



## 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**

PDF Refernece URL: <https://www.drishtias.com/printpdf/fcra-licence-of-ngos-revoked>