

IQRA IAS



CURRENT AFFAIRS

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POLITY

1.1 CORPORATE SOCIAL RESPONSIBILITY (CSR) AMENDMENT, 2022

Why in News: According to a recent notification issued by the Ministry of Corporate Affairs, the government has amended rules governing corporate social responsibility (CSR).

Background

- **India is one of the first countries in the world to make corporate social responsibility (CSR) a legal obligation on corporations through the Companies Act 2013.**
- India is perhaps the only country where both spending and reporting of CSR obligations are mandatory. The government has also made it clear that CSR spending is not mere charity or donations without any benefits.
- **The government has also made a conscious attempt to keep the CSR legislation in line with India's commitment to the Sustainable Development Goals (SDGs).**
- The field of CSR in India has expanded significantly; more and more corporations are now constructively involved in meeting their social obligations.
- However, there are several challenges that need to be addressed to further enhance the effectiveness of CSR activities in ensuring sustainable and inclusive development.

CSR Evolution and Meaning

- According to the **United Nations Industrial Development Organization (UNIDO)**, corporate social responsibility is a management concept for companies to integrate social and environmental concerns into their business operations and interactions with stakeholders.
- CSR is a type of corporate governance in which entrepreneurs contribute to social welfare.
- CSR is based on a company's sense of responsibility towards its communities and the environment in which it operates. Sustainability (creating economic, social and environmental value) and ESG (environmental, social and governance) are closely linked.
- CSR is commonly understood as a way for companies to balance economic, environmental and social requirements (the "triple bottom line approach") while meeting the expectations of their shareholders and stakeholders.

Evolution of CSR

- In the 1950s, CSR was understood as an obligation to society. In the 1960s, the concept came to be seen as a link between entrepreneurship and society.
- From the 1970s to the 1990s, the definition of CSR expanded to include many other aspects such as

stakeholder, ethics, volunteerism, philanthropy, environmentalism, and the triple bottom line i.e. People, Earth, Profit.

- **The dimensions of corporate social responsibility** in the 21st century are much broader. This includes improving the quality of life for citizens, human and labor rights; environmental concerns; issues related to corruption; Issues of transparency and accountability.

CSR Framework in India

- **The Companies Act, 2013 is a landmark law that made India the first country to mandate and quantify CSR spending.** The incorporation of CSR is the government's attempt to involve businesses in the national development agenda.
- **Section 135(1)** of the Act prescribes the threshold values for identifying companies that are required to create a CSR committee-those whose, in the immediately preceding financial year:
 - Net worth is Rs 500 crore or more; or.
 - Turnover is Rs 1000 crore or more; or.
 - Net profit is Rs 5 crore or more.
- As per the Companies (Amendment) Act, 2019, CSR applies to companies before completion of 3 financial years.
- Companies are required to spend in each financial year at least 2% of their average net profit generated during the 3 immediately preceding financial years.
- For companies that have not completed 3 financial years, the average net profits generated in the previous financial years will be taken into account.
- CSR activities in India should not be undertaken in the ordinary course of business and must relate to any of the 17 CSR activities listed in Schedule VII of the Act.
- **Primary objective of CSR:** To promote a responsible and sustainable business philosophy at a broad level and to encourage companies to come up with innovative ideas and robust management systems.

Changes brought by the Amendment Rules

- **Establishment of a CSR committee for unspent CSR amount:** Companies can set aside unused funds for CSR in designated account as long as they use them within three financial years. Its utilization is to be monitored by the CSR committee.
- **Change in Expenditure for Impact Assessment:** The Amendment Rules provide that the cost of social impact assessments, which can be considered as CSR spending, cannot be greater than 2% of all CSR expenditures for the applicable financial year or Rupees 50 lakh, whichever is higher.
- **Revised format for annual report on CSR activities:** The Amendment Rules provide for a new format for the annual report on CSR activities.

