



**AMNESTY INTERNATIONAL INDIA & HUMAN RIGHTS WATCH JOINT
STATEMENT**
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India: Foreign Funding Law Used to Harass 25 Groups

Stop Invoking FCRA to Restrict Peaceful Association, Speech

The Indian central government's refusal to renew foreign funding licenses of 25 nongovernmental organizations (NGOs) without valid reasons violates their rights to freedom of expression and association, Amnesty International India and Human Rights Watch said today.

On 5 November, media reports quoted unnamed Ministry of Home Affairs officials as saying that the NGOs were denied permission under the Foreign Contribution Regulation Act (FCRA), which regulates foreign funding for NGOs, because their activities are not in the "[national interest](#)". While the government has not published the list of affected groups, it appears to include several human rights organizations.

"The ability to access foreign funding is integral to the rights to free association and expression, which can only be restricted under narrowly specified grounds," said Aakar Patel, Executive Director at Amnesty International India. "The Home Ministry's decision to prevent NGOs from receiving foreign funding without sound justification is mystifying. The Ministry has an obligation to show how these restrictions are necessary and proportionate."

On 29 October, Centre for Promotion of Social Concerns, a prominent Indian human rights organization better known by its programme unit People's Watch, said that its request for renewal of its foreign funding license under the FCRA had been denied.

The FCRA website said: “On the basis of field agency report, the competent authority has decided to refuse [People’s Watch’s] application for renewal.” No other reasons were given.

The previous central government had also targeted People’s Watch in 2012 and 2013, suspending its FCRA three times for a total period of 18 months, and freezing the organization’s bank accounts. People’s Watch challenged the government’s decision and the Delhi High Court ruled in its favour in March 2014.

On 21 October, the Ministry of Home Affairs also denied a request from the Indian Social Action Forum (INSAF), a network of NGOs and people’s movements, for renewal of its FCRA license without providing any reasons. An email from the Ministry to INSAF merely said: “Your application...has been refused due to following reasons: Your application for renewal is refused.” INSAF also had its FCRA suspended in April 2013 but the Delhi High Court quashed the suspension in September that year.

On 28 October, the MHA also sent a one-line email to the Sanchal Foundation, of which the NGO Hazards Centre is a unit, stating that their application for renewal had been denied “on the basis of field agency report”.

On 3 November, the Ministry of Home Affairs said that it had cancelled the FCRA licenses of 11,319 NGOs that had not applied for renewal of their licenses by the 30 June deadline. It said that the applications of another 1,736 NGOs were “closed due to non-submission of documents or deficient documents.” These NGOs have been given a chance to make further submissions by 8 November.

Successive governments have used the FCRA as a political tool to harass groups critical of government views and actions, Amnesty International India and Human Rights Watch said.

The law’s use of broad and vague terms such as “public interest” and “national interest” have left it open to abuse. In May, the Modi government temporarily suspended the FCRA status of the Lawyers Collective, an organization founded by well-known senior lawyers Anand Grover and Indira Jaising, citing alleged violations under the FCRA. The charges appeared to be politically motivated because of their work in **routinely representing people in cases against the current government** including Priya Pillai of Greenpeace India and Teesta Setalvad, an activist who has been seeking justice for victims of the 2002 communal violence in Gujarat.

In cases where organizations challenged the suspension of their FCRA, the courts have generally ruled in their favour. The courts have also repeatedly reminded the government that in a democracy, dissent should not be muzzled. The Delhi High Court, in ruling for Greenpeace India activist Pillai, who had been prevented from traveling to London to raise concerns over a coal plant, said: “Many civil right activists believe that they have the right, as citizens, to bring to the notice of the state the incongruity in the developmental policies of the state. The state may not accept the views of the civil right activists, but that by itself, cannot be a good enough reason to do away with dissent.”

The rights to freedom of association and expression are laid down in such instruments as the Universal Declaration of Human Rights, adopted by the United Nations General Assembly, and the International Covenant on Civil and Political Rights, to which India is a state party. They are also guaranteed under the Indian Constitution. Under international law, restrictions on free association and expression on national security grounds must be strictly construed, and necessary and proportionate to address a legitimate threat. While it is appropriate to regulate and scrutinize the financial affairs of not-for-profit organizations and NGOs to address corruption and legitimate national security concerns, the FCRA is too broad and unnecessarily infringes on the activities of organizations that address social issues in India.

In April 2016, the UN Special Rapporteur on freedom of assembly and association published a legal analysis asserting that the FCRA was not in conformity with international law, principles and standards. In June 2016, the UN Special Rapporteurs on human rights defenders, on freedom of expression, and on freedom of association, called on the Indian government to repeal the FCRA, which they said was “being used more and more to silence organisations involved in advocating civil, political, economic, social, environmental or cultural priorities, which may differ from those backed by the Government.”

Even as the authorities use the FCRA to tighten restrictions on nongovernmental groups, in March the government amended the law to retroactively legalize funding by foreign entities to political parties. This amendment is especially ironic given that the FCRA was enacted primarily to prohibit political parties, politicians, and election candidates from accepting foreign support to prevent foreign interests from affecting Indian elections.

The Indian government should repeal the FCRA, or amend it so that it does not interfere with the rights to freedom of expression and association and cannot be misused for political reasons to restrict the peaceful activities of nongovernmental organizations, Amnesty International India and Human Rights Watch said.

“While India is actively encouraging foreign investment in key industries, it is trying to deny funding for efforts to assist the most vulnerable and marginalized,” said Meenakshi Ganguly, South Asia Director at Human Rights Watch. “The government should engage with those seeking rights reform and empower these groups, instead of treating criticism as a threat to be quashed.”

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