

# ISAS Brief

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## **The Public Health Foundation of India: A Case of Diminishing Room for NGOs?**

*The Indian government's recent ban on foreign funding to the Public Health Foundation of India has once again brought to the forefront the contentious relationship between Indian non-government organisations (NGOs) and the government. This incident is yet another development in the recent narrative of the Indian government hardening its outlook towards NGOs as civil society actors.*

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### **Introduction**

India, with its vast population and diverse landscape, possesses a thriving civil society and a proliferation of non-government organisations (NGOs). Although the NGO portal of the National Institution for Transforming India (NITI) Aayog currently records over 28,000 NGOs as having self-registered with the government,<sup>2</sup> this figure is undoubtedly a mere fraction of the total number of NGOs actually operating in India. For example, a 2015 report collated by

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<sup>2</sup> NITI Aayog, Government of India, [http://ngo.india.gov.in/ngo\\_stateschemes\\_ngo.php](http://ngo.india.gov.in/ngo_stateschemes_ngo.php) (Accessed on 26 Apr 2017).

the Indian Central Intelligence Bureau indicated the existence of over three million NGOs,<sup>3</sup> which were registered under the federal Societies Registration Act. Even if this number were to somehow have remained exactly the same until the present, the NITI Aayog registered numbers would still be less than one percent of the total number of NGOs in India.

In spite of this widespread and growing presence of NGOs in almost all socio-economic spheres of India, they continue to face a seemingly growing sentiment of hostility, notably from the government itself. More recently, Indian NGOs have faced backlash primarily on the accusation of discretely supporting ulterior motives of hostile, external powers.

## **The Public Health Foundation of India**

A frequent issue with Indian NGOs has been the funding that they receive from foreign donors. In 2010, the government passed the consolidating Foreign Contribution (Regulation) Act (FCRA) which restricts the reception of foreign contribution for ‘any activities detrimental to the national interest’.<sup>4</sup> Since its inception, thousands of NGOs have had their licenses revoked for breaching the regulations of the Act. High profile cases include those against Greenpeace India on grounds of unlawfully affecting public and economic interest, and against the People’s Watch organisation.

The most recent development in this area is the revoking of the license of the Public Health Foundation of India (PHFI), which notably receives a major part of its income from the Bill and Melinda Gates Foundation (BMGF). PHFI was set up as a public-private initiative by then-Prime Minister Manmohan Singh in 2006. The primary accusation against PHFI appears to be its violation of a regulation under the FCRA which prohibits lobbying. The Act permits foreign contributions to be used only for educational, social, cultural, economic and religious purposes.<sup>5</sup> PHFI’s license has been revoked due to its supposed lobbying against the tobacco industry to members of parliament as well as the media.

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<sup>3</sup> *The Indian Express*, <http://indianexpress.com/article/india/india-others/india-has-31-lakh-ngos-twice-the-number-of-schools-almost-twice-number-of-policemen/>. (Accessed on 24 April 2017).

<sup>4</sup> Ministry of Home Affairs, Government of India, [https://fcraonline.nic.in/home/PDF\\_Doc/FC-RegulationAct-2010-C.pdf](https://fcraonline.nic.in/home/PDF_Doc/FC-RegulationAct-2010-C.pdf). Accessed on 24 April 2017.

<sup>5</sup> Times of India, “MHA says PHFI violated law by lobbying MPs, media on tobacco control”, available at <http://timesofindia.indiatimes.com/india/mha-says-phfi-violated-law-by-lobbying-mps-media-on-tobacco-control/articleshow/58271359.cms>. Accessed on 25 April 2017.

The stoppage of PHFI's funds is noteworthy as being a public-private initiative, much of its work is carried out in collaboration with the government itself. It has assisted in implementing the National Tobacco Control Programme and the Cigarette and Other Tobacco Products Act of the Ministry of Health and Family Welfare (MoHFW). In addition to public education efforts, it has conducted a study on tobacco taxes in India which was commissioned by MoHFW.<sup>6</sup> While the allegations of impropriety may or may not hold true, the PHFI case provides context for the significantly broader issue of the hardened tone of the government towards NGOs in Indian civil society.

## **NGOs in India: A Restricted Climate?**

As mentioned earlier, the reinforcing of the FCRA in 2010 has been followed by a large scale revoking of licenses of NGOs. It has been professed that the Act is an instrument for a supposedly larger, anti-NGO agenda pursued by the incumbent government. This has, in turn, prompted global reactions. For example, the United Nations (UN) special rapporteur on human rights defenders and the UN Human Rights Council's Universal Periodic Review committee have both urged the Indian government to change its laws concerning NGOs.<sup>7</sup> While such rhetoric is once again subjective, certain facts should be noted in this context. Firstly, India's domestic intelligence body, the Intelligence Bureau (IB), submitted a report to the current administration in 2014 which highlighted the dangers of NGOs to the economy and national security. The report indicated that between two to three per cent of the country's gross domestic product was being lost by NGOs and that external actors were using NGOs as proxies to stall development in key sectors such as infrastructure and technology. It was this same report which identified Greenpeace as a threat which could among other things, subvert Indian energy policy. The IB's submission was further followed by a report of the Ministry of Home Affairs which identified NGOs as being 'vulnerable to the risks of money laundering and terrorism'.<sup>8</sup>

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<sup>6</sup> Public Health Foundation of India, <https://phfi.org/component/content/article/136-highlights/1667-phfis-work-on-tobacco>. Accessed on 25 April 2017.

<sup>7</sup> Foreign Policy, "India's NGO Backlash", available at <http://foreignpolicy.com/2014/07/21/indias-ngo-backlash/>. Accessed on 25 April 2017.

<sup>8</sup> Ibid.

It is perhaps instructive to note then, that around 9,000 NGOs were stripped of their licenses from the beginning of the new administration's tenure to April 2015.<sup>9</sup>

Furthermore, the issue of PHFI involves a certain domestic political flavour as its backing by BMGF has been opposed by the Swadeshi Jagran Manch, an economics-based affiliate of the Rashtriya Swayamsevak Sangh (RSS). The Manch has recommended that BMGF's interaction with the government be restrained.<sup>10</sup> Given the incumbent government's links with the RSS and the myriad opinions about the extent of RSS influence on policy making, this development is significant and in need of deeper scrutiny.

## Conclusion

The Indian democracy has long been observed as having a vibrant and robust civil society sector. However, issues such as the FCRA regulations serve to act as potential detriments to this sphere. The action taken against PHFI stands to reinforce the presumption that India's present government views the NGO space with a high degree of wariness. This wariness has translated into what can be safely described as a decidedly less accommodating stance on NGOs in the country. In a country like India, such a contentious issue is likely to continue to foster debate and it remains to be seen whether such debate will in fact affect policy change on the issue.

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<sup>9</sup> The Indian Express, "Foreign funding: Govt cancels licenses of nearly 9,000 NGOs", available at <http://indianexpress.com/article/india/govt-cancels-licences-of-nearly-9000-ngos/>. Accessed on 26 April 2017.

<sup>10</sup> The Hindu, "SJM targets Gates Foundation", available at <http://www.thehindu.com/news/national/sjm-targets-gates-foundation/article18195758.ece>. Accessed on 26 April 2017.