

From Charity To Tax: Has Mandatory CSR Become A Tool To Displace State Welfare Duties?

Aayush Ranjan¹, Mahima Sharma²

^{1,2}Student, Fourth Year B.A.LL.B, Thakur Ramnarayan College of Law, University of Mumbai, Maharashtra

ABSTRACT

India was the first country in the entire world to statutorily mandate Corporate Social Responsibility (CSR) with the Section 135 of the Companies Act, 2013. The intention of the legislature was to promote the voluntary corporate philanthropy and the Gandhian philosophy of trusteeship. However, with time the intention was taking a devastating shift with the Companies (Amendment) Acts of 2019 and 2020. With the introduction of penalties for non-compliance, mandating the transfer of unspent CSR amounts to escrow accounts, and ultimately requiring the forfeiture of these funds to government-specified conduits under Schedule VII (such as the PM CARES Fund), the State has effectively shifted a moral corporate duty into a compulsory "shadow tax."

This research paper critically focuses the constitutional and socio-economic implications of this shift. The core objective is that the current mandatory CSR regime enabling the government to transfer its own duty on others, the duty which is mentioned as the Directive Principles of State Policy (Part IV of the Constitution), to the private sector. The past data indicates a disproportionate distribution of the CSR funds, companies usually invest in the states where they operate for while the backward states get neglected.

Keywords: Corporate Social Responsibility, Section 135 Companies Act 2013, Schedule VII, Shadow Tax, Directive Principles of State Policy, Corporate Governance, PM CARES.

1. INTRODUCTION

In the past several years, corporate philanthropy has grown in India as an important pillar of socially responsible business practices, particularly since the introduction of the Companies Act, 2013. This law mandates companies to share 2% of the company's average net profit for social welfare and Corporate Social Responsibility programs. In lieu of codifying corporate philanthropy, this method marked the starting point of a new era in which social investment is now mandatory by law and morality. Corporate Philanthropy, which has its roots in India's sociocultural values, has evolved into a more purposeful, focused approach that is in line with national development objectives. The implementation of Section 135 of the Companies Act, 2013, which made India the first nation to legally require CSR spending for businesses meeting specific benchmarks, proved to be a significant turning point. Companies that have grown to a certain size and profitability pay something back to the society that helped them grow is the basic concept. Therefore, rather than depending solely on the goodwill of a company's management, the

legislation mandates that qualified corporations establish a CSR Committee, create a CSR strategy, and invest a minimum amount annually in real initiatives.¹

Therefore, the legislation mandates that qualified corporations establish a CSR Committee, formulate a CSR strategy, and allocate a minimum amount annually to initiatives that really assist and benefit communities, the environment, or society at large, rather than relying just on the goodwill of a company's management. However, critics from universities, civil society organisations, and parliamentary committees contend that those spending figures hide more significant issues, like funding going to a select few industries, giving priority to short-term, visible projects over long-term effects, inadequate monitoring of actual results, and, up until recently, essentially no real financial consequences for refusal. One of the world's most unusual policy experiments can be found somewhere in the finer details of Indian company law. Since 2014, it has been legally mandatory for any sizable Indian business to donate a certain percentage of its earnings to charitable causes, not reveal or publish its expenditures. They are required by law to spend². This is something that no other significant economy in the world does. The government tried a comply- or-explain strategy when the Companies Act was first being drafted. There were no fines if a company did not spend on social issues; it only needed to explain why in the Board's report. The Parliamentary Standing Committee pressed for required wording when the bill was presented to them. The final legislation, which went into effect on April 1, 2014, mandated spending. Imagine that instead of using its primary budget to restore all the broken streetlights in your neighbourhood, the local government implements a regulation requiring local grocery stores to use a portion of their own profits to do so. The government may end up spending less of its own money on repairs because it knows the businesses are covering it, thus passing over its core role to private enterprises, even though the purpose was only to convince the establishments to step up and make the neighbourhood safer faster. The question of whether mandatory Corporate Social Responsibility (CSR) under Section 135 of the Companies Act, 2013 functions as a displaced state tax instead of true corporate philanthropy has reached Indian courts, particularly in cases such as *Infinera India Pvt. Ltd. v. Union of India* (2019) and several rulings by the Income Tax Appellate Tribunal (ITAT) regarding Section 37(1) of the Income Tax Act. In these cases, courts and tribunals clarified that spent funds cannot be automatically claimed as general business expenses to lower corporate tax liabilities because corporate social responsibility (CSR) is a mandatory statutory obligation rather than a voluntary charitable donation. This effectively reinforces CSR as a mandatory, tax-like contribution toward public welfare³. Some critics claim that by using judicial support, this statutory enforcement shifts the financial burden of fundamental socioeconomic development-which has historically been a constitutional state obligation-to the private sector, turning voluntary corporate generosity into a parallel system for funding public infrastructure and social welfare.

