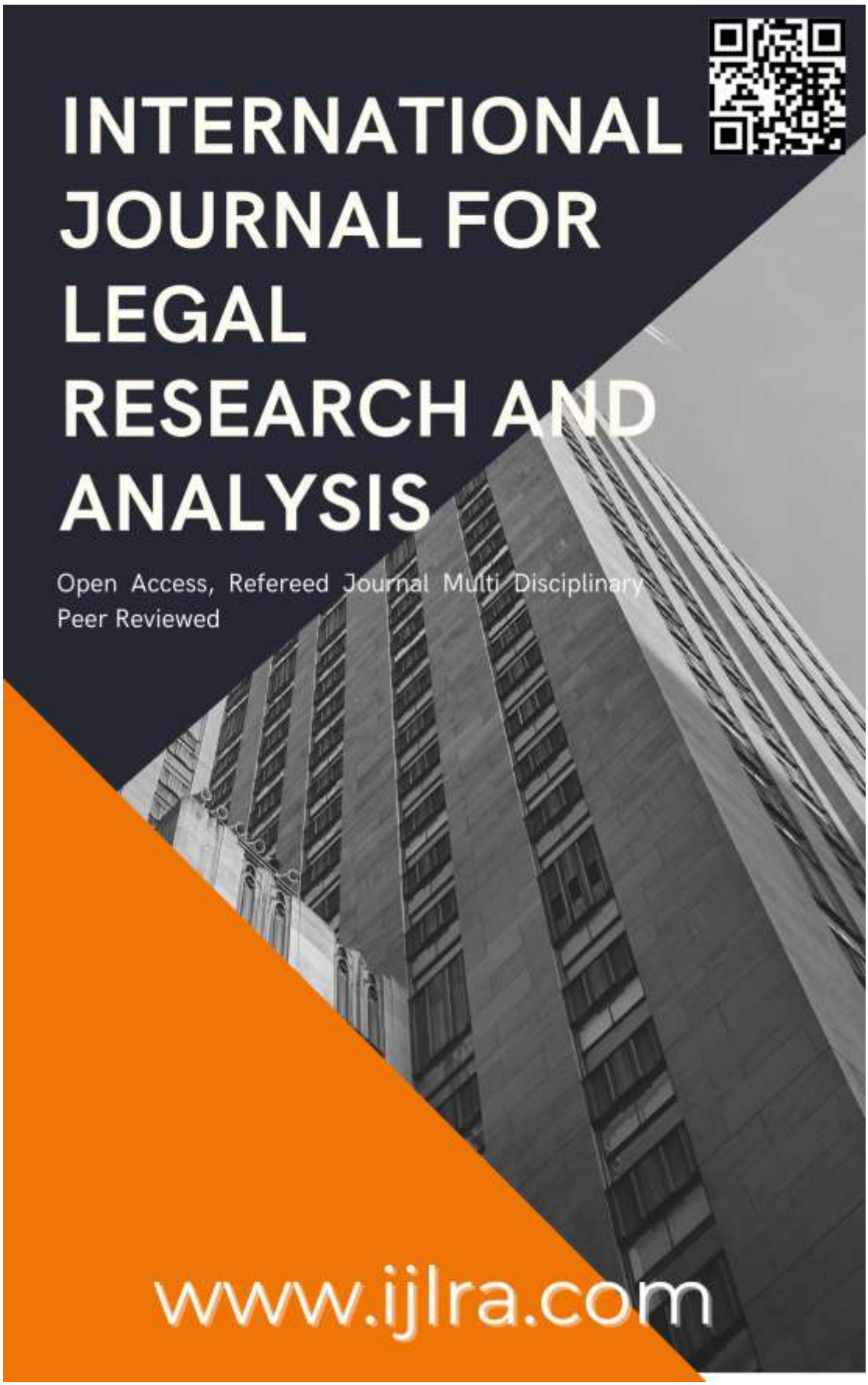

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RESEARCH ARTICLE

Foreign Contribution Regulation Act: Balancing Between National Security And Civil Societies

Shubhodeep Chakraborty

National University of Study and Research in Law

shubhodeepchakraborty992@gmail.com

Abbreviation	Full Form
A.I.R.	All India Reporter
Art. / arts.	Article / Articles
C.A.	Civil Appeal
CNI	Church of North India
D.D.C.	District Court for the District of Columbia
Del.	Delhi High Court
ECLI	European Case Law Identifier
Eur. Ct. H.R.	European Court of Human Rights
EU	European Union
FATF	Financial Action Task Force
FCRA	Foreign Contribution (Regulation) Act, 2010
FEC	Federal Election Commission
ICCPR	International Covenant on Civil and Political Rights
INSAF	Indian Social Action Forum
JJ	Judges (Justices)
JPC	Joint Parliamentary Committee
MHA	Ministry of Home Affairs
NAACP	National Association for the Advancement of Colored People
NGO / NGOs	Non-Governmental Organisation(s)
ONSC	Ontario Superior Court of Justice
PRS	PRS Legislative Research
PTI	Press Trust of India
S.C.	Supreme Court
S.C.C.	Supreme Court Cases
SBI	State Bank of India
U.N.	United Nations
U.N.T.S.	United Nations Treaty Series
UK	United Kingdom
U.S. / USA	United States of America
W.P. (C)	Writ Petition (Civil)

Abstract

This paper studies how the Foreign Contribution (Regulation) Act, 2010 balances national security with the freedom of civil society. It follows the law from 1976 to the 2026 Bill and Rules and tests the main restrictions against Articles 14, 19 and 21 using proportionality. It reads *INSAF* and *Noel Harper*, compares India with four other countries and with international standards, and looks at the effect on small and minority organisations. It finds that the single-account and identity rules are defensible, but that the administrative cap, wide executive discretion and several 2026 measures are not. It ends with reforms.

