

THE LEGAL FRAMEWORK OF CORPORATE SOCIAL RESPONSIBILITY AND WATER LAWS IN INDIA

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Abstract:

Companies are legal persons. Hence, it is the duty of the legal personalities as well to abide by the law and involve in making their contribution to the society as per social norms and expectations. Thus, under the Companies Act 2013, Corporate Social Responsibility (CSR) was formalized mandating the companies to allot 2% of their profits towards social and environmental initiatives. Multiple action plans and social initiatives are formulated by the Government of India wherein water conservation and sanitation are among the key focus areas. Though, India's legal framework for water governance is rooted in constitutional provisions and various legislative measures such as the Water (Prevention and Control of Pollution) Act, 1974 and the National Water Policy (2012), wherein these laws aim to manage water resources sustainably and ensure access to clean water. The CSR initiatives towards water conservation, pollution control and providing accessibility to clean water for drinking and sanitation will aid the government to boost the productivity and approachability. This paper also addresses the challenges of coordinating corporate efforts with regulatory frameworks, monitoring the effectiveness of CSR projects, and overcoming regional disparities in water management. Judicial interventions have further expanded the scope of corporate responsibility in environmental sustainability. Thus, Public Private Partnership may help in improving monitoring mechanisms, greater corporate engagement in long-term water management solutions.

Keywords: Water resource management, Corporate Social Responsibility, Water conservation, Water Governance, Accessibility of water, Public-private partnership

INTRODUCTION

Water is an essential resource that sustains life, ecosystems, and economies. In India, access to clean drinking water and sanitation is not only a human right but also a pressing challenge, given the rising water scarcity and pollution issues. In India, the management of water resources has become a matter of urgent concern due to the country's growing population, rapid urbanization, and the impacts of climate change. Over the years, India has developed a robust legal framework to address water governance. At the same time, Corporate Social Responsibility (CSR) has emerged as a mechanism through which businesses can contribute to addressing social and environmental challenges, including those related to water. The companies may engage in the nation's socio-environmental development agenda. Under section 135 of Companies Act 2013, Corporate Social Responsibility was formalised mandating the companies to allot 2% of their profits towards social and environmental initiatives. Concurrently, India's legal framework for water management is rooted in a combination of constitutional provisions, central and state laws, and policies aimed at ensuring

the sustainable use and protection of water resources. Multiple action plans and social initiatives are formulated by the Government of India wherein water conservation and sanitation are among the key focus areas. This aligns corporate responsibility with the broader goal of sustainable development, particularly in areas where government efforts alone may be insufficient. The legal requirement for the contribution of the companies through their Corporate Social Responsibility along with the Governmental initiatives, may act as a boon in managing water resources sustainably. The Legislature like **Water (Prevention and Control of Pollution) Act, 1974**, which regulates water pollution, and the **National Water Policy (2012)**, which outlines the country's approach to water resource management are Government's initiatives to manage water, water sustainability and water resources. The intersection of CSR and water laws in India, will help analysing how the legal frameworks governing corporate responsibility and water management complement each other in addressing the country's water challenges. It will also explore the impact of CSR initiatives on water conservation, pollution control, and access to clean water, as well as the challenges and opportunities that arise from the convergence of these legal frameworks.

UNDERSTANDING CORPORATE SOCIAL RESPONSIBILITY (CSR) IN INDIA

Corporate Social Responsibility (CSR) refers to the ethical obligation of companies to contribute to societal welfare beyond their economic interests. Globally, CSR has gained recognition as a tool to address social, environmental, and economic challenges, including poverty, education, healthcare, and environmental conservation.

In India, the concept of CSR was formalized through legal provisions under the **Companies Act, 2013**. With the enactment of Section 135 of the Act, India became the first country to mandate CSR spending. The Section 135 (5) of the Companies Act requires companies meeting specific financial criteria to allocate at least **2% of their average net profits** over the previous three years towards CSR activities. This section under the Companies Act, 2013, specifies that companies having net worth of Rupees five hundred crore or turnover of Rupees one thousand crore or net profit of Rupees five crore have to undertake the CSR. Under this section the company has to disclose as to what all activities the company has undertaken as their social responsibility as well as the expenditure incurred on the activities undertaken. Sub clause (7) of the section levies penalty on the company for defaulting to fulfil the responsibility of the company under Corporate Social Responsibility that the company has undertaken and mentioned the same on the company's website.