2. CONCEPTUAL ANALYSIS OF CSR

A Corporate Social Responsibility is the responsibility given by the government to the businesses operating in the country toward the society and environment. It acknowledges that a company has

¹ Usrfiles. (n.d.). Usrfiles. Retrieved October 5, 2026, from https://3fdef50c-add3-4615-a675-a91741bcb5c0.usrfiles.com/ugd/3fdef5_55b8247b756b463d8ef7e4277742cdb4.pdf

² Khuranaandkhurana. (n.d.). Khuranaandkhurana. Retrieved October 5, 2026, from <https://www.khuranaandkhurana.com/corporate-social-responsibility-under-section-135-what-every-company-needs-to-know>

³ Usrfiles. (n.d.). Usrfiles. Retrieved October 5, 2026, from https://3fdef50c-add3-4615-a675-a91741bcb5c0.usrfiles.com/ugd/3fdef5_55b8247b756b463d8ef7e4277742cdb4.pdf

responsibilities to more than just its shareholders, but to a broader group of stakeholders such as its employees, customers, suppliers, communities, governments and the natural environment.

The perception of CSR in the beginning, in turn, was inclined to separate the economic duty of the businesses with its social or philanthropic duty. Corporate donations to schools, hospitals, religious institutions, disaster relief programmes and local communities were typical manifestations of this approach.

Howard R. Bowen's *Social Responsibilities of the Businessman* (1953) is one of the works that has contributed to the theory of CSR. Bowen conceptualised social responsibility in terms of the obligations of businessmen to pursue policies and decisions desirable in terms of the objectives and values of society. His work has been used as an important launch pad for contemporary CSR scholarship.

The philanthropic conception was later elaborated in the context of general corporate responsibility concepts. In 1991, Archie B. Carroll's model, which has been influential, presented corporate responsibility in four perspectives: economic, legal, ethical and philanthropic responsibilities. The fourth floor was reserved for philanthropy, which were activities that society wanted corporations to perform but wasn't always considered a legal requirement.

3. FROM CHARITY TO RESPONSIBILITY

In the philanthropic model, social responsibility is considered to be outside of the corporation's regular activities. So, the question of modern CSR is no longer the same, but rather it is about: What responsibilities does a corporation have because of its activities on people, communities and the environment?

This is an important shift. A corporation's actions can have an impact on employees, customers, suppliers, communities, natural resources and the environment without the corporation having made a single charitable contribution. The concept of "giving back to society" was slowly transformed into "conducting business responsibly within society".

A company that donates money to a school is engaging in philanthropy. A business that takes care and ensures safety of its employees, who take measures to avoid environmental damage, and who honour workers' rights and take into account the impact of their work on the surrounding community is practicing a wider sense of corporate responsibility. Modern concept of CSR is no longer limited to giving. The modern understanding of CSR is much broader than mere giving.

In the modern view, CSR is viewed as a stakeholder responsibility. Stakeholder theory is strongly linked to the shift from philanthropy to stakeholder responsibility. A Stakeholder Approach by R. Edward Freeman (1984) made it more than just a shot across the barrel for the shareholders to get their attention. In Freeman's stakeholder approach, businesses are viewed as part of a network of relations among employees, customers, suppliers, investors, communities and others impacted by corporate operations⁴. The corporation is not just a means to a return to shareholders under this approach. It is a decision that impacts on various groups, and the principles of responsible corporate governance should reflect that.

4. CSR AND SUSTAINABLE BUSINESS

Modern CSR is very much related to sustainable development. Today, the way to do things doesn't always

⁴ Strategic Management. (n.d.). Google Books. Retrieved October 5, 2026, from https://books.google.com/books/about/Strategic_Management.html?id=4PUJAQAAMAAJ

involve a charitable arm of the business. Rather, social and environmental issues have become more integral to corporate decision making. Here, the OECD (Organisation for Economic Co-operation and Development) Guidelines on Responsible Business Conduct are helpful. The 2023 Guidelines focus on corporate responsibility in the areas of human rights, labour rights, environment, bribery, consumer interests, disclosure, science and technology, competition and taxation. The OECD approach also focuses on the concept of due diligence, which involves businesses identifying, preventing, mitigating and reporting adverse effects associated with their operations. (OECD, 2023)

