# Deforestation funds more plantations: The new Compensatory Afforestation Fund Bill in India

**Giving away India's forests**

On August 13, 2015, Prakash Javadekar, India's Minister of the Environment, informed the Upper House of the Indian parliament that "during the last five years and current year, the central government has accorded approvals to over 184,393 hectares of forest land in 7,716 cases for various developmental activities…" (1) This means that more than 1.8 million hectares of forests have been leased out to miners, dam builders, urban land developers and so on. In 2014, 35,867 hectares of forests were diverted for non-forest use, according to another statement made by the same minister to the parliament on April 28 (2).

One of the most visible policies of the far right National Democratic Alliance (NDA) government has consisted of making the forest and environment clearance process 'easier'. A persistent top-down administrative process has diluted the entire body of existing laws for environmental protection. Reportedly, the Prime Minister's Office instructed 60 separate amendments to the existing legal regime to the Ministry of Environment, Forests and Climate Change (MoEFCC), and by the end of January 2015, 50 of those were accepted (3). Though the majority of these changes concerned the Environmental Protection Act of 1986, a separate process started for diluting the landmark "Forest Dwelling Scheduled Tribes and Other Traditional Forest Dwellers" (Recognition of Forest Rights Act, better known as FRA) (for more information on FRA, see article from the August WRM Bulletin) - particularly, by scrapping the provision for empowering community institutions like the *Gram Sabha* (4) to monitor, control and if necessary, stop any development project in the forest areas in their jurisdiction (5).

At the same time, the government is talking about spending a colossal US$ 15 billion for afforestation during the next four years: once again, the Minister of the Environment, in his Independence Day message this year, said: "Funds to the tune of US$ 9 billion by the 14th Finance Commission and US$ 6 billion through*Compensatory Afforestation Fund Bill will soon be made available*… US$15 billion…for the real afforestation of the country, which will definitely increase our green stock, that is the carbon sink we are creating" (italics added). (6)

**Compensatory Afforestation and the new Compensatory Afforestation Fund Bill**

The new Compensatory Afforestation Fund (CAF) Bill has an interesting history. The fund itself is the result of a disguised forest offset process in India, on-going for most of the last two decades and perhaps more. The present system of compensatory afforestation grew out from a tangled process of environmental legislations and judicial interventions. In its present form, it calls to establish tree plantations in non-forest land for at least an equivalent amount (in case of public sector projects) of each separate instance of forest diversion. In case of private sector projects, plantations must be established on twice the diverted area. Plantations which thus come up in cleared forests are known as Compensatory Afforestation (CA). But the term has become generic: it now includes a range of

other mechanisms/concepts besides plantations. Other than making lands available for new ‘compensatory’ plantations, the ‘user agencies’ (those who apply for concessions/leases on forest land for taking up non-forest activities), must pay the entire costs for raising the plantations, along with a ‘Net Present Value’ (NPV) of the forest being diverted, and costs for the ‘Catchment Area Treatment’ (CAT). The ‘Net Present Value’ is apparently calculated and fixed following a typical economic valuation exercise that takes into account the entire spectrum of ‘ecosystem services’. These separate payments towards Compensatory Afforestation- including NPV and CAT - are deposited in the ad-hoc CAMPA (Compensatory Afforestation Management Planning Authority) fund, a mechanism created directly through judicial intervention when the Compensatory Afforestation Fund was established as part of the Forest (Conservation) Act in 1980. In the present system, the money comes to state level bodies but spending needs approval of the central body and the Supreme Court of India. According to the latest estimate, the CAMPA Fund holds unspent funds amounting to Rupees 38,000 crores (7) (roughly US$ 6 billion). And counting- because each year more forest areas are leased out anew to various private and public agencies.

**“Deforestation is Reforestation”: Environmental offsetting at its bluntest**

Unabashedly, the Minister of the Environment defends the fast-track forest clearance policy of his government. A reported memo issued on July 16 by the Minister’s private secretary Vinay Srivastava said, “Hon’ble minister has desired that henceforth in all communication the word ‘Clearance’ should be replaced by ‘Approval with Adequate Environmental Safeguards’ and the word ‘Diversion’ should be replaced by ‘Reforestation’.” The Minister affirmed saying: “For every diversion of forest land for a project…compensatory afforestation on equal area of non-forest land is a must...ultimately, it is reforestation only. This is all about thinking positive and using the right expression.” (8)

This is the offset logic at its bluntest. Notwithstanding the reality that not even a tiniest fraction of the obligatory compensatory plantations has come up so far, and the environmental fact that a forest can neither be recreated through plantations nor compensated by monetary means, the government is determined to push its neo-liberal agenda of no-holds-barred economic growth.

