Why India needs a new FCRA law

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While keeping bureaucratic overkill in check, data shows that new regulations on money flow and use are important, as this is directly tied to national security

When billions in foreign contributions flow through domestic organisations, oversight is not optional — it is a necessity. (AI image)

The Foreign Contribution (Regulation) Act (FCRA) has long been one of India's most debated legislative frameworks, sitting at the delicate intersection of state sovereignty and civil society. Enacted originally in 1976 and overhauled in 2010, the law dictates how non-governmental organisations (NGOs) and individuals can receive and utilise foreign funding. However, the introduction of the Foreign Contribution (Regulation) Amendment Bill, 2026, has ignited a fierce new wave of controversy. While critics argue the new provisions are draconian tools designed to suffocate grassroots activism and minority institutions, the government—backed by historical data and judicial precedent—maintains that stringent oversight is an absolute necessity to protect national security and ensure democratic accountability.

At the heart of the uproar over the 2026 Amendment Bill is the proposed creation of a "designated authority". Under the new provisions, if an organisation's FCRA registration is cancelled, surrendered, or simply "ceases" (meaning it fails to renew the certificate before its five-year validity expires), the government can provisionally vest, manage, and even dispose of the organisation's assets created from foreign contributions.

The controversy stems from the sheer finality and scope of this power. Legal experts and civil rights advocates point out that the deprivation of assets can now occur due to mere procedural infirmities, such as a delayed renewal application. The law allows the authority to acquire even those assets that were only partly funded by foreign donations, transferring the proceeds to the Consolidated Fund of India. Also, the bill has been criticised for lacking a built-in administrative appeal mechanism, meaning an organisation may not get an opportunity to be heard before its renewal is denied.

Minority institutions have been particularly vocal about their anxieties. Bodies like the Kerala Catholic Bishops' Council (KCBC) have expressed deep concern that hospitals, schools, and charitable trusts could face confiscation of their assets due to administrative hurdles. Although the government has officially clarified that places of worship will retain their religious character by law and that confiscation is subject to judicial review, the fear of systemic weaponisation remains high among civil society.

The 2026 bill must be viewed alongside the strict restrictive amendments passed in 2020. The 2020 overhaul introduced devastating operational constraints on the non-profit sector. It explicitly banned NGOs from sub-granting foreign funds to smaller, grassroots organisations. Because smaller NGOs often lack the administrative capacity to secure their own FCRA clearances, they historically relied on larger umbrella organisations to disburse funds. The sub-granting ban effectively severed the financial lifelines of thousands of community-level workers.

Additionally, the 2020 amendments slashed the cap on foreign funds that could be used for administrative expenses from 50 per cent to 20 per cent. This redefinition meant that advocacy, research, and organisational salaries were severely underfunded, forcing many NGOs to scale back operations or shut down entirely. International watchdogs, including Amnesty International and United Nations human rights mechanisms, have criticised these cumulative rules as a violation of the right to freedom of association, arguing they deliberately penalise organisations that engage in peaceful dissent or independent human rights work.

But the government's push for a tighter FCRA framework is not occurring in a vacuum. It is driven by a stark historical record of financial opacity and misuse. The core philosophy of the FCRA is that foreign funds should not be allowed to materially influence India's socio-economic structure, public order, or political landscape without rigorous, transparent oversight.

The data presented by the government highlights a massive influx of foreign money coupled with widespread non-compliance. Between 2010 and 2019, the inflow of foreign donations into India nearly doubled. Concurrently, intelligence reports presented to the Supreme Court indicated that a concerning portion of these funds was being diverted from their stated charitable purposes to fund activities detrimental to national security, including support for Naxalite extremism.

During this same decade, the licenses of approximately 19,000 NGOs were cancelled. While critics frame this mass cancellation as a targeted purge, the government's data reveals that a vast majority of these revocations were due to glaring administrative and legal failures: NGOs repeatedly failed to file mandatory annual returns, failed to maintain designated bank accounts, or could not account for how millions of dollars were being spent. For any sovereign nation, allowing billions of unaccounted foreign dollars to circulate within its borders is a severe security vulnerability.

The legal foundation for the government's stance was firmly validated by the Supreme Court of India in the landmark 2021 Noel Harper v. Union of India judgement. The Court upheld the 2020 amendments, explicitly stating that receiving foreign contributions is not a fundamental right. The judiciary recognised the state's sovereign right to regulate the influx of foreign funds, affirming that the restrictions bore a rational nexus to the goal of protecting the nation's integrity from unchecked foreign interference.

Furthermore, the government argues that India is merely aligning with global norms. Democratic nations worldwide – including the United States, the United Kingdom, Australia, and Canada – have enacted increasingly robust transparency and disclosure laws to combat foreign influence in their domestic affairs. The Financial Action Task Force (FATF) also mandates the rigorous tracking of non-profit funding to prevent money laundering and terror financing, adding international pressure to tighten domestic financial networks.

Crucially, the government asserts that the FCRA operates as a disclosure regime, not a blanket prohibition. Data from the 2024–2025 financial year supports this:

approximately 16,200 active, compliant associations successfully received and utilised roughly ₹22,963 crore in foreign contributions. This substantial figure demonstrates that organisations strictly adhering to accounting standards continue to operate and receive international support for legitimate developmental work.

The controversy surrounding the new FCRA bill represents a fundamental clash of priorities. On one side, civil society organisations argue that the law has transitioned from a necessary regulatory framework into an instrument of administrative overreach, capable of permanently seizing assets for minor procedural lapses. They warn that India’s vibrant, independent NGO sector is being systematically dismantled by bureaucratic weaponisation.

On the other side, the government’s reliance on historical data and national security imperatives paints a picture of a sector that historically operated with dangerous financial impunity. When tens of thousands of organisations fail to account for foreign cash, the state is forced to intervene. Ultimately, the evolving FCRA framework enforces a powerful constitutionally validated reality: in an era of complex global financial networks, transparency is non-negotiable, and the privilege of receiving foreign funds comes with uncompromising accountability.

(Hindol Sengupta is professor of international relations at OP Jindal Global University. Views expressed in the above piece are personal and solely those of the author. They do not necessarily reflect Firstpost’s views.)