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EDITORIAL ANALYSIS

An Undefined Word: The FCRA Amendment and Civil Society Space

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THE LIFT LINE

A law that punishes conduct it never defines does not regulate behaviour; it regulates courage, and the first thing it takes away is the willingness to try.

WHY THIS EDITORIAL MATTERS FOR YOUR EXAM

The Foreign Contribution (Regulation) Amendment Bill, 2026, introduced in the Lok Sabha in March 2026, proposes two changes that have drawn formal objection. First, it bars the use of foreign contribution for “proselytisation” without defining the term. Second, it creates a designated authority that may take control of foreign contributions and of assets created from them when an organisation’s FCRA registration is cancelled, surrendered, refused renewal or otherwise ceases. The Catholic Bishops’ Conference of India submitted a memorandum to the Union Home Minister on July 10, 2026, seeking reconsideration. The issue is not, for the exam, a question of any community’s grievance. It is a clean case study in vagueness, executive discretion and the constitutional limits of regulating civil society.

GS Paper 2: the role of non-governmental organisations and civil society in development; government policies and their design; statutory (https://ujiyari.com/vocab/statutory/) bodies and executive discretion; fundamental rights and their reasonable restriction.

GS Paper 4: probity (https://ujiyari.com/vocab/probity/) and fairness in public administration; the ethical duty of the state to act with clarity and proportionality towards those it regulates.

For **Prelims**, hold the specifics: the Foreign Contribution (Regulation) Act, 2010, administered by the Ministry of Home Affairs, requiring registration or prior permission and mandating that all foreign contribution be received in a designated SBI account at New Delhi’s Sansad Marg branch after the 2020 amendment, which also barred sub-granting and capped administrative expenses at 20 per cent; Article 25, which guarantees freedom of conscience and the right freely to profess, practise and propagate (https://ujiyari.co m/vocab/propagate/) religion, subject to public order, morality and health; and Rev Stainislaus v. State of Madhya Pradesh (1977), where the Supreme Court held that the right to propagate does not include a right to convert another person by force, fraud or allurement. For **Mains**, argue that regulation of foreign funding is a legitimate sovereign function, but that vague offences and asset forfeiture without adjudication fail the tests of clarity and proportionality.

BACKGROUND AND CONTEXT

Every state has an unquestioned interest in knowing who funds activity within its borders and why. Foreign money can carry foreign purpose, and FCRA exists to keep that visible. The 2010 Act and the 2020 amendment already tightened the pipeline considerably, and thousands of registrations have lapsed or been cancelled since. What the 2026 Bill adds is not more visibility but more consequence, and it adds it through an executive route.

The word “proselytisation” is the pressure point. Indian constitutional law already knows how to talk about this. Article 25 protects propagation, and the courts have drawn the line at conversion by force, fraud or inducement. State anti-conversion statutes work with that vocabulary. “Proselytisation”, as a bare, undefined term in a funding statute, does not map onto that settled line. It could mean coercive conversion, which is already unlawful. It could equally be read to cover a mission-run school, a hospital or a relief camp, activities that are lawful, that the Constitution protects, and on which very large numbers of poor Indians depend.

THE CORE ARGUMENT / ISSUE

Vagueness is a constitutional defect, not a drafting quibble

A regulated party must be able to know, before it acts, whether its act is lawful. When the trigger for losing registration and assets is a word with no statutory definition, the regulated party cannot plan; it can only avoid. That is the chilling effect. The rational response of a risk-averse NGO board is to shrink its programme, decline foreign grants, or shut the field office, regardless of whether it ever intended anything the law was aiming at. The law then achieves through fear what it could not achieve through proof.

