



SC Upheld FCRA Amendments

For Prelims: Foreign Contribution (Regulation) Act (FCRA), 2010

For Mains: Foreign Contribution (Regulation) Amendment Act (FCRA), 2020, Supreme Court Upheld FCRA Amendments, Non-Governmental Organisations (NGOs)

Why in News?

Recently, the [Supreme Court](#) (SC) upheld the constitutional validity of the [Foreign Contribution \(Regulation\) Amendment Act \(FCRA\), 2020](#).

- It held that receiving foreign donations **cannot be an absolute right** and can be **regulated by the Parliament**.
- In 2020, the Indian government had proposed amendments to the FCRA, which **imposed new restrictions on how [Non-Governmental Organisations \(NGOs\)](#)**, individuals, and other organisations could receive or use funds contributed from abroad.

What are the Highlights of the Judgements?

- **Medicine vs Intoxicant Metaphor:** Foreign Contributions **serves as a medicine** so long as it is consumed (utilised) moderately and discreetly.
 - However, **free and uncontrolled flow of foreign contribution can act as an intoxicant that** has the potential of **impacting the sovereignty and integrity of the nation**.
- **Imposing Political Ideology:** The SC underlined that foreign contributions **may tend to influence or impose political ideology**.
 - Thus, FCRA amendments are **essentially conceived in the interest of public order** as the intent is to prevent misuse of donations coming from foreign sources.
- **Global Precedents:** Receiving foreign donations **cannot be an absolute or even a vested right**.
 - This is because the theory of **possibility of national polity being influenced by foreign contribution** is globally recognised.
- **Upholding Legislation:** In this scenario, it had become necessary for Parliament to step in and provide a **stringent regime for effectively regulating the inflow and utilisation of foreign contribution**.

What is 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.**

What were the Amendments done in the Act?

- **Prohibition to accept foreign contribution:** It bars public servants from receiving foreign contributions.
- **Transfer of foreign contribution:** It prohibits the transfer of foreign contribution to any other person.
- **Aadhaar for registration:** [Aadhaar number](#) is mandatory for all office bearers, directors or key functionaries of a person receiving foreign contribution, as an identification document.
- **FCRA account:** The 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.
- **Restriction in utilisation of foreign contribution:** It allowed 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.**
- **Administrative Capping:** While NGOs earlier could use up to 50% funds for administrative use, the new **amendment restricted this use to 20%.**

What are the Objectives and Issues Related to the Amendments?

- **Objectives:** 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 licences of the six \(NGOs\)](#) who were alleged to have used foreign contributions for religious conversion.
 - Such a situation could have adversely affected the **internal security of the country.**
 - It also aims to **enhance transparency and accountability in the receipt and utilisation of foreign contributions** and facilitate the genuine NGOs who are working for the welfare of society.
- **Issues:** The Amendments led to criticism from some quarters that it could have a **deleterious effect on civil society organisations.**
 - 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.**

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 criticise its working.

[Source: IE](#)