

Compensation or Co-optation:

Risk of Cost-shifting in Compensatory Afforestation in India



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INSIGHTS

LETTERS

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Protecting India's conservation offsets

INDIA, A MEGADIVERSE country and fast-growing emerging economy (1, 2), endures a constant tug-of-war between conservation and development. Biodiversity offsetting, an increasingly popular but controversial conservation tool, seeks to counterbalance biodiversity impacts associated with economic development (3). To provide a biodiversity offset, developers compensate for degraded land by supporting conservation actions such as reforestation of degraded forests.

To be valid, biodiversity offsets must support conservation that would not otherwise be implemented, not conservation already planned or under way. This is the principle of 'additionality.' Only added conservation can counterbalance development (5). In violation of this widely accepted principle, the Indian government has sought to divert offset funds toward established conservation commitments. As a result, development remains uncompensated, and India suffers a net loss of biodiversity (6).

Biodiversity offsetting was codified in India's Forest Conservation Act (FCA), 1980, which requires projects that cause deforestation to pay for compensatory afforestation (5). Successive government administrations, however, have failed to implement this offsetting mechanism, leaving more than INR 28,000 crores (about USD 5.7 billion) sitting unused in a government account, even as deforestation continues. A proposed new law, the Compensatory Afforestation Fund (CAF) Bill, 2015, which is up for debate in the Indian parliament, seeks to resolve this inertia (6).

India's FCA, 1980, is explicit about the concept of additionality: "The compensatory afforestation should clearly be an additional plantation activity and not a diversion of part of the annual plantation programmes" (5). The CAF Bill, 2015, proposes diverting compensatory afforestation funds to implement the Green India Mission (GIM), a separate afforestation program stipulated under India's National Action Plan on Climate Change to fulfill its international climate change mitigation commitments (6). This falls under the category of established conservation, and therefore does not qualify as compensation

according to the principle of additionality. Initially, INR 6000 crores (about USD 1300 million) are proposed for diversion (7). This sum could be used to afforest about 1.2 mha (8). Thus, compensatory afforestation of 1.2 mha will be forgone, in effect, leaving an uncompensated net loss of almost all of the 1.48 mha deforested under FCA since 1980 (9). For effective mitigation of development impacts on India's forests and biodiversity, compensatory afforestation funds must not be diverted to the Green India Mission. The funds should be used strictly for compensatory afforestation, and the resulting forest cover gains should be measured and reported against a baseline that includes afforestation planned under the Green India Mission. To avoid double counting, there should be separate accounting for the spending on compensatory afforestation and that on the Green India Mission.

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Open-access policies:
A legal quagmire

MANY UNIVERSITY OPEN-ACCESS policies grant a shared copyright to the school for all faculty articles before publication. According to these policies, which are often based on Harvard's model language (1, 2), faculty members deposit articles into an institutional open-access repository. Faculty can request a waiver from the policy for a particular article.

Once a publisher accepts an article for publication, the author signs a copyright agreement that transfers certain rights to the publisher and certifies that the author has unencumbered possession of those rights. However, if the author has not obtained a waiver to the school's open-access repository, it is unclear whether his or her rights to the article are encumbered by the previous grant to the school (3). The publisher copyright agreements are written



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Table of Contents
Print Table of Contents
Advertising (PDF)
Classified (PDF)
Masthead (PDF)

- Policy perspective that takes the case of biodiversity offsetting in India to highlight the risk of cost-shifting and violation of additionality
- Letter-length version published by [Science](http://www.sciencemag.org)

Biodiversity Offsetting and the Risk of Cost-shifting

- Biodiversity offsetting compensates for development-induced biodiversity losses through conservation gains elsewhere - overall goal of **'no net loss'**
- Biodiversity offsetting has the potential to bridge global **conservation finance** gap
 - channelize private-sector funding
 - one of CBD's six innovative financial mechanisms
- **Cost-shifting** can jeopardize biodiversity offsets as a source of conservation finance i.e. offset funds displace existing/pledged finance (Pilgrim & Bennun, 2014)




