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Foreign Contribution Regulation Amendment Bill, 2026 Seeks Stronger Oversight of Foreign-Funded Assets While Balancing Constitutional Freedoms

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Recent Developments:

- Amid concerns raised by minority institutions regarding the **Foreign Contribution (Regulation) Amendment Bill, 2026**, the Union Government clarified that the proposed **Designated Authority** will preserve the **religious character of places of worship** in every case and will not alter or secularise such institutions.
- The **2026 Amendment Bill** seeks to establish a statutory framework for the **management, supervision, and disposal of foreign-funded assets** when an organisation's **FCRA registration** ceases due to cancellation, surrender, expiry, or non-renewal.
- The amendments have revived debates on **national security, transparency, civil society autonomy, religious freedom, and constitutional safeguards** in regulating foreign contributions.

Foreign Contribution (Regulation) Act (FCRA), 2010:

Background and Objectives:

- The **Foreign Contribution (Regulation) Act (FCRA), 2010** regulates the acceptance and utilisation of **foreign contributions** to ensure that such funds do not adversely affect **India's sovereignty, integrity, national security, public interest, or democratic institutions**.
- The legislation was first enacted in **1976**, replaced by the **FCRA, 2010**, and subsequently amended in **2016, 2018, 2020**, while the **2026 Amendment Bill** proposes further governance and administrative reforms.
- The Act is administered by the **Ministry of Home Affairs (MHA)**, and every **FCRA registration** remains valid for **five years**, requiring renewal before expiry.
- Around **16,000 organisations** are presently registered under the Act, collectively receiving nearly **?22,000 crore** in foreign contributions annually.

Need for Regulating Foreign Contributions:

- Regulation safeguards **national sovereignty and internal security** by preventing undue foreign influence over public institutions, governance, and policy-making.
- It strengthens efforts against **money laundering, terror financing, financial fraud, and diversion of foreign funds** for unlawful activities.
- The framework promotes **transparency, financial accountability, and proper utilisation** of foreign contributions for charitable, developmental, educational, religious, and social welfare purposes.
- The Act also prohibits foreign contributions to specified categories, including **election candidates, legislators, judges, government servants, journalists in specified categories, and political organisations**, thereby protecting democratic integrity.

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Major Provisions of the Foreign Contribution (Regulation) Amendment Bill, 2026:

Creation of the Designated Authority:

- The Bill establishes a **Designated Authority** as the principal institutional mechanism for supervising, managing, and disposing of **foreign-funded assets** after an organisation ceases to hold a valid **FCRA registration**.
- The Authority assumes control when registration is **cancelled, surrendered, expires, or is not renewed**, while exercising powers comparable to those of a **civil court** for asset management.
- The proposed framework addresses an operational gap under **Section 15 of the FCRA, 2010**, which recognised vesting of assets but lacked detailed procedures for their administration.

Management of Foreign-Funded Assets:

- Assets initially **vest provisionally** with the **Designated Authority**, and if the organisation subsequently restores its registration, all eligible assets and unutilised foreign contributions are returned.
- If registration is not restored within the prescribed period, the assets **vest permanently**, after which they may be transferred for **public purposes** or disposed of according to law, with sale proceeds credited to the **Consolidated Fund of India**.
- Where the assets constitute a **place of worship**, the **Designated Authority** is legally required to preserve its **religious character**, ensuring that it is neither converted nor repurposed.

Automatic Cessation of Registration:

- The Bill introduces **Section 14B**, providing for **deemed cessation** of **FCRA registration** when an organisation fails to apply for renewal, its renewal application is rejected, or the validity period expires without renewal.
- The amendment aims to eliminate prolonged uncertainty regarding organisations whose registrations have effectively lapsed.

Other Key Provisions of the Foreign Contribution (Regulation) Amendment Bill, 2026:

Time-Bound Utilisation of Foreign Contributions:

- The Bill introduces mandatory timelines for the **receipt, utilisation, and reporting of foreign contributions**, aiming to strengthen financial discipline, improve accountability, and prevent prolonged accumulation of unutilised foreign funds.
- Organisations are expected to maintain proper records and utilise foreign contributions strictly for the purposes for which they were received.

Restrictions During Suspension of Registration:

- An organisation whose **FCRA registration** is under suspension cannot **sell, transfer, mortgage, or otherwise dispose of foreign-funded assets** without prior approval of the Central Government.
- These restrictions seek to prevent diversion or dissipation of assets while legal or administrative proceedings remain pending.

Centralised Investigation Framework:

- The Bill amends **Section 43** of the **FCRA, 2010**, requiring every law enforcement agency or State Government to obtain **prior approval from the Central Government** before initiating investigations relating to violations under the Act.

- The proposed provision seeks to ensure uniform enforcement and avoid parallel or conflicting investigations, although it has also generated debates regarding cooperative federalism and administrative autonomy.

Rationalisation of Penalties:

- The amendment reduces the maximum punishment for specified offences from **five years' imprisonment** to **one year**, or **fine**, or **both**, thereby distinguishing procedural non-compliance from serious national security violations.
- The Bill emphasises greater regulatory compliance while reducing the criminalisation of minor procedural lapses.

