

FCRA 2020: BANE FOR NGOs (AN OVERVIEW OF FOREIGN CONTRIBUTIONS TO NGOs IN LIGHT OF RECENT AMENDMENTS)

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ABSTRACT

In recent times, India has seen a proliferation of non-profit organizations. International funding is provided to several of these organizations. Simply put, the influx of foreign contributions or aid to India is controlled by FCRA. The Home Office is enforcing the law. The aim of this act is to prohibit foreign bodies, or even control, social, political, economic and religious discussion in India. For example, religious groups running conversion programs in India or organizations that fund Indian activists protesting large dams or nuclear power plants are examples of such an impact. In recent years, all charitable organisations in India have been monitored by the Indian government for foreign funds flows. The policies of, and administrative practices and judicial decisions on FCRA 1976 had also accumulated certain experiences which were to be addressed in the enactment of the new statute. The Foreign Contribution and Control Act of 1976 failed to govern foreign financing effectively and was not complied with further violation than in practice. Therefore, in order to sustain the changing face of India's economic growth there is no doubt that the FCRA in 1976 required a major overhaul. The 2010 Foreign Contribution and Control Act was enacted in these circumstances. This paper traces the evolution of the law's history and the pattern and course of changes in the legislation in question. The author intends to explain the provision of the FCRA 2010 along with the historical background. It will also analyse the recent amendment of 2020.

KEYWORDS: FOREIGN CONTRIBUTION ACT, NON-GOVERNMENTAL ORGANISATION, LEGISLATION, AMENDMENTS.

INTRODUCTION:

The Foreign Contributions Act or FCRA in the Indian Constitution governs recognition of use by those individuals or organizations or companies provides of a foreign contribution or of foreign hospitality and the acceptance and use of a foreign contribution or from a foreign hospitality with regard to any activity detrimental to the national interest and with regard to matters related or connected therewith. While this funding is certainly worthy of the constitution, international contributions that are politically or religiously motivated must be restrained in order to keep democracy saintly¹.

¹ Proffesor (Dr.)P Ishwar Bhatt, *Balancing transnational charity with democratic order, security, social harmony and accountability: A critic al appraisal of the foreign contribution (regulation) Act,201 0, VOL. 5, JILS,156,*

FCRA prohibits any international donation from being recognized by such citizens and organizations. In this political parties, civil servants, written and visual media sources, etc. are inclusive. Only after obtaining registration are companies recognized to receive foreign funds allowed to do so. It should be noted that foreign money charged for products or services to Indian companies in the country is not within the remit of FCRA.²

Foreign Contributions Settlement Act, 2010³ (hereinafter FCRA), replacing its predecessor FCRA 1976, was the result of a long debate between policymakers and the non-profit voluntary organizations (NPVOs) that sought and used foreign contributions on these issues. Given that the law is an exclusive legal funnel for the influx of international charities, which is important and has evolved over time⁴ its facilitating function for the functioning of socially beneficial NPVOs should be carefully considered.

In the absence of an accreditation system for NPVOs and systematic self-regulation as in the West,⁵ the foreign philanthropists rely on the government's recognition of eligible funds that receive NPVOs and are tax-exempted for their contribution in their laws. Protects against abuse, builds trust and confidence, and enables the credibility of NPVOs and donors despite the inconvenience of registration and other regulatory methods. It establishes links between the charitable causes of donors around the world and the protection of rights for beneficiaries at the local level. The policy, administrative practices and court decisions on FCRA 1976 had also had certain experiences that needed to be addressed with the entry into force of the new statute. The Foreign Contribution and Control Act of 1976 failed to effectively regulate foreign funding and was not enforced in violations beyond practice. Hence, to support the changing face of India's economic growth, there is no doubt that the FCRA needed a major overhaul in 1976.

