



## Constraining critique: On Amnesty halting India operations



### Context:

- Amnesty's decision to close its operations in India.

### What is Amnesty International?

- Amnesty International is a worldwide human rights organization (International NGO) founded in 1961 by the British lawyer Peter Benenson.
- It is independent of all governments and all financial players and had won the Nobel Peace Prize way back in 1977.
- Amnesty has taken up human rights causes such as minority rights, ending torture, abolition of the death penalty and refugee rights, globally.

### Why did Amnesty halt its operation in India?

Its working had been made difficult due to government actions in recent years for ex:

- Freezing of its bank accounts by government of India in early September 2020.

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- Constant harassment by government agencies including the Enforcement Directorate from past two years.
- Intrusive scrutiny from state agencies.
- Critical reporting of abrogation of Article 370 was viewed by Union Government as interference in Domestic Politics of India.
- As a result of all these constraints, the NGO decided to close its functioning in India.

### **What is the government's argument for taking action against NGO?**

- Amnesty International Foundation and its three subsidiaries — Amnesty India Private Limited, Indians for Amnesty International Trust and Amnesty International South Asia Foundation — are not registered under the Foreign Contribution Regulation Act, 2010 (FCRA), a pre-requisite for civil society groups, associations and NGOs to receive foreign donations.
- It made use the “prior permission” route, which meant applying to the government each time it wanted to accept a foreign donation.
- Having failed to receive registration under the FCRA, the Amnesty had taken the “commercial route” and accepted funds through Foreign Direct Investment, which Ministry of Home affairs (MHA) said is a contravention of the Foreign Exchange Management Act (FEMA).
- MHA also stated that India does not allow interference in domestic political debates by entities funded by foreign donations, in a pointed reference to Amnesty's reports on alleged human rights violations in Jammu & Kashmir.
- Not an Isolated Case: The action against AI including freezing their funds is part of the government's scrutiny of more than 20 international NGOs including Greenpeace, Compassion International, and Ford Foundation, over the past few years.
- The enquiry into Amnesty International had been undertaken by both the UPA and the NDA regimes over the past decade. The UPA government had blocked over ₹5 crore foreign funds to Amnesty between 2010 and 2013 after receiving allegedly adverse intelligence reports.

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## Criticism of government's action:

- The freedom of civil society organisations to operate underpins any functioning democracy. Curbing the activities of NGOs through excessive State interference is considered as moving backwards in Democracy.
- Treating human rights organisations like criminal enterprises and dissenting individuals as criminals will stoke a climate of fear and dismantle the critical voices in India.
- Such witch-hunting by government agencies violates people's basic rights to freedom of speech and expression, assembly, and association guaranteed by the Indian Constitution and international human rights law.
- Freezing of account is akin to freezing dissent.

## Way ahead:

- Democratic regimes that are bound by constitutionalism should not consider critical activism by groups such as Amnesty as being adversarial, but instead view it as constructive critique of their functioning.
- If the critique of such groups is not reasoned, the state can rebut it through communiqués and responses, but should not restrict freedom of expression through intimidation or restraining actions.
- For India to aspire to become a leading Power and a just nation, it must build on its strengths such as its demographic dividend and the procedural institutions that have been built over decades.

## Conclusion:

- It is to be hoped Amnesty's decision to halt operations is therefore temporary and that it would be able to function within India's regulatory framework.