5. A TRANSITION FROM VOLUNTARY RESPONSIBILITY TO LEGAL OBLIGATION

The major conceptual shift in CSR is from the sphere of voluntary action to the sphere of law. In a voluntary CSR model, the corporation has a large degree of freedom, a company can make a contribution to social welfare is completely voluntary in nature. Whereas a compulsory CSR model modifies the legal arrangement, a qualifying company is required to engage in CSR-related activities and meet certain expenditure or reporting requirements. India adopted this revolutionary shift in the year 2014 by Section 135 of the Companies Act, 2013. Companies with prescribed financial criteria are taken into the ambit of CSR under Section 135 of the Companies Act 2013. As per the statutory provisions, qualifying companies are required to allocate a minimum of 2 per cent of the average of the net profits of the last 3 financial years to CSR activities as per the provisions of the Act and the rules. The law also sets rules on CSR committees, CSR policy, reporting and utilization of unused amounts. The CSR Rules also set out the regulatory framework in relation to the implementation of these obligations. This is the point at which CSR begins to resemble a form of legally structured social contribution rather than traditional philanthropy.

6. LEGAL FRAMEWORK OF MANDATORY CSR IN INDIA

6.1. India's Mandatory CSR Legal Framework

A major change in Indian corporate governance occurred with the passage of the Companies Act, 2013, which made Corporate Social Responsibility (CSR) a legal requirement rather than a voluntary charitable activity. India became the first country in the world to legally require CSR spending and thorough reporting thanks to this framework. The legal basis of India's required CSR system is Section 135⁵. By incorporating corporate philanthropy into the eligible firms' legally binding compliance framework, it codifies it. Applicability Limits: Rather than the industry or kind of firm, the requirement is activated by particular financial thresholds⁶. Every business (including international businesses with branches in India) is required to abide by Section 135(1) if it satisfies any of the following requirements in the fiscal year prior: Net Worth: ₹500 crore (approx. \$60 million) or more. Turnover: ₹1,000 crore (approx. \$120 million) or higher. Net Profit: at least ₹5 crore, or almost \$600,000. The 2% Average Net Profit Spending Rule: Section 135(5) requires qualified businesses to spend a minimum of 2% of their average net profits from the three fiscal years prior in each fiscal year. This quantitative pin, which closely resembles the structure of a corporation tax, converts the provision from a general mandate into a calculable financial obligation. "Comply or Explain" Mechanism: In its initial 2013 draft, the legislation worked on a "comply or explain"

⁵ Seattleu. (n.d.). Seattleu. Retrieved October 5, 2026, from

<https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=2036&context=sulr>

⁶ The impact of mandated corporate social responsibility: Evidence from. (n.d.). Repec. Retrieved October 5, 2026, from

<https://ideas.repec.org/a/eee/irlaec/v56y2018icp92-104.html>

basis. If a corporation failed to spend the statutory 2%, the Board was just needed to disclose the reasons for the deficit in its annual report. Theoretically, this supplied a voluntary soft-law buffer⁷. Nevertheless, further changes have essentially eliminated this safety net, turning the "explanation" into a rigorous financial requirement. Role of the CSR Committee and Board: The legislation mandates a fiduciary structure to institutionalize CSR governance. This includes the following: This committee's responsibilities include creating the CSR Policy, suggesting the yearly action plan and budget, and keeping an eye on project implementation. The Board of Directors: The Board is ultimately accountable under the law. It must guarantee that the actions are carried out, adopt the CSR policy, and make the required disclosures in the Board's Report.

6.2. Schedule VII: Permissible CSR Activities

The Companies Act's Schedule VII specifies the broad thematic areas in which CSR funds may be used lawfully. The schedule is crucial to the framing of the mandatory capital. Major Heads of Expenditure: Schedule VII's activities cover a broad range of socioeconomic development domains, such as eliminating extreme poverty, hunger, and malnutrition while advancing sanitation and healthcare, encouraging education, special education, and vocational skills that improve employment. Advancing gender equality and women's empowerment. Ecological balance, animal welfare and environmental sustainability. Rural Development Projects and Development of Slum Areas. Contributions to Prime Minister's National Relief Fund (PMNRF) or PM CARES Fund Overlap with Core State Functions: A critical reading of Schedule VII demonstrates a near-complete overlap with the Directive Principles of State Policy in Part IV of the Constitution of India. The core functions of a welfare state are education, public health, rural infrastructure and poverty reduction. In effect, the state is legally using corporate money to channel private capital toward the financing of public goods in these areas. This statutory channelling supports the argument that compulsory CSR represents a shadow tax mechanism, through which the state can compensate for its own welfare deficits by transferring the fiscal burden to the corporate sector⁸.