OVERVIEW OF FCRA:

In recent years, all charities in India have been monitored by the Indian government for foreign money flows. Recently, in April 2015, it was announced that the Home Office has revoked permits for more than 8,000 charities due to non-compliance with reporting standards set by law. In certain cases, the government has also suspended registration issued in accordance with Greenpeace India's International Contribution (Regulation) Act 2010 ('FCRA'). Several recent reports indicate that the level of compliance with FCRA-specific standards has been carefully studied by the government.

The FCRA was initially enacted to control the influx of foreign contributions and for reasons other than those specified by law, ensure that the foreign contributions obtained are not used. All charities receiving foreign

² Sahil Kejriwal, *IDR EXPLAINS FCRA*, IDR ONLINE (last ACCSSED ON Jan 19, 2021) <https://idronline.org/idr-explains-fcra>

³ The Foreign Contribution (Regulation) Act, 2010, No. 42 of 2010, (Sept. 27, 2010)

⁴ See generally Foreign Contributions in India, available at <http://www.indiastat.com/socialandwelfareschemes/27/foreigncontribution/18140/stats.aspx> (Before 1976, the receipt of foreign contribution as recorded by the Reserve Bank of India was Rs 35 crores; in 2000 it was Rs 4000 crores under FCRA; in 2003-4 Rs 5105 crores; In 2004-5 Rs 6256 crores; in 2005-6 Rs.7878 crores; in 2006-7 Rs 11, 336 crores; in 2007-8 Rs. 9663 crores; in 2008-9 Rs 10802 crores; Rs 10338 crores in 2009-10; the number of organizations that received FCRA contribution in 2008-9 exceeded 20, 000.)

⁵ See generally Mark Sidel, *The Guardians Guarding themselves: A comparative perspective on Non Profit Self-Regulation*, 80 CHICAGO KENT L.R. 803 (2005).

donations in India are subject to the provisions of this Act. Therefore, the core elements of FCRA and the consequences of non-compliance with legal provisions should be taken into account provisions⁶.

HISTORY OF FCRA:

After a dispute over the possible use of foreign money in parliamentary elections, FCRA was first passed in 1976⁷. Although they were forced to disclose the amount received and spent each year, the original law allowed nonprofits to freely donate foreign donations to accept.⁸

The legislation was revised in 1984 to more strictly control the flow of funds to nonprofits. Before accepting any international donations, they are now expected to register. They were also unable to move the money on to other nonprofits that were not licensed. These reforms were made because of the impression of the government that some of these organizations were being used to channel funds to political parties by international players.

Almost twenty years later, to bridge certain holes in the initial bill, the government began the process of re-drafting the FCRA. In May 2011, the International Contribution (Regulation) Act 2010, which is now in force, was adopted. In the new act, there are some new requirements and laws. The 1976 Act, for instance, only protected newspapers as it applied to broadcast outlets. But newer types of media, such as television and the internet, are listed in the 2010 Act. It also disallows the use of international donations to fund more than 50 percent of any organization's operating costs⁹.

SALIENT FEATURES OF FCRA 2010:

As noted above, "foreign contributions" from "foreign sources" are protected by the FCRA. As noted above, "foreign contributions" from "foreign sources" are protected by the FCRA. A complete description of "foreign resource" is a general concept: the organization that is the

source of the funds is located in a foreign area. The subject of the definition is "foreign source". The FCRA also describes "Foreign Contribution" as a donation, shipment, or transfer from a foreign source:

- A. Foreign contribution any item whose value should not exceed Rs 25,000 / - (unless provided for a person's personal use),
- B. Foreign or Indian money, or
- C. bonds, promissory notes, securities, stocks and the like of foreign credit instruments. Any income or interest generated

⁶ LEXOLOGY, <http://lawyersatwork.in/news/fcra-simplified> (last visited on Jan 10, 2021)

⁷ Sri Samar Mukherji, Smt. Mukul Banerji, Sri C K Chandrappan, Sri Shyam Sundar Mahapatra, Dharnidhar Das, BV Naik, K Lakkappa, B R Shukla, Chapalendu Bhattacharya, Foreign Contribution Regulation Bill, 1976, Lok Sabha, (1976); see also P. Ishwara Bhat, History and Objectives, FCRA, 1976, CIVIL SOCIETY VOICES 18, 19-22, (Dec., 2006), <http://www.vaniindia.org/Download/CSV-Dec2006.pdf>.

