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Foreign Contribution (Regulation) Amendment Bill, 2020

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Why in News

The **Foreign Contribution (Regulation) Amendment Bill, 2020** was passed by the Parliament. The Bill amends the **Foreign Contribution (Regulation) Act, 2010**.

Key Points

- **Provisions of the Bill:**

- **Prohibition to accept foreign contribution:** The Bill bars **public servants** from receiving foreign contributions.
 - **Public servant** includes any person who is in service or pay of the government, or remunerated by the government for the performance of any public duty.
 - The **FCRA 2010** also bars certain persons to accept any foreign contribution. These include: election candidates, editor or publisher of a newspaper, judges, government servants, members of any legislature, and political parties, among others.
- **Transfer of foreign contribution:** The Bill prohibits the transfer of foreign contribution to any other person.
 - The term '**person**' under the Bill includes an **individual, an association, or a registered company**.
 - The **FCRA 2010** allows transfer of foreign contributions to persons registered to accept foreign contributions.
- **Aadhaar for registration:** The Bill makes **Aadhaar number mandatory** for all office bearers, directors or key functionaries of a person receiving foreign contribution, as an identification document.

In case of a foreigner, a copy of the **passport** or the **Overseas Citizen of India card** for identification is required.
- **FCRA account:** The Bill states that foreign contribution 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. No funds other than the foreign contribution should be received or deposited in this account.

The person may open another FCRA account in any scheduled bank of their choice for keeping or utilising the received contribution.
- **Restriction in utilisation of foreign contribution:** The Bill allows the government to restrict usage of unutilised foreign contribution. This may be done if, based on an inquiry the government believes that such person has contravened provisions of the FCRA.
- **Reduction in use of foreign contribution for administrative purposes:** The Bill 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 Bill allows the central government to permit a person to surrender their registration certificate.

The government may do so if, post an inquiry, it is satisfied that such person has not violated any provisions of the FCRA 2010, and the management of its foreign contribution has been vested in an authority prescribed by the government.

- **Purpose for Amendment:**

- The annual inflow of **foreign contribution has almost doubled** between the years 2010 and 2019, but many recipients of foreign contribution **have not utilised the same for the purpose** for which they were registered or granted prior permission under the FCRA 2010.

Recently, the Union Home Ministry has **suspended licenses of the six (NGOs)** who were alleged to have used foreign contributions for religious conversion.

- Many persons were **not adhering to statutory compliances** such as submission of annual returns and maintenance of proper accounts.
- Such a situation could have **adversely affected the internal security** of the country.
- The new Bill **aims to enhance transparency and accountability** in the receipt and utilisation of foreign contributions and facilitating the genuine non-governmental organisations or associations who are working for the welfare of society.

- **Issues Involved**

- The Bill would impact the **livelihoods of workers** associated with the small **Non-Governmental Organisations (NGOs)** and lead to the **killing of the entire social sector** as caps on administrative expenses would make it impossible for even the bigger NGOs to perform.
- It will **severely impact collaborative research** in critical fields in India as organisations receiving foreign funds will no longer be able to transfer them to small **NGOs** working at the grassroots level.
- The government aims to control the NGOs which engage in dubious activities. However, by **failing to recognise the diversity of NGOs**, which include world-class organisations that are recognised globally, will crush their competitiveness and creativity.
- It is also **incompatible with international law**.
 - The **United Nations Human Rights Council** resolution on protecting human rights defenders says that **no law should criminalize or delegitimize activities in defence of human rights on account of the origin of funding**.
 - The Bill also fails to comply with **India's international legal obligations and constitutional provisions** to respect and protect the rights to freedom of association, expression, and freedom of assembly.
- The amendments also **assume that NGOs** that are receiving foreign funds **are guilty** unless proven otherwise.

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**.

Way Forward

- NGOs are helpful in implementing government schemes at the grassroots. They fill the gaps, where the government fails to do their jobs.
- The government must stick to the ancient Indian ethos of Vasudhaiva Kutumbakam as the framework for its global engagement and should not act with vendetta against the NGOs who criticize its working.
- Seamless sharing of ideas and resources across national boundaries is 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