How Cost Shifting can play out

Governments can:

- 1. actively cut down funding for management of protected areas in anticipation of offset funding** (Pilgrim & Bennun, 2014)
- 2. create new protected areas using the offset funding and claim them as conservation gains without parallelly reporting biodiversity loss caused by project development** (Maron et al. 2015)
- 3. use offset funds to fulfill conservation commitments made under international agreements such as the UNFCCC and CBD** (Maron et al. 2015)



Biodiversity Offsetting and Additionality

- **Offset funding should be additional to existing/forthcoming funding obligations – a widely-accepted principle called **additionality**** (BBOP, 2009; Maron et al. 2015; McKenney & Kiesecker, 2010)
 - **Ensuring additionality: measure offset gains against a **counterfactual scenario** that captures potential threats + potential protection/restoration measures**
- 
- **a realistic counterfactual would include any pre-existing conservation commitments of the government → offset should be additional to such commitments** (Maron et al. 2015)

ADDITIONAL BENEFITS

Biodiversity Offsetting and Violation of Additionality

- Requirement of additionality often explicit in offsetting legislations e.g. China' Forest Vegetation Restoration Fee is prohibited from being used for purposes other than restoration
- Cost shifting violates additionality – funds conservation actions that would have happened anyway → no additional conservation takes place
→ biodiversity loss remains uncompensated → net loss of biodiversity
- India has a national-level regulatory biodiversity offsetting regime
- Indian Parliament passed a new law that allows cost-shifting – this paper considers potential consequences of this law

VIOLATION

Offsetting Mechanism in India

- India, a 'megadiverse' country, is home to 7-8 % of all recorded species
- Annual GDP growth rate of around 7.5%, India is the fastest-growing emerging economy in the world (IMF, 2016)
- With one-fifth of the global population packed into one-fiftieth of world's land area (WEF, 2011), nowhere else in the world is the development vs. conservation battle more pronounced
- Development projects that involve deforestation are regulated by India's Forest Conservation Act (FCA), 1980 - developers required to pay cost of compensatory afforestation



Policy Paralysis

- 35 years since the enactment of FCA - successive governments have failed to put in place an institutional mechanism to utilize compensatory levies
- In spite of repeated judicial intervention, compensation funds INR 40000 crores (approx. USD 5.7 billion) lying unutilized
- Compensatory Afforestation Fund Bill, 2015 (CAF Bill, 2015) seeks to resolve this inertia – provide requisite statutory framework to unlock funds



Cost Shifting/Violation of Additionality in Compensatory Afforestation

- Diversion of compensation funds to implement Green India Mission – Provision of CAF Bill, 2015
- Green India Mission – a massive afforestation program
 - National Action Plan on Climate Change (NAPCC) under the UNFCCC
 - use towards fulfillment of Aichi Biodiversity Targets 5 and 15 under UN-CBD
- FCA, 1980 explicit about additionality:
“The compensatory afforestation should clearly be an additional plantation activity and not a diversion of part of the annual plantation programme”

Cost Shifting/Violation of Additionality in Compensatory Afforestation

- Initially, INR 6000 crores (about USD 900 million) proposed for diversion - this sum can afforest about 1.2 mha
- Compensatory afforestation of 1.2 mha will be forgone, leaving an uncompensated net loss of almost all of the 1.48 mha deforested under FCA since 1980



Projected Net Loss of Forest Cover resulting from CAMPA funds diversion to GIM

Recommendations

- **Compensatory afforestation funds must not be diverted to the Green India Mission - should be used strictly for compensatory afforestation,**
- **Resulting forest cover gains should be measured and reported against a baseline that includes afforestation planned under the Green India Mission**
- **To avoid double counting, there should be separate accounting for the spending on compensatory afforestation and that on the Green India Mission**



Thank You!

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