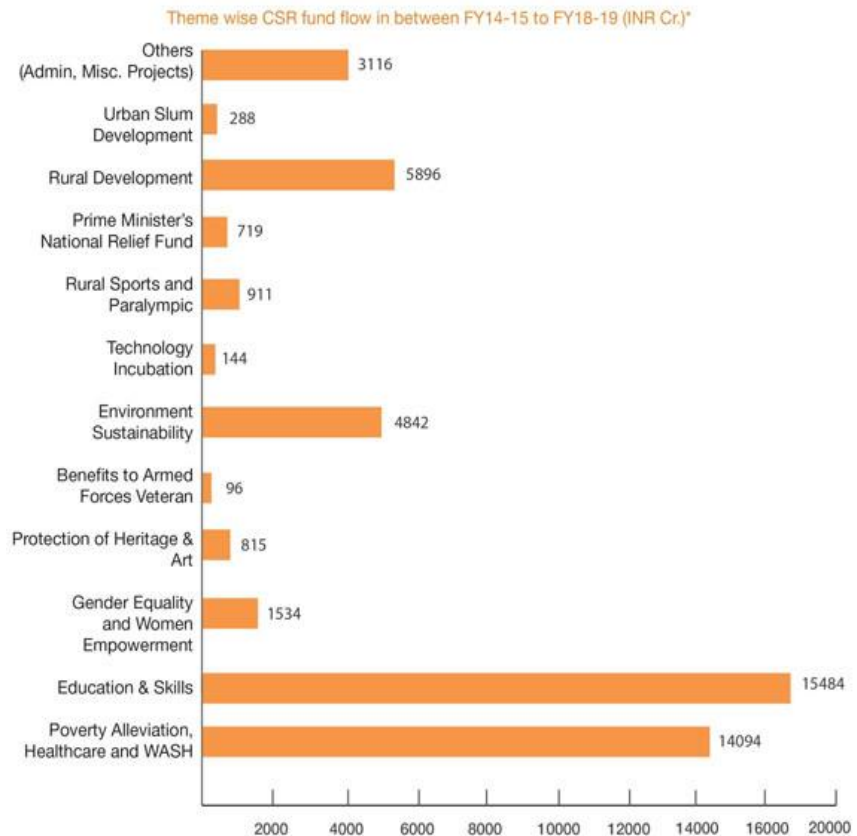
- For instance, companies have to give brief explanation of its CSR policy, Information about the members of the CSR committee and web links for the impact assessments of CSR projects.

Significance of CSR

Trusteeship is a socio-economic philosophy that was propounded by Mahatma Gandhi. It provides a means by which the wealthy people would be the trustees of trusts that looked after the welfare of the people in general. ... Gandhi believed that the wealthy people could be persuaded to part with their wealth to help the poor.

- Sustainable Development**

Goals: Business is seen as a key driver of the SDGs as it can use creativity and innovation to achieve sustainable



development. Together, CSR and SDGs have great potential to develop interconnected models for sustainable growth. Many companies align their CSR focus areas with his SDGs to fulfil their CSR mandate.

- CSR for Technology Incubators:** In September 2019, the government expanded the scope of his CSR to boost India's R&D and innovation ecosystem. Donations to government/PSU funded incubators or research and academic institutions are included in CSR.
- Responsible Reputation/Customer Loyalty:** A company's social investments can help build its reputation as a responsible company, which in turn can lead to competitive advantage. Companies often prefer suppliers with responsible policies.
- Cost Savings:** By reducing resource consumption, waste and emissions, you can protect the environment and save money. With a few simple steps, your company can potentially reduce your utility bills and generate savings for your business.
- Attracting Responsible Investors:** Socially Responsible Investors (SRIs) look for companies that share common values.



Challenges in Implementing CSR

- **Geographic Focus:** Companies tend to fund projects that are closer to their location. As a result, industrialized areas are prioritized over poor and undeveloped areas that need more development and support.
- **Lack of reporting:** Most companies do not report the exact amount spent on CSR activities.
As a result, it is difficult to estimate the exact amount of funds a company has spent.
- **Spending disproportionately on certain areas:** Of the nine different plans mandated by the Companies Act 2013, two plans (combatting various diseases and promoting education) accounted for 44% of total CSR spending, accounted for While reducing child mortality received no funding and eradicating extreme hunger and poverty received only 6% of the total CSR expenditure.

