

# A COMPROMISED COMPENSATION

## CAF Bill 2015 and PSC Report



Centre for Science and Environment  
41, Tughlakabad Institutional Area, New Delhi 110 062, INDIA  
Ph: +91-11-29956110 - 5124 - 6394-6399 Fax: +91-11-29955879  
E-mail: [ajay@cseindia.org](mailto:ajay@cseindia.org) Website: [www.cseindia.org](http://www.cseindia.org)

**A COMPROMISED COMPENSATION:  
CAF BILL 2015 AND PSC REPORT**

**T**he Compensatory Afforestation Fund (CAF) Bill 2015 is in Parliament for decision. If enacted, it will unlock huge funds to the tune of Rs 42,000 crore (and rising) to states and Union Territories (UTs) of India to take up various forestry activities.

The CAF Bill 2015 was referred to the Parliamentary Standing Committee (PSC) on Science & Technology, Environment & Forests in May 2015. The Committee, chaired by Dr Ashwani Kumar, submitted its 277th report in February 2016 to Parliament. While the PSC report put on record many lapses in the CAF Bill 2015, it missed many critical issues ailing the CAF regime. It also made some alarming recommendations which may have dire consequences on the forest cover of India if adopted in the proposed CAF Act.

This factsheet gives a brief on facts related to the issue of compensatory afforestation in India and an analysis of CAF Bills (2008 and 2015) and the PSC report.

### WHAT IS COMPENSATORY AFFORESTATION?

Compensatory afforestation is afforestation in lieu of the diversion of forestland for non-forest use. In principle, compensatory afforestation means planting of trees on another piece of land equivalent in area to the original forestland diverted for non-forest purposes, such as infrastructure building, mining and construction of roads or railways.

It is mandated under the Forest (Conservation) Act, 1980 that compensatory afforestation is done over equivalent area of non-forestland. Equivalent non-forestland identified for the purpose would subsequently be transferred to the ownership of the State Forest Department and declared as Protected Forests so that the plantation raised can be maintained permanently. Where non-forestlands are not available, compensatory afforestation may be carried out over degraded forest twice in extent to the area diverted or to twice the difference between forestland being diverted and available non-forestland, as the case may be.

### WHAT IS CAMPA?

Compensatory Afforestation Management and Planning Authority (CAMPA) is a body constituted by the Central government as a consequence of the Supreme Court's order in 2002. The cost of creating the compensatory forest is borne by the 'User Agency' proposing the forest diversion for its project, which can be a public or private sector enterprise or a government body owning the project. Whenever development projects seek land inside a Reserved Forest or a Protected Area (PA), such as a wildlife sanctuary or a national park, certain levies are imposed by the government on the project proponent (the User Agency) towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value of forestland, catchment area treatment plan funds, etc. From such moneys, a huge corpus of over Rs 42,000 crore has accumulated into accounts of Ad hoc CAMPA, a temporary body set up in 2006 by the Supreme Court to manage such funds. The corpus is increasing at the rate of about Rs 6,000 crore per year.