The Section 135¹ reads as:

Section 135. Corporate Social Responsibility

(1) *Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during ¹[the immediately preceding financial year] shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director:*

[Provided that where a company is not required to appoint an independent director under sub-section (4) of section 149, it shall have in its Corporate Social Responsibility Committee two or more directors.]

(2) *The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.*

¹ Companies Act, 2013

- (3) *The Corporate Social Responsibility Committee shall,--*
(a) *formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company*³*[in areas or subject, specified in Schedule VII];*
(b) *recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and*
(c) *monitor the Corporate Social Responsibility Policy of the company from time to time.*
- (4) *The Board of every company referred to in sub-section (1) shall,-*
(a) *after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and*
(b) *ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.*
- (5) *The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company made during the three immediately preceding financial years,*⁴*[or where the company has not completed the period of three financial years since its incorporation, during such immediately preceding financial years] in pursuance of its Corporate Social Responsibility Policy:*
Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities:
*Provided further that if the company fails to spend such amount, the Board shall, in its report made under clause (o) of sub-section (3) of section 134, specify the reasons for not spending the amount*⁵*[and, unless the unspent amount relates to any ongoing project referred to in sub-section (6), transfer such unspent amount to a Fund specified in Schedule VII, within a period of six months of the expiry of the financial years].*
[Provided also that if the company spends an amount in excess of the requirements provided under this sub-section, such company may set off such excess amount against the requirement to spend under this sub-section for such number of succeeding financial years and in such manner, as may be prescribed.]
[Explanation.--For the purposes of this section "net profit" shall not include such sums as may be prescribed, and shall be calculated in accordance with the provisions of section 198.]
- (6) *Any amount remaining unspent under sub-section (5), pursuant to any ongoing project, fulfilling such conditions as may be prescribed, undertaken by a company in pursuance of its Corporate Social Responsibility Policy, shall be transferred by the company within a period of thirty days from the end of the financial year to a special account to be opened by the company in that behalf for that financial year in any scheduled bank to be called the Unspent Corporate Social Responsibility Account, and such amount shall be spent by the company in pursuance of its obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer, failing which, the company shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year.*
- (7) *If a company is in default in complying with the provisions of sub-section (5) or sub-section (6), the company shall be liable to a penalty of twice the amount required to be transferred by*

the company to the Fund specified in Schedule VII or the Unspent Corporate Social Responsibility Account, as the case may be, or one crore rupees, whichever is less, and every officer of the company who is in default shall be liable to a penalty of one-tenth of the amount required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be, or two lakh rupees, whichever is less.

- (8) *The Central Government may give such general or special directions to a company or class of companies as it considers necessary to ensure compliance of provisions of this section and such company or class of companies shall comply with such directions.*
- (9) *Where the amount to be spent by a company under sub-section (5) does not exceed fifty lakh rupees, the requirement under sub-section (1) for constitution of the Corporate Social Responsibility Committee shall not be applicable and the functions of such Committee provided under this section shall, in such cases, be discharged by the Board of Directors of such company.]*

Thus, it is clear from the above-mentioned provision that the company having a specific turnover or net profit has to undertake corporate social responsibility. It is also pertinent to mention that in case the company fails to abide by the provision a pecuniary punishment of maximum rupees fifty lakh can be levied on the company.

Along with Section 135 of the Companies Act, 2013, VII schedule of the Act lays further guidelines for companies, mentioning what all categories are available for the companies to adopt CSR. Schedule VII² lays down 12 categories wherein the Companies can choose their policies for CSR. These categories³ are:

1. Eradicating hunger, poverty and malnutrition, 2 [promoting health care including preventive health] and sanitation 3 [Including contribution to the Swachh Bharat Kosh set-up by the Central Government for the promotion of sanitation] and **making available safe drinking water**;
2. Promoting education;
3. Promoting gender equality, empowering women;
4. Ensuring environmental sustainability;
5. Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art;
6. Measures for the benefit of armed forces veterans, war widows and their dependents;
7. Training to promote rural sports, nationally recognised sports, paralympic sports and Olympic sports;
8. Contribution to the Prime Minister's National Relief Fund;
 - A. Contribution to incubators or research and development projects in the field of science, technology, engineering and medicine, funded by Central Government or State Government or Public Sector Undertaking or any agency of the Central Government or State Government;
 - B. Contributions to public funded Universities;
9. Rural development projects;

²https://upload.indiacode.nic.in/schedulefile?aid=AC_CEN_22_29_00008_201318_1517807327856&rid=79

³ Ibid

10. Slum development;
11. Disaster management.

The **Companies (Corporate Social Responsibility Policy) Rules, 2014** further detail the guidelines for CSR policy formulation, implementation, and reporting.