- **Lack of Community Participation in CSR Activities:** This is largely attributable to limited awareness about CSR and minimal outreach efforts by companies.
- **Issue of Transparency:** Companies have complained that there exists lack of transparency on the part of the local implementing agencies as they do not make adequate efforts to disclose information on their impact assessment, utilization of funds etc.
- **Narrow Perception towards CSR Initiatives:** NGOs and Government agencies usually possess a narrow outlook towards the CSR initiatives of companies. Often CSR initiatives are defined being more donor-driven than local in approach. As a result, they find it difficult to decide whether to engage in such activities in the medium to long term.

Way Forward and Recommendations

- **CSR Activities in Local Areas:** The emphasis on local area in the Act should not be treated mandatory in nature. Companies should engage in CSR activities by balancing local area preference with national priorities.
- **Schedule VII of the Act:** It should be mapped and aligned largely with SDGs and some important items such as senior citizens' welfare, disaster management, and heritage be additionally included to develop an SDG+ framework.
- **Contribution to Central Government funds:** This provision should be discontinued as CSR spend. However, a specific designated fund may be created for transfer of unspent CSR funds lying with the company beyond the proposed 3-5year time limit.
- **Issues related to Reporting for CSR:** Enhanced disclosures should be made for better information dissemination with respect to selection of projects, locations and implementing agencies to facilitate better monitoring.
- **CSR Audit:** CSR may be brought within the purview of statutory financial audit, by making details of CSR spending as part of the financial statement of a company.
- **Creation of 'Social Impact Companies':** To express object of pursuing social outcomes, while being permitted to achieve conditional profit which can be distributed.
- **Tax Benefits for CSR Activities:** All activities listed under Schedule VII to enjoy uniform tax benefits.
- **Third party assessment of CSR Projects:** 5% of CSR mandated companies be identified on a random basis for third-party assessments on a pilot basis.
- **Embrace a participatory approach with communities and NGOs:** Companies should engage with NGOs and communities as partners across program design and implementation.
- **Dedicated department:** There could be a dedicated Department of CSR in the Ministry for Corporate Affairs at the Central level and the one in the Finance Ministry of the State.



1.2 ELECTION FUNDING

Why in News: The Association of Democratic Reforms (ADR) recently released an analysis report on Sources of Funding of National and Regional Political Parties. The report has provided some startling observations.

- The total income of national and regional parties from unknown sources for FY2020-21 stood at INR 690.67 crore. Between 2004-05 and 2020-21, the national political parties have collected more than INR 15,077 crore from unknown sources.
- Political experts that the opacity in electoral funding is the single biggest factor in political corruption in India. Money is central to the issue of political corruption and political parties are suspected to be the largest and most direct beneficiaries.

Electoral Funding

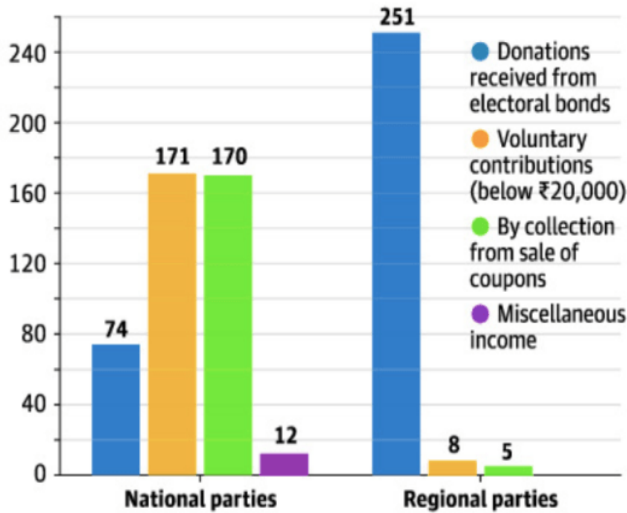
- Money received by the political parties and the expenditure done by them in the process of election (directly or indirectly) come under the ambit of Electoral Funding/Financing. Laws governing these financial aspects are known as electoral funding/financing law.
- Electoral financing law can be studied under three broad sub-groups: (a) Limits on political contributions and party and candidate expenditure; (b) Disclosure norms and requirements; (c) State funding of elections.
- Electoral funding in India is broadly governed by the provisions of the Representatives of People Act (RoPA), 1951; the Conduct of Election Rules, 1961; the Companies Act, 2013; and the Income Tax Act, 1961.