### COMPENSATORY AFFORESTATION FUND (CAF) BILL, 2015

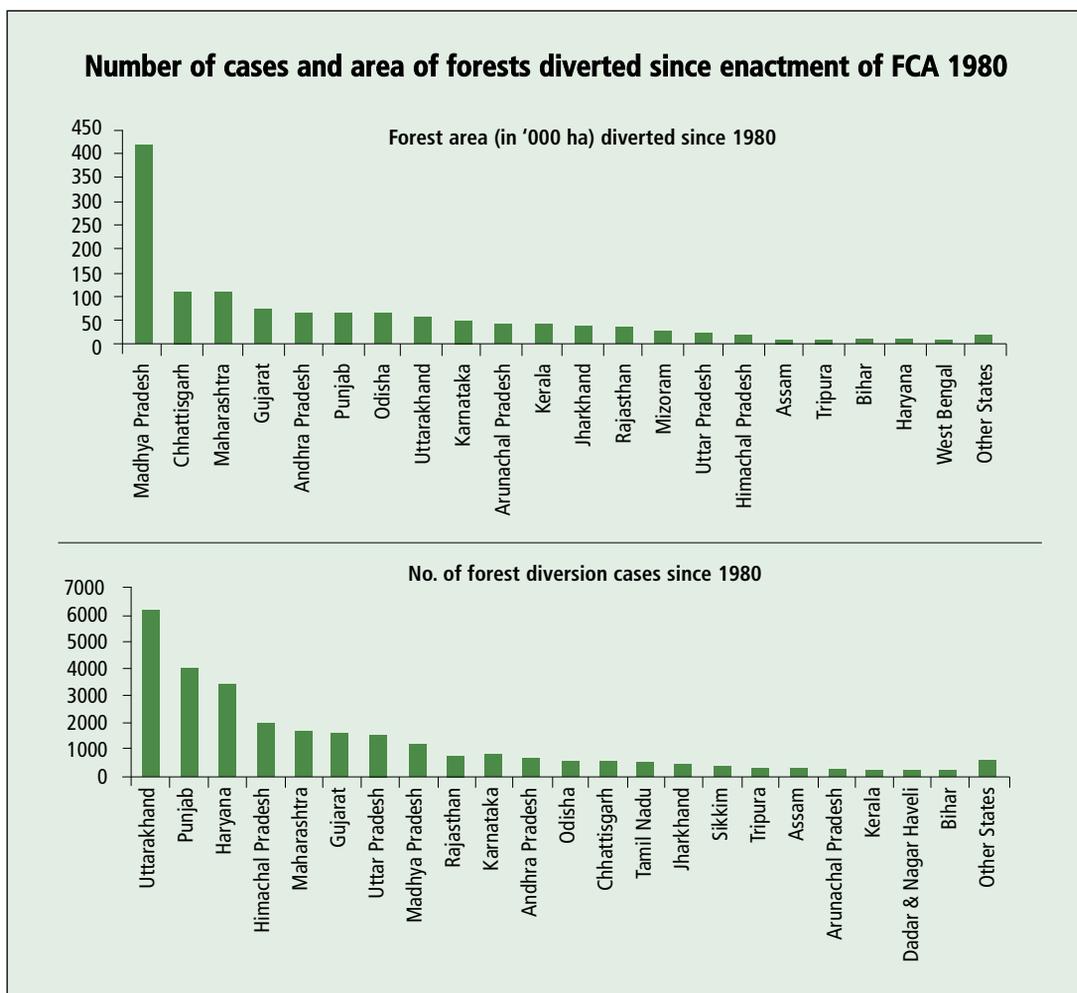
The Compensatory Afforestation Fund (CAF) Bill, 2015 was introduced in the Lok Sabha by the Minister for Environment, Forest and Climate Change, Prakash Javadekar on 8 May 2015. The Bill seeks to establish a non-lapsable, interest-bearing National Compensatory Afforestation Fund (National CAF) under the public account of India as well as such State Compensatory Afforestation

Funds (State CAFs) under public accounts of each state that shall be under control of the Central government and state/UT governments respectively. These National and State CAFs will be credited with moneys that are currently placed under the Ad hoc CAMPA. CAF Bill 2015 proposes utilization of CAFs for artificial regeneration (plantation), assisted natural regeneration, protection of forests, forest-related infrastructure development, the Green India Programme, wildlife protection and other related activities and for matters connected therewith or incidental thereto. The CAF Bill, 2015 mainly provides for:

- Establishment of the National CAF and the State CAFs to credit amounts collected by state governments and UT administrations to compensate for losses of forestlands diverted for non-forest purposes;
- Constitution of a National Authority to manage and utilize amounts credited to the National CAF;
- Constitution of a State Authority in each state/UT to manage and utilize the amounts credited to the state CAFs and
- Establishment of a Monitoring Group to assist the National Authority in the monitoring and evaluation of activities undertaken from amounts released from the National CAF and State CAFs.

### FOREST DIVERSIONS CONTINUE UNABATED

- A CSE (Centre for Science and Environment) analysis shows that since the enactment of the Forest (Conservation) Act in 1980, the Ministry has granted approval for the diversion of 1.29 million hectares (ha) of forestlands for non-forestry purposes in 28,677 cases till August 2015 (*see Box: Number of cases and area of forests diverted since enactment of FCA 1980*).
- Various studies estimate that approximately 4 to 5 million ha of forestlands were diverted in 1947–1980.





