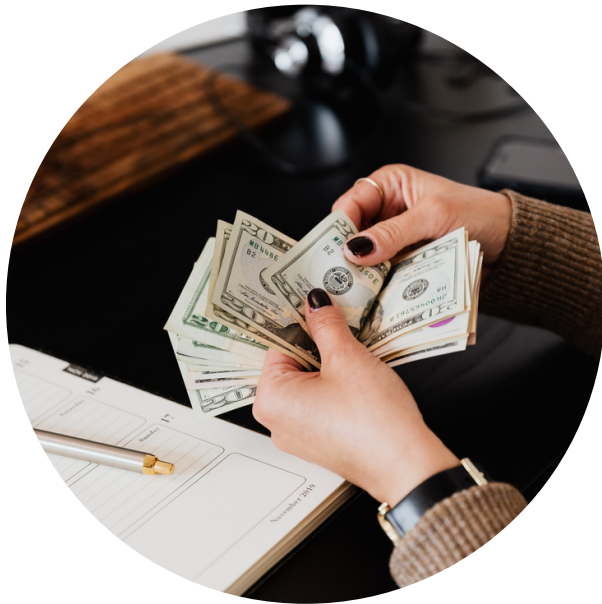


# AMENDMENTS MADE TO THE FCRA AND ITS IMPACT ON THE SOCIAL SECTOR



The government's rationale behind it was to ensure that philanthropic organizations work with **greater transparency** and without misusing foreign resources. Greater restraints on contributions from abroad will curb **unnecessary foreign influence** and **interference** in India's social, political, and economic affairs. Individuals and institutions including media outlets and administrative state authorities have been subjected to this **blanket ban** of accepting any form of aid from foreign parties without prior approval from the State.

The **Foreign Contribution (Regulation) Amendment Act** was passed into law on 29th September 2020 and was ratified by the President of India, after being introduced as a bill in the Lok Sabha on 20th September. The FCRA Act **regulates the inflow of foreign aid or social contributions in India.**



# HOW DO THESE AMENDMENTS AFFECT EXISTING NON-PROFITS?



While the government believes that it will ensure greater transparency and prevent misuse of these funds, NGOs and civil society members have been critical and believe that it is likely to harm their organizations.

Time has shown us how NGOs, NPOs, and charitable organizations played a crucial role in **bridging the gap between the government and the people. Be it the migrant crisis or providing a voice to the marginalized sections of society, they have made a huge impact.**

However, social work requires finances, a portion of which comes from foreign contributors. FCRA regulates these foreign contributions and the recent amendments made to it are estimated to have a major impact on such socially conscious organizations and foreign contributors.



## A GATEWAY TO CREATING TANGIBLE CHANGE

**1** NGOs with adequate funds **provide incubation to smaller NGOs** and collaborate with them on projects and sub-grant funds to them from their foreign contributions.

Relatively new organizations lacking the standing to such resources rely on these larger organizations to facilitate their operations. However, post this amendment, **an organization cannot sub-grant or transfer its funds to any other NGO or person, including a registered FCRA recipient.** Hence the organizations might face hindrances while project collaborations and program implementation, due to the lack of funds.

# 2

Previously, organizations were permitted to utilize up to 50% of the foreign funds on their administrative expenses, however, now the limit is capped at 20%. Limiting the administrative expenses will come as a major blow to many, especially to those having higher overheads or are involved in public engagement. While some believe that such a move will enable organizations to focus better on their primary philanthropic objectives; it is far more likely that such a cap will have a detrimental effect on organizational productivity, impacting internal capability-building efforts and attracting talent and innovation.





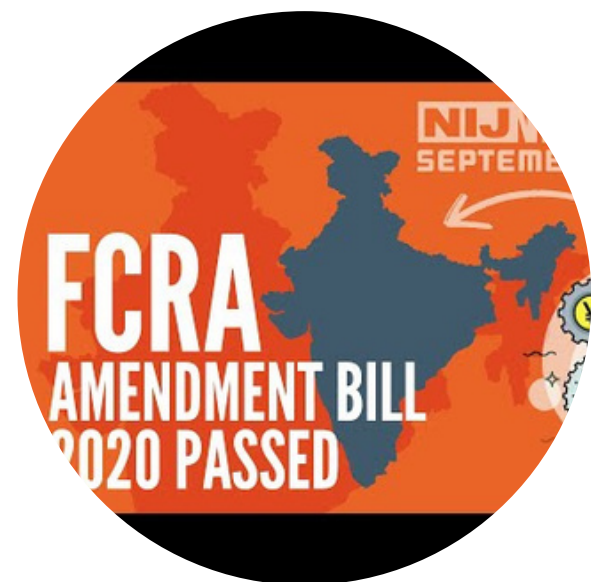
**4** The amendment prohibits an FCRA recipient from utilizing/receiving funds and suspending

their registration. With this, if a person or organization registered under FCRA, violates any of the Act's provisions, the unutilized foreign contribution cannot be utilized or received, without the prior approval of the GoI.

While this amendment is preventive, to ensure that all organizations follow norms under the Act, many are sceptical about it.

**3** As per the amendment, a 'Public Servant', if involved in an organization, **will be disallowed from receiving any foreign grants.** This change may have been

proposed due to objections associated with Lawyer's Collective, an initiative by Indra Jaising, the Additional Solicitor General of the GoI while the NGO received foreign funding. The rationale behind this amendment is unclear in the absence of a reason stating why the government doesn't approve of the involvement of public servants in social causes. It is noteworthy that the PM CARES fund received exemptions from complying with FCRA provisions, even when it is headed by Union cabinet ministers and is administered by PMO officials.





It is believed that this **may be used as a tool to harass rival political organizations or activist organizations such as in the case of Amnesty International.** This is a worrisome amendment, as by suspending the FCRA certificate, the government can starve organizations of funds while it investigates them.



**5** The latest amendment makes **furnishing of Aadhaar details of all the directors or other key functionaries of any organization** mandatory, whether they are applying for permission, registration, or renewal under FCRA. The government expects this change to increment transparency, compliance, and to further facilitate easy identification of certain categories of people. However, 2018- 19 data reveals that annual

returns filed under FCRA had a **compliance rate of 97.6%**. Non-compliance is not a concern here and it seems like **another move towards expanding the utilization and coverage of Aadhaar.** This change is expected to deter people from joining NGO staff and boards and from contributing to the social sector, as Aadhaar is considered as a privacy incursion by a large number of people.

**6** The **Voluntary surrender of FCRA registration** sanctions the GoI to permit an FCRA recipient to voluntarily surrender their FCRA registration. It may be **beneficial for organizations that don't wish to receive any more foreign funds.** However, it will create challenges for organizations that have created assets like schools, hospitals, and vocational training centers **out of foreign contributions, as they may have to be surrendered to the government.**

## WAY FORWARD



Over the last few months, AI has released reports on controversial themes like the state of Jammu and Kashmir and the riots in Delhi in relation to human rights violations. It believes that taking issues like these on an international scale has brought them reprisal from the government.

While an investigation continues, we only hope that all governments can see that socially conscious organizations are genuine partners in India's development journey. Imposing restrictions on them and preventing their good work will only set us behind and prevent meaningful change to take root in the development of the nation.

Everyone would agree that **transparency is essential when it comes to any activity backed by foreign contributions.** However, the concerns raised by non-profits and civil society seem to be justified in the present context, where organizations appear to be targeted at the slightest hint of dissent.

Recently, **Amnesty International, a world-renowned human rights organization had to shut down its operations in India, on an alleged FCRA violation.** Thereafter, their bank accounts were frozen and more than 100 people have lost their jobs since.