR. | Masnell yarti Hilman, as the leader of Technical Team |
| 4 | March 2005 | The Ministry of Environmental Affairs (KLH) officially claimed PT NMR to Jakarta Selatan's First Instance Court | <ul style="list-style-type: none"> • In its claim, KLH asked for material compensation as large \$ 117,68 millions and immaterial compensation amount to Rp. 150 billions. KLH assumed that NMR has made pollution at Buyat Bay as a violation from Article 22 clause (1) of the Act 23 of 2007 concerning on Good Environmental Management. • The prosecution on behalf of the Ministry of Environment had called for a three-year jail term and a \$55,000 fine to be imposed on Richard Ness, and demanded the company be fined \$110,000. The prosecution had alleged that PTNMR and Ness caused environmental pollution while conducting mining operations near Buyat Bay after the National Police Central Forensic Laboratory reportedly found mercury and arsenic levels in Buyat Bay were well beyond national standards in 2004. | Rahmat Witoelar, as the Ministry of Environmental Affairs |
| 5 | March 2005 | WALHI launched a civil suit against Newmont's Indonesian subsidiary PT NMR over alleged pollution at Buyat Bay | <ul style="list-style-type: none"> • The fourth such lawsuit to hit Newmont in Indonesia | Indonesian magazine |

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| 6 | After the claim from the Ministry of Environmental Affairs | Responded from PT NMR | <ul style="list-style-type: none"> • During testifying in the Jakarta Selatan First Instance Court, the Site manager of PT NMR admitted that the garbage of gold mining which had dumped to Buyat Bay could kill the organism in the sea which was piled by the tailing materials. • The NMR legal attorney said that such environmental pollution guess must be handled through arbitrate forum. In an Kontrak Karya or the Working Contract had been made by Newmont and the Government of Republic of Indonesia, specify to choose the dispute resolution forum in UNCITRAL (United Nation Commisison on International Trade Law). • The Police Central Forensic laboratory was not accredited as required by Indonesia's Environmental Monitoring Agency to conduct water tests. Furthermore, there was a discrepancy of 10 water samples taken by authorities at Buyat Bay and surrounding waters. According to Newmont, a total of 34 samples appeared in the indictment, while only 24 samples were actually taken. The samples also showed pollution in Totok Bay, which is an entirely separate body of water to Buyat Bay, and tailings were never placed there. | <ul style="list-style-type: none"> • The Site manager of PT NMR, Christian David Sompie • NMR legal attorney |
| 7 | April 28 th , 2005 | Five Countries proposed protest to Newmont in the general shareholders meeting at Denver, Colorado | <ul style="list-style-type: none"> • The Newmont milling operation was argued against by five countries, they are environmental activists from Ghana, Peru, Indonesia (represented by WALHI), Romania, and Indian Western Soshone community in Nevada, United State of America. Their protests was related with environmental pollution impact and its negative impact on community healthy, Newmont expansion into protective land area. Submarine Tailing Disposal (STD) become the serious concerned by the public of America. New York City Comptroller, one of the Newmont's shareholders about US\$ 68 million, have made a resolution to ask Newmont not to threw out the garbage dump to the sea but Newmont did not agree with it. | Local and American magazine |

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| 8 | 2005 | Comments from Indonesian environmental law's expert | <p>1. Assumed that cases in relation with environmental law must be firstly considered by its civil hearing. Meanwhile, its arbitrate forum can be performed in this cases, considering on dispute in Working Contractual, is only related with agreement and not with environmental dispute. The reclamation of the environment have to be done by the mining company as soon as possible.</p> <p>2. The public claim must be done earlier. If the crime law violation could be proved by the court, the civil claim would follow it.</p> <p>3. Environmental cases must always considered its criminal aspect as the latest resolution.</p> | Prof.Koesnadi Hardjasoeman (Gajah Mada University) Stefanus Haryanto (Parahyan gan Catholic University) Prof. Daud Silalahi (Padjajaran University) |
| 9 | Nov 15 th 2005 | The Board of Judges in Jakarta Selatan First Instance Court rejected the Indonesian Government lawsuit on PT NMR in concerning on pollution dispute at Buyat Bay Beach | <ul style="list-style-type: none"> • In their decisions, judges refer to Article 21 which state if there is a cases in relation with Working Contractual dispute between Indonesian Administration and PT NMR, this case would be resoluted through an arbitrate body. • The Government of Republic of Indonesia, has agreed with this as formalized by signature of Minister of Mining and energy, so thus Minister of Environmental affairs must be subject to that Working Contractual. The dispute of the contract must be done by national arbitrary. | Soedarto, as a judge |
| 10 | Feb 16 th 2006, | The Government of Republic of Indonesia withdrew its civil lawsuit to PT. NMR | <ul style="list-style-type: none"> • This agreement signature was conducted by Minister of People's Prosperity Coordinator, Aburizal Bakrie, and Newmont Vice President, Robert Gallager. The PT NMR transfered \$ 30 millions to develop mining environment at Buyat, to fund environmental monitoring and community development, plus maximum guarantee amount to US \$ 20 millions. And this agreement was approved by surrounding people at Minahasa, Minahasa Selatan, and Bolaang Mongondow. | Tempo magazine report |