## Compensatory Afforestation in India—A Timeline

**1980:** 'Compensatory Afforestation' was mentioned for the first time in the Forest (Conservation) Act, 1980 (amended in 1988)

**2002:** The Supreme Court of India directed the creation of a Compensatory Afforestation Fund (CAF) in which all monies from user agencies seeking diversion of forestland for non-forest purposes would be deposited. It also proposed setting up a Compensatory Afforestation Management and Planning Authority (CAMPA) to manage compensatory afforestation affairs.

**2004:** On 23 April 2014, the Ministry of Environment and Forests (MoEF) constituted CAMPA as an authority under sub-section (3) of section 3 of the Environment (Protection) Act, 1986.

**2006:** In May 2006, the apex court noted that CAMPA had still not become operational and ordered the constitution of an Ad hoc body (known as 'Ad hoc CAMPA'), till CAMPA became operational. All monies received in the name of CAMPA and lying with the various officials of the State Government were to be transferred to Ad hoc CAMPA.

**2008:** Compensatory Afforestation Fund Bill 2008 was introduced in the Parliament and passed by the Lok Sabha on 23 December 2008. But the Bill lapsed with the dissolution of the 14th Lok Sabha later in 2009.

**2009:** The Supreme Court issued an order to release Rs 1,000 crore per year for next five years to states from Ad hoc CAMPA. MoEF established the National CAMPA Advisory Council and issues State CAMPA guidelines.

**2013:** The Comptroller and Auditor General (CAG) in their report titled 'Compensatory Afforestation in India (21 of 2013)' noticed many lacunae in CAMPA processes and recommended that the Ministry needed to review the existing paradigm of CAMPA.

**2014:** The Ministry of Environment, Forest and Climate Change (MoEF&CC) presented a draft CAMPA order to the Supreme Court for constitution of the regular CAMPAs, both at the Central and state/ UT levels. The application faced opposition from the Central Empowered Committee (CEC) of the SC and order could not be notified in the official gazette.

**2015:** Given the roadblock in CAMPA order notification, MoEF&CC formulated CAF Bill 2015 as an alternative way out to institutionalize CAFs as permanent bodies. The CAF Bill 2015 was introduced with the objective of unlocking the massive wealth (to the tune of Rs 38,000 crore then) accumulated over the years in Ad hoc CAMPA funds.

**2016:** The Parliamentary Standing Committee on Science & Technology, Environment & Forests submitted its 277th report on the CAF Bill 2015. The Bill is scheduled to be decided by the Parliament soon for enactment.

### SUMMARY OF FINDINGS OF CAG REPORT (21 OF 2013)

The Comptroller and Auditor General (CAG) in their report titled 'Compensatory Afforestation in India (21 of 2013)' found many shortcomings in CAMPA regime in country. Some of them are the following:

1. Compensatory afforestation over non-forestland received was an abysmal 7,280.84 ha (only 7 per cent of the receivable non-forestland).
2. Compensatory afforestation was carried out on only 49 per cent of identified degraded forestlands.
3. Seven states, i.e. Gujarat, Haryana, Kerala, Maharashtra, Meghalaya, Punjab and Rajasthan, carried out no compensatory afforestation either over non-forestland or degraded forestland.
4. Information made available by state/UT CAMPAs revealed that of the 23,246.80 ha of non-forestland they received, only 11,294.38 ha were transferred and mutated in the name of the State Forest Departments. Of this, 3,279.31 ha were declared as Reserved Forests/Protected Forests, which was only 14 per cent of non-forestland so received.
5. Numerous instances of unauthorized renewal of leases, illegal mining, continuance of mining leases despite adverse comments in the monitoring reports, projects operating without environment clearances, unauthorized change of status of forestland and arbitrariness in decisions of forestry clearances were observed.