Findings of the ADR Report on Electoral Funding

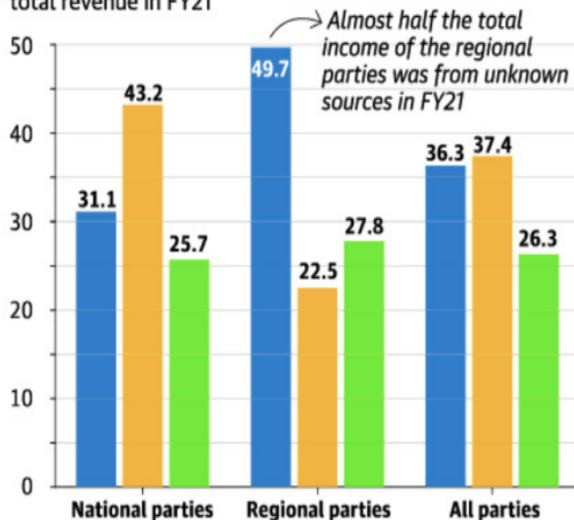
For the FY2020-21, 8 national political parties have declared INR 426.74 crore income from unknown sources. 27 regional parties received INR 263.928 crore income from unknown sources.

31% income of national parties and ~50% income of regional parties have come from 'unknown resources'. The report has treated unknown income as the income declared in the IT returns without giving source of income for donations below INR 20,000.

1 Undisclosed sources | The graph shows the amount of funding (in ₹ crore) received in FY21 through unknown sources. The national parties and regional parties received ₹427 crore and ₹264 crore worth of funds, respectively, from unknown sources. A split:



2 Share of revenue | The graph shows the donations from unknown sources ●, donations from known sources ● and income from other known sources such as sale of assets, membership fees ● as a share of total revenue in FY21



Sources of Income of National and Regional Parties for FY 2020-21

Political Parties	Income from Unknown Sources (as per IT Returns) **	Income from Known Sources (donations details declared to ECI)	Income from Known Sources*	Other	Total Income
National Parties	426.742	593.748	353.293		Rs 1373.783 cr
Percentage share	31.06%	43.22%	25.72%		100%
Regional Parties	263.928	119.395	147.38		Rs 530.703 cr
Percentage share	49.73%	22.50%	27.77%		100%
Grand Total	690.67	713.143	500.673		Rs 1904.486 cr
Percentage share	36.30%	37.40%	26.30%		100%

Issues with Electoral Funding

- **Lack of transparency:** Much of the election funding comes from unknown sources. This is a fundamental violation of the principles of transparency, as voters have a right to know whether funds are being raised through legitimate means. Electoral bonds also suffer from this gap, and citizens do not know who finances political parties.
- **Corruption and “regulatory capture”:** Activists say unknown “donors” include big corporate houses or corrupt local businessmen who fund local political leaders. This makes political leadership accessible to business interests. The current system tolerates lobbying and capture. Industry / private entities use the money to ensure less strict regulation, and the money used to fund elections ultimately leads to favorable policies.
- **No Limit on Funding:** Previously, there was a limit on how much funding a company could donate to a political party from the profits it made. This upper limit has been removed. This opened the way for companies to increase the financing of political parties and subsequently to increase their influence on the political system.
- **Lack of fairness:** Access to large financial resources translates into electoral advantage. Richer candidates and parties have a better chance of winning the elections. This distorts the level playing field. The Supreme Court also supported this view in **Kanwar Lal Gupta vs. Amar Nath Chawla**.