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| 11 | July 28th, 2006 | Re-sampled of Buyat Bay by Australian Laboratory Services (ALS), and the respond from Newmont | <ul style="list-style-type: none"> •Mercury and arsenic levels are within normal parameters. Independent studies by the United Nations' World Health Organization, the Commonwealth Scientific and Industrial Research Organisation of Australia and Japan's National Institute for Minamata Disease further confirmed that there is no environmental damage. •The defence also presented four independent physicians, including government and university affiliated doctors, who examined Buyat Bay residents, testified under oath that they found no diseases resulting from PT NMR's operations. Dr. Jane Pangemanan, who initiated the initial allegations against PT NMR, recanted earlier statement and testified under oath that she did not diagnose heavy metal pollution related diseases suffered by villagers. •Chairman&CEO of PT NMR : "confident that this verdict will stand. This trial afforded us the opportunity to show the world that Buyat Bay was not polluted The fish are safe to eat, our operation did not cause harm," he said, adding that ruling will "restore confidence to the community" so that they can feel safe to "get on with their lives." •Newmont has established an independent scientific panel with the government to monitor and report on Buyat Bay for almost another decade. Newmont has no plans on leaving the site without further studies. | Wayne Murdy, Chairman and CEO of Newmont |
| 12 | April 2007 | Manado District Court exonerated PT NMR from all criminal charges and regulatory violations over alleged pollution at Buyat Bay | Evidence presented during the 21-month criminal trial, one of the longest criminal proceedings in Indonesian history, proved that tailings dumped into the water by Newmont's now-defunct Mesel Gold Mine on Sulawesi island did not exceed government standards. The court further found that the company was in compliance with all regulations and permits during its eight years of operations from 1996 to 2004. | Ridwan Damanik, as the Presiding Judge |

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| 13 | After the exoneration | Respond from President Director of PT NMR | <ul style="list-style-type: none"> • “I have lived in Indonesia for more than 25 years. This is my home, and I am delighted to see justice and truth prevail” • “The verdict that was handed down today completely indicates not only my Dad from any wrong doing but Newmont as company”. He said it also vindicates David Sompie, Jerry Konjansow, Bill Long, Putra Widjayatri and Phil Turner, who were initially jailed for 32 days in 2004 “for a crime that never happened.” | <ul style="list-style-type: none"> • Robert Ness, President Director of PT NMR • Eric Ness, the son of Robert Ness |
| 14 | May 2007 | WALHI proposed a legal standing claim | <ul style="list-style-type: none"> • Government does not seriously handle environmental pollution issue in Buyat. • WALHI claim the first defendant, PT NMR, that was assumed to perform illegal action, proposed its lawsuit to Ministry of Energy and Mineral Resources as the second defendant, and the Ministry of Environmental Affairs (KLH) as the third defendant. • WALHI claimed for this environmental criminal cases is conducted at High Prosecutor Office in North Sulawesi, with the suspect is PT. NMR as a corporating entity, NMR superintendent environmental, Jery Kounjansouw, External Relation Manager, David Sompi, Maintenance Affair Manager, Phill Turner, Superintendent Production, Putra Wijayantri, Site Manager, William Long, and Managing Director, Richard Ness. | Magazine, TV |
| 15 | Dec 18 th 2007 | The Board of Judges in the Jakarta Selatan Class Court rejected all WALHI’s claims to the defendants. | <ul style="list-style-type: none"> • WALHI could not give evidence about its environmental pollution claims and regulatory violations proposed toward PT. NMR, Ministry of Energy and Mineral Resources of Republic of Indonesia, and Ministry of Environmental Affairs of Republic of Indonesia. | Magazine, TV |
| 16 | April 2007 | The Board of Judges in the Jakarta Selatan Class Court Liberates PT. NMR from All accusations | <ol style="list-style-type: none"> 1. Testing results conducted by UN Healthy Agency, Ministry of Environmental Affairs of Republic of Indonesia, Commonwealth Scientific and Industrial Research Organization, Australia, and National Institute for Minimata Disease in Japan demonstrate that Buyat Bay is not polluted; 2. Testimony of the Buyat and Ratatotok peoples said that fish population is stable in Buyat Bay and ridge of rocks is in good condition; and 3. Testimony from the governmental inspectorate of mining, including written documents from PT. NMR has all operating permits that fits and does not violate those permissions. | Magazine, TV |