6. In six states where information was available, encroachment on 1,55,169.82 ha of forestland was noticed but MoEF&CC did not take time-bound action to evict encroachers despite Supreme Court directions.
7. Out of Rs 2,925.65 crore of the compensatory afforestation funds released by Ad hoc CAMPA in 2009-12 for compensatory afforestation activities, only Rs 1,775.84 crore was utilized by states/UTs.
8. The percentage of overall utilization of released funds was only 61 per cent. In 11 of the selected 30 states/UTs, use was 0-50 per cent, which indicated poor absorptive capacity of the states/UTs. Most states/UTs were unable to spend the monies released to them by the Ad hoc CAMPA.
9. The mechanism for investment of surplus funds by the Ad hoc CAMPA was arbitrary and lacked in fairness and transparency.

### COMPARATIVE ANALYSIS OF CAF BILL 2008 AND CAF BILL 2015

The CAF Bill 2015 is a loose adaptation of the similar CAF Bill of 2008. The key aspects of CAF Bill 2015 that differentiate it from the CAF Bill 2008 are as follows (See Box: *A brief comparative analysis of the CAF Bill 2008, CAF Bill 2015 and PSC Report*):

- While the 2008 Bill provided for CAF at the Central level only, the 2015 Bill provides for the establishment of such funds simultaneously at the state/UT level also.
- The CAF Bill 2015 provides for the utilization of 90 per cent of the funds by respective states/UTs, with the remaining 10 per cent to be deposited to the National Fund and the Centre will have full power to utilize this amount in the states or otherwise. The CAF Bill 2008 stated that the total afforestation money collected from a state shall only be used within that state.
- The CAF Bill of 2008 provided for meeting afforestation targets within one year or two growing seasons after project completion, as may be appropriate, after receipt of the money; the CAF Bill 2015 remains silent on it. Both the Bills lacked perspective on the critical issues of overall ecological security of the affected areas and the livelihoods of the communities affected by forest diversions.
- The CAF Bill 2008 was somewhat progressive in comparison with the CAF Bill 2015 in terms of democratization of the compensatory afforestation regime. The 2008 Bill advocated ground-level execution of compensatory afforestation works through Joint Forest Management Committees. The CAF Bill 2015 completely lacks this perspective.

### GOOD RECOMMENDATIONS BY THE PSC REPORT ON CAF BILL 2015

While the PSC in its 277th report has put on record many lapses in the CAF Bill 2015, it has missed many critical issues ailing the CAF regime in country. Following are the good recommendations:

- doing away with the provision in CAF Bill 2015 for the use of CAFs for the Green India Programme. This will put a check on the diversion of CAFs into the Green India Programme which has a separate and exclusive mandate.
- recommending the use of native species in plantations.
- broadening the scope of environmental services (including pollination and seed dispersal) in the definitions.
- recommending consultation by the Central government with states/UTs for making rules under the CAF Act. This will lead to a balanced approach consistent with ground realities.
- reducing the Central (National Authority) share from 10 per cent to 5 per cent. Although it is doubtful that the National Authority will be able to spend even this amount, which is huge compared to earlier unutilized amounts allocated to the erstwhile National CAMPA Advisory Council, the reduction recommended by the PSC report is welcome as it will enhance forestry activities on the ground.
- seeking elaboration on 'infrastructure development, supply of wood and other forest produce saving devices and other allied activities' mentioned in the Bill to avoid ambiguity and misuse of funds.
- recommending 'facilitating voluntary relocation from critical wildlife habitats' for utilizing money received in CAFs against forest diversions in Protected Areas (PAs). This will help address the issue of relocation from PAs that has long been ailing the wildlife sector of the country.

- including 'ministries of Space and Earth Sciences' in the governing body of the National Authority, considering the increasing utility and use of space and remote-sensing technologies.
- including an expert on tribal matters or a representative of tribal community in the Steering Committees of National Authority and State Authorities. This will make Steering Committees more representative and sensitive to tribal people's concerns.
- making approval by the National Authority of Annual Plans submitted by State Authorities time-bound to 'within 3 months' from receipt of plans. This is a very important recommendation as it is observed that many forestry schemes' Annual Plans of Operations (APOs) remain undecided on the tables of the MoEF&CC for long durations, impacting severely the activities at the ground level.