Way Forward and Solutions

- **First**, the funding process should be completely transparent. Funding and spending rules need to be tightened by setting an absolute ceiling for anonymous donations. The ADR report recommended that full details of all donors be made available for public scrutiny under RTI. Some of the countries where this is happening include Bhutan, Nepal, Germany, France, Italy, Brazil, Bulgaria, USA and Japan.
- **Second**, there should be an upper limit on the amount that can be donated to the parties (like the 7.5% profit limit set under the Companies Act 2013). This will limit the influence of big corporate houses.
- **Third**, election rules should be changed to regulate political advertising, establish allowable categories of spending, prevent foreign sources of donations, and establish a limited basis for public funding. The Law Commission of India in its 255th report recommended capping the entire donation received from anonymous sources at Rs. 20 million or 20% of the total funding of the political party.
- **Fourthly**, the ADR Report recommends that scrutiny of financial documents submitted by political parties should be conducted annually by a body approved by the CAG and ECI to increase transparency and accountability of political parties with respect to their funding.

- **Fifth**, the ECI recommended that tax exemption should be granted only to those political parties that contest and win seats in assembly elections. The commission also recommended that the details of all donors donating above INR 2,000 should be made public.
- **Sixth**, violations of transparency rules and provisions should be severely penalized. In this regard, the Electoral Commission must have more powers.

Global Scenario

- European countries such as France and Belgium have curtailed private spending on elections through a series of legislations since the 1990s, thereby successfully negating the influence of rich corporates in elections. France banned all forms of corporate funding in 1995 and capped individual donations at 6,000 Euros.
- Brazil and Chile have banned corporate donations after a series of corruption scandals emerged related to corporate funding.

Some Important Reports/Commission related to Electoral Reforms:

- Law Commission 170th Report (1999) 'Reform of the Electoral Laws'
- Law Commission 255th Report (2015) 'Electoral Reforms'
- Election Commission of India (2004) 'Proposed Electoral Reforms'
- The Goswami Committee on Electoral Reforms (1990)
- The Vohra Committee Report (1993)
- The Indrajit Gupta Committee on State Funding of Elections (1998)
- The National Commission to Review the Working of the Constitution (2001)

1.3 PRISION REFORMS

Why in News: National Crime Record Bureau (NCRB) has released Prison Statistics in India (PSI) Report, 2021.

PSI Report 2021

- PSI is one of the 3 annual flagship reports by the NCRB.
- It provides data like numbers and available capacity of different types of jails, strength and training of jail officials and prison budget and expenditure.

Key findings of the report

High Undertrials: Nearly 8 out of every 10 prisoners in Indian jails are awaiting trial. Uttar Pradesh jails record the highest number of undertrials followed by Bihar and Maharashtra.

Disadvantaged sections prisoners: 67.5% inmates belong to SC, ST and OBC communities. 80% of undertrials are from disadvantaged sections of society.

Understaffed: The sanctioned strength of jail-staff was 89,479 while the actual strength was 64,449 as due to vacancies not being filled up.

Budget & infrastructure: The sanctioned budget for the year 2021-22 has increased by 13.0% in comparison to the year 2020- 21.

Measures have been taken to improve the infrastructure of the prisons like construction and renovation of jails, quarters for jail staff, installing CCTV cameras, etc.

Prisons in India

- "Prisons"/"persons detained therein" are state affairs.
- The administration and management of prisons is the responsibility of the respective state governments. **It is governed by the Prisons Act, 1894 and the Prison Manuals of the respective State Governments.**
- Ministry of Home Affairs also provides regular guidelines and advice to states and UTs on various issues related to prisons and prisoners.
- The need for effective prison management
 - Prisons are an integral part of the criminal justice system (CJS), which deals with the prevention, investigation, prosecution, punishment and correction of crime.
 - Prisons are correctional institutions because prison administration has evolved from a retributive approach to the concept of correction and rehabilitation of offenders.
 - It is important to reintegrate prisoners into society after release as potential contributors to the economy.

