THE FCRA (AMENDMENT) BILL, 2026: HISTORY, KEY CHANGES, AND THE ROAD TO A MORE ROBUST LAW

Chandan Kallaiaah, Practising Lawyer, High Court of Karnataka, Bangalore

ABSTRACT

The Foreign Contribution (Regulation) Amendment Bill, 2026 marks the most significant revision of India's foreign-funding law since 2010. Building on a legislative history that runs from the original 1976 Act through the 2010 consolidation and the 2016, 2018, and 2020 amendments, the 2026 Bill departs from every prior round by regulating not merely the inflow of foreign contributions but the fate of the assets built with them. It creates a Designated Authority empowered to provisionally and, on non-restoration, permanently vest an organisation's foreign-funded assets in the State, while simultaneously reducing criminal penalties and introducing new avenues of judicial revision and appeal. This article traces that history, sets out the Bill's key changes, situates it against comparable foreign-influence transparency regimes in the United States, the United Kingdom, Australia, and Canada, and examines the principal constitutional and procedural objections raised against it, including the absence of a hearing before non-renewal and the concentration of asset-control powers in an administrative authority. It concludes with a set of concrete recommendations, including judicial oversight before permanent vesting and a risk-based, proportionate framework, intended to make the amendment more robust, workable, and constitutionally durable.

THE FCRA (AMENDMENT) BILL, 2026

Chandan Kallaiaah[1]

Introduction

Foreign funding of Indian non-profits, religious bodies, research institutions, and civil society organisations has drawn continuous legislative attention since the mid-1970s. The Foreign Contribution (Regulation) Amendment Bill, 2026 was introduced in the Lok Sabha on 25 March 2026, deferred amid strong opposition, and re-tabled on 20 July 2026 in the Monsoon Session. It is the most consequential revision of this framework since the 2020 amendment.[2] As of early August 2026, it remains pending, listed for passage before the session's scheduled close on 13 August.

In this Article, an attempt is made to understand the Historical background of regulating Foreign Contributions in India and how the law has evolved and the reasons behind the intention of succussive governments to regulate the same keeping in mind raising concerns of sovereignty of the Nation.

A. Brief Legislative History

1. The Foreign Contribution (Regulation) Act, 1976

India's foreign-funding regime began in the political climate of the 1970s, when concerns about external interference in domestic politics and civil society led to the first FCRA in 1976. It was focused chiefly on monitoring foreign contributions to "parliamentary institutions, political associations and academic and other voluntary organisations as well as individuals working in the important areas of national life may function in a manner consistent with the values of a sovereign democratic republic, and for matters connected therewith or incidental thereto[3]".

---

[1] Practicing Lawyer, High Court of Karnataka, Bangalore.

[2] PRS LEGIS. RSCH., *The Foreign Contribution (Regulation) Amendment Bill, 2026*, https://prsindia.org/billtrack/the-foreign-contribution-regulation-amendment-bill-2026 (last visited Aug. 5, 2026).

[3] Foreign Contribution (Regulation) Act, 1976, No. 49, Acts of Parliament, 1976, pmbl. (India).

2. The Foreign Contribution (Regulation) Act, 2010

After the liberalization policies of Prime Minister, P. V. Narashima Rao, during his tenure, there was a sea change in the flow of foreign investments into India, which completely changed the way world looked at India as a Country in terms of investment, growth and development. This was further enhanced during the tenure of Mr. Atal Bihar Vajpayee from 1999 to 2004. As cross-border financial flows grew more complex and the non-profit sector expanded, the then Government faced with new challenges and complexities in respect of Foreign Contribution. Though certain amendments were carried out to the original 1976 Act in the year 1984, it was not substantial to cover the new challenges. Therefore the Parliament repealed the 1976 Act and replaced it with the FCRA, 2010. This established the modern framework of mandatory registration or case-specific "prior permission" with the Ministry of Home Affairs (MHA); a bar on contributions for activities "detrimental to the national interest," including effects on sovereignty, security, public order, and relations with foreign states; five-year renewable certificates; and cancellation of registration for non-compliance.

3. The 2016, 2018, and 2020 Amendments

Under the NDA Government which came to power in the year 2014, through an absolute majority for the first time after 30 years, three amendments were carried out to the FCRA Act, 2010. The first one in **2016** refined the definition of "foreign source," notably concerning Indian subsidiaries of foreign companies. The second one in **2018** made further definitional and compliance changes. The last amendment in **2020**, was the most significant one, which barred the transfer of funds between FCRA-registered entities, mandated a single designated "FCRA account" at the State Bank of India's New Delhi branch, cut permissible administrative expenditure from 50% to 20% of contributions, and made Aadhaar mandatory for key office-bearers.[4]

By mid-2026 the scale of the regulated universe was considerable: the MHA's FCRA portal recorded roughly 14,449 active certificates, alongside about 22,498 cancelled and 15,212 expired or lapsed registrations. These figures indicate how much organisational

[4] PRS LEGIS. RSCH., *The Foreign Contribution (Regulation) Amendment Bill, 2026*, https://prsindia.org/billtrack/the-foreign-contribution-regulation-amendment-bill-2026 (last visited Aug. 5, 2026).

activity, and how many downstream assets, sit within the Act's reach. After the enactment of 1976, the 2010 repealing Act and subsequent three amendments added more compliance, strict disclosure norms, and banking controls, while the categories of restricted activity in the parent Act remained broadly unchanged since 1976.

