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EDITORIAL ANALYSIS

Who Holds the Assets: The FCRA Amendment Bill and the Designated Authority

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CURATED & WRITTEN BY

Bharat Choudhary

UPSC Educator & Content Creator

linkedin.com/in/epicbharat

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INTERVIEW ANGLE

"The Bill provides that assets vest provisionally and are returned in full if registration is restored within the prescribed period. If restoration depends on the same executive that cancelled the registration, and the organisation cannot function without its assets in the interim, does the provisional character of the vesting protect it in practice?"

Every fact web-verified against primary sources

THE LIFT LINE

Regulating money asks who may fund an organisation. Regulating assets asks whether the organisation may continue to exist. The FCRA Bill crosses that line, and where exactly it lands depends on how long “provisional” turns out to be.

WHY THIS EDITORIAL MATTERS FOR YOUR EXAM

FCRA answers are usually written as a list of restrictions and a count of cancelled registrations. This editorial raises the question that actually carries marks: **at what point does regulating an activity become control of the institution that performs it**, and what procedural safeguards mark the difference.

It is also an unusually clean case for practising **balance**. The criticism is serious and the Bill’s design contains a real answer to it, so an honest answer must state both rather than picking a side and omitting the other.

GS Paper 2: Government policies and interventions for development in various sectors and issues arising out of their design and implementation; role of civil society and non-governmental organisations in development; separation of powers; statutory bodies; Parliament and its committees.

CONCEPT	MEANING	WHY IT IS TESTABLE
Foreign contribution	Donation, delivery or transfer of currency, article or security by a foreign source, as defined in the FCRA	The definitional trigger for the whole regime
Registration versus prior permission	Continuing registration for established associations, versus one-time permission for a specific purpose and amount	The two routes under FCRA; frequently confused
Designated Authority	The statutory body created by the 2026 Bill to take charge of funds and assets on the end of registration	The Bill's central innovation
Provisional versus permanent vesting	Assets held pending restoration, versus assets applied permanently to public purposes	The safeguard the criticism must engage
Select Committee	An ad hoc committee constituted to examine a specific Bill clause by clause and report to the House	The remedy the author demands
Article 300A	No person shall be deprived of property save by authority of law; a constitutional but not fundamental right	The property limb of the constitutional argument

BACKGROUND AND CONTEXT

The author is **Shashi Tharoor**, writing in The Indian Express on **6 August 2026**.

The **Foreign Contribution (Regulation) Amendment Bill, 2026** was **introduced in the Lok Sabha on 25 March 2026** and is pending. It is important to be accurate about this: the Bill was widely expected to be taken up during the Monsoon Session, and the op-ed is an intervention urging opposition to a **pending** Bill and its referral to a Select Committee. It is not a response to passage.

The Regulatory Lineage

INSTRUMENT	YEAR	WHAT IT DID
FCRA	**1976**	Enacted during the Emergency, to regulate foreign contribution to political and other organisations
FCRA	**2010**	Replaced the 1976 Act; introduced five-yearly registration renewal and tighter utilisation rules
FCRA (Amendment) Act	**2020**	Capped administrative expenditure at **20 per cent**; **prohibited sub-granting** of foreign contribution to other persons; mandated **Aadhaar** for office bearers; required a designated **FCRA account at the State Bank of India, New Delhi Main Branch**
FCRA (Amendment) Bill	**2026**	Creates the **Designated Authority** with power over funds and assets on the end of registration

The 2020 prohibition on sub-granting was itself structurally significant, because it broke the model in which a large registered organisation raised foreign funds and distributed them to small grassroots bodies that could not realistically obtain their own registration. The 2026 Bill extends the trajectory from the flow of money to the stock of assets.