Chapter 1: Introduction

1.1 Introduction

The Foreign Contribution Regulation Act (FCRA) is a law that governs how individuals, associations, companies and different civil societies (NGOs, trusts, religious organisations, educational organisations etc) get financial/monetary contribution from foreign companies/governments. It is administered by the Ministry of Home Affairs (MHA). It is a framework for supervision, management and disposal of foreign contribution and assets of an organisation that ceases to have an FCRA certificate.

It identifies who may accept foreign contributions, and on what conditions. It specifies how that money must be received, accounted for, and reported to the government. It restricts a narrow, defined set of foreign - funded activities that could adversely affect India's sovereignty, security or public order and could be a potential threat for India. It prevents diverting funds for conducting illegal activities which may be detrimental to our country.

Biggest misconception about FCRA is that it prevents Indian nationals or registered civil societies from receiving any kind of foreign funding for activities benefitting India. Numerous individuals and associations are validly registered and receive fund continuously from sources outside India for education, health and humanitarian purposes.

Laws like the FCRA are present in many developed countries like USA, UK, Australia, Canada etc due to the rise and increase in the number of NGOs across the world which causes an increase risk of secret foreign funding for sabotaging growth of a particular country or sometimes to change demographics of a region.

This research seeks to critically examine the legislative framework, objectives, and implementation of the FCRA, analyze the implications of recent amendments on NGOs and civil societies, evaluate the Act's effectiveness in achieving its goals while addressing concerns raised by stakeholders regarding transparency, accountability, and constitutional rights. We shall also familiarise ourselves with the history of FCRA and the FCRA like laws in other countries and the reasons behind the implementation of such laws across many countries.

1.2 Statement of the Problem

The Foreign Contribution Regulation Act (2010), and the amendment of 2020 was enacted with the sole purpose of safeguarding our nation security caused from foreign funding and maintaining transparency regarding how the funds provided to the individuals, associations, and organisation were utilised by them. However the increasingly strict conditions and requirements placed upon such organisations like- creating an account in SBI, prohibition on sub granting of funds and increase in the discretionary power of the government(suspension and cancellation of licences, gain control over the funds) have raised substantial concerns regarding the operational sustainability of such organisations.

Many organisations which engage in genuine humanitarian and social work have face suspension or cancellation of there FCRA licenses are many are threatened with the same without any proper redressal mechanics. This raises questions regarding arbitrariness and constitutional validity of the particular law.

Many religious organisations of minority religion are also concerned regarding future funding and survivability of there faith. There concerns revolve around hampering of there religious ceremonies and there social work which could get hampered due to restrained and scrutinized funding from foreign land and also the stringent conditions imposed upon them regarding the spending of the funds.

This raises a critical need to examine FCRA, in its current, proposed form regarding the balance between financial transparency, national security and the right to freedom of association [article19(1)(c)] and also

proper, smooth functioning of the civil societies. Thus this study seeks to examine whether the framework is proportionate and consistent with the rights given to the NGOs and civil societies while also taking into consideration the legitimate concerns of national interests and public welfare.

1.3 Objective of Research

The present study seeks to examine how the Foreign Contribution (Regulation) Act, 2010 reconciles the State's interest in national security with the freedoms of civil society organisations. It begins by tracing the evolution of foreign contribution regulation in India from the Foreign Contribution (Regulation) Act, 1976 to the 2010 Act and the Amendment of 2020, with a view to identifying the legislative intent and the security and public interest considerations on which the framework rests. It then undertakes a critical analysis of the Act's principal restrictive provisions, namely the requirements of registration and prior permission, the prohibition on sub-granting, the mandatory designated bank account, and the grounds for suspension and cancellation of registration, in order to assess their practical impact on the functioning of non-governmental organisations. The study further evaluates these provisions against the constitutional guarantees under Articles 14, 19(1)(a), 19(1)(c) and 21, applying the doctrine of proportionality as developed by the Supreme Court. It also analyses the judicial approach to the Act, particularly in *Indian Social Action Forum (INSAF) v Union of India* and *Noel Harper v Union of India*, and situates the Indian regime within international standards, including FATF Recommendation 8 and Article 22 of the International Covenant on Civil and Political Rights. Finally, the study proposes reforms that would allow the State to address legitimate security concerns without placing disproportionate burdens on civil society.

The study further aims to examine the concerns raised by minority religious and charitable organisations about the effect of the Act on their religious and social activities. It also seeks to place the Indian framework alongside comparable regimes in jurisdictions such as the United States, the United Kingdom, Australia and Canada, and alongside international standards such as FATF Recommendation 8 and Article 22 of the ICCPR. Finally, in order to address the research gap identified, it endeavours to determine when and in what circumstances considerations of internal security may justifiably override the rights of non-governmental organisations, and to propose reforms that preserve both transparency and civic space.

1.4 Literature Review

The Foreign Contribution Regulation Act (FCRA) sits right in the intersection of important topics like national security, manipulation of domestic laws by foreign states and players, government regulation and freedom and the right of being autonomous of the civil societies. The regulation of foreign funding has always stayed in a grey area in our country as at any given point of time you shall find a group supporting such regulation because they feel foreign funding can largely impact internal politics and decision making of our country. While the side against government regulations such as Non Governmental Organisation (NGO), human rights group and charitable organisations often site violation of fundamental rights and the usefulness of foreign funding towards Indian society.[1] The existing literature on FCRA discusses the tension between the two groups regarding how to balance between concerns of national security and wellbeing and also the concerns of freedom in our country.

The origin of Foreign Contribution Regulation Act (FCRA) can be traced back to 1976 when for the first time it was implemented. It was one of the earliest days when concerns regarding foreign funding was brought about in the parliament of India. After 34 year the act was amended and FCRA,2010 was implemented in its place.[2] The newly amended act introduced more regulatory framework including registration requirements,

[1] Rashee Jain, Textbook on Human Rights: Law and Practice 102 (3d ed. 2016).