This process victimizes forests, forest communities, and a large section of the rural poor of India, twice. First, forests are often where communities live, their homes. Besides, forests provide sustenance not only to forest communities, but also to a huge number of rural poor living in the vicinity of those. Loss of forests therefore means loss of livelihoods and food security and also, more generally, sovereignty. Though the money collected as ‘Net Present Value’ includes costs for services such as the collection of Non-Timber Forest Products, no money has ever come back to the communities. Instead, the money continues to incentivize and directly fund more land grabs, which is the second layer of victimization. An unpublished study (9) carried out by independent researchers and civil society organisations in 2013-14 pointed out that both the concept of ‘no net loss’ or ‘compensatory forests’ and the money it produces are being used against forest communities. Community-held forested lands as well as agricultural and pasture areas are being acquired by the state and user agencies to get land for plantations. The money in the CAMPA fund is being used to expand the territorial limits of existing wildlife conservation areas like wildlife sanctuaries, national parks and critical tiger habitats, encroaching community lands and facilitating displacement of forest communities. These processes impinge upon a range of old and new community rights-land tenures, among others-severely curtailing community access to forests.

Most importantly, the illusion that money or plantations can compensate destruction of forests legitimizes and green-washes, ecologically and socially impermissible deforestation events.

This leads to the Compensatory Afforestation Bill of 2015,which the Indian Parliament is now discussing.

**Compensatory Afforestation Fund Bill, 2015: A critique**

The bulk of the text in the new Compensatory Afforestation Fund Bill deals with institutional mechanisms for utilizing money currently deposited in CAMPA. The following critique derives from the official submission by All India Forum of Forest Movements (AIFFM) to the Parliamentary Standing Committee that is currently examining it.

*Preamble*

The Preamble to the Bill states that the money received from the user agencies towards all compensatory initiatives in question will be for "...undertaking artificial regeneration (plantations), assisted natural regeneration, protection of forests, forest related infrastructure development, Green India Programme, wildlife protection and*other related activities and for matters connected therewith or incidental thereto*"(italics added). The last phrase gives the widest possible latitude to proposed disbursement and utilization of funds, meaning that any and all sorts of activities can be sponsored through these funds.

The Preamble also states that "the absence of a permanent institutional mechanism for utilisation of funds… is the main reason for accumulation of huge unspent funds". This is an evident lie. In 2013,a report compiled by the office of Comptroller and Auditor General, India, on Compensatory Afforestation and CAMPA (10) pointed out that even in cases where state forest departments had money for plantations, not much could be shown on the ground. Instead, CAMPA funds have been used for highly questionable purchases or in questionable manner. A recent newspaper report, citing a monitoring report prepared by the Maharashtra State Forest Department, reiterates that most of the 'compensatory' plantations shown on paper do not actually exist (11). The independent study from 2013-14 (12), bears this out not only for Maharashtra but for several other states. The gross reality is that the very Compensatory Afforestation process is a lie: it helps sustain the myth of offsets by promoting the idea that forests lost at one place can be replaced by raising plantations at another: Plantations are not forests! It is also a scam: plantations seldom come up; the money for that is either used for other purposes or grossly misappropriated.

*Definitions*

The Bill defines 'Compensatory Afforestation' as "afforestation done in lieu of the diversion of forestland for non-forestry use under the Forest (Conservation) Act, 1980". However, the Forest (Conservation) Act, does not provide for such afforestation. This came much later in subsequent rules and elaborated upon partly as a result of judicial interventions. Moreover, the Bill brackets a wide assortment of things naturally found within forests and a body of concepts and ideas, as 'environmental services' - such as "provision of goods such as wood, non-timber forest products, fuel, fodder, water…", "regulating services such as climate regulation, disease control, flood moderation…", "non-material benefits obtained from ecosystems, spiritual, recreational…" and "supporting such other services necessary for the production of ecosystem services, biodiversity, nutrient cycling and primary production".

But is 'environmental services' a term which should be used in a law? There are at present no scientific and standardized definitions of what constitutes such 'services,' or whether a forest ecosystem can be thus defined in terms of separate, compartmentalized and precisely identifiable 'services'. A forest is an ecological continuum and whole, which supports and contains material things as well as concepts. Its so-called 'services' distinguish the natural system, but cannot be

rationally alienated from it as ‘services’. This becomes important because the definition of ‘ecosystem services’ informs the definition of ‘net present value’, which is another questionable term that cannot have any place in law.

Valuation of forests is at best a controversial process, existing models for which fail to understand, let alone quantify, the myriad tangible and intangible values, most of those non-commercial, and not economic or financial in any definable way, a forest system contains in a given point of time. If the definition of environmental services includes “non-material benefits obtained from ecosystems, spiritual, recreational, aesthetic, inspirational, educational and symbolic” , how can one assign monetary values to these?