Individual Accountability:

- The definition of **Key Functionary** is expanded to include **directors, partners, trustees, office-bearers of societies, trusts, trade unions, the karta of a HindUndivided Family (HUF), and any individual exercising effective managerial control**.
- Such persons may be held personally liable for violations unless they establish that the contravention occurred without their knowledge or despite exercising due diligence.

Constitutional and Judicial Dimensions:

Relevant Constitutional Provisions:

- **Article 25** guarantees **freedom of conscience** and the **freedom to profess, practise, and propagate religion** , subject to public order, morality, health, and other constitutional limitations.
- **Article 26** protects the rights of **religious denominations** to manage their own religious affairs, establish institutions, and administer property in accordance with law.
- **Article 19(1)(c)** guarantees the **freedom to form associations or unions**, forming an important constitutional basis for the functioning of voluntary organisations and civil society institutions.

Important Judicial Position:

- In **Noel Harper v. Union of India (2022)**, the **Supreme Court** held that **receiving foreign contributions is not an absolute fundamental right**, and Parliament is competent to regulate such funding in the interests of sovereignty, integrity, and public interest.
- At the same time, regulatory measures must satisfy the constitutional principles of **reasonableness, non-arbitrariness, and proportionality**, ensuring that legitimate charitable and developmental activities are not unnecessarily restricted.

Concerns Associated with the Amendment:

Administrative Challenges:

- Lengthy registration and renewal procedures may delay access to foreign contributions and adversely affect the continuity of welfare, educational, healthcare, humanitarian, and developmental activities undertaken by NGOs.

Concerns Regarding Executive Discretion:

- Broad governmental powers relating to cancellation of registration, freezing of accounts, management of assets, and prior approval for investigations have raised concerns regarding potential misuse and excessive executive discretion.

Impact on Civil Society:

- Compliance costs and procedural requirements may disproportionately affect smaller organisations with limited administrative capacity, thereby reducing the diversity and outreach of civil society initiatives.
- Critics argue that excessive regulatory uncertainty may discourage international philanthropic partnerships and reduce the availability of resources for developmental programmes.

Transparency and Accountability Issues:

- While the Act seeks to improve financial accountability, instances of inadequate transparency in the utilisation of foreign contributions by certain organisations continue to justify the need for effective regulatory oversight and public disclosure mechanisms.

Way Forward:

Balance Regulation with Constitutional Freedoms:

- The regulatory framework should simultaneously protect **national security, financial integrity, religious freedom, and freedom of association**, ensuring that compliance requirements remain reasonable and proportionate.

Strengthen Transparency and Digital Governance:

- Wider adoption of **digital compliance systems, real-time disclosure mechanisms, risk-based monitoring, and technology-driven auditing** can improve regulatory efficiency while reducing unnecessary administrative burdens.

Ensure Fair and Predictable Administration:

- Registration, renewal, suspension, and appeal procedures should remain transparent, time-bound, and supported by clearly reasoned orders to enhance legal certainty and public confidence.

Promote Cooperative Regulation:

- Regular consultation between the **Government, civil society organisations, religious institutions, and development partners** can improve implementation while preserving the autonomy of legitimate charitable institutions.

Conclusion:

- The **Foreign Contribution (Regulation) Amendment Bill, 2026** seeks to strengthen governance of foreign-funded assets through institutional reforms, greater accountability, and improved regulatory clarity.
- Its long-term effectiveness will depend upon maintaining an appropriate balance between **national security and financial transparency** on one hand and **constitutional freedoms, religious autonomy, and the legitimate functioning of civil society organisations** on the other.

Value Addition for UPSC:

Important Constitutional Provisions:

- **Article 19(1)(c):** Freedom to form associations or unions.
- **Article 25:** Freedom of conscience and free profession, practice, and propagation of religion.
- **Article 26:** Rights of religious denominations to manage their religious affairs.

- **Article 300A:** No person shall be deprived of property except by authority of law.

Important Supreme Court Judgments:

- **Noel Harper v. Union of India (2022):** Foreign contribution is not an absolute fundamental right, and Parliament may regulate it through reasonable restrictions.
- **Indian Social Action Forum (INSAF) v. Union of India (2020):** The Supreme Court upheld the constitutional validity of the FCRA while reading down the expression **"political interests"** to prevent excessive restrictions on legitimate civil society activities.

Prelims Facts:

- The **Foreign Contribution (Regulation) Act** was first enacted in **1976** and replaced by the **FCRA, 2010**.
- The **Ministry of Home Affairs** administers the **FCRA**.
- **FCRA registration** is valid for **five years** and requires renewal before expiry.
- The **2026 Amendment Bill** introduces a **Designated Authority** for managing foreign-funded assets after cessation of registration.
- The Bill also introduces **Section 14B** for **deemed cessation of registration** and amends **Section 43** to require **prior Central Government approval** before initiating investigations under the Act