THE ANALYSIS

1. The qualitative shift is from flow to stock. Every earlier amendment regulated **receipt and utilisation**: who may receive, into which account, for what purpose, with what ceiling on administrative expenditure. The consequence of losing registration was the inability to receive **new** foreign contribution. The 2026 Bill reaches what previous contribution **became**: the hospital wing, the school building, the clinic, the vehicles.

2. The Bill's own safeguard is the provisional character of the vesting, and it is substantial. On the end of registration, assets vest **provisionally**. If registration is restored within the prescribed period, **all assets and unused funds are returned in full**. Permanent vesting follows only on failure to secure restoration. Even then the Designated Authority **may** transfer the assets to a government agency for a cognate public purpose. It **may instead dispose of them by sale**, with the proceeds credited to the **Consolidated Fund of India**. Liquidation into general revenue is therefore permitted, not excluded, and any defence of the Bill that rests on assets always continuing in their original use overstates the safeguard.

Any critique that omits this is not engaging the Bill as drafted.

3. But provisional deprivation can be terminal for a service provider. This is the strongest point against. A hospital cannot pause. A school cannot suspend a session. An organisation deprived of its premises and working funds while it pursues restoration may cease to be a going concern regardless of the eventual outcome, and the beneficiaries are not restored by a later order returning the building.

The severity of the provision is therefore a function of **duration**, and duration is set by rules rather than by the statute.

4. The remedy and the grievance sit with the same branch. Vesting is triggered by cancellation or non-renewal, both executive acts. The safeguard is restoration, also an executive act, by the same ministry. A safeguard whose operation depends on the authority whose decision created the injury is structurally weak, however well intentioned its administration.

5. The gap the provision closes is genuine. Before it, an organisation that had lost the right to receive foreign contribution could retain the assets built from it and repurpose them entirely, and nothing ensured that a school built with foreign money continued to be a school. Regulating the origin of funds while remaining indifferent to what they became was an incoherent regulatory position. The question is not whether to address it but with what procedure.

6. The procedural demand is the practical one. A Select Committee referral does not defeat a Bill. It examines it clause by clause and reports, which is precisely the forum in which duration, appeal, the constitution of the Designated Authority and the suspension-versus-cancellation distinction would be settled. The demand connects to a broader institutional trend: committee referral has fallen from roughly **71 per cent** of Bills in the 15th Lok Sabha to **16 per cent** in the 17th, on PRS figures, and referral is discretionary rather than mandatory.

DATA AND INSTITUTIONS VAULT

PRELIMS-GRADE FACTS:

FCRA (Amendment) Bill, 2026: introduced in the Lok Sabha on 25 March 2026; pending

Creates a Designated Authority to take charge of foreign contribution and assets created from it on cancellation, surrender or non-renewal of registration

Vesting is provisional; assets and unused funds returned in full on restoration within the prescribed period; permanent vesting only on failure to obtain restoration, whereupon assets may be transferred to a government agency for a cognate purpose or sold, with proceeds credited to the Consolidated Fund of India

The "prescribed period" for restoration is left to rules, not fixed in the statute

The Bill also expands vesting triggers to expiry and non-renewal, and requires prior central-government approval to initiate investigations

Administering ministry: Ministry of Home Affairs (Foreigners Division), not the Ministry of Finance or Corporate Affairs

FCRA 1976 enacted during the Emergency; replaced by FCRA 2010

FCRA (Amendment) Act, 2020: administrative expenditure capped at 20 per cent; sub-granting prohibited; Aadhaar required for office bearers; designated FCRA account at SBI, New Delhi Main Branch

FCRA registration is valid for five years and requires renewal

Certain categories are barred from accepting foreign contribution under Section 3, including election candidates, judges, government servants, members of the legislature, and correspondents, columnists, editors, owners, printers and publishers of a registered newspaper

Committee referral of Bills: roughly 71 per cent (15th Lok Sabha) falling to 16 per cent (17th Lok Sabha), on PRS figures; referral is discretionary

