



## FCRA Licence of NGOs Revoked

**For Prelims:** Foreign Contribution (Regulation) Act (FCRA), 2010, Non-governmental organisations (NGOs), Articles 19 & 20 of the Constitution, Right to free speech

**For Mains:** Issues related to cancellation of FCRA registration of NGOs working in India, Controversies Related to FCRA, Foreign Contribution (Regulation) Amendment Act, 2020.

### Why in News

Recently, the **Union Ministry of Home Affairs (MHA)** has **cancelled the [Foreign Contribution \(Regulation\) Act \(FCRA\), 2010](#)** registration of various **[non-governmental organisations \(NGOs\)](#)**.

- Suspension of FCRA licence means that the **NGO can no longer receive fresh foreign funds from donors** pending a probe by the Home Ministry. The FCRA is **mandatory for associations and NGOs** to receive foreign funds.

### Key Points

- **About:**
  - The FCRA registration of **Vadodara-based NGO** is cancelled because it was accused of **[illegally converting members of the Hindu community, funding the anti-CAA protests](#)** and for **criminal activities to strengthen Islam**.
  - The FCRA registration of two other Christian NGOs — the **New Hope Foundation**, based in Tamil Nadu, and **Holy Spirit Ministries** from Karnataka were also cancelled.
  - The FCRA registration of **AFMI Charitable Trust** was cancelled by the MHA for violating the provisions of the Act.
- **Prior Reference Category:**
  - The MHA had put 10 Australian, American and European donors on its watchlist.
    - Following which the **[Reserve Bank of India](#)** wrote to all banks that any funds sent by the foreign donors should be brought to the notice of the Ministry and not cleared without its permission.
  - All the donors that were placed on the watchlist or “**prior reference category**” work in the field of **[climate change](#)**, environment and **[child rights](#)**.
- **Foreign Contribution (Regulation) Act (FCRA), 2010:** Foreign funding of persons in India is regulated under FCRA act and is **implemented by the Ministry of Home Affairs**.
  - Individuals are permitted to accept foreign contributions without permission of MHA.
    - However, the **monetary limit** for acceptance of such foreign contributions shall be less than **Rs. 25,000**.
  - The Act **ensures that the recipients of foreign contributions adhere to the stated purpose** for which such contribution has been obtained.
  - Under the Act, organisations are required to register themselves every five years.
  - Registered NGOs **can receive foreign contributions for five purposes:**
    - Social, educational, religious, economic and cultural.
- **Foreign Contribution (Regulation) Amendment Act, 2020:**

- **Prohibition to accept foreign contribution:** The Act bars public servants from receiving foreign contributions.
  - Public servant includes any person who is in service or paid by the government, or remunerated by the government for the performance of any public duty.
- **Transfer of foreign contribution:** The Act prohibits the transfer of foreign contribution to any other person not registered to accept foreign contributions.
- **Aadhaar for registration:** The Act makes [Aadhaar number](#) mandatory for all office bearers, directors or key functionaries of a person receiving foreign contribution, as an identification document.
- **FCRA account:** The Act states that foreign contributions must be received only in an account designated by the bank as FCRA account in such branches of the State Bank of India, New Delhi.
- **Reduction in use of foreign contribution for administrative purposes:** The Act proposes that not more than 20% of the total foreign funds received could be defrayed for administrative expenses. In FCRA 2010 the limit was 50%.
- **Surrender of certificate:** The Act allows the central government to permit a person to surrender their registration certificate.

## Issues Related to FCRA

- The FCRA regulates the receipt of funding from sources outside of India to NGOs working in India. It prohibits the receipt of foreign contributions “for any activities detrimental to the national interest”.
- The Act also held that the government can refuse permission if it believes that the donation to the NGO will adversely affect “public interest” or the “economic interest of the state”.
  - However, there is no clear guidance on what constitutes “public interest”.
- The FCRA restrictions have serious consequences on both the rights to free speech and freedom of association under [Articles 19\(1\)\(a\) and 19\(1\)\(c\)](#) of the Constitution.
- The [right to free speech](#) is affected in two ways:
  - By allowing only some political groups to receive foreign donations and disallowing some others, can induce biases in favour of the government.
    - NGOs need to tread carefully when they criticise the regime, knowing that too much criticism could cost their survival.
    - FCRA norms can reduce critical voices by declaring them to be against the public interest. This chilling effect on free speech can lead to self-censorship.
  - Similar to this on unclear guidelines on public interest, in [Shreya Singhal v. Union of India \(2015\)](#), the [Supreme Court \(SC\)](#) struck down Section 66A of the Information Technology Act. The SC held that the Act could be used in a manner that has a chilling effect on free speech.
- Besides, given that the right to freedom of association is part of the [Universal Declaration of Human Rights \(Article 20\)](#), a violation of this right also constitutes a human rights violation.
- In April 2016, the **UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association** undertook a legal analysis of the FCRA, 2010.
  - It stated that restrictions in the name of “public interest” and “economic interest” as invoked under the FCRA failed the test of “legitimate restrictions”.
  - The terms were too vague and gave the state excessive discretionary powers to apply the provision in an arbitrary manner.
- In this context, though it is necessary to regulate corrupt NGOs, there needs to be clarity on terms like public interest.

## Way Forward

- **Excessive regulation** on foreign contribution may affect working of the NGOs which are helpful in implementing government schemes at the grassroots. They fill the gaps, where the government fails to do their jobs.
- The regulation should not hamper sharing of resources across national boundaries essential to the functioning of a global community, and should not be discouraged unless there is reason to believe the funds are being used to aid illegal activities.

[Source: TH](#)

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