Asset takeover without adjudication

ELEMENT	EXISTING FCRA, 2010 FRAMEWORK	PROPOSED CHANGE	CONCERN
Registration control	Registration, renewal, suspension, cancellation by MHA	Retained and widened	Discretion already broad
Prohibited use of funds	Speculative business, undefined activities detrimental to national interest	Adds undefined “proselytisation”	No definition, no notice of what is barred
Assets on cessation (https://ujiyari.com/vocab/cessation/)	Disposal as directed by the authority	Designated authority may vest and control assets built over decades	Forfeiture-like effect without a trial
Remedy	Representation and writ jurisdiction (https://ujiyari.com/terms/writ-jurisdiction/)	Not clearly strengthened	Burden falls on the accused organisation

Assets built lawfully over decades, a hospital wing, a school building, a hostel, are the accumulated output of contributions that were legal when received and spent under a registration that was valid when granted. Vesting them in a designated authority on the administrative event of cancellation or non-renewal comes close to a forfeiture, and forfeiture is normally the consequence of adjudicated wrongdoing, not of a lapsed licence. Non-renewal, in particular, can occur through delay or refusal without any finding of misconduct at all.

Regulation is legitimate; discretion without standards is not

None of this is an argument against FCRA. Foreign funding of domestic advocacy is regulated in many democracies, and India’s sovereign right to do so is not seriously contested. The argument is narrower and stronger for it: define the prohibited conduct in terms the Constitution already recognises, and route the severe consequences through an adjudicating authority rather than an administrative one.

HOW TO THINK ABOUT THIS (ANALYTICAL FRAME)

Use the three-part test that UPSC rewards on any rights-restricting law. First, legality: is the restriction clearly and precisely stated in law? An undefined “proselytisation” fails here. Second, legitimate aim: is the purpose one the Constitution permits, such as public order or the integrity of foreign funding? Preventing coerced conversion and financial opacity (https://ujiyari.com/vocab/opacity/) clears this bar comfortably. Third, proportionality: is this the least restrictive means, and are the consequences graded? Asset takeover on non-renewal, with no adjudication, is difficult to defend as least restrictive. A law can pass the second test and still be unconstitutional because it fails the first and the third. That is precisely the shape of this debate, and stating it in that order keeps the answer analytical rather than emotive.

THE DIAGRAM IN WORDS

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Legitimate state aim (transparency in foreign funding, bar on coerced conversion) ->
FCRA Amendment Bill 2026: undefined bar on "proselytisation" + designated authority may
vest NGO assets on cancellation, surrender or non-renewal -> vagueness means NGOs cannot
know in advance what is barred -> chilling effect: schools, hospitals, relief work
withdraw from foreign funding -> Article 25 propagation right and Rev Stainislaus line
blurred -> fix: statutory definition tied to force, fraud or inducement; asset
consequences only after adjudication and appeal
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WAY FORWARD

1. **Define the prohibited conduct.** Replace the bare term “proselytisation” with the constitutionally settled formulation, conversion effected by force, fraud, coercion (https://ujiyari.com/vocab/coercion/) or inducement, so that lawful education, healthcare and relief work by faith-based organisations is placed beyond doubt.
2. **Route asset consequences through adjudication.** Permit vesting or takeover of assets only after a reasoned order by an independent adjudicating authority, following notice and hearing, with a statutory appeal, and never as an automatic consequence of non-renewal.
3. **Make renewal timelines binding on the regulator.** Prescribe outer limits within which registration and renewal applications must be decided, with reasons recorded for refusal, so that administrative delay cannot function as a de facto penalty.
4. **Separate the compliance case from the ideological case.** Enforce the existing FCRA rigorously against genuine financial violation, diversion and opacity, using audit and prosecution, so that the state’s real regulatory interest is served without shrinking the space for legitimate civil society.

PYQ LINKAGE AND PRACTICE

UPSC has asked about the regulation of NGOs and foreign funding, the role of civil society in governance, and the scope of Article 25. This editorial ties those to a live Bill and to the recurring administrative-ethics theme of discretion exercised without clear standards.

Practice question: “The state’s right to regulate foreign contribution is not in doubt; the manner of its exercise is.” Critically examine the FCRA Amendment Bill, 2026, with reference to legal certainty, Article 25 and the doctrine of proportionality. (250 words, 15 marks)

Sources: The Hindu (https://www.thehindu.com/), Deccan Herald (https://www.deccanherald.com/)

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