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| 17 | March 31 th 2009 | United Nation Commission on International Trade Law (UNCITRAL), published its final award, focusing to provide a winning to the Government of Republic of Indonesia. | Five important points : 1.To instruct PT NMR carry immediately out specification in Article 24.3 of the Working Contractual; 2.PT NMR must conduct default or agreement violation. 3.To instruct PT NMR to make divestation about 17% of its stocks to local government. 4.Such divestated stock must be clean and clear and source of fund for such stock purchase is not business of the PT. NMR 5.To instruct PT NMR to give compensation for all expenses spent by Government of Republic of Indonesia for this case Arbitrate interest, and payable in 30 days after this Arbitrate award. | DESDM |
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The summary of the disputed between the Government of Republic of Indonesia with PT Newmont Minahasa Raya are listed in the table below :

Table 4 : Some Disputes that Involved PT NMR and The Government of Republic of Indonesia

| No | Cases | Proposed by | Proposed to |
|----|---|---------------------------------------|--|
| 1. | Crime, assumed as environmental pollution | Police Department | Its cases is transferred to prosecuting office. |
| 2 | Civil, compensation as US \$ 117,68 millions (material) and Rp 150 billions (immaterial) | The Ministry of Environmental Affairs | Jakarta Selatan First Instance Court |
| 3 | State Administration, claim to General Directorate of Immigration on protective and controlled status towards top management officers of the PT NMR | PT NMR | Pengadilan Tata Usaha Negara (PTUN) |
| 4 | Arbitrate, civil dispute resolution between PT NMR and government through UNCITRAL | PT NMR | United Nation Commission on International Trade Law (UNCITRAL) |

Sources : The *Hukumonline* data center, 2005

After that, there is only a little publication of the company in the website in 2009, as follows :

Mine Closure. The objective of the mine closure programs is to minimize environmental impacts and maximize long-term local business sustainability. The company's main responsibility is to carry out staged closure programs in collaboration with the Government of Indonesia.

Responsibility to Work with the Local Community. Consultation with stakeholders at all levels (village, regency, national) is critical to responsible mine closure in order to factor in community interests and will continue until all mine closure programs are completed.

Commitment to Sustainable Development. The potential economic and social impacts of the mine's closure to local communities were identified via consultation. Newmont is committed to satisfying economic, social and environmental needs for the realization of sustainable development. Monitoring will be carried out in collaboration with local communities, NGOs and community based organizations with a focus on building local capacity and self-reliance.

Commitment to the Environment. Reclamation is not limited to re-designing the disturbed areas around mine area, but also forming desired topography, spreading topsoil, controlling erosion and managing water to spread surface flow. Reclamation was carried out during and after the mine closure until 2006, while the monitoring will end in 2008.

Revegetation of the Former Mine Area. PT NMR has reclaimed some 200 hectares or 95 percent of the total disturbed areas. The monitoring, carried out by a team from Sam Ratulangi University of Manado, identified that 91 species of birds have re-populated the site. In 2006, 155,814 tree crops and fruit were planted in the area. The reclamation and revegetation programs also provide jobs for those who worked during mining operations. The programs are expected to provide economic benefits and nurture a sense of belonging to the area that will become a forested area to be protected by the community.

Mangrove Rehabilitation. PT NMR, in collaboration with Non Governmental Organizations (NGOs) and local communities, supported mangrove forest protection and conservation at the Ratatotok and Buyat coast areas.

Development of New Underwater Habitat-Reefballs. PT NMR's reefball (artificial coral reef) program at Buyat Bay and Totok Bay is the world's biggest reefball program carried out by a private company.

Committment to social responsibility :

- To work in partnership with the community and government to ensure that social responsibility programs are carried out through a consultative and participatory process, employing best practices associated with sustainable development principles.

- To emphasize programs based on the four pillars of sustainable development, namely health, education, a prosperous community and appropriate infrastructure.

Based on writer's friend testimony who visited Buyat Bay in 2009, after PT NMR closed the mining activities in 2004 and the post-mining environmental monitoring had been continuing until 2008, the fact is not all of the environment and the villagers condition have recovered. People are still poor even though the minamata disease have no longer happened in this area because of no longer heavy metal Arsen (As), Mangan (Mn), Antimone, Mercury being produced by the gold mining company. The consumer product are expensive, and there are more underemployment. Now the environment are slowly recovering again. The forest are slowly beginning to grow again, fish and water are returning normally.

