

Seventeenth Congress
Second Regular Session
House Bill No. **6087**



Introduced by Representative Ruby M. Sahali

EXPLANATORY NOTE

This bill seeks to establish a national trust fund for indigenous peoples to ensure effective and continuing improvement of the economic and social conditions of indigenous cultural communities (ICC) and indigenous peoples (IP).

Under Section 17, Article XIV of the 1987 Constitution of the Philippines, *"the State shall recognize, respect and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions and institutions. It shall consider these rights in the formulation of national plans and policies."* Moreover, Section 5, Article XII of the organic law of the land further enunciates that the *"State, subject to provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social and cultural well-being."*

Naturally-endowed with rich resources carefully protected by indigenous peoples for generations, ancestral lands offer immense potentials for economic and industrial viability. Mining is one of the most lucrative ventures that harness the natural resources of ancestral lands.

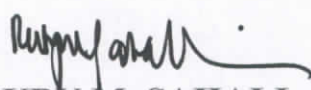
Under existing laws and government guidelines, a royalty of not less than five percent (5%) of the market value of the gross output of the minerals and mineral products extracted or produced from mineral reservations must be paid by the mining investor or permit holder. Ten percent (10%) of the said royalty goes to the Mines and Geosciences Bureau (MGB). The remaining amount is split between the National Government, which receives sixty percent (60%), and the local government where the mining reservation is located, which receives forty percent (40%). Meanwhile, pursuant to Paragraph 3, Section 16 of Administrative Order No. 21, Series of 2010 of the Department of Environment and Natural Resources, at least one (1%) of the gross output must be paid by the mining investor or permit holder directly to the ICC or IP concerned. This is intended to directly fund the socio-economic well-being of the ICC and IP.

However, royalty payments due the government are not completely paid. In 2014, only P303.6 million in royalty payment collections out of the P53.3 billion total revenues from the mining, oil and gas sector was recorded by the NCIP. In a mining project in Claver, Surigao del Norte, for example, certificates of ancestral domain title holders were supposed to receive over P300 million in cumulative payments from 2006 to 2016 from one mining company alone. This is evidently trivial considering that there were 333 free, prior and informed consent contracts and memoranda of agreement between mining companies and ICC and IP recorded by the Mining and Tenements Management Division of the MGB. All these contracts and agreements require mandatory royalty payments.

Moreover, the 1% share of ICC and IP from royalty payments is too meager to significantly uplift lives and compensate the ICC and IP for the exploitation of their ancestral lands. Once all minerals and resources have been completely extracted, mining will eventually cease. It will then leave the ICC and IP community with their barren lands and all the development opportunities lost to oblivion.

For this reason, we must institute effective social preparation strategies and invest in the future of the coming generations of ICC and IP. We must put in place, a mechanism that will enable them to recover and continue living decent lives after the termination of mining activities on their ancestral lands. Through this bill, we seek to establish a trust fund that will ensure a better future for the next generations of IP. Under this bill, while they allow mining operations in their ancestral lands, ICC and IP are also investing in the future of their children by allocating a portion of the royalty payments from mining in a well-protected trust fund. They can use this fund to finance education programs, social services and community development initiatives for the future generations.

Given the urgency of protecting the rights of our ICC and IP to their ancestral domain, urgent passage of this bill is earnestly sought.


RUBY M. SAHALI
Lone District- Tawi-Tawi

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**AN ACT
CREATING THE NATIONAL TRUST FUND FOR INDIGENOUS
PEOPLES AND APPROPRIATING FUNDS THEREFOR**

*Be it enacted by the Senate and the House of Representatives of the Philippines
in Congress assembled:*

SECTION 1. **Short Title.** – This Act shall be known as the “*National
Trust Fund for Indigenous Peoples Act.*”

SEC. 2. **Statement of Policy.** – It is the policy of the State to protect
the right of indigenous cultural communities (ICC) and indigenous peoples (IP)
to their ancestral domains for their economic, social and cultural well-being, and
to recognize the applicability of customary laws governing property rights or
relations in exploring natural resources within their ancestral domain.

SEC. 3. **National Trust Fund for Indigenous Peoples.** – A National
Trust Fund for Indigenous Peoples, hereinafter referred to as the “Fund,” is
hereby established exclusively for the promotion and advancement of economic,
cultural and social development and well-being of ICC and IP, including the
following components:

a. Infrastructure investments;

1 SEC 5. ***Fund Management.*** – The NCIP shall hold in trust all shares
2 in royalty payments. The NCIP may also accept funds from donations and sources
3 other than royalties from mining activities. Except for time deposits and other
4 investment management schemes by a reputable government bank, no
5 disbursement or appropriation from the Fund may be allowed for fifteen (15)
6 years to be reckoned from the first year of actual collection. Thereafter, the
7 royalty payment provided in Section 4 of this Act shall continuously be collected
8 and shall form part of the Fund.

9 SEC. 6. ***Release of Fund.*** – Fifteen years after the first year of actual
10 collection, the Fund shall be released to a duly-registered ICC or IP organization
11 in accordance with the purposes mentioned in Section 3 of this Act and the
12 Community Royalty Development Plan provided in Section 7 of this Act. No
13 release shall be made to the ICC or IP organization without the concurrence of
14 the NCIP commissioner from the region and the chairperson of the NCIP being
15 duly secured by the ICC or IP organization concerned.

16 SEC. 7. ***Community Royalty Development Plan (CRDP)*** – With the
17 assistance of the NCIP and other government agencies, the ICC or IP organization
18 that intends to receive proceeds of the Fund must formulate a development plan
19 for its use to be known as the Community Royalty Development Plan (CRDP).
20 In the formulation of the plan, the Ancestral Domain Sustainable Development
21 and Protection Plan must be considered, in accordance with the guidelines of the
22 NCIP.

1 For purposes of this Act, the Ancestral Domain Sustainable Development
2 and Protection Plan refers to a document prepared by the ICC or IP concerned, in
3 accordance with its customary practices, laws and traditions, for the development
4 and protection of their ancestral domain. The NCIP shall provide the guidelines
5 for the formulation of the Ancestral Domain Sustainable Development and
6 Protection Plan as a tool for the empowerment of ICC and IP towards the
7 fulfillment of the general well-being of the current ICC and IP generation without
8 compromising the needs of future generations.

9 SEC. 8. ***Transparency Mechanism.*** – The ICC or IP organization
10 shall prepare periodic financial reports and duly-audited annual financial
11 statements to be submitted to the NCIP. The financial reports and statements must
12 also be reported to the general membership of the ICC or IP organization during
13 the annual assembly that must be convened to tackle financial and other
14 community or IP organization concerns.

15 SEC. 9. ***Monitoring and Visitorial Powers.*** – In the exercise of its
16 mandate to protect the well-being and promote the rights of ICC and IP, the NCIP
17 may conduct or direct financial and management audits of recipient ICC and IP
18 organizations. For monitoring purposes, the NCIP shall also maintain a
19 comprehensive data and full accounting of all disbursements from the Fund.

20 SEC. 10. ***Implementing Rules and Regulations.*** – Within ninety (90)
21 days from the approval of this Act, the National Commission on Indigenous

1 Peoples shall issue the appropriate implementing rules and regulations for the
2 effective implementation of this Act.

3 SEC. 11. ***Repealing Clause.*** – All laws, executive orders, rules and
4 regulations inconsistent with or contrary to this Act are hereby repealed or
5 amended accordingly.

6 SEC. 12. ***Effectivity.*** – This Act shall take effect fifteen (15) days after
7 its publication in the *Official Gazette* or in a newspaper of general circulation.

8 Approved,