[2] Taxmann's Editorial Bd., Foreign Contribution Regulation Law Manual 51 (28th ed. 2024).

license renewal, suspension and cancellation of licenses etc. These changes made by the government was backed by the idea of securing India's interests and also looking after its security. In 2020, this act was further amended to make the provision of receiving foreign money even stricter. The act created more legal barriers and strengthened regulation by reducing the permissible spending of foreign funds on administrative work from 50% to 20% and mandatory creation of designated bank accounts. All these changes by the government were as stricter control and violation of freedom and rights by various charitable and human rights organisations.

A significant portion the literature would be in support of the position that such regulatory frameworks and acts should be institutionalised for increasing the homeland security and to maintain sovereignty of the state so as to not get our internal decisions manipulated by foreign players. Scholars support control on foreign funding as a legitimate function of the state. People like Sagar Singh and Nikunj Singh have argued that the amendment of 2020 strengthened the overall concerns regarding the safety of the state. But they also warm that such a high level of control would result in decrease of organisational capacity.

Other researches argue that these stringent rules made by the state to have a control on the foreign funds is to establish their dominance over the small NGOs and different charitable institutions in order to reduce opposition and to hide their own shortcomings. According to them FCRA is not only a financial statue but also an act which shapes the civil rights society as a whole.

The central debate or the point of contingency is the freedom of associations. Main issue is what should be done to maintain a balance between governmental oversight and individual autonomy. The act is about how much and in how many levels should a government intervene or make laws to control a particular individual or organisation.

Another concern of the critics is the practical applicability of FCRA. Due to the act having vast documentation, regulatory compliances, restriction is transfer and allocation of resources and spending of resources in various sectors may lead to ill utilisation of funds thus causing many small charitable and nonprofit organisations to collapse.[3] These measures would disproportionately affect small organisations and would lead to different outcomes for different types of organisations such (human rights, environmental rights etc).

Overall, the research paper covers three major points; the first being the aspects of national security which concerns itself with the importance of FCRA to maintain sovereignty and prevent foreign interference. The second aspect is the act violating rights of individuals and charitable nonprofit groups which help the society as a large.[4] The third being the balancing aspect which specifies about the checks and balances the act should have in order to achieve both protection against foreign state manipulation, internal security and to increase the civic space and maintain rights of various organisations.

A significant research gap remains as the existing literature talks about the effects of FCRA on homeland security, national interests and autonomy of organisations. However, there exists miniscule amount of research which deals with the proportionality between national security and autonomy of the organisation. In particular very less attention has been given on the aspect of when and in under which circumstances do the aspect of internal security overrides or overshadows the rights of the NGOs and how can a balance be maintained between state intervention and civil space.

[3] M.L. Nararsaiah, NGOs and Human Rights 65 (1st ed. 2007).

[4] Rajesh Gupta, Commentary on the Societies Registration Act, 1860 360 (6th ed. 2024).

1.5 Research Gap

The existing article discusses FCRA from three broad angles: the first one being the security aspect for regulating foreign funding, the infringement of legal rights and autonomy of NGOs to operate without restrains, and the need for balance between the two. The paper either defends the act as a good security measure for our country or criticises it as a tool of control by the government. Very small portion of the research talks about the structured comparative analysis of the provisions of the 2010 act and the 2020 amendment. It has also paid little attention to the circumstances in which internal security may legitimately override the legal rights of civil society organisations, and to varied impact on small NGOs and minority religious organisations. This study seeks to fill that gap by assessing the Act's provisions one by one against the universal standard, and by proposing measures for balancing state control with civil groups.

1.6 Research Methodology

The study is completed using doctrinal (qualitative) research methodology, also supported using analytical, historical and comparative approaches. The doctrinal method involves the study of the statutes, rules, constitutional provisions and judicial decisions written in the enactments of various laws. The historical method traces the evolution of law on foreign contribution from 1976 to 2020. The analytical approach evaluates the provisions against constitutional standards. The comparative approach compares foreign contribution and foreign-influence regulation adopted by various countries; also takes into account of international standard.

Primary sources include the Constitution of India, the FCRA 1976, 2010 and 2020 Amendment, the FCRA Rules 2011, and the judgments of the Supreme Court and High Courts. Secondary sources include books, commentaries, journal articles, reports of the Ministry of Home Affairs, Parliamentary debates and committee reports, FATF documents, UN communications, and reputable news and policy analyses.

1.7 Research Questions

This study proceeds on the premise that the regulation of foreign funding, while a legitimate exercise of State power, must remain consistent with constitutional limits and the rule of law. It is guided by the following questions. How has the regulatory approach to foreign contribution in India evolved from 1976 to 2020, and what explains this shift? Do the restrictions introduced by the 2020 Amendment satisfy the requirements of reasonableness and proportionality under Article 19 of the Constitution? Does the wide executive discretion in granting, refusing, suspending, or cancelling registration conform to the principles of natural justice and the rule of law? How have Indian courts balanced the interests of national security and public order against the associational and expressive freedoms of civil society organisations? To what extent is the Indian framework consistent with India's international obligations and with global standards on the regulation of non-profit organisations? And, in light of these findings, what reforms are necessary to secure a workable balance between national security and a functioning civil society?

1.8 Limitations of the Research

The study is limited to the Indian legal framework on foreign contribution, with comparison confined to a few selected jurisdictions and international standards. Being doctrinal, it does not include primary empirical data such as interviews or surveys with NGOs or officials, and it depends on publicly available government data, which may be incomplete or not uniformly updated. The study covers developments only up to the date of its completion, and the law and pending litigation may evolve afterwards.