6.3. CSR Rules and Amendments 2014-2024

The Companies (CSR Policy) Rules, 2014, with the major amendments from 2019 to 2024, have made the CSR framework so stringent that the original leniency of "comply or explain" is entirely absent. Treatment of Unpaid CSR Amounts: The most drastic change was via the 2019 and 2020 amendments (operationalized in 2021). The Board report no longer provides a way to justify away unspent CSR funds. Ongoing Projects: Unspent amounts under multi-year "ongoing projects" have to be transferred to a special "Unspent CSR Account" within 30 days of the end of the financial year and spent within the next three years. If left unspent, it rolls back to state-designated funds. Other than Ongoing Projects: Any unspent/unallocated CSR amount has to be transferred to a government fund as specified in Schedule VII (PMNRF or Clean Ganga Fund, for example) within 6 months from the end of the financial year. Mandatory transfer of corporate funds to the state treasury reinforces the view of CSR as a compulsory tax. Eligible Implementing Agencies: The Ministry of Corporate Affairs (MCA) required all implementing agencies (NGOs, Section 8 companies, and trusts) to register with the central government by submitting Form CSR-1 and obtaining a unique CSR Registration Number in order to prevent the routing of funds through proxy organizations and guarantee traceability. Additionally, the Income Tax Act and the Foreign

⁷ Are We Moving Beyond Voluntary CSR? Exploring Theoretical and Manageri. (n.d.). Repec. Retrieved October 5, 2026, from https://ideas.repec.org/a/kap/jbuset/v160y2019i4d10.1007_s10551-018-3783-8.html

⁸ Mandatory CSR in India: A Bad Proposal (SSIR). (n.d.). Ssir. Retrieved October 5, 2026, from https://ssir.org/articles/entry/mandatory_csr_in_india_a_bad_proposal

Contribution (Regulation) Act (FCRA) must be rigorously adhered to by these businesses. Internal Projects, Impact Assessment, and Overheads: To ensure that the maximum amount of money reaches the end recipients, administrative overheads for CSR administration are rigorously limited to 5% of total CSR expenditure. Effect Assessment: To drive qualitative responsibility alongside quantitative spending, required independent effect assessments were implemented for enterprises with an average CSR obligation of ₹10 crore or more, applicable to any project with an outlay of ₹1 crore or more. Mechanism for Enforcement and Compliance: Stricter state monitoring and criminal deterrents are now given priority in the enforcement architecture of CSR, which is much more similar to tax administration. MCA, ROC, and Monitoring: Through required electronic filings, the Ministry of Corporate Affairs and the Registrar of Companies (ROC) uphold stringent monitoring. To monitor compliance in real time, the government uses data analytics through the National CSR Data Portal. Penalties for Non-compliance (Post 2020): While the Companies (Amendment) Act, 2020 decriminalized CSR defaults by removing the possibility of incarceration for corporate officers, it established harsh civil financial penalties. The company faces a penalty of ₹1 crore, or twice the amount of unspent CSR that needs to be transferred, whichever is less. Every officer in default suffers a penalty of 1/10th of the unspent money, or ₹2 lakhs, whichever is less. CAG Audit and Parliamentary Oversight: For Central Public Sector Enterprises (CPSEs), CSR compliance is routinely examined by the Comptroller and Auditor General (CAG) of India, treating these monies with the same scrutiny as public money. Furthermore, the idea that these corporate donations are essentially viewed as an extension of the national development budget is reinforced by the Parliamentary Standing Committee on Finance's periodic reviews of the effectiveness and use of CSR funds.

7. MANDATORY CSR AND THE PRIVATISATION OF WELFARE: IS THE STATE USING SECTION 135 TO REDUCE ITS OWN BURDEN?

The CSR is originally associated with the voluntary philanthropy, corporate citizenship and charitable contribution towards the society, mankind and environment. Section 135 of the Companies Act completely change the objective of CSR and converted into statutory obligation for companies qualifying have to spend at least two per cent of the average net profits of the last three financial years on activities covered under Schedule VII of the Companies Act. Big companies enjoy the benefits of society's infrastructure, human resources, natural resources and markets and should therefore contribute to social development. Mandatory CSR can thus be interpreted as a way of ensuring that corporations incorporate some of the social costs of economic activity. From this perspective Section 135 is not a substitute for welfare provision by government but rather another resource for social development. The more difficult question is whether the State, by legally obliging private corporations to devote part of their profits to social-development activities, has created a parallel source of welfare finance that is capable of reducing the political and fiscal pressure upon the State itself. The importance of this question becomes even more significant because the matters listed in Schedule VII overlap very largely with matters which the Constitution places within the welfare functions of the State. Private charity is not the only answer to education, health care, sanitation, livelihood enhancement, rural development, poverty eradication, environmental sustainability and assistance to vulnerable groups. They are closely related to the objectives provided for in Articles 38, 39, 41 and 47 of the Constitution.