One of the focus areas under Schedule VII is **ensuring environmental sustainability**, which encompasses initiatives such as water conservation, sanitation, and clean drinking water. This framework links corporate responsibility with water laws, as businesses are now expected to contribute to solving water-related issues.

LEGAL FRAMEWORK FOR WATER IN INDIA

India's water governance is rooted in a complex legal and regulatory framework, primarily based on a mix of **constitutional provisions, central laws, state laws, and judicial interpretations**. Water is a state subject under the **Seventh Schedule of the Indian Constitution**, giving states the authority to legislate on water-related matters.

Key Constitutional Provisions

- **Article 15⁴: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.** This is a fundamental right as envisaged in the Constitution of India which specifically prohibits on being discriminated on the basis of religion, race, caste, sex or place of birth.
- **Article 21⁵: Protection of Life and personal Liberty:** Under the Fundamental rights in the Constitution of India, every person has a right to life which also includes the right to food, right to clean environment and right to health, as well as right to water for drinking and sanitation.
- **Article 25⁶: Free of conscience and free profession, practise and propagation of Religion.** This Fundamental right against Exploitations in the Constitution of India, guarantees freedom to choose any religion and profess, worship, preach and propagate the same at their free will and conscience. This provision supports the right to perform religious rituals while involving water or any other natural resource.
- **Article 39(b)⁷: Certain Principles of policy to be followed by the state:** As under the Directive Principles of State Policy, the state is directed to make certain policies towards securing that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good.⁸
- **Article 47⁹: Duty of the State to raise the level of nutrition and the standard of living and to improve public health.** This direction to the State under DPSP, suggests that it is the duty of the State to raise the level of nutrition and the standard of living and to improve public health. The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.

⁴ Constitution of India

⁵ Ibid

⁶ Ibid

⁷ Constitution of India

⁸ <https://nhrc.nic.in/sites/default/files/Right%20to%20water.pdf>

⁹ Constitution of India

- **Article 48A¹⁰: Protection and improvement of Environment and safeguarding of forests and wildlife.** Though they are not challengeable in the Court of law in India as envisaged in the Constitution of India, under the Directive Principles of State Policies. Though, it directs the State to protect and improve the environment and safeguard forests and wildlife. This also includes the preservation of water bodies that have religious significance.
- **Article 51 (A)(g):** specifically deals with the fundamental duty with respect to Environment. It states that “It shall be the duty of every citizen of India - to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.¹¹” It is important to note that Article 51 (A) (g) imposes a fundamental duty, “to protect and improve the natural environment” only on the “citizens” of India.
- **Article 262¹²: Adjudication of disputes relating to waters of inter-State rivers or river valleys.** This Article under the Constitution describes the relation between the Union and the State where in the Parliament has the absolute authority to adjudicate on matters relating to the dispute, distribution, or control of water which may arise between state with respect to rivers or river valleys. This Article prevents the jurisdiction of any Court including the Supreme Court of India, in connection to inter-state river water dispute.
- Entry 17 List II i.e. State List 7th Schedule of the Constitution States “water that is to say water supplies, irrigation and canal, drainage and embankments, water storage and water power subject to the provisions of entry 56 to the List I”. States are thus free to enact the water law and frame policies in accordance with this provision. Entry 56 of List I (Union List) refer to above states “regulation and development of interstate rivers and river valleys to the extent to which such regulation and development under the control of the union, is declared by parliament by law to be expedient in the public interest.”¹³

National Water Policy and Legal Acts

India’s water-related legislations aim to protect water resources, manage pollution, and promote sustainable usage. The most prominent water laws and policies include:

1. **Water (Prevention and Control of Pollution) Act, 1974:** The Act establishes regulatory frameworks for preventing and controlling water pollution. It empowers the Central and State Pollution Control Boards to monitor industrial discharges and implement measures to prevent pollution of water bodies.
2. **The Environment (Protection) Act, 1986:** This umbrella legislation provides for the protection and improvement of the environment, including water resources. It enables the government to set water quality standards and regulate the discharge of pollutants.
3. **National Water Policy (2012):** India’s National Water Policy lays down the country’s approach to water management, focusing on water conservation, equitable distribution, and sustainable development. The policy emphasizes the need for corporate involvement in water resource management, including wastewater recycling and pollution control.