**Final Observations**

The *Statement of Objects and Reasons* appended to the Bill repeatedly mentions the Comptroller and Auditor General, India’s observations about Compensatory Afforestation and ad-hoc CAMPA, and states that the present Bill has been framed keeping in mind and in accordance with those. However, the Bill is not creating anything substantially different from CAMPA, other than handing over to state forest departments almost total control of funds held by the body, also any new money that might be deposited. The Bill effectively takes the fund and its disbursement away from judicial scrutiny and legitimizes an institutional structure that allows for more corruption and financial irregularities. It potentially empowers the state forest departments and the Ministry of Environment, Forests and Climate Change to utilize the funds for any purpose they deem fit, thus excluding and hurting interests of communities who lose most in both deforestation and afforestation.

If at all, the funds need to be utilized for the welfare of dispossessed communities, in consultation with them, and through their direct agency. The same holds true for Compensatory Afforestation – let *Gram Sabhas* demarcate lands, and take up forest restoration and regeneration activities in a manner that suits the communities and their ecology best. So much additional funds in the hands of the strong forest bureaucracy in the country will only facilitate a scenario of yet more injustice and rights denial at the grassroots. Further, it will undermine the implementation of the Forest Rights Act.

Raising a number of valid objections to the process of Compensatory Afforestation and the Compensatory Afforestation Bill, two major alliances of forest movements and community groups in India demanded that the bill must be scrapped (13).

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(1) Press Trust of India, New Delhi, August 13,2015. See http://www.business-standard.com/article/pti-stories/1-84-lakh-hectare-of-forest-land-diverted-for-non-forest-use-115081301268_1.html, accessed on August 19,2015
(2) Press Trust of India, New Delhi, April 28,2015. See http://www.business-standard.com/article/pti-stories/diversion-of-35-867-ha-of-forest-land-okayed-in-2014-govt-115042800615_1.html, accessed on August 19,2015
(3) Sethi, N, *PMO orders 60 changes…*, in Business Standard, January 20, 2015. See http://www.business-standard.com/article/economy-policy/pmo-ordered-60-changes-to-green-clearances-environment-ministry-delivered-on-most-115012001495_1.html, accessed on August 19,2015
(4) As defined in FRA, the *Gram Sabha* is the open assembly of all adult residents in a ‘*gram’* or village. It is an independent body and can come up in all forest areas with a population of forest-

dwelling Scheduled Tribes and/or other traditional forest dwellers, irrespective of whether such forest settlements are officially recognized as villages.

(5)Sethi, N, *Forest Land: Govt finalising dilution of tribal rights,* in Business Standard, January 20, 2015. See http://www.business-standard.com/article/economy-policy/forest-land-govt-finalising-dilution-of-tribal-rights-115010100027_1.html, accessed on August 19,2015

(6)Press Information Bureau, Government of India, Ministry of Environment and Forests, *Environment Minister's Message on the Occasion of Independence Day*, August 15, 2015

(7)Press Information Bureau, Government of India, Ministry of Environment and Forests, April 29,2015, *Compensatory Afforestation Fund Bill, 2015*, seehttp://pib.nic.in/newsite/PrintRelease.aspx?relid=119907, accessed on 19 August, 2015

(8) See http://indianexpress.com/article/india/india-others/dont-say-diversion-of-forest-land-say-reforestation-prakash-javadekar/#sthash.MyGASSx3.dpuf), accessed on 19 August, 2015

(9) Ghosh, S, Basavaptna, S et al, *Multiple Displacements: A critical look into cases of forest diversion and allocation of land for Compensatory Afforestation (CA) in India*, forthcoming.

(10) *Report no.-21 of 2013-Union Government (Ministry of Environment and Forests) - Report of the Comptroller and Auditor General of India on Compensatory Afforestation in India,* available athttp://www.saiindia.gov.in/english/home/our_products/Audit_Report/Government_Wise/union_audit/recent_reports/union_compliance/2013/Civil/Report_21/Report_21.html, last accessed on 19 August, 2015

(11) Pinjarkar, V, *Forest officials spend crores on plantation with nothing to show for it*, in The Times of India, Nagpur, May 12, 2015. Seehttp://timesofindia.indiatimes.com/city/nagpur/Forest-officials-spend-crores-on-plantation-with-nothing-to-show-for-it/articleshow/47239889.cms, accessed on 19 August, 2015

(12) Ghosh, S, Basavaptna, S et al, Ibid

(13) *A Scam and a Land Acquisition Fiasco Rolled Iinto One – The Compensatory Afforestation Fund Bill*, Joint Press Release issued by Campaign for Survival and Dignity(CSD) and All India Forum of Forest Movements(AIFFM), July 31, 2015