⁸ Kejriwal Sahil. "IDR EXPLAINS FCRA" idronline.org. <https://idronline.org/idr-explains-fcra> (accessed January 21, 2021).

⁹Sahil Kejriwal, IDR EXPLAINS FCRA, IDR ONLINE (last ACCESSED ON Jan 19,2021) <https://idronline.org/idr-explains-fcra> ¹⁰Rangan Dutta, The Foreign Contribution (Regulation) Act 1976: An Evolving Regulatory Mechanism, CIVIL SOCIETY VOICES 40 (2006).

Foreign contributions cannot be accepted by:

- (i) candidate for elections;
- (ii) Correspondent, columnist, cartoonist, publisher, owner, printer or publisher of a registered newspaper;
- (iii) Judge, government official or employee of any company;
- (iv) Member of a legislative branch;
- (v) Political party or head of the same; and
- (vi) Any political organization and association or company dedicated to the production and dissemination of audio visual or audio-visual news or current affairs programs has been placed in the prohibited category to accept foreign contributions (included in FCRA, 2010).

FCRA 2010 does not apply in the following cases:

- (a) contribution from foreign source for scholarships or stipends
- (b) receipts in the normal course of business, trade or commerce
- (c) consideration for goods or services
- (d) receipt of a foreign contribution by a person from family members
- (e) Receipt of gifts from a foreign source for personal use, provided that the market value of such gift does not exceed INR 25,000.

Under FCR rules, approval is not required in the event that a foreign contribution is received from a family member. However, if a family member's foreign contribution in a tax year exceeds INR 1,00,000, the recipient must notify the central government within 30 days of receipt.

EFFECT OF FCRA ON NGOs:

The law is now seen as a statute targeting charities following the 1984 FCRA amendment. While this may not have been the explicit purpose of the amendment or the new 2010 law, the FCRA division is spending a significant portion of time to discuss with non-profit organizations. FCRA notes that only after receiving evidence of registration from the central government can a company engaging in certain cultural, economic, academic, religious, or social activities accept international contributions. An FCRA registration number is also issued to each nonprofit.¹⁰ In 2015-16, there were 23,802 registered FCRA non-profit organizations in India. Almost all of the work that non-profit organizations do in India falls into one of the five categories mentioned above. However, some areas, such as fitness, sports or research, have not been identified. Whether

¹⁰ Rangan Dutta, The Foreign Contribution (Regulation) Act 1976: An Evolving Regulatory Mechanism, CIVIL SOCIETY VOICES 40 (2006).

FCRA extends to nonprofits operating in these and other unlisted areas is uncertain.¹¹ Another way charities are affected by FCRA is by forcing them to submit annual reports. An organisation allowed to accept foreign donations must retain separate foreign donation accounts. An annual declaration must be filed, approved by a chartered accountant, including information on the receipt and effective use of the international donation.

REQUIREMENT TO RECEIVE FOREIGN CONTRIBUTION:

A non-profit must meet the following conditions in order to apply for an FCRA contribution: The company must be registered under an existing statute of the Indian Constitution, such as the Societies Registration Act, the Corporations Act, or as a public charity.

- For at least three years, it must live.
- During those three years, it must have developed activities for the benefit of society in the region of its choice, for which it is looking for an international donation.
- For its purpose, the company must have invested a minimum of INR 10 lakhs. This does not include operating costs.