Chapter 2: Historical and Legislative Evolution

2.1 The 1976 Act

Foreign money was part of Indian civil society long before independence, funding mission schools, hospitals and relief work. After 1947 the new state was wary of outside influence. The Cold War, wars with neighbours and the habit of blaming a "foreign hand" for unrest shaped political thinking.[5] The Emergency of 1975 to 1977 sharpened this fear.[6] The Foreign Contribution (Regulation) Act, 1976 was passed in that period. It restricted election candidates, journalists, judges, legislators, government servants and political organisations from taking foreign contribution or hospitality, and asked other associations to get registration or prior permission. Its idea was simple: foreign money in the hands of those who shape opinion or take public decisions is a risk to sovereignty.

2.2 The 2010 Act

By the 2000s foreign funds had grown, thousands of new associations had appeared, and global worry about terror financing had increased. The 1976 Act was thin on accounting and monitoring. Parliament passed the FCRA 2010 to replace it, and it came into force with the FCRA Rules, 2011 in May 2011.[7] An association wanting regular foreign funds needed a certificate valid for five years, and one wanting a single contribution could seek prior permission. The Act added rules on annual returns, inspection, suspension and cancellation, and capped administrative spending at 50 per cent unless the Government allowed more.

2.3 Developments Between 2010 and 2020

The next decade showed how the Act could be used. In 2014 the Delhi High Court held that two major political parties had taken funds from foreign-linked companies in breach of the law. Parliament then changed the meaning of "foreign source" through the Finance Acts of 2016 and 2018, with effect from earlier dates, which protected the parties.[8] Meanwhile, well-known organisations such as Greenpeace India lost their registration in 2015. This uneven treatment matters for the Article 14 analysis later.

2.4 The 2020 Amendment

The Foreign Contribution (Regulation) Amendment Act, 2020 received assent on 28 September 2020. The Government's reasons were that foreign contribution had roughly doubled in a decade, that much of it was not used for the stated purposes, and that many recipients had not filed returns.[9] The Amendment extended the ban to all public servants, stopped transfers of foreign funds between organisations (section 7), cut the administrative cap to 20 per cent (section 8), made Aadhaar compulsory for office-bearers (section 12A), fixed the designated SBI account (sections 12(1A) and 17), and allowed suspension of up to 180 days to be

[5] Ramachandra Guha, India After Gandhi (2007).

[6] Bipan Chandra et al., India Since Independence (2008).

[7] Taxmann's Editorial Bd., supra note 2.

[8] Ass'n for Democratic Reforms v. Union of India (Del. 2014) (India); Finance Act, 2016, No. 28 of 2016 (India); Finance Act, 2018, No. 13 of 2018 (India).

[9] Statement of Objects and Reasons, Foreign Contribution (Regulation) Amendment Bill, 2020 (India), summarized in KPMG, FCRA 2010: Impact of Recent Amendments (2021).

extended by another 180 (section 13). Each step has a security or accountability reason. The question is whether each is needed and the cost fair.

2.5 The 2026 Bill and Rules

The Foreign Contribution (Regulation) Amendment Bill, 2026 was introduced in the Lok Sabha on 25 March 2026, and on 12 August 2026 both Houses sent it to a Joint Parliamentary Committee.[10] On 22 June 2026 the MHA also amended the 2011 Rules. Chapter 3 describes both.

Chapter 3: The Legal Framework of the FCRA, 2010

3.1 Persons Barred

Section 3 bars certain persons from accepting foreign contribution, including election candidates, judges, government servants, legislators, political parties, owners and editors of registered newspapers, news broadcasters, and organisations "of a political nature" specified by the Government under section 5. Rule 3 of the 2011 Rules gives the grounds for such a declaration.

3.2 Registration and Prior Permission

An association wanting regular foreign funds must hold a certificate under sections 11 and 12, or get prior permission for a particular contribution. The applicant must not be a fictitious body or have been prosecuted or convicted for conversion by force or inducement or for creating communal tension. The Government must also be satisfied that the money will not harm the sovereignty and integrity of India, the public interest, the fairness of elections or harmony between communities.[11] These words are broad, and the Government decides what is prejudicial. A certificate lasts five years.

3.3 The Ban on Sub-Granting

Before 2020, a registered organisation could pass foreign funds to another registered organisation, and many funding chains worked this way: a larger body received the grant and passed it to smaller groups in the field. Section 7, as amended, says that no person who has received foreign contribution shall transfer it to any other person. The Government argued that long chains made money hard to trace. In *Noel Harper* the Supreme Court read "transfer" to mean passing funds to third parties for acts beyond the approved purpose. Paying others to carry out the approved work is "utilisation" under section 8.[12] This softens the ban but does not remove it.

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[10] PRS Legislative Research, The Foreign Contribution (Regulation) Amendment Bill, 2026, https://prsindia.org/billtrack/the-foreign-contribution-regulation-amendment-bill-2026 (last visited Oct. 22, 2026).

[11] Foreign Contribution (Regulation) Act, 2010, No. 42 of 2010, § 12(4) (India) [hereinafter FCRA].

[12] Noel Harper v. Union of India, W.P. (C) No. 566 of 2021, (2022) 137 taxmann.com 130 (India Apr. 8, 2022), https://www.taxmann.com/post/blog/sc-upholds-constitutional-validity-of-2020-amendments-made-to-fcra/ (last visited Oct. 24, 2026).

3.4 The Administrative Cap

Section 8 allowed up to 50 per cent of a contribution to be spent on administration, with Government approval for more. The 2020 Amendment cut this to 20 per cent. Administrative expenses include salaries of staff and management, rent, utilities, travel, and accounting and professional fees. For a small organisation these are the cost of doing the work. The lawyer who runs a legal aid clinic is paid from the same budget, and the cap treats her as overhead.