In the Part IV of the Constitution i.e. Directive Principles of State Policy, it is clearly mentioned that it is the responsibility of the state to work for the welfare of the society.

Article 38: State to secure a social order for the promotion of welfare of the people⁹.

Article 39 of State policy ensure a decent means of livelihood, the distribution of material resources for best service of the common good and the prevention of accumulation of wealth and means of production to the common detriment.

Article 41 explicitly includes the issue of State provision for the right to work, education and public assistance in the context of unemployment, old age, sickness, disablement and undeserved want.

According to Article 47, the raising of the standard of living, the improvement of public health and improvement of the nutrition are included in the duties of the State.

These shows that welfare is not only conceived as an act of private benevolence in India. The notion of welfare is already incorporated in the idea of governance. A corporation can voluntarily build a hospital, sponsor a scholarship or engage in rural development because it deems these actions to be socially desirable. The role of the State, however, is not of the same kind. The State's welfare system should be designed to allow citizens to access welfare regardless of whether a specific corporation views the community as a commercial or strategic opportunity.

8. SECTION 135: AS A MECHANISM FOR MOBILISING PRIVATE WELFARE FINANCE

Section 135 is important because it is not just a push to companies to do CSR. It establishes a clear financial commitment for eligible businesses. Under the existing legal regime, the qualifying companies are obliged to allocate a minimum of two per cent of the average net profits of the last three financial years towards CSR activities as outlined in Schedule VII. This results in an unique economic impact. CSR funds are not always limited to the benevolence of the corporate management as in the past. It is associated with the profitability of the company and thus generates a persistent flow of resources. The government figures show how much this development has taken place. As per the Ministry of Corporate Affairs expenses incurred by companies on development activities under CSR amounted to:

Financial Year	CSR Expenditure
2019-20	₹24,965.82 crore
2020-21	₹26,210.95 crore
2021-22	₹27,141.45 crore
2022-23	₹30,932.08 crore
2023-24	₹34,908.75 crore

The total amount for these five years was more than ₹1.44 lakh crore¹⁰. This isn't a little bit of philanthropic cash. It is a major and more regular flow of private investment for social-development projects. The growth is especially noteworthy compared to the start of the statutory CSR regime. Later, NITI Aayog's SDG India Index reveals that CSR spending increased from ₹10,066 crore in 2014-15 to ₹26,279 crore in 2021-

⁹ Indiankanoon. (n.d.). Indiankanoon. Retrieved October 5, 2026, from <https://indiankanoon.org/doc/1673816/>

¹⁰ Gov. (n.d.). Gov. Retrieved October 5, 2026, from <https://www.pib.gov.in/PressReleaseDetail.aspx?PRID=2226018®=48&lang=2>

22 and further to ₹34,908.75 crore in 2023-24¹¹. Subsequently, data from the Ministry of Corporate Affairs indicate that CSR expenditure rose to ₹34,908.75 crore in 2023-24 from ₹26,279 crore in 2021-22.¹² So, in less than ten years, the concept of mandated CSR grew to become a multi-billion dollar development financing source. In just about ten years, mandatory CSR morphed into what is now a multi-billion dollar equivalent source of development financing.

9. THE SCALE PROBLEM: CSR IS SMALL COMPARED WITH GOVERNMENT WELFARE SPENDING, BUT STILL POLITICALLY SIGNIFICANT

The amount of government social expenditure is significantly larger than CSR expenditure. The Economic Survey 2024-25 estimates social-services expenditure at the Centre and the States at about ₹25.67 lakh crore for FY 2024-25, much higher than the amount of ₹34,909 crore in FY 2023-24¹³. The CSR spending was thus a paltry 1.36 per cent of the total social-services spending figure of ₹25.67 lakh crore for FY 2024-25. The State is far the bigger funder of social welfare. The purpose of CSR should not be evaluated based on the ratio of welfare spending. The issue is the institutional structure and the "marginal substitution". Let's say that the government department requires ₹100 crore to implement a certain health, education or sanitation project. While the State has to save ₹10 crore, if the CSR is called for to fund ₹10 crore of similar activity by the Corporation. However, the presence of the other private funding could influence the government's incentives, priorities or expectations of what their level of funding should be for the project.