CORPORATE SOCIAL RESPONSIBILITIES

Corporate social responsibilities is one of the basic principles of Good Corporate Governance Indonesia (GCG). Based on Pedoman Umum Good Corporate Governance Indonesia (2006:i,2), GCG is one of the pillars of the market economy system, to encourage corporate sustainability, encourage empowerment and independence board of directors, board of commissioner and shareholders, encourage decision making and actions with high moral values and compliance with regulations and legislation, promote awareness and social responsibility to the public, optimizing the value of the company, improve the competitiveness of the company to encourage investment flows and the growth of national economy.

Profit and efficiency is not only the main target of business practices. Beside profit, business must pay attention to its negative impacts produced to the people and planet. The basic principles of corporate social responsibilities (CSR) is company must create or distribute safe and healthy product to its consumer, must obey the legislation and carry out responsibilities for people and the environment so that business continuity can be maintained long term in order to be recognized as a good business practitioner. Companies should create conducive business climate to its surrounding community, like improve the welfare of surrounding communities through creating jobs, and need to be concerned about their health and preserve the environment around the company.

As the big mining company in Indonesia, PT Newmont Minahasa raya should consider its objective in obtaining the large profit with considering and paying attention of its environmental impact to surrounding peoples and their environmental life.

As described above, almost all of the variety of research conducted by many parties result in a question whether PT NMR has been performing an informational manipulation and make environmental crimes that destroy the Buyat Bay area. This finding is clearly differed with publication made by PT Newmont itself or researchers or scientists from America, Canada, etc. Whatever pro and contra opinion regarding to the Buyat Bay case, the fact was the villagers suffered from minamata illness, since Newmont started to operate in 1996. PT NMR seemed less concerned about social benefit to local community especially around the company, because the company did not really carry out responsibilities for people and preserve the local environment well, which have negative impact to the long-term business continuity because the company did not do a good corporate governance.

Working Contractual also created dispute between the government of Indonesia government and PT NMR because uncertainty of such contract content would influence different interpretation of each parties. In accordance with Law no. 30 of 1999 on Arbitration and Alternative Dispute Resolution, arbitrase is a way of resolving civil disputes outside the courts generally are based on the arbitration agreement, which is made in writing by the parties to the dispute. Arbitration agreement contained in a written agreement could be made by the parties before the dispute arises, or after the dispute arises. The court should be covers the selected respondent residence (as opposed to the applicant). Ultimately the dispute between Indonesian government and PT NMR could be finished through an international arbitrate body.

To avoid such disaster happened again, each company could be encouraged to use corporate governance self assessment checklist. Forum for Corporate Governance in Indonesia (FCGI) has played a significant role in disseminating Good Corporate Governance principles in Indonesia. FCGI has been developing some questionnaire as a self assessment tool for companies in Indonesia to review and evaluate the quality of their corporate governance practices. This questionnaire can be used by any company, regardless of whether they are a state owned company, or a private company, and regardless of the industry in which the company operates. The questionnaire can be completed manually, using the attached questionnaire, or on-line by visiting the FCGI website at www.fcgi.or.id. The FCGI objective is to enhance awareness and to socialize Good Corporate Governance principles to the Indonesian business community based on international best practices, so that they can gain the benefits associated with Good Corporate Governance, including obey corporate social responsibility.

Through the questionnaire, companies can make assessment in 5 areas of corporate governance, where each area is weighted, i e shareholder's right, corporate governance policies, practice of corporate governance, disclosure and audit function.

CONCLUSION

The working contract should be designed and planned cautiously to avoid some dispute, delay the divestation process and create legal uncertainty.

Buyat environment recovery will need long time, expensive cost, and need more support from the central dan regional government, public parties, private parties, and so on. We all hope that the environment and the local community will support to make faster recovery and the social and economic condition will be gradually better, and for the next time such disaster would not be happened again.

When running the business, especially for mining companies, they should be aware to what kind of responsibilities that should be given to their customer, people around the factory, and also obey with state regulations. Environment should be well maintained and preserved to be inherited to the future generations. The corporate governance publication of a company should be explained clearly. Vision, mission, and company value especially in relation with its corporate social responsibility, should not be opposite, should be accordance with the conditions in the field. If the companies run their business with good social responsibilities, they can maintain good relations with communities surrounding the company. This will contribute to good corporate governance because they can improve business and economic performance, which will have good impact on share price, and influence the business continuity in the long run.

Within more academic management circles Elkington (1999) developed the concept of the Triple Bottom Line (Profit, People and Planet) which proposed that business goals were inseparable from the societies and environments within which they operate. A business should strives to meet the triple bottom line:

- Financial benefits for the company
- Natural world betterment
- Social advantages for employees and members of the local community

Short-term economic gain could be chased, but a failure to account for social and environmental impacts would make those business practices unsustainable. Now CSR continue to be used but are increasingly superseded by the broader term, Corporate Sustainability. Unlike the other phrases that focus on “added-on” policies, corporate sustainability describes business practices built around social and environmental considerations.

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