3.5 The Designated Account and Identity Rules

Under sections 12(1A) and 17, every registered person and applicant must open an "FCRA account" in the New Delhi Main Branch of the SBI, and foreign contribution can come only into that account. Money may then be moved to other accounts for use. Section 12A requires Aadhaar numbers of office-bearers, and foreign nationals give a passport or Overseas Citizen of India card.

3.6 Suspension, Cancellation and Remedies

Section 13 lets the Government suspend a certificate for 180 days while it considers cancellation, and since 2020 for up to 180 days more. During suspension the organisation can use only part of its funds, and only with permission. Section 14 allows cancellation for false statements, breach of conditions, misuse of funds, or where the Government thinks cancellation is needed in the public interest. Before cancelling, it must give notice and a chance to reply. Section 15 deals with the funds after cancellation. The only remedy inside the Act is revision under section 32, decided by the Central Government itself.[13] The real outside check is a writ petition.

3.7 The 2026 Bill and Rules

The 2026 Bill adds a chapter on a Designated Authority. If a certificate is cancelled, surrendered or ends, the unspent foreign contribution and assets created from foreign funds, including assets bought partly with foreign money, vest in that Authority, at first provisionally. Non-renewal also triggers vesting, even if the organisation does not plan to take foreign money again.[14] The Government says the Bill fills a gap in section 15 and makes foreign funds more accountable.

The June 2026 Rules have so far been described mainly by their critics. According to a joint statement of international civil society groups, they add a Schedule of permitted activities under five heads (religious, cultural, economic, educational and social) that excludes proselytisation and arts with political or ideological content, tie registration to named purposes and States with a fee for each, set a minimum spending of ₹10 lakh over two financial years, and require disclosure of social media accounts and ultimate donors. Existing

[13] FCRA, supra note 11, §§ 13–15, 32; see also FCRA Licences of 16,000 NGOs Cancelled in 9 Years, The Tribune (2024), https://prsindia.org/files/bills_acts/acts_parliament/2010/the-foreign-contribution-(regulation)-act,-2010.pdf (last visited Oct. 28, 2026).

[14] PRS Legislative Research, supra note 10, https://prsindia.org/files/bills_acts/acts_parliament/2010/the-foreign-contribution-(regulation)-act,-2010.pdf (last visited Oct. 28, 2026).

organisations have one year to comply.[15] The Government's position is that receiving foreign funds is a statutory privilege and not a fundamental right.

Chapter 4: Constitutional Analysis

4.1 Article 19(1)(c) and 19(4)

Article 19(1)(c) protects the freedom of citizens to form associations. Article 19(4) allows reasonable restrictions only on named grounds: the sovereignty and integrity of India, public order and morality. "Security of the State" appears in Article 19(2), on speech, but not in Article 19(4).[16] So the label "national security" does not settle the matter. The State must show that a restriction protects sovereignty and integrity or public order, which the Court treats as narrower than the general security of the State.[17] Foreign interference in politics fits under these grounds. An ordinary grant for rural health does not.

In *All India Bank Employees' Association* the Court held that the freedom to form an association does not guarantee that it can pursue every aim.[18] The Government relies on this: the freedom to form an NGO does not bring a right to a foreign grant. But in *Bennett Coleman* the Court looked at the real effect of a law and not only its form.[19] A rule that leaves an organisation free to exist but unable to function can still be tested against Article 19.

4.2 The Proportionality Test

The Court uses a four-part test from *Modern Dental College*, applied in the Aadhaar case. The aim must be legitimate. The measure must be rationally connected to it. There must be no equally effective but less restrictive option. And the benefit must be weighed against the harm to the right.[20] The last two steps do most of the work.

The aim is not in doubt. The single account, identity rules and ban on transfers pass the second step because each makes money easier to trace. The 20 per cent cap is harder to defend. Administrative spending happens in India on the declared work, so a cap does little to stop diversion or foreign influence.

On necessity, an alternative to the sub-granting ban was available: allow transfers between registered organisations with full reporting, as before 2020. The Government's own figures help. It says 91.3 per cent of cancellations were for not filing annual returns and only 0.4 per cent for legal violations.[21] That suggests

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[15] Amnesty Int'l et al., Joint Statement on the 2026 Rules (July 17, 2026); Ministry of Home Affairs, Notification of New Rules under the Foreign Contribution (Regulation) Act, Gazette of India (June 22, 2026) (India), https://www.amnesty.org/en/latest/research/2026/07/india-fcra-tighten-control-civil-society-undermine-freedom-of-association/ (last visited Oct. 28, 2026).

[16] India Const. arts. 19(2), 19(4); M.P. Jain, Indian Constitutional Law (8th ed. 2018).

[17] Ram Manohar Lohia v. State of Bihar, A.I.R. 1966 S.C. 740 (India).

[18] All India Bank Emps.' Ass'n v. Nat'l Indus. Tribunal, A.I.R. 1962 S.C. 171 (India).

[19] Bennett Coleman & Co. v. Union of India, (1972) 2 S.C.C. 788 (India).

[20] Modern Dental Coll. v. State of Madhya Pradesh, (2016) 7 S.C.C. 353 (India); K.S. Puttaswamy v. Union of India, (2019) 1 S.C.C. 1 (India); Kai Möller, The Global Model of Constitutional Rights (2012).

[21] PTI, FCRA Registered NGOs Down by Half (Sept. 18, 2026) (reporting Ministry of Home Affairs data provided to the Joint Parliamentary Committee), https://www.etvbharat.com/en/bharat/fcra-registered-ngos-down-by-half-in-last-10-years-contribution-rises-from-rs-17832-crore-to-rs-22974-crore-enn26091807379 (last visited Oct. 23, 2026).

the main problem is paperwork, which better reporting could address. On balancing, the 2026 measures are the most severe. A minimum spending rule, a closed activity list and separate licences for each purpose and State burden small groups for a security benefit that is not shown.