The Ministry of Corporate Affairs has clearly said CSR must not be used as a source of funding the resource deficit in government schemes. The goals of CSR, as outlined by the Ministry's FAQ, are to make corporates partners in social development and not equate CSR as a way to fill resource deficits in government schemes. But another government body NITI Aayog has adopted significantly different words. NITI Aayog in its document on the Aspirational Districts Programme says that the CSR funds and other resources provided by the private sector will be utilized for "critical gap funding." The document also lists CSR resources along with central and state government schemes, and local funds, as resources to be converged for development in Aspirational Districts¹⁴. The difference could be attributed to that of direct funding of an existing government scheme from funding of activities related to development in the same geographical and/or policy space. If a government finds a district underdeveloped, and has decided the top priorities in its development, and it's asking the private sector to converge with its own resources, and it's using CSR funds to plug gaps, then it's effectively putting the private sector into its development structure. The corporation can be legally not paying for the government budget. However, it could be funding the same social-development system where government programs are active. That's a more discreet, but more important, form of welfare privatisation.

The Aspirational Districts Programme is one of the most eloquent examples of how the State is dependent on CSR as an extra development source. The programme of NITI Aayog targets some of the most deprived

¹¹ Nic. (n.d.). Nic. Retrieved October 5, 2026, from https://origin04082023-niti.nic.in/sites/default/files/2024-07/SDG_India_Index_2023-24.pdf?utm_source=chatgpt.com

¹² Gov. (n.d.). Gov. Retrieved October 5, 2026, from <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2226018&lang=2®=3>

¹³ Gov. (n.d.). Gov. Retrieved October 5, 2026, from <https://www.indiabudget.gov.in/budget2025-26/economicsurvey/doc/eschapter/echap11.pdf>

¹⁴ Gov. (n.d.). Gov. Retrieved October 5, 2026, from https://niti.gov.in/sites/default/files/2023-03/Aspirational%20Districts%20-%20Unlocking%20Potentials_compressed.pdf?utm_source=chatgpt.com

districts of India and its mechanism is based on the principles of convergence, collaboration and competition for better development outcome. It is reported that NITI Aayog has identified private-sector CSR resources as one of the resources to be tapped for critical gap funding in these districts in the official report material. This is important because the districts are chosen specifically due to developmental gaps in the areas like, health and nutrition, education, Agriculture and water resources, financial inclusion, skill development and basic infrastructure.

These aren't 'side stream' areas of governance. They are in close relation with the welfare duties envisaged by the articles 38, 39, 41 and 47. The spending on CSR in Aspirational Districts has also significantly increased. The Ministry of Corporate Affairs said that these districts saw CSR spending go up by: ₹651.43 crore in FY 2020-21; ₹1,046.43 crore in FY 2021-22; and ₹1,402.89 crore in FY 2022-23¹⁵. The rise is notable because it shows that CSR is not just about individual corporate charitable efforts. It is getting incorporated within the national development strategies. The government has encouraged CSR participation in Aspirational Districts in a proactive manner as well. The Department of Public Enterprises has issued guidelines for CSR to be followed by the Central Public Sector Enterprises (CPSEs) on a theme based approach. Guidelines for the year 2018 had recommended allocation of about 60% of the annual CSR expenditure of CPSEs towards thematic programmes, and preferring the Aspirational Districts. The 2021-22 DPE likewise documents that the CSR spending of CPSEs was encouraged to allocate approximately 60 percent of the funds to thematic programmes, while also prioritising the needs of Aspirational Districts.

10. STATE'S OWN CORPORATE ARM: THE PUBLIC SECTOR ENTERPRISES

The same as the qualifying private company, Section 135 is applicable to the qualifying CPSE (Central Public Sector Enterprises). Businesses owned and controlled directly or indirectly by the State can also prove to be a vehicle for directing the mandatory CSR expenditure towards social-development activities. As per the Department of Public Enterprises, the CSR spend for 153 CPSEs under 2 per cent CSR for 2017-18 is estimated at approximately ₹3,693.47 crore and actual CSR spend of these CPSEs is estimated at approximately ₹3,442.42 crore for 2017-18. That is, the State is not just controlling private companies to invest in social development. It also has its own commercial operations that have CSR obligations.

