

## Indian law on foreign funding a ‘tool to silence’ civil society

*International Commission of Jurists says amendment to FCRA law will ‘obstruct’ the work of NGOs in the country.*

The ICJ is concerned that the overbroad language of the FCRA law means that it can be applied in an arbitrary manner [File: Vijay Pandey/Al Jazeera]



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Rights defenders have criticised an amendment to the Indian Foreign Contributions Act (FCRA), which oversees foreign funding to NGOs, with International Commission of Jurists (ICJ) saying it is “a tool to silence” civil society organisations in the South Asia nation.

In a briefing paper [released](#) on Thursday, the ICJ states that the FCRA is “severely shrinking” civil space in India and poses unnecessary obstacles to human rights defenders in India by “unlawfully obstructing” the work of NGOs in the country of 1.3 billion.

The ICJ said the FCRA “fails to comply with India’s international legal obligations to respect and protect the rights to freedom of association, expression, peaceful assembly, and the right to take part in the conduct of public affairs”.

The FCRA regulates foreign donations with the aim of ensuring that such donations do not adversely affect the “national security” of India.

Originally enacted in 1976 with the aim to prevent foreign donations to political parties, the law has been amended to starve NGOs, particularly rights groups and environmental NGOs critical of the Hindu nationalist government of Prime Minister Narendra Modi. Foreign funding to political parties remains illegal in India.

UN High Commissioner for Human Rights, [Michelle Bachelet](#), expressed concern in October that the FCRA was being used to “deter or punish NGOs for [human rights reporting](#) and advocacy”.



In September Amnesty International decided to halt its work in India after the bank account of its India branch was frozen by the right-wing government [File: Aijaz Rahi/AP Photo]The ICJ is concerned that the overbroad language of the FCRA law means that it can be applied in an arbitrary manner. It considers the Act as being part of a “clampdown on Indian human rights defenders” consisting of arbitrary arrests and other forms of harassment.

“All governments have a duty to prevent corruption, but financial regulation should not be used to stifle the crucial role of civil society simply because the authorities find it hard to deal with constructive criticism,” Meenakshi Ganguly South Asia director at Human Rights Watch told Al Jazeera.

The Act prohibits civil society organisations from accessing an FCRA certificate based on the prohibition on receipt of foreign funds for organisations of a “political nature” and activities against “public interest”, “economic interest” or “security”, where these terms are not defined or defined overly broadly.

On Wednesday the Indian government amended the FCRA rules making it tougher for NGOs to access foreign contributions. According to the new rules, an NGO is now prohibited from transferring funds to another NGO, Aadhaar card, the biometric ID, is mandatory for registration, and prior permission required to receive foreign funds.

“The new Act together with the new regulations make running a human rights organisation in India with any foreign contribution extremely difficult,” Anubha Rastogi, a human lawyer based in Mumbai, told Al Jazeera.

“The wording of the law ensures that the state has the power and wide discretion to interpret any activity as being political in nature”.

### **Greenpeace and Amnesty**

The Act has been used to obstruct civil society as early as 2015 when the Ministry of Home Affairs cancelled the FCRA registration of Greenpeace India. Priya Pillai, a member of the environmental watchdog, was

prevented from flying to the UK where she was expected to campaign against use of coal mining that impacts tribal people.

Crippled by funding cuts, the Greenpeace India was forced to shut its offices in India and lay off staff.

Since taking power in 2014, Modi government has cancelled the licenses of more than 20,000 NGOs which received foreign funds under the FCRA. A [leaked report](#) by intelligence bureau, India's domestic intelligence agency, said Greenpeace and Amnesty among others were stalling development.

A number of activists particularly those working among marginalised sections such as Dalits – former untouchables – and tribals have been arrested after being dubbed as “Maoist sympathisers”.

In September [Amnesty International](#) decided to halt its work in India after the bank account of its India branch was frozen by the right-wing government, forcing it to lay off staff and stop its work in the South Asian nation.

Amnesty has complained of continuous harassment by the government of Prime Minister Narendra Modi. The London-based rights organisation also accused the government of running an “incessant witch hunt” campaign against human rights organisations over “unfounded and motivated” allegations.

Rights defenders say the FCRA has a “chilling effect” on NGOs in India who are not accepting foreign donations for fear of running afoul of the FCRA. According to a 2019 [report](#), foreign funding to more than 3 million NGOs in India saw a decline of 40 percent between 2015 and 2018.

“While it will impact a large number of organisations, two specific sets of organisations will be hit worst: firstly the small, grassroots NGOs who work collaboratively with larger organisations or NGOs, since the new amendment now prohibits sub-granting to any other organisation,” Yamini Mishra, South Asia director of Amnesty International, told Al Jazeera.

“This will mean almost a death knell for hundreds and thousands of small NGOs.

“The other set of groups who will be directly hit by the law is those engaged in advocacy, policy research work, alliance and network mobilisation,” said Mishra.

The ICJ is calling on the Indian government to set up an independent committee to review the FCRA.

The UN Human Rights Committee has also weighed in on the matter. It stated that the restrictions in the law on funding has to be expressed with a degree of precision that can enable individuals or an organisation to regulate their conduct accordingly.

According to Mishra, Amnesty India has already appealed against the state's actions in the high court and is “intent on fighting this battle till there is a final resolution in our favour”.

The Indian government has defended its actions saying NGOs have flouted funding rules and some of them indulged in corruption.