4.3 Article 14: Arbitrariness and Natural Justice

Article 14 forbids arbitrary State action, and *Shayara Bano* accepted that a law can be struck down for manifest arbitrariness.[22] The "public interest" ground for cancellation has no guiding standard. The power to declare an organisation political was upheld in *INSAF* only with a narrow reading. Suspension can run for up to 360 days without a prior hearing, and an organisation with frozen funds for a year may not survive to be heard. Natural justice requires a fair hearing and reasoned orders.[23] The Delhi High Court has said suspension is only interim and the hearing comes at the cancellation stage. That is a fair reading of the text, but it does not remove the practical harm.

There is also unequal treatment. When political parties faced action for foreign funds, Parliament changed the law backwards in time to protect them. NGOs have had no such shield, which weakens the claim that the regime rests on national security.

4.4 Articles 21, 26, 30 and 300A

Article 21 matters because the Aadhaar rule raises privacy concerns under *Puttaswamy*, though the Court accepted it for identification, and because an organisation's survival affects its staff and the people it serves. The 2026 Bill also touches property. Under Article 300A, deprivation needs authority of law serving a public purpose.[24] Vesting assets in a Designated Authority on mere non-renewal, even where the organisation no longer takes foreign money, goes beyond security. Article 26 protects the right of religious denominations to own and manage property, and Article 30 protects minority institutions.[25] A fairer design would vest only the foreign-funded share after independent valuation.

Chapter 5: The Judicial Approach

5.1 Indian Social Action Forum v Union of India (2020)

INSAF, a Delhi-based organisation, challenged sections 5(1) and 5(4) of the Act and Rule 3 of the 2011 Rules, which let the Government declare an organisation "of a political nature" and so bar it from foreign funds. INSAF said the power had no guidelines and was vague. On 6 March 2020 a bench of L Nageswara Rao and Hemant Gupta JJ upheld sections 5(1) and 5(4), calling section 5(1) wide but not vague. But the Court read down Rules 3(v) and 3(vi). Groups that support public causes by lawful means, such as protest or strike, are not political in the sense of the Act unless linked to active or party politics.[26] The case shows the Court was ready to narrow the executive's reach by interpretation, and it treats lawful dissent as different

[22] Shayara Bano v. Union of India, (2017) 9 S.C.C. 1 (India).

[23] A.K. Kraipak v. Union of India, (1969) 2 S.C.C. 262 (India); Mohinder Singh Gill v. Chief Election Comm'r, (1978) 1 S.C.C. 405 (India).

[24] K.T. Plantation v. State of Karnataka, (2011) 9 S.C.C. 1 (India).

[25] T.M.A. Pai Found. v. State of Karnataka, (2002) 8 S.C.C. 481 (India).

[26] Indian Soc. Action Forum v. Union of India, C.A. No. 1510 of 2020, (2020) 15 S.C.C. 142 (India Mar. 6, 2020).

from party politics. But the Court did not apply a proportionality test. The 2026 Schedule, which excludes "political or ideological" content, will test the *INSAF* reading directly.

5.2 Noel Harper v Union of India (2022)

In *Noel Harper*, heads of charitable trusts challenged sections 7, 12(1A), 12A and 17 under Articles 14, 19 and 21. On 8 April 2022 a bench of A M Khanwilkar, Dinesh Maheshwari and C T Ravikumar JJ upheld all four. The Court said the right to association does not include a right to receive unregulated foreign funds, and that there is no absolute right to receive foreign contribution. It accepted that the ban on transfers aims to stop layered transfers, that a single account is a logical way to watch inflows and can be opened online, and that identifying office-bearers serves a real purpose. It added that inconvenience is not a ground to strike down a law.[27] Commentators have questioned the reasoning, noting that the Court's strong remarks against foreign funding sit uneasily with the backdated protection given to political parties.[28]

5.3 High Court Decisions

High Courts have mostly dealt with suspension and cancellation. In a case brought by the Commonwealth Human Rights Initiative, the Delhi High Court held that suspension under section 13 is an interim measure pending a decision on cancellation, and that the Act gives notice and a chance to reply at the cancellation stage.[29] Courts have therefore not required a hearing before suspension.

5.4 The Level of Scrutiny

These decisions suggest a deferential approach. In *Noel Harper* the Court asked mainly whether there was a rational link between the measure and its aim, and it relied on cases such as *Rustom Cavasjee Cooper* and *R K Garg*, which give Parliament wide room in economic matters.[30] It did not set out the four stages of *Modern Dental College*. Compare *Anuradha Bhasin*, where the Court insisted that restrictions on internet access be justified and tested for proportionality.[31] The difference may lie in how the right is described. Once foreign funding is treated as a regulated privilege and not part of the right to associate, the deeper test never begins. This supports the third supporting hypothesis, with *INSAF* as a partial exception. No court has yet decided the 20 per cent cap, the 360-day suspension or the 2026 measures.

Chapter 6: Impact on Civil Society

6.1 What the Numbers Show

The MHA told the JPC in September 2026 that active registered NGOs fell from 29,022 in 2015 to 14,466, and that 21,983 registrations had been cancelled: 91.3 per cent for not filing returns, 7.9 per cent for inactivity

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[27] Noel Harper, supra note 12.

[28] SC Upholds Recent Amendments to FCRA: But Is Its Reasoning Persuasive?, The Leaflet (Apr. 2022), https://theleaflet.in/tag/foreign-contribution-regulation-act/ (last visited Oct. 27, 2026).

[29] Commonwealth Hum. Rts. Initiative v. Union of India (Del. 2022) (India).

[30] Rustom Cavasjee Cooper v. Union of India, (1970) 1 S.C.C. 248 (India); R.K. Garg v. Union of India, (1981) 4 S.C.C. 675 (India).