Another key issue that has been raised about CSR is how private it is. CSR is formally the responsibility of the board in Section 135. The board of the company is authorised to plan, decide, implement and monitor CSR activities as per the recommendations of the CSR Committee as stated by the Ministry of Corporate Affairs. This seems to retain corporate independence. The State, however, sets the legal limits of allowable CSR in section 135, schedule VII and the CSR Rules. The State also influence on corporate CSR in the following ways:

1. Schedule VII
2. National priorities
3. Government guidelines for CPSEs
4. Aspirational District policies
5. Public recognition and CSR awards
6. Reporting requirements

¹⁵ Gov. (n.d.). Gov. Retrieved October 5, 2026, from <https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=2084898®=48&lang=2>

7. Impact assessment requirements

8. Inclusion of specified government funds within eligible CSR expenditure.

As per the Ministry of Corporate Affairs, any contribution made to the specified funds can be counted as CSR expenditure such as Prime Minister's National Relief Fund, PM CARES Fund, Swachh Bharat Kosh, Clean Ganga Fund and some other Central Government funds are eligible to be treated as CSR expenditure. This is a conceptual significance. Consider the distinction between, Taxation i.e. a company pays money to the State, money becomes public revenue, expenditure by government according to public budgetary processes and the contributions made by CSR to the eligible government fund. A company has a legal obligation to spend on CSR and it does so by funding a fund created by the government, the contribution is towards the company's legal obligation to spend on CSR. The two are not the same under the law and CSR is not a tax. However, functional similarity is significant. Both mechanisms convert private corporate funds for socially desirable goals. The distinction is that the corporation does not lose control over the use of the money in the case of CSR, rather, the funds are added to the general fiscal pool.

11. SECTORAL OVERLAP: CSR IS PAYING FOR WHAT THE STATE IS ALREADY SUPPOSED TO PROVIDE

Based on official government data, during FY 2023-24:

- The education got around ₹12,134.57 crore
- Around ₹7,150.87 crore was disbursed in healthcare
- Around ₹2,408.09 crore was allocated to rural development
- About ₹2,360.09 crore was allocated for livelihood enhancement
- The allocation for environmental sustainability was about ₹2,429.97 crore
- Nearly ₹1,233.93 crore was allocated to poverty, hunger and malnutrition
- Around ₹589.61 crore was received by PMNRF
- Safe drinking water received was received about ₹327.45 crore
- Approximately, ₹375.23 crore was received for sanitation.¹⁶

These numbers are important not only because of their magnitude. They show that most of the CSR cost goes into what is generally considered to be the traditional welfare-state functions. The State has significant constitutional and policy obligations in education, healthcare, poverty reduction, rural development, water and sanitation. Hence, the problem may be stated as, The State is spending billions of rupees on education, health and sanitation, poverty alleviation and rural development, while burdening the corporations to do the same, amounts to an additional source of funding for the sectors that by the Constitution itself are constitutionally bound to be funded out of the State funds.

12. THE RISK OF WELFARE PRIVATISATION

The developments can be summed up as a trend towards the privatisation of welfare. Welfare privatisation doesn't always involve the government's direct sale of public services to businesses. It may manifest itself in a gentler manner. The State may:

- Determine a social issue

¹⁶ Gov. (n.d.). Gov. Retrieved October 6, 2026, from <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2244948&lang=2®=48>

- Allow or foster corporate involvement
- Call on corporations to make a financial contribution
- Provide corporations the freedom to choose an implementing agency
- recognise the expenditure as fulfilment of statutory CSR obligations
- Recognize that the outcomes of the development in question as a component of overall national development.

The businesses turn into a development actor. The State continues to be the policy maker. It is considered to be a win-win situation for the citizen of the country. However, the financial burden is partially eased from the public budget. This is particularly significant in a country where the constitutional vision is based upon social and economic justice. It is the danger of depending on corporate good will, profitability and geography. This is a different world view from a universal welfare right. India has not transformed from a welfare state to a fully-fledged welfare system market. But it is working to build a welfare partnership model. Under this model state sets legal and developmental priorities. Corporations Supply financial/managerial support. NGOs implement projects. Local communities receive services. This model can be beneficial in reality. However, there is a chance where partnership can turn to dependency over time. It means that if government departments start to create programmes based on the premise that CSR funds will be used to fill a funding gap, businesses stop being partners and become quasi-public financiers. This would pose a serious constitutional worry. The State's responsibility under Articles 38, 39, 41 and 47 cannot be outsourced due to the availability of private sector to perform similar functions. Section 135 need not be seen as a replacement of India as a welfare state. Instead, it has developed a parallel realm of private development finance that is now becoming part of, supporting and even filling gaps within public welfare systems in some cases. The constitutional problem is that when the State starts substituting costs that companies must pay for with its own money, it can also shift the decision making and implementation process from democratically accountable institutions. This claim is more defensible than saying that the government is just taking advantage of corporations. The evidences which proves it are,