### ALARMING RECOMMENDATION BY THE PSC REPORT

The PSC report has made some alarming recommendations too. Currently, private agencies are mandated to provide non-forestland equal in extent to the area of forestland proposed to be diverted. Where non-forestlands were not available or non-forestland was available but lesser in extent to the forest area being diverted, compensatory afforestation could be carried out over degraded forests twice in extent to the area being diverted or to twice the extent of the difference between the forestland being diverted and the available non-forestland, as the case be. Against this background, in Section 8 of the 277th report, PSC makes a recommendation that '*in order to meet the situation where enough land is not available for Afforestation, specific provisions should be made in the Bill for encouraging densification and revitalization of available forests closest to areas where deforestation is considered unavoidable on account of critically important national projects. Thus the Bill should contain provisions emphasizing the same*'. This recommendation is a very alarming and indiscriminate in the sense that it will give a free hand to forest authorities to divert forests on the pretexts of '*densification and revitalization of available forests*' with no implied liability to compensate diverted forests by creating forests on new lands. With the forest departments' track record of letting forests degrade over decades, such a relaxation in land acquisition process proposed by PSC seems outlandish. It will infringe upon the progress of FRA, 2006 also while causing an overall reduction of forest cover in the country by curtailing the extent of compensatory afforestation.

CSE has found that compensatory afforestation is also leading to serious land alienation issues in India. People are now being displaced from their lands for compensatory afforestation. This shows that there is hardly any land available for compensatory afforestation in many areas. Simply put, non-availability of non-forest or degraded forestlands (the existing CAMPA regime mandates compensatory afforestation only on these two types of lands) means that only dense forests are available in that area and the '*densification and revitalization of available forests*' proposal if adopted will lead to such efforts in already dense forests that may be of no use at all. In such situation, we must rethink the whole paradigm of compensatory afforestation in India. The government must also have a long-term vision of how much forest we can divert without endangering long-term national ecological security, how much compensatory afforestation country requires for offsetting these forest losses and how to ensure that communities will be benefiting out of this development rather than being deprived of their lands. Of course, the degraded forests of India need densification and revitalization, but not at the cost of dense forests or without their losses being compensated.

### OTHER LACUNAE IN CAF BILL 2015

CSE analysis shows that there are many other shortcomings in the CAF Bill 2015 which have not been cured by the PSC report. Some of them are following:

1. No prescription of people's participation or benefit sharing with communities;
2. No social monitoring or social audit process included;
3. No effort to find synergies with other forest schemes/programmes;
4. No prescription for periodic revision of Net Present Value (NPV) rates and
5. Lack of ecosystem approach and scientific monitoring of compensatory afforestation.

**RECOMMENDATIONS BY CSE**

- Reject the recommendation of PSC report about ‘densification and revitalization of available forests closest to areas where deforestation is considered unavoidable’;
- Share forest benefits with people and build people-led forest economy from compensatory afforestation;
- Rehabilitate and compensate communities affected by diversions using CAFs;
- Use CAFs to strengthen weak forest grass-roots democracy by financing Community Forest Resource Management Committees (CFRMCs) and Joint Forest Management committees (JFMCs);
- Use CAFs to consolidate fragmented large reserve forest blocks, PAs and wildlife corridors to ensure ecosystem continuity;
- Adopt ecosystem approach and continuous ecological monitoring in compensatory afforestation;
- Utilize CAFs for strengthening wildlife conservation by strengthening wildlife corridors, Community Conserved Areas (CCAs), relocation of people from PAs etc.;