What the 2026 Amendment Changes

For the first time, the Bill regulates not merely the flow of foreign contributions but the fate of the assets built with them once FCRA status ends. Some of the key inclusion in the 2026 amendment are -

1. **Designated Authority and vesting of assets:** On cancellation, surrender, or lapse ("cessation") of registration, an organisation's foreign contribution and any assets created from it "provisionally vest" in a government-appointed Designated Authority, which may also take over management of the organisation's affairs where it considers this necessary "in public interest." If fresh registration, renewal, or restoration is not obtained within the stipulated period, the assets "permanently vest" in the Authority, which may then transfer them "for public purposes" to a government ministry or department. Where the vested asset is a place of worship, its religious character must be preserved.

2. **Automatic cessation on non-renewal:** Once the Registration lapses and if not renewed within five years, the Bill now treats this lapse as a distinct trigger for the vesting machinery, even where the government has taken no separate adverse action.

3. **Lighter criminal penalties, strict administrative powers:** Maximum imprisonment for FCRA violations falls from five years to one year, part of a wider decriminalisation trend, while administrative powers over assets expand and is stricter at the same time.[5]

4. **Judicial revision and appeal:** The Bill emphasises new avenues for judicial revision and appeal against adverse orders, which were previously absent or unclear.[6]

[5] LAWSTREET, *FCRA 2.0: How India Plans to Rewire Foreign Funding of NGOs*, https://lawstreet.co/legislative-corner/fcra-20-how-india-plans-to-rewire-foreign-funding-of-ngos (last visited Aug. 5, 2026).

[6] CYRIL AMARCHAND MANGALDAS, *The FCRA Amendment Bill 2026: Part I – Asset Vesting*, https://privateclient.cyrilamarchandblogs.com/2026/04/the-fcra-amendment-bill-2026-part-i-asset-vesting/ (last visited Aug. 5, 2026).

5. **Proselytisation-linked restriction:** Activities connected with religious conversion are proposed to be excluded from FCRA-eligible purposes, building on a November 2024 MHA public notice that had already listed "forceful religious conversions" as grounds for refusing registration or renewal.

6. The FCRA (Amendment) Rules, 2026, which is in force since 22 June 2026, require a recipient to have utilised at least ₹10 lakh of foreign contribution over the preceding two financial years to be deemed to have shown "reasonable activity" for renewal purposes.

Comparative International Practice

India is not alone in regulating foreign funding of domestic organisations. Many developed countries have in one or the other way have regulated inflow of foreign contribution which they feel are detrimental to the sovereignty of their country. A brief regulatory framework of these developed countries as follows:

1. The United States Foreign Agents Registration Act, 1938 (FARA) requires various disclosures with the Department of Justice on political activity, lobbying, public relations or fund disbursement, requires periodic public filings and include criminal and civil repercussions for non-compliance;[7]

2. The United Kingdom has enacted Foreign Influence Registration Scheme, National Security Act 2023 (in force from 1 July 2025) has a two-tier registration process to regulate political influence from a foreign power and also has criminal prosecution for non-compliance;[8]

3. Australia has in place Foreign Influence Transparency Scheme Act, 2018 which regulates all activities from foreign Principal in respect of political & governmental influence. This law too has criminal proceedings if one fails to register, provide false information and destroys records;[9]

---

[7] Foreign Agents Registration Act of 1938, 22 U.S.C. §§ 611–621 (2018).
[8] National Security Act 2023, c. 32, pt. 4 (UK).
[9] Foreign Influence Transparency Scheme Act 2018 (Cth) (Austl.).

4. Even Canada has similar laws called the Foreign Influence Transparency & Accountability Act, 2024 which in fact can impose penalties up to C$ 1 million and also criminal sanctions for violations.[10]

5. The European Union has also proposed enactment of a law which is under negotiation with the members of the Union.

Broadly speaking all developed countries maintain some form of foreign-influence transparency regime. Even most of the Developing countries too have laws in place to regulate foreign contribution with an interest to curb foreign influence in their internal political, religious and socio-economic affairs.