Challenges in prison management

- **Overcrowding:** Overcrowded prisons adversely affect the hygiene, management, mental and physical health of inmates.
- **Inadequate legal aid:** Most of the prisoners who are in jails have not been tried, the absence of legal aid until trial greatly reduces the value of India's legal representation system for the poor.
- **Shortage of staff:** Prisons in half of the states and union territories were functioning with one-fourth vacancies at the end of last year.
 - 14 states have more than 40% of vacancies for healthcare personnel, including physicians, laboratory technicians, pharmacists and processors. Health care in prisons therefore remains of poor quality and difficult to access.
- **Torture/deaths in custody:** Another major problem in prisons in India is brutal physical treatment in custody by police officials.

- According to the National Human Rights Commission (NHRC), in the last decade (2010-2020), an average of 5 people died in judicial custody per day.
- **Corruption:** Given the closed nature of incarceration and the inherent risk of insufficient public scrutiny, corruption among prison staff remains high.
 - Activities like trafficking of mobile phones, drugs or weapons inside the prison walls in exchange for bribes poses threats to national security also.
- **Vulnerability of women:** Most of the women inmates are illiterate who are arrested on petty charges and they are not aware about legal procedures. They also remain particularly vulnerable to custodial sexual abuse.

Way Ahead

All India Prison Service: The All-India Committee on Jail Reforms (1980– 1983), under **Justice A N Mulla** recommended establishing an “**Indian Prisons and Correctional Service**” as a professional career service with appropriate job requirements, sound training and proper promotional avenues.

Adherence of Model Prison Manual 2016 by all the States and UTs: The manual aims at bringing in basic uniformity in laws, rules and regulations governing the administration of prisons and the management of prisoners all over the country.

Prison Infrastructure: Technological up-gradations such as biometric identification facilities, prisoner information system, provision of CCTVs, video conferencing facilities along with critical infrastructure such as hospital, sanitation systems are needed.

Reducing undertrials:

- **Timely and complete production** of under trials before the court so that a trial is not prolonged. Introducing the system of plea bargaining which refers to negotiation where the accused agrees to plead guilty in exchange for certain concessions by the prosecution.
- **Capacity building** in lower judiciary to reduce the number of adjournments while hearing bail pleas.
- **Proper prison inspection:** Regular and timely inspection from judicial officers must be conducted. Lok Adalat could be involved for constant monitoring of prisons to identify inadequacies and shortcomings in the prison administration.

Improving investigation methodologies: The currently applied methods use torture as a tool for investigation which can be altered by giving a priority to Human Rights.

This can be done through ratification of the 1987 UN Convention Against Torture as well as enactment the anti-torture bill proposed by the legal advisory body of the government.



PRELIMS HIGHLIGHTS

➤ Live Streaming of Constitution Bench

- Supreme Court (SC) will Live Stream Constitution Bench Hearings from September 27
- In 2021, SC's e-Committee, came out with model rules for live-streaming and recording of court proceedings in India.
 - Earlier, in 2018 (Swapnil Tripathy vs. Supreme Court), the Supreme Court declared live telecast of court proceedings part of the right to access justice under Article 21 of the Constitution.
 - Currently, six high courts, namely Gujarat, Orissa, Karnataka, Jharkhand, Patna, and Madhya Pradesh, live-stream court proceedings through their channel on YouTube.
 - Live-streaming of SC proceedings is part of third phase of e-courts project, an initiative to implement use of information and technology in judiciary.

Challenges and Issues

- Lack of Information and Communication Technology (ICT) infrastructure. E.g. use YouTube instead of their own platform.
- Lack of trained manpower and Digital Divide in India.
- High Data Security and privacy requirements to ensure safety of victims and witnesses.
- Risk of sensationalism by the media and greater influence of public opinion on judges.