[31] Anuradha Bhasin v. Union of India, (2020) 3 S.C.C. 637 (India).

and 0.4 per cent for legal violations. Over the same period foreign contribution rose from ₹17,832 crore in 2015-16 to ₹22,974 crore in 2024-25.[32] Fewer organisations now receive more money. Per active organisation the figure is roughly two and a half times higher, though the years do not match exactly. The Government can say the register has been cleaned of dormant and non-compliant bodies and that very few were cancelled for real violations. Critics can say the compliance load pushes out smaller organisations and concentrates money in larger ones. The data do not settle this, but they weaken the idea that lost registrations reflect a wide security problem.

6.2 Small Organisations

Large organisations have lawyers, accountants and compliance staff. Small ones have a part-time accountant and volunteers. The ban on transfers cuts off the model in which a bigger funder supports many local groups. The 20 per cent cap forces a small body to choose between paying staff and spending on its work. The 2026 minimum spending rule penalises groups that keep foreign funding modest. This supports the second supporting hypothesis, though without survey data the support comes from the design of the rules and published figures and not from field evidence.

6.3 Minority Religious and Charitable Bodies

Christian-run organisations form a large share of the religious category among FCRA holders, and the cancellations of 2023 included the CNI Synodical Board of Social Services and the Evangelical Fellowship of India, for alleged use of funds outside their mandate.[33] The Government points to the conversion conditions in the Act, and the 2026 Schedule excludes proselytisation. The Constitution allows some regulation. In *Stainislaus* the Court held that the right to propagate religion under Article 25 does not include a right to convert others, so forced or fraudulent conversion can be dealt with by law.[34]

The difficulty is how widely the rule is drawn. A church school, mission hospital or religious charity often joins worship and service in one institution. Article 26 lets a denomination manage its own religious affairs, while the State may regulate secular activity,[35] but the line is hard to draw in practice. A closed activity list and vesting of mixed-funded assets may reach beyond abuse to ordinary work. Regulating abuse is legitimate. Regulating a faith community's service because of its faith is not.

6.4 Redressal

A suspended or cancelled organisation has few real options. Revision under section 32 goes to the same Ministry. A writ petition is open but slow and costly, and meanwhile the organisation can use only a small

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[32] PTI, supra note 21. Other sources give 22,498 cancellations and 15,212 expired registrations as of July 2026; the figures differ because the dates and the counting methods differ.

[33] FCRA Licences of 5 NGOs Cancelled by Home Ministry, The Tribune (2023), https://www.tribuneindia.com/news/india/fcra-licences-of-5-ngos-cancelled-by-home-ministry-607056/amp (last visited Oct. 23, 2026).

[34] Rev. Stainislaus v. State of Madhya Pradesh, (1977) 1 S.C.C. 677 (India).

[35] Ratilal Panachand Gandhi v. State of Bombay, A.I.R. 1954 S.C. 388 (India); Abhinav Chandrachud, Republic of Religion (2020).

part of its funds. By the time a court decides, staff and beneficiaries may be gone. This supports the first supporting hypothesis.

Chapter 7: Comparative and International Perspective

7.1 The United States

The United States does not licence foreign grants to non-profits. It bans foreign money in elections[36] and, under the Foreign Agents Registration Act, 1938, requires agents of foreign principals engaged in political activity to register and label their material. This is a disclosure rule aimed at agency, not at every donation. Non-profits may take foreign donations, subject to tax reporting and the law against material support for designated terrorist groups, which was upheld in *Holder v Humanitarian Law Project*, showing that security can win.[37] But courts also protect associations from forced disclosure of members and donors unless the State shows a close fit.[38] The 2026 demand for "ultimate donors" would face a hard question under that test.

7.2 The United Kingdom

In the United Kingdom the Charity Commission oversees charities under the Charities Act 2011, and there is no general ban or licence for foreign donations.[39] Trustees must know their donors and guard against abuse, including terrorist abuse under the Terrorism Act 2000. Political parties may take money only from permissible donors under the Political Parties, Elections and Referendums Act 2000, and a Foreign Influence Registration Scheme under the National Security Act 2023 began in 2025.

7.3 Australia

Australia has an independent regulator, the Australian Charities and Not-for-profits Commission. The Foreign Influence Transparency Scheme Act 2018 requires those who act for a foreign principal to register, and 2018 reforms bar foreign donations to political campaigners. Ordinary charities remain free to take foreign funds, subject to reporting.

7.4 Canada

Canada's Elections Act bars foreign funds for third parties during elections. A limit on political activity by charities was struck down in *Canada Without Poverty v Attorney General of Canada* as a breach of free

[36] 52 U.S.C. § 30121; Bluman v. FEC, 800 F. Supp. 2d 281 (D.D.C. 2011), aff'd mem., 565 U.S. 1104 (2012), https://www.law.cornell.edu/uscode/text/52/30121 (last visited Oct. 21, 2026).

[37] Holder v. Humanitarian L. Project, 561 U.S. 1 (2010).

[38] NAACP v. Alabama ex rel. Patterson, 357 U.S. 449 (1958); Americans for Prosperity Found. v. Bonta, 594 U.S. 595 (2021); Laurence H. Tribe, American Constitutional Law (2d ed. 1988).

[39] Jean Warburton et al., Tudor on Charities (10th ed. 2015).

expression, and Parliament later removed it.[40] In 2024 Canada enacted a foreign influence transparency law based on registration, not a ban.

7.5 A Warning from Elsewhere

Some countries went further. Russia's foreign agent law of 2012 and Hungary's 2017 law on foreign-funded organisations were both condemned by regional courts. The European Court of Human Rights found that Russia's law breached the right to association, and the Court of Justice of the European Union held that Hungary's law violated EU law, including free movement of capital and the Charter rights of association and data protection.[41] Laws that label or burden foreign-funded groups as such are open to challenge unless tied to a real risk.