PRIOR PERMISSION AND PRIOR APPROVAL:

(i) Prio Permission:

This is a provision for accepting a one-time international charity donation. A pre-authorisation certificate can be requested by organisations who are under the age of three, do not have an FCRA registry, or have cancelled or suspended their registration. They must specify their intent, the name of the donor and the sum of the contribution they get. They also need the commitment letter from the donor, with the same details. Consent expires if there is a change in intention or donor halfway through and must be re-validated.

Prior consent can also be more difficult than the FCRA certificate as even the donor entity is scrutinized in this situation. A red flag is any connection found between the Indian non-profit and the international donor (for example, an ordinary member of the board or employee). It usually takes eight to 15 months for the government to make a pre-approval decision. This contribution but the added challenge is to ensure that while the application is being processed, the donor remains involved.¹²

From 604 nonprofits in 2003 to nine in 2017, the number of nonprofits applying for pre-approval is slowly declining.¹³

¹¹ *Id* at 35-36.

¹² *Id* at 40.

¹³ See generally Bhat, *supra* note 11

(ii) PRE-APPROVAL:

It is a list on which a foreign investor can be placed by the central government. Any donation to an Indian non-profit organization requires those on this list to obtain government approval. About 20 donors are on the pre-approved list. Research has shown that donors on the list support less and less good causes. From INR 327 crore in 2012-13 to INR 49 crore in 2016-17, the amount of contributions made by these donors has also decreased.

USE OF FUNDS:

After obtaining registration / prior approval, the organization is required to open and maintain a bank account exclusively for receiving and using foreign donations and all transactions related to international donations must be made exclusively from the bank account referred to above. In addition, it is expected that a separate collection of bills and records will be maintained solely for foreign donations obtained and used.

The FCRA makes it easier to use foreign donations and for the reasons for which they have been raised. In addition, it imposes restrictions on the movement of donations. An individual is prohibited from passing on contributions to another person unless the transferor is permitted to accept foreign contributions.¹⁴ The Department of the Interior recently placed the Ford Foundation on its watch list for the transfer of international donations to non-FCRA registered organizations. In fact, the Department has suspended registrations issued to organizations and put many organizations on the watchlist for violating this standard, which is clearly contained in FCRA Section 7.

REPORTING REQUIREMENTS:

Filing annual returns is one of the most important reporting standards that is often neglected by organizations. Each organization sends its annual statement to the central government within 9 months after the end of the financial year concerned. This declaration should include a description of the contributions received, the source and manner in which they were received, the reason for which they were received and the way in which the contributions were used. Given the recent measures taken by the government against many charities, it is imperative that all organizations receiving foreign donations review in detail and rigorously follow FCRA standards and enforcement criteria to ensure they do not conflict with the same and subject to government guidelines. scanner for non-compliance.

DATA OF FUNDING RECEIVED BY NGOS:

In 2015-16, Indian charities received international donations worth INR 17,620 crore. This figure was 16 percent higher than last year's figure. The data indicates an unequal distribution of foreign donations among the Indian states. In Delhi, Tamil Nadu, Karnataka and Maharashtra, 59% of all foreign funds obtained in

¹⁴ LEXOLOGY, <http://lawyersatwork.in/news/fcra-simplified> (last visited on Jan 10, 2021)

2016-17 were disbursed, 2 along with 38% of all FCRA registered non-profit organizations and only about 16% of the region's population.¹⁵

Additionally, an average of 45 percent of FCRA registered nonprofits in India have not earned funding in the past eight years. In addition, in 2016-17, only 0.1 percent of all nonprofits were founded by the top 20 beneficiaries, but about 15 percent of foreign donations were brought in. As described above, nonprofits register to raise foreign donations for one of the five reasons listed.