Constitutional provisions engaged: Article 19(1)(c) (freedom to form associations), Article 300A (no deprivation of property save by authority of law), Article 14 (equality and non-arbitrariness)

WATCH THE TRAP: DO NOT WRITE THAT THE FCRA AMENDMENT BILL WAS PASSED, OR THAT IT WAS INTRODUCED IN AUGUST 2026. IT WAS INTRODUCED ON 25 MARCH 2026 AND REMAINS PENDING. IT WAS WIDELY EXPECTED TO BE TAKEN UP DURING THE MONSOON SESSION AND WAS NOT TABLED ON 6 AUGUST. ALSO NOTE THAT ARTICLE 300A IS A CONSTITUTIONAL RIGHT, NOT A FUNDAMENTAL RIGHT, SINCE THE RIGHT TO PROPERTY WAS REMOVED FROM PART III BY THE 44TH AMENDMENT, 1978.

THE DEBATE

Argument FOR the Bill. Foreign funding of domestic civil society is a legitimate object of regulation in every jurisdiction, and India's regime is not exceptional in existing, only in its stringency. The asset provision closes a genuine incoherence: it made little sense to regulate who may receive foreign money while remaining wholly indifferent to whether the assets it created continued to serve the purpose for which they were permitted. The safeguards are partly real, since vesting is provisional and restoration returns everything, though permanent vesting does not guarantee continuation of the original purpose, because sale with proceeds to the Consolidated Fund of India is an available route.

Argument AGAINST. The Bill relocates the consequence of a regulatory default from the ability to raise money to the ability to exist, and it does so through deprivation that precedes adjudication. For an organisation providing continuing services, a provisional deprivation of uncertain duration is functionally final. The Designated Authority's composition and independence are left to rules, so a substantial coercive power is created without the legislature specifying who exercises it. And the safeguard depends on restoration by the same executive whose act caused the vesting.

Balanced verdict. The disagreement is narrower than the rhetoric on both sides suggests. It is not about whether foreign contribution should be regulated, nor really about whether assets created from it carry a continuing public purpose. It is about **sequence and forum**: whether deprivation may precede an adjudicated finding, how long "provisional" may last, and who constitutes the authority. Those are drafting questions with known answers, which is exactly why a Select Committee is the right response and why the procedural demand carries the substantive weight.

HOW TO THINK ABOUT THIS

The transferable pattern: **locate the point at which regulating an activity becomes control of the actor.**

Regulation exists on a spectrum, and the constitutional analysis changes as you move along it.

Conduct rules say how an activity must be performed. They regulate behaviour and leave the actor intact.

Eligibility rules say who may perform the activity. They exclude, but the excluded actor continues to exist and may do other things.

Asset and existence rules determine whether the actor can continue at all. Here the regulation is no longer about the activity; it is about the institution.

The further along this spectrum a measure sits, the stronger the procedural safeguards must be, because the consequences become progressively less reversible. The decisive question is therefore never "is regulation permissible here", which is almost always yes, but **"is the procedure proportionate to the irreversibility of the consequence"**.

Apply the same test to licence cancellation in broadcasting, to deregistration of political parties, to debarment of contractors, and to suspension of a professional's right to practise.

DIAGRAM-IN-WORDS

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THE REGULATORY SPECTRUM

Conduct rules ───→ Eligibility rules ───→ Asset / existence rules
(how you act)      (whether you may       (whether you can
                    receive)                continue to exist)

FCRA 1976/2010: receipt + utilisation ────────┐
FCRA 2020: cap 20% admin, NO sub-granting ────┤ regulating the FLOW
FCRA 2026 Bill: Designated Authority ─────────┴──→ reaches the STOCK


