Q8

Examine critically the recent changes in the rule governing foreign funding of NGOs under the Foreign Contribution (Regulation) Act (FCRA), 1976.

UPSC Civil Services Mains 2015 · GS II · 12 marks · India and its Neighbourhood

India and its neighborhood - relations.

Core demand of the question

- Examine critically the recent changes in the rules governing foreign funding of NGOs under the Foreign Contribution (Regulation) Act

Revision summary

FCRA 1976 was replaced by FCRA 2010; recent change is strict rules, renewals and cancellations, not a brand-new parent statute.

Caps on administrative spend, "political nature" guidelines, bank reporting and prior-permission lists are the working tools.

Transparency and a bar on foreign money in elections are legitimate.

Mass cancellation and a wide political-nature test chill Article 19 association and environmental speech.

Keep the Act; require speaking orders, hearings, and a narrower line between party politics and public advocacy.

Introduction

Foreign contribution to associations in India is a regulated privilege, not an open market right. The Foreign Contribution (Regulation) Act, 1976, was replaced by the Foreign Contribution (Regulation) Act, 2010, and the Union has since tightened rules and cancellations. A critical examination must weigh national security and transparency against the chill on legitimate civil society.

Body

The legal frame (1976 to 2010 and after)

- The 1976 Act was a licence-era statute to keep foreign money out of elections and out of activities that harmed the national interest; the 2010 Act restated that purpose with registration, prior permission, designated bank accounts, and annual returns.
- Political parties, government servants, and organisations of a political nature are barred or tightly gated; news media and some other classes need extra clearance.
- "Recent changes" in the mid-2010s are less a new parent Act and more a hard use of the 2010 Act and the Foreign Contribution (Regulation) Rules: mass cancellation for non-filing, freeze of accounts, and a prior-permission list for named bodies.

What changed in practice and in subordinate rules

- The Home Ministry cancelled or refused to renew registration for thousands of associations that missed returns or whose accounts did not reconcile; volume itself became a policy signal.
- A cap that foreign contribution should not be spent beyond a fixed share on administrative expenses (the 50 per cent ceiling under the 2010 scheme) was enforced more strictly, squeezing advocacy groups whose main cost is staff and lawyering rather than grain.
- Guidelines on "political nature" and on activities that prejudice public interest were read widely, so environmental and human-rights groups that organised protests met the same clause as a party front.
- Banks were told to report receipts; the designated SBI / notified channel logic and closer intelligence coordination made every large grant visible to the State in real time.
- Placement of certain donors and recipients on prior-permission or watch lists (the public fights over Greenpeace India and the Ford Foundation in this period) showed that foreign funding could be slowed without a conviction in a criminal court.
- Renewal ceased to be a routine filing and became a fresh political-security test.

Critical gains

- India is entitled to know who funds campaigns that claim to speak for the public, and to block money that is a cover for politics, conversion-linked inducement, or secessionist work.
- Many cancelled files were genuinely dead or non-compliant; a clean register is not, by itself, anti-democratic.
- Parliament's 2010 Act already demanded accountability; enforcement after years of sleepy renewal was overdue on the transparency limb.

Critical costs

- **Due process was thin:** batch cancellations, short hearings, and intelligence inputs that the association cannot test, sit badly with Article 14 and with the freedom of association under Article 19(1)(c).
- Advocacy on nuclear power, coal, land and communal violence is "political" in a democracy; treating it as FCRA-tainted politics confuses party electioneering with public reason.
- Legitimate health, education and disaster NGOs share the same pipeline and pay the same bank friction; the innocent face delay while the State chases a few famous names.
- Over-breadth invites forum shopping and foreign criticism, and it can push money into informal channels that are harder to watch.
- The executive is judge and enforcer; there is no independent regulator comparable to a charities commission with a reasoned, appealable merit test.

A balanced way

- Keep the 2010 Act; publish speaking orders, give a real hearing, separate electioneering from environmental speech, and index the administrative-expense cap to the nature of the work.
- **A critical verdict:** the recent turn strengthened the State's eye on foreign money and weakened the presumption that a registered NGO is a partner until proved otherwise.

Flow diagram

FCRA 1976 then 2010 -> Registration returns designated bank
Registration returns designated bank -> Tighter rules cancellations prior permission
Tighter rules cancellations prior permission -> Security and accounts
Tighter rules cancellations prior permission -> Chill on advocacy Art 19
Security and accounts -> Keep Act add due process
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Conclusion

The FCRA stream from 1976 to 2010 always allowed the Union to police foreign funds. Recent rule-tightening and mass cancellations improved paperwork control and raised a real chill on advocacy. The changes are defensible for security and accounts, and they are excessive where "political nature" swallows dissent without a fair hearing.

Facts & figures

Foreign Contribution (Regulation) Act, 1976

Original statute regulating foreign donations; repealed and replaced by the 2010 Act, which is the law administered in the 2010s.

Foreign Contribution (Regulation) Act, 2010

Requires registration or prior permission, a designated bank account, annual returns, and bars specified persons from receiving foreign contribution.

Administrative-expense ceiling

The 2010 scheme limits the share of foreign contribution that may be spent on administration, hitting staff-heavy advocacy groups hardest.

Article 19(1)(c)

Freedom of association; FCRA does not repeal it, but licensing and cancellation can burden it and must still meet Article 14 fairness.

Prior permission

Route for an organisation that is not registered, or that has been placed on a watch list, to take a specific foreign grant with Home Ministry clearance.

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