FCRA AND CONTROVERSIES:

Data from 2015 to 2017 show that 59% of the donations were made under 'social'. First, all political parties are usually against international non-profit contributions, which is also explicit in government policy. For example, under leftist rule, foreign-funded nonprofits found it difficult to work on sensitive issues in the states of West Bengal and Kerala. Some have argued that the current government is pursuing a populist agenda, and therefore crackdown on foreign-funded organizations and activists who may be affiliated with FCRA nonprofits.¹⁶

Four aspects of FCRA have been done by the government:

- Targeted repression of FCRA non-profit organizations that could be involved in prohibited or political activities (even if indirectly).
- Widespread administrative tightening has been introduced to ban dormant FCRA charities.
- Mechanism for granting FCRA registration or prior approval to nonprofits has slowed.
- The list of pre-referred donors has been expanded to approximately 22 foreign players.

Some individuals consider the massive cancellation of inactive FCRA registrations to be politically motivated. It's also been raised by the media, but this has been going on for some 25 years. The non-profit sector has also contributed to this discussion. In the social sector, there is also a perception that FCRA funding has declined sharply, while international funds, despite the so-called crackdown, have largely increased over the past three to four years. In general, there was little transparency between the supervisor and the supervised or intelligent dialogue on these issues. The media stance was to politicize or sensationalize the issue.¹⁷

IMPACT OF CONTROVERSIES ON NGOs:

Many FCRA registrations have been withdrawn by the government after new regulations were enacted in 2011 for nonprofits with foreign capital. Non-compliance with the laws, such as the periodic filing of expense reports, was the main reason for this. However, this was seen by nonprofits as an attempt to ban opposition or

¹⁵ Id at 3-6.

¹⁶ Safi, Michael, *the guardian*, "Christian charity set to withdraw from India after funding blocked" ., 3May2017.

¹⁷ See generally Bhat, *supra* note 11.

protest. Human rights groups were most affected by these cancellations, as their work was listed as 'political' and therefore ineligible for foreign donations.

In 2014, a report from the Intelligence Agency said that foreign-funded non-profit organizations in India had a negative impact on economic growth. Greenpeace, an international environmental non-profit organization, was described in the study as "a threat to national economic security." It claimed that by protecting itself from projects such as nuclear and coal-fired power plants, the organization was affecting India's economic development.¹⁸

FCRA RECENT AMENDMENT 2020

On September 29, 2020, the central government (government) was informed about the Foreign Contribution Amendment Act (Regulation) 2020¹⁹ (Amendment Act) amending some provisions of the Foreign Contribution Act (Regulation) 2010 (Act / FCRA).

The government states, as stated in the statement of objectives, that the intent of the law is to improve enforcement, increase transparency and accountability in the receipt and use of international donations, and facilitate genuine NGOs or associations that serve of society.

On Sep 29 2020, the Amendment Act came into effect in several cases where organizations failed to ensure basic legal enforcement, such as keeping proper records and filing tax returns, leading to a situation where the government left several organizations' registrations. had to withdraw.

The project would have far-reaching implications for civil society organizations and communities in India. It would limit or close smaller nonprofits, contribute to frontline job losses, and reverse years of hard-won progress toward sustainable development goals already under pressure from the effects of COVID-19. The effects of reduced corporate support, in the form of mandatory, 2% philanthropy, which is the sharp drop due to the pandemic, will also be exacerbated by a reduction in international non-profit funding in India.

EFFECT OF THIS CHANGE BETWEEN COVID 19 PANDAMIC:

While the bill introduces several new restrictions, both international donors and Indian non-profit organizations have two major restrictions regarding subsidy and administrative expenses. The law (FCRA) allows non-profit organizations to subscribe to FCRA-approved non-profit organizations that are registered under its provisions. This form of allocation is now prohibited in the amended premium provision. The new

¹⁸ *Id at 14.*

¹⁹ The Foreign Contribution (Regulation) Act, 2020, No. 33 of 2020, (Sept. 28, 2020)

law also limits FCRA's registered nonprofit money to 20%, which is less than 50% previously approved, in administrative costs.²⁰

While the government argues that this is done to make foreign funding more transparent, it runs counter to the government's decision to allow Indian-based international entities to contribute to political parties through a completely opaque election guarantee. In response to the pandemic, the PM CARES Fund, a charity fund set up by the Prime Minister, recognizes but has no control over donations from foreign donors. Together, more than Rs 15,000 (\$ 2.03 billion) was made up, slightly less than last year received by FCRA for 16,343 crore (\$ 2.21 billion) registered nonprofits.