THE 2026 MECHANISM
Registration ends (cancel / surrender / non-renewal)
        ↓
Assets + unused funds VEST PROVISIONALLY in Designated Authority
        ↓
   ┌────┴─────────────────────────┐
   ↓                              ↓
Restoration obtained         Restoration NOT obtained
within prescribed period     within prescribed period
   ↓                              ↓
ALL returned in full         PERMANENT vesting → EITHER transferred to a
                             govt agency for a cognate purpose
                             OR SOLD, proceeds to the
                             CONSOLIDATED FUND OF INDIA

THE PRESSURE POINT
"Provisional" duration is set by RULES, not statute
        ↓
a hospital/school cannot pause operations meanwhile
        ↓
temporary in form, terminal in effect
        ↓
AND restoration is decided by the same executive that cancelled

LEVERS: statutory Designated Authority · short defined window ·
        defer vesting for continuing services · reasoned order +
        time-bound independent appeal · separate suspension from cancellation
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TAKEAWAY BOX

A safeguard that returns the building is not a safeguard for the patients treated in it while the building was gone.

FCRA (Amendment) Bill, 2026, **introduced 25 March 2026***, pending;* **Designated Authority***; provisional vesting with full restoration; administered by the* **Ministry of Home Affairs***; FCRA 1976 (Emergency) replaced by FCRA 2010;* **2020 Amendment***: 20 per cent administrative cap, sub-granting prohibited, Aadhaar for office bearers, SBI New Delhi Main Branch account; registration valid* **five years***; Section 3 bars judges, government servants, legislators, election candidates and newspaper editors and publishers;* **Article 19(1)(c)***,* **Article 300A** *(constitutional not fundamental, after the* **44th Amendment, 1978***),* **Article 14***.*

where a measure is lawful in form but destructive in effect for the beneficiaries of a service, does the state owe a duty to the beneficiaries distinct from the duty it owes the regulated organisation? Whose interest should determine the timing of enforcement?

UPSC has examined the role of NGOs and civil society in development and governance, the regulation of foreign funding of voluntary organisations, and the decline of parliamentary committee scrutiny. This editorial connects all three around a live Bill.

"The question raised by the FCRA Amendment Bill is not whether foreign contribution may be regulated, but whether deprivation may precede adjudication." Critically examine.

Sources: The Indian Express, PRS Legislative Research, Ministry of Home Affairs, PIB

KEY ARGUMENTS AT A GLANCE

Shashi Tharoor argues that the Foreign Contribution (Regulation) Amendment Bill, 2026 fundamentally rewrites the relationship between the Indian state and civil society, because creating a centrally appointed Designated Authority empowered to take charge of the foreign funds and physical assets of organisations whose registration is suspended, cancelled or not renewed converts a regulatory power over money into a power over institutions, and he calls on the Opposition to force a Select Committee referral for clause-by-clause scrutiny.

✓ **SUPPORTING**

- The asset limb is the qualitative change. Earlier FCRA amendments regulated the receipt and utilisation of foreign contribution; this Bill reaches the hospitals, schools, clinics and buildings that were created with it, so the consequence of losing registration shifts from an inability to receive new funds to the loss of the physical capacity to operate at all.
- The organisations most exposed are service providers rather than advocacy bodies. Hospitals, schools and welfare trusts serving marginalised communities depend on assets built over decades, and a suspension pending inquiry can incapacitate a functioning institution before any finding of wrongdoing is recorded.
- The procedural objection is independent of the substantive one. A Bill of this reach ought to be examined clause by clause, and the demand for a Select Committee referral rests on the general decline in committee scrutiny rather than on any presumption of bad faith, with referral rates having fallen from roughly 71 per cent in the 15th Lok Sabha to 16 per cent in the 17th on PRS figures.
- FCRA registrations have contracted sharply over the last decade through cancellation and non-renewal, so the class of organisations to which the new asset provisions would apply is not hypothetical.