- Since the enactment of Section 135, CSR spending has increased significantly
- The bulk of CSR spending is targeted at welfare related areas.
- Investment of CSR funds in national development priorities is growing.
- NITI Aayog has specifically considered CSR as one of the vital sources of gap funding.
- CPSEs have been motivated by the government policy to empower them to connect CSR with the national priorities and Aspirational Districts.
- CSR contributions can be given to government created funds like PMNRF and PM CARES. CSR spending is not evenly distributed across the country.
- Empirical studies demonstrate that CSR is effective in changing the behavior of companies.
- Measures of compliance to the expenditure criteria do not imply any welfare outcomes.
- The amount of government social expenditure is also still much higher than CSR expenditure.

All of these facts do not show that the State has waived its welfare responsibilities. The State has now established a system which mobilises private capital for public-development purposes without subjecting such expenditure to the full range of constitutional, parliamentary and public-accountability checks that would apply to normal public expenditure.

The shift from 'corporate philanthropy' to 'corporate expenditure' is a big change in the corporate law in India. Section 135 rested on the idea that corporations have social responsibilities based on their economic

clout and their reliance on society. It should not be allowed for large corporations to pass the social and environmental burden onto others, and have social welfare as somebody else's responsibility. But there's another question raised when CSR becomes law. What becomes of the constitutional duty of the State to provide education, health, sanitation, poverty reduction, rural development and livelihood enhancement, when it is the responsibility of corporations to spend billions of rupees on all those? But the solution does not have to be that the State has simply stopped to play its role as a welfare provider. The Government's social spending is far higher than CSR spending, and has grown significantly over the years.¹⁷ The government has also promoted national themes and Aspirational Districts for CPSEs' CSR spending to a significant extent, as reported by the Ministry of Corporate Affairs. The government has also been encouraging CPSEs to allocate a significant amount of their CSR funds towards the themes and Aspirational Districts, as stated in a report by NITI Aayog. This shows that the line between 'public welfare' and 'private CSR' is not clear cut. Becoming more porous. The risk is not just economic. It is constitutional. The Indian Constitution places welfare, social justice, reduction of inequality, public health, livelihood and public assistance within the framework of State responsibility. These objectives should be complemented by CSR, rather than serve as a way for the State to abdicate its financial, institutional and democratic responsibility. It is apparently acceptable to have a mandatory CSR as a supplementary mechanism. It can become an issue when used as a replacement. CSR can be added on to public welfare spending but should never be an excuse to cut the State's welfare spending. It is not, therefore, the role of Section 135 to privatise the welfare state, but to raise the resources available to the welfare state. The State shall have a leading responsibility for universal welfare. Corporations should continue to be supplemental players. If a village school has not been properly supported by the State and CSR is used to fund the school, then CSR can be a measure of social progress. However, when the government uses the fact that a company school is in existence to cut public education funding, CSR has become a replacement for the welfare state, not its complement. Likewise, if a corporation is paying for a rural health centre, the cost could be worthwhile. However, if CSR funding is used as an implicit argument for inadequate government health care funding, the constitutional dynamic of the State and citizen is changed. The ultimate concern, therefore, is not that corporations are spending money on society. It is who becomes responsible when the money stops coming. Corporate profits fluctuate. Corporate strategies change. Companies relocate. Boards change. CSR priorities change. Constitutional welfare duties do not: That distinction is the best justification to claim that the constitutional duty to implement CSR has not superseded but should coexist with the constitutional mandate of the Indian welfare state.

The shift from voluntary to obligatory duty accountability can, therefore, be embraced only as an addendum to public welfare. These days, it is possible that the State might start treating the mandatory CSR as an alternative to tax, public expenditure, and accountable welfare institutions, and that may be where Section 135 will go. It could be a device to shift the burden of the welfare state, where the State takes the credit for a successful development while part of the financial and operational risk is given to private companies. The constitutional issue, therefore, is not whether corporations should make contributions for social welfare. They should. The question in the constitution is whether it is OK for the State to use the existence of that corporate contribution as a reason to do less. The answer should be NO.

¹⁷ Gov. (n.d.). Gov. Retrieved October 6, 2026, from <https://www.indiabudget.gov.in/budget2025-26/economicsurvey/doc/eschapter/echap11.pdf>