IMMEDIATE AND SIGNIFICANT IMPACT ON NGOS:

So far, most Indian donors have not funded institutional or non-program investment expenditures. In addition, municipal funds are limited for human rights work, climate change, environmental justice, and so forth. Most NGOs, especially those with grass roots, rely on intermediary organizations to close the gap. Under the amended legislation, even if these groups could be defined in alternative ways, the foreign donors would pay significantly more transaction costs. In comparison, NGOs in India thirst for the money needed to invest in technology, capability creation and research.

Given the nature of their work, the 20 percent administrative fee is unlikely to be met by think tanks, research and advocacy groups, and others offering capacity-building services. These organizations will have to completely rethink their operational models, along with local offices of INGOs and foreign donor organizations.²¹

KEY HIGHLIGHTS OF AMMEDMENT 2020:

1. The prohibition to accept foreign donations from a "civil servant"

Section 3 of the Act was revised and modified to add to the list of people not authorized to accept external donations a group of government official under Section 21 of the Indian Penal Code, 1860. It forbids individuals who are hired, paying or compensated by the government with charges or commissions to serve a public duty.

It seems that the reason for the inclusion of "civil servant" is to prevent foreign funding from adversely affecting those performing public duties and to avoid conflicts of interest. However, this will exclude some of the altruistic individuals who fall under the category of "civil servants" from the coordinating of public finances for undertaking activities.²²

²⁰ Ingrid Srinath, Smarinita Shetty, *HOW DO YOU SOLVE FOR FCRA 2020*, IDR ONLINE(last ACCESSED ON Jan 19,2021) <https://idronline.org/fcra-amendment-2020-impact-on-nonprofits-international-donors>.

²¹ Suvojit Chattopadhyay, *The Proposed FCRA Amendment Will Deal Another Blow to India's Non-Profit Sector*, <https://thewire.in/government/foreign-contribution-regulation-amendment-bill-2020> (Last accessed 22 Jan2021).

²² Id at 2-4.

2. Prohibition of international donation transition

The Amending Act supersedes section 7 of the Act by banning the transition by statute entitled citizens to accept international donations of foreign contributions to individuals. Previously, the NGOs registered under the legislation had been entitled to transfer to another registered NGO the foreign donation earned by the NGO; and (ii) any non-registered person with the prior permission of the Department of the Interior; (MHA). To ensure ongoing plans continue to be funded, FCRA registered NGOs will need to innovate the ways they collaborate on social projects to re-adapt to this new limitation.

3. Lower the ceiling for administrative costs:

With the Amendment Act, Article 8 of the Act has been amended to lower the ceiling for the use of a foreign contribution for administrative costs from 50% to 20%. The change appears to encourage the use of such funds for the grant. A respectable threshold and market norm appears to be the 20% ceiling for administrative expenditure. Companies may need to contribute 2 percent of the average net profit to be spent under the Corporation Act, 2013.

Certain NGOs will continue this operation. However, only five percent of the company's commitment to corporate social responsibility activities are allowed in terms of operational costs.²³ This is a positive change as some philanthropists choose not to provide assistance to NGOs due to their high administrative costs and fewer resources to achieve the philanthropic goal.

4. Opening a bank account with State Bank of India, Delhi:

Previously, in accordance with Article 17 of the Act, the beneficiary of the foreign donation had the right to accept foreign contributions into a scheduled bank account. The Amending Act shall substitute Section 17 of the FCRA authorizing the receiver of the international donation to receive such a donation in New Delhi, known as the "FCRA account," in an account opening at the State Bank of India (SBI).