The Core Objections

Some of the core objections various section of society, religious bodies and political parties are as follows:

1. **No hearing before lapse of License:** Existing law provides a hearing before cancellation of a certificate or confiscation of contravening funds, but neither the Act nor the Bill extends this safeguard to lapse of license. An organisation can therefore lose its certificate, and trigger asset vesting, without ever being heard.

2. However, a licensee can approach the concerned authority before the license lapses and can secure a renewal by furnishing all relevant documents, which seems to be missed by most of the critics.

3. **Administrative, not judicial, control over seizure:** The Designated Authority can take control of assets through a purely administrative process, without prior adjudication by a court or tribunal. This raises due-process and property-rights concerns, since even "provisional" vesting precedes independent review.

4. **Constitutional exposure:** Critics identify at least three fault lines: Article 300A (right to property, and the requirement of due process for its deprivation), Article 25 (freedom of

[10] Foreign Influence Transparency and Accountability Act, S.C. 2024, c. 16, pt. IV (Can.).

religion, regarding the proselytisation bar), and Article 19(1)(c) (freedom of association, given the chilling effect of potential total asset loss).

5. **Divergence from the international "risk-based" standard:** Critics have raised concerns that Indian authorities frequently invoke the Financial Action Task Force (FATF) to justify tighter rules, yet FATF's own 2024 evaluation recommended a targeted approach focused on organisations demonstrably at risk of terrorism financing, combined with greater sector consultation. Critics argue the Bill instead applies uniformly severe consequences across the entire regulated universe.

6. **Disproportionate impact and uncertainty:** Critics argue that, the ₹10-lakh utilisation threshold risks penalising modest but legitimate organisations. The Bill also does not clearly resolve how vesting should apply, proportionately, to assets built from a mix of foreign and domestic funds.

7. **Interim management without safeguards:** Critics have been very vocal on the aspect of Designated Authority taking over "management" of an organisation's affairs even at the provisional stage, whereby the organisation could effectively lose operational control of an institution, a school or hospital, well before any final determination on its registration, and there is no statutory ceiling on how long that interim control may last.

Making the Amendment More Robust

The objections above are not, on the whole, reasons to withdraw the Bill. They are reasons to redesign its safeguards. A more balanced and durable version of the amendment would need to address the following points.

1. A mandatory pre-decisional hearing for non-renewal, on par with the existing safeguard for cancellation, so that the trigger for asset vesting is never purely automatic or unilateral. This closes the single largest procedural gap identified by legislative analysts. However, during this period there may be an injunction or an attachment before judgment, without taking over control of the management, till the final adjudication of the issue.

2. Judicial or quasi-judicial confirmation before permanent (as opposed to provisional) vesting, through an independent tribunal or appellate authority with a fixed, short

timeline for disposal, so that irreversible transfers of ownership are never made on executive determination alone.

3. A risk-based, proportionate framework aligned with FATF's own 2024 guidance, reserving permanent asset transfer for cases of demonstrated diversion, terror financing, or genuine security risk, rather than routine administrative lapses.

4. Clear and justiciable definitions of “public interest” and “public purpose,” ideally with illustrative statutory or rule-based criteria, to curb discretionary or politically-motivated use of the power and to give courts a workable standard of review.

5. A defined apportionment formula for mixed-funded assets, protecting the domestically-funded share from vesting and giving donors and lenders a predictable basis for structuring long-term investments.

6. A grace period and revival mechanism for good-faith lapses, particularly for small organisations affected by the utilisation threshold, before cessation is treated as final.

7. Mandatory periodic public reporting by the Designated Authority on the number and value of assets vested, transferred, or returned, to enable parliamentary and public oversight of how the new power is actually exercised in practice.

8. Explicit protection for public-service infrastructure such as schools and hospitals, requiring continued use for their original public purpose, going beyond the narrower protection currently given only to places of worship.

9. Graded administrative penalties tied to the severity and intent behind a violation, so the reduced criminal term is complemented rather than simply replaced, and inadvertent non-compliance is not treated the same as deliberate diversion.

Conclusion

The FCRA (Amendment) Bill, 2026 addresses a real gap in the 2010 Act which necessitated proper regulation to curb foreign influence not only in political and social affairs of India, but also in religious affairs. No country can ignore foreign influence and allow its citizens to be manipulated. There is also a requirement of a clear mechanism to manage foreign-funded assets once an organisation exits the FCRA regime. The underlying policy objective, preventing such assets from drifting into an unregulated limbo, is a legitimate one.

Whether the amendment survives constitutional challenge, and whether it achieves its stated transparency and accountability goals without disproportionately harming legitimate small organisations and long-term public-service infrastructure, will depend on the procedural safeguards, proportionality, and independent oversight discussed above. Without those correctives, the Bill is likely to face sustained litigation and continued resistance from the sector it regulates.

This note is current as of early August 2026, while the Bill was pending before Parliament, and should be read subject to it passing the final text.