<b>A brief comparative analysis of the CAF Bill 2008, CAF Bill 2015 and PSC Report</b>		
<b>CAF Bill 2008</b>	<b>CAF Bill 2015</b>	<b>PSC Report</b>
Operative at the Central Level only, with no authoritarian and/or bureaucratic framework at the State/UT Level. It defines the 'Authority', but not the 'Ad hoc authority'.	To be operative at the Central as well as State/UT levels, with Powers and functions of State Authorities described separately.	Agrees broadly with administrative structure proposed by CAF Bill 2015, but recommends reduction of National Fund share from 10 per cent to 5 per cent.
The 'Authority' comprises a Governing Body assisted by an Executive Body, Monitoring Group and an administrative support mechanism.	The 'National Authority' comprises a Governing Body assisted by an Executive Committee, Monitoring Group and administrative support mechanism. The 'State Authority' comprises of Governing Body, Steering Committee and Executive Committee.	
Funds to be utilized completely by Centre at State level i.e. 100% of the money for Compensatory Afforestation collected from the state to be used within that state only.	Disbursement and utilization of National Fund and State Fund separately in a ratio of 10:90, i.e. 90% of the CA money to be utilized within the state and the remaining 10% to be deposited to National fund. The National Authority may in consultation with the concerned states order that such a sum as may be justified for reparation of the trans-boundary effects be transferred to State Fund of such State or States.	
The Authority shall accomplish the afforestation for which money is deposited in the Fund within a period of one year or two growing seasons after project completion, as may be appropriate, after receipt of the money.	No such time limited target is prescribed; therefore it is weaker than CAF Bill 2008 on this aspect as it doesn't have a timeframe for afforestation target achievement.	Only recommends approval by National Authority within 3 months from the date of receipt of the Annual Plan of Operations (APOs) of the State Authorities.
Provides for democratic arrangements with properly demarcated benefit-sharing mechanisms between the forest department and JFMCs. All work at the ground level shall be executed through JFMC except in matters where the nature of work demands execution by any other agency.	No such arrangement in this Bill. Heavily bureaucratic—therefore lacking in promoting people-led forest economy. This will curtail the empowerment of such grass roots-level forest institutions, which are slowly dying out or becoming dysfunctional.	Recommends inclusion of an “expert on tribal matters or a representative of tribal community” in Executive Committees of National Authority as well as State Authorities. PSC fails to prescribe any grassroots democracy.
Defines 'Green India Programme' and provides for utilisation of CAFs for it.	It does not define Green India Programme but mentions it in Preamble where the funds will be used for.	The report recommends against the use of CAFs for the Green India Programme, noting that it is a separate programme of government with its own budgetary allocation.
No such provision of densification and revitalization of available forests in case where enough land is not available for afforestation.	No such provision of densification and revitalization of available forests in case where enough land is not available for afforestation.	PSC makes a recommendation that ‘in order to meet the situation where enough land is not available for Afforestation, specific provisions should be made in the Bill for encouraging densification and revitalization of available forests closest to areas where deforestation is considered unavoidable on account of critically important national projects.



- Make sure at the ground level that there is no displacement of people or communities during land acquisition process for compensatory afforestation;
- Ensure survival of planted stocks in compensatory afforestation;
- Streamline and strengthen the CAF processes with FRA, 2006;
- Cap forest diversions in the areas where non-forestlands or degraded forests are not available for compensatory afforestation;
- Leave PAs and dense forests inviolate as far as possible from developmental projects to minimize forest fragmentation;
- Create and maintain a public information system to track progress of CAFs;
- Establish Monitoring Groups both at national as well as state/UT levels to ensure efficient utilisation of CAFs;
- Invest in creating participatory green assets, not in accumulating CAFs in banks or public accounts;
- Design and implement multidimensional social and ecological audit of compensatory afforestation and
- Make an integrated forest action plan for India using CAFs

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## REFERENCES

1. Compensatory Afforestation Fund Bills of 2008 and 2015.
2. CSE Media Briefing: Forests in India, 2012. Centre for Science and Environment, New Delhi.
3. CSE Report: Strengthen institutions, reform laws and streamline processes: Agenda for improving environmental governance in India, 2014. Centre for Science and Environment, New Delhi.
4. Report of the Comptroller and Auditor General of India on Compensatory Afforestation in India, No. 21 of 2013.
5. 'Strengthen institutions, reform laws and streamline processes'. Agenda for improving environmental governance in India, 2014. Centre for Science and Environment, New Delhi.
6. 277th Report on the Compensatory Afforestation Fund Bill, 2015 of Department-related Parliamentary Standing Committee on Science & Technology, Environment & Forests.