However, it gives a recipient versatility in order to keep or use the foreign contribution received from their FCRA account at the SBI branch in New Delhi, and it allows the recipient to also have an FCRA account. Open in India at one of the scheduled banks²⁴. The change appears to be aimed at centralizing the influx and routing of foreign donations, giving the state control and oversight of the funds earned.

5. Authority to prohibit a recipient of a foreign contribution from using / receiving his funds:

If a person receiving foreign contributions is found guilty by law of violating any of the provisions of the law, the unused or not received foreign donation may be used or earned only with the prior approval of the government. The Amending Act has now added a clause to Section 11²⁵ to ensure that if, on the basis of a

²³ See generally Srinath, supra note 1.

²⁴ *Id* at 10.

²⁵ The Foreign Contribution (Regulation) Act, 2010, No. 42 of 2010, (Sept. 27, 2010)

brief investigation, the Government determines that such person has violated the provisions of the Act, the Government may also restrict the use of any unused foreign contribution. .

The change²⁶ appears to be a precautionary measure and requires the government to refrain from accepting and using foreign donations when the beneficiary appears to be in breach of the law.

6. License Renewal:

According to this rule, any person who obtains a certificate of registration shall renew the certificate within six months of the date of its expiry. The bill notes that the government will make inquiries before renewing the credential to ensure that the individual applying for it:

(i) not fictitious or benami

(ii) is not charged or convicted of causing tension in the Community or engaging in religious conversion activities; and

(iii) has not been convicted of misuse of funds or misuse of, among other things, apartment buildings.

7. Suspension of registration:

By law, the government can suspend a person's officer for up to 180 days. The bill also states that it can take an additional 180 days to lift the suspension.

8. Aadhar for registration:

The act²⁷ provides the acceptance of the foreign contribution when: (i) a certificate of central government registration has been issued; or (ii) a person is not registered but has received prior government approval to accept foreign contributions. Anyone needing identification or prior authorisation to accept a foreign donation must present an application in the manner specified by the national government.

The bill further states that a person seeking prior authorization, registration or renewal of registration must enclose an identification document with the number of the Aadhaar of all his office holders, managers or key officers. In the case of an immigrant, a copy of his passport or identity card must be issued.

9. Submission of certificate:

The Amending Act added Section 14A²⁸ to allow the government to allow a person, when it is satisfied that the person has not violated any of the provisions of the Act, to voluntarily surrender his registration certificates and that the management of his foreign contribution and related equity (FA) was transferred to the government agency.

²⁶ The Foreign Contribution (Regulation) Act, 2020, No. 33 of 2020, (Sept. 28, 2020)

²⁷ *Id at 2.*

²⁸ *Id at 3.*

SUGGESTION AND CONCLUSION:

Indian NGOs should explore the possibility of establishing overseas organizations - a US 501 (c) (3) organization and a UK-based charity under Cc 21a - that could bear the transaction costs of supporting smaller agencies (i.e. processing charges to smaller organizations). Foreign donors need to reorganize their Indian policies in order to identify and provide direct funding for future NGO partners. Only benefit agencies, think tanks and other organisations unable to fulfill overhead expense constraints will exist as lobbying groups. However, such workarounds can also be short-term, as previously suggested by the government that the FCRA may also apply to private entities. However, India continues to be challenged by its relentless focus on human rights defenders and its brutal repression of disagreements. The outlook for civil society and democracy appears more blurred.

In addition, the figures suggest that less than 1 percent of the total number of NGOs operating in India are registered and operating in accordance with the law. The Amending Act aims to make the inflow of foreign funds and the use of the activities described in the registration more transparent and efficient. For some aspects of the Amending Act, further clarification is expected. During the notification of the Amending Law on 29 September, NGOs would have to wait for the notification of the revised rules under the law, including the recognition of the branch of the State Bank of India and special account opening procedures, before thoroughly understanding and compliance with new legal requirements. However, in the meantime, NGOs will continue to work regularly and keep their accounts.