⚠ **COUNTER**

The Bill's design is more measured than the criticism allows, and this must be stated fairly.
Vesting on the end of registration is expressly **provisional**, not final: if the organisation secures restoration of its registration within the prescribed period, all assets and unused funds are returned in full.
Permanent vesting follows only on failure to obtain restoration. Even then the Designated Authority may transfer the assets to a government agency for a cognate public purpose.
It may also dispose of them by sale, in which case the proceeds are credited to the Consolidated

Fund of India, so liquidation to the exchequer is expressly available and is not excluded by the Bill. There is also a genuine problem the provision addresses: before it, assets created with foreign contribution could remain with an entity that had lost the right to receive such contribution, with no mechanism to ensure that a school built with foreign money continued to be used as a school.
Regulating the origin of money while ignoring what it became was a real gap.

→ **WAY FORWARD**

Refer the Bill to a Select Committee for clause-by-clause examination, which resolves most of the dispute without prejudging the outcome; place the Designated Authority's composition, tenure and qualifications in the statute rather than leaving them to rules, since a body exercising this power should not be constituted purely by executive discretion; provide a defined and short statutory period for restoration, with vesting deferred rather than immediate where the organisation is providing continuing health or education services; require a reasoned written order and a time-bound appeal to an independent tribunal before any vesting takes effect; and distinguish suspension from cancellation, so that a provisional suspension pending inquiry does not carry asset consequences at all.

MAINS ANSWER FRAMEWORK

QUESTION

The Foreign Contribution (Regulation) Amendment Bill, 2026 empowers a Designated Authority to take charge of the assets of organisations whose registration has ended. Examine the constitutional and governance questions this raises, and assess whether the safeguards in the Bill are adequate. (250 words)

INTRODUCTION

The Foreign Contribution (Regulation) Act, 2010 governs the receipt and utilisation of foreign contribution by persons and associations in India, and rests on the constitutional premise that the flow of foreign money into domestic political and social activity is a legitimate object of state regulation. The Foreign Contribution (Regulation) Amendment Bill, 2026, introduced in the Lok Sabha on 25 March 2026 and still pending, extends that regulation from the money to the assets the money created, through a statutory Designated Authority.

BODY

The Bill provides that where registration is cancelled, surrendered or not renewed, the foreign contribution held and the assets created from it vest in a Designated Authority, which may manage and dispose of them. The vesting is provisional: if registration is restored within the prescribed period, assets and unused funds are returned in full, and permanent vesting occurs only on failure to secure restoration, whereupon the Designated Authority may transfer the assets to a government agency for a cognate public purpose or dispose of them by sale, with the proceeds credited to the Consolidated Fund of India.

The gap the provision addresses is real, since before it an entity that had lost the right to receive foreign contribution could nonetheless retain and repurpose the assets built with it, and no mechanism ensured continuity of the charitable use. Three difficulties nonetheless arise.

First, the practical effect of provisional vesting depends on duration, and an organisation running a hospital or a school cannot suspend operations while restoration is pursued, so a temporary deprivation can be terminal in effect even where it is lawful in form. Second, the safeguard depends on restoration, which is decided by the same executive branch whose cancellation triggered the vesting, so the remedy and the grievance sit in the same hands.

Third, the Designated Authority is a centrally appointed body whose composition and independence are matters for rules rather than for the statute, which locates a significant coercive power outside legislative specification. The constitutional questions engaged are the freedom to form associations under Article 19(1)(c), the right to property as a constitutional right under Article 300A, and the requirement of a fair procedure under Article 14, particularly where deprivation precedes an adjudicated finding of default.

CONCLUSION

The disagreement is not principally about whether foreign contribution should be regulated, on which there is little dispute, but about the sequence of deprivation and adjudication and about who decides. Most of it could be resolved by drafting rather than by rejection: statutory specification of the Designated Authority, a short defined restoration window, deferral of vesting for organisations providing continuing health or education services, a reasoned order with time-bound appeal to an independent tribunal, and a clear

separation of suspension from cancellation.
A Select Committee is the appropriate forum to make those changes, which is why the procedural demand is the substantive one.

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