7.6 FATF Recommendation 8

The Government has sometimes said that FATF standards require strict control of NGOs. Recommendation 8 asks countries to find which non-profits are at risk of terrorist financing and to apply focused measures to them. In November 2023 the FATF revised it to make clear that measures must be targeted, proportionate and risk-based and must not unduly disrupt legitimate non-profits. In 2024 it rated India partially compliant on Recommendation 8 and asked for a risk-based approach and consultation with the sector.[42] Blanket rules for the whole sector sit badly with that standard.

7.7 Article 22 of the ICCPR

Article 22 permits restrictions on association only if provided by law and necessary in a democratic society in the interests of national security or public safety, public order, public health or morals, or the rights of others.[43] The UN Special Rapporteur on association has reported that the right includes seeking and using resources, including from abroad.[44] In 2016 three UN experts urged India to repeal the FCRA, the UN High Commissioner for Human Rights criticised the 2020 Amendment, and the Human Rights Committee raised

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[40] Canada Without Poverty v. Attorney General of Canada, 2018 ONSC 4147 (Can.); Peter W. Hogg, Constitutional Law of Canada (5th ed. 2007).

[41] Ecodefence v. Russia, App. No. 9988/13 et al. (Eur. Ct. H.R. June 14, 2022); Case C-78/18, Comm'n v. Hungary, ECLI:EU:C:2020:476 (June 18, 2020).

[42] Fin. Action Task Force, Mutual Evaluation Report: India (2024); Fin. Action Task Force, Best Practices on Combating the Abuse of Non-Profit Organisations (2023), https://www.fatf-gafi.org/content/fatf-gafi/en/publications/Mutualevaluations/Mer-India-2024.html (last visited Oct. 22, 2026).

[43] International Covenant on Civil and Political Rights art. 22, Dec. 16, 1966, 999 U.N.T.S. 171; Manfred Nowak, U.N. Covenant on Civil and Political Rights: CCPR Commentary (2d ed. 2005); Sarah Joseph & Melissa Castan, The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary (3d ed. 2013), https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights (last visited Oct. 26, 2026).

[44] Maina Kiai (Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association), Report, U.N. Doc. A/HRC/23/39 (2013); G.A. Res. 53/144, annex, art. 13 (Dec. 9, 1998) (Declaration on Human Rights Defenders), https://digitallibrary.un.org/record/755537/files/A_HRC_23_39-EN.pdf (last visited Oct. 26, 2026).

the concern in 2024. India is a party to the Covenant, and the Supreme Court has said international norms may be used to read the Constitution where domestic law is silent.[45]

7.8 What the Comparison Shows

Each of the four countries targets either elections or influence by agents of foreign states, and uses disclosure and registration as its main tool. Ordinary charitable funding stays open, and oversight sits with regulators separate from the security ministry, with appeals to courts or tribunals. India's system is a licence for every foreign-funded association, run by the home ministry, with a remedy that returns to the same ministry. India need not copy others, but the claim that all such laws look alike is not accurate.

Chapter 8: Conclusion and Suggestions

8.1 Findings

The study began with the idea that the FCRA pulls two ways, towards security and towards civic freedom. Regulating foreign money is a legitimate power of the State. The single account, identity checks and the ban on transfers, as read by the Supreme Court, can be defended. Other parts do not fit the proportionality test. The 20 per cent cap has a weak link to security. The 360-day suspension without a hearing, the "public interest" ground for cancellation and the lack of an independent remedy invite arbitrary use. The 2026 measures, namely the closed activity list, the minimum spending rule, licences by purpose and State, and vesting of mixed-funded assets, add heavy burdens whose security value has not been shown.

On the hypotheses, the central hypothesis is partly proved. It holds for the cap, the discretion and the 2026 measures but not for the account and identity rules. The hypotheses on the missing remedy and on judicial deference are proved, with *INSAF* a partial exception. The one on small and minority bodies is supported by the design of the rules and the data, but a field study is needed to prove it fully. The null hypothesis therefore fails for the provisions named.

8.2 When Security May Override Association

The research gap asked when internal security can justly override the rights of NGOs. On this study's findings, it can when five conditions are met. The restriction must serve a ground in Article 19(4). It must rest on specific material about the organisation or activity and not on suspicion of a whole sector. It must use the least restrictive means. Its burden must be in proportion to the threat. And it must be open to prompt review by an independent body.

8.3 Suggestions

First, an independent appellate tribunal, with a fixed period such as ninety days, should hear challenges to refusal, suspension and cancellation, in place of revision by the Ministry. Second, suspension should come with reasons and a hearing within a short time, and should leave enough funds for salaries and running costs. Third, terms such as "public interest" and "political nature" should be defined by objective criteria. Fourth, the 2026 Schedule should give way to a short negative list of prohibited conduct. Fifth, regulation should follow the risk-based approach of FATF Recommendation 8, with lighter duties for small organisations. Sixth, the administrative cap should rest on evidence and treat the pay of programme staff as part of the work.

[45] Vishaka v. State of Rajasthan, (1997) 6 S.C.C. 241 (India).

Seventh, transfers between registered organisations should be allowed again with traceable reporting. Eighth, the Bill should vest only the foreign-funded share of an asset, after independent valuation and with court oversight, protecting Articles 26 and 30. Ninth, Rules should go through public consultation, in line with the Government's own pre-legislative consultation policy. Tenth, the MHA should publish reasons and figures for cancellations each year.

The Joint Parliamentary Committee now has the chance to take up these points. A law on foreign money must protect the country. Built with narrow aims, clear tests and a fair remedy, it can do so without closing the civic space that a democracy needs.

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