¹⁰ Ibid

¹¹ Constitution of India

¹² Ibid

¹³ <https://publications.iwmi.org/pdf/H042921.pdf>

4. **The Groundwater Regulation and Control of Development and Management Act, 2007:**
This Act aims to regulate the extraction of groundwater and prevent over-exploitation, ensuring sustainable groundwater use.

CSR AND WATER LAWS: AREAS OF CONVERGENCE

Water scarcity, pollution, and access to clean drinking water are among the most pressing challenges in India. Both CSR legislation and water laws recognize the role of businesses in addressing these issues. The following sections explore how CSR aligns with water laws to address India's water crisis.

Water Conservation and Management

One of the key areas where CSR has been instrumental is in **water conservation**. Companies are investing in projects such as rainwater harvesting, watershed management, and the rejuvenation of lakes and rivers. These initiatives align with the National Water Policy and various state laws that encourage sustainable water use and conservation.

- **ITC Limited**¹⁴ is a prime example, having implemented a large-scale watershed development program across India. The initiative covers over **1 million acres**, impacting millions of people by improving water availability in drought-prone regions.
- **Tata Steel**¹⁵ has developed water recycling plants and rainwater harvesting systems, contributing to both CSR goals and compliance with water laws like the **Water (Prevention and Control of Pollution) Act, 1974**.

Access to Clean Drinking Water

The lack of access to safe drinking water is a significant issue in India, especially in rural areas. Many corporations have taken up this challenge as part of their CSR obligations, working to provide infrastructure for clean drinking water.

- **Coca-Cola India**¹⁶ has initiated projects like **Support My School**, which aims to provide clean drinking water and sanitation facilities in schools. Such initiatives contribute directly to achieving the objectives of the **National Rural Drinking Water Programme (NRDWP)**, which focuses on improving rural water supply.
- **PepsiCo India**¹⁷ has invested in community water projects that have restored over **19 billion litres of water**. These initiatives align with the provisions of the **Water (Prevention and Control of Pollution) Act, 1974**, by ensuring water is sourced sustainably and pollution is minimized.

Sanitation and Hygiene

Under CSR, companies are also involved in building sanitation infrastructure and promoting hygiene practices, which are closely tied to water management. CSR spending on sanitation aligns with the **Swachh Bharat Mission**, a government initiative aimed at improving sanitation facilities across the country.

¹⁴ <https://www.itcportal.com/ITC-Water-Stewardship-Mission.pdf>

¹⁵ <https://www.tatasteel.com/corporate/wealsomaketomorrow/blog/renewing-the-pledge-for-sustainable-water-management/>

¹⁶ <https://www.thoughtco.com/coca-cola-groundwater-depletion-in-india-1204204>

¹⁷ <https://www.pepsico.com/our-impact/esg-topics-a-z/water>

- **Hindustan Unilever's¹⁸ CSR initiative, Swachh Aadat, Swachh Bharat**, focuses on promoting hygiene and sanitation, especially in schools and rural areas. The company's efforts have reached over **100 million people** and are in line with both CSR guidelines and water-related laws aimed at improving public health through clean water and sanitation.

RECOMMENDATIONS FOR STRENGTHENING CSR AND WATER LAW INTEGRATION

Some ways in which companies can incorporate water scarcity into their CSR strategies include:

- **Water Conservation:** Implementing water-saving technologies and practices in their operations to reduce water consumption.
- **Water Stewardship:** Engaging in efforts to protect and restore water resources in the communities where they operate.
- **Supporting Access to Clean Water:** Partnering with NGOs and local organizations to improve access to clean and safe drinking water in water-stressed regions.
- **Water Education:** Raising awareness about water conservation and the importance of responsible water usage among employees, customers, and stakeholders.
- **Responsible Supply Chain:** Encouraging suppliers and partners to adopt sustainable water practices throughout the supply chain.

CONCLUSION

Corporate Social Responsibility (CSR) has become a powerful tool in addressing water-related challenges in India, especially in the realms of water conservation, sanitation, and pollution control. The legal framework under the **Companies Act, 2013** mandates companies to contribute towards such initiatives, and various CSR projects have had positive impacts, particularly in underprivileged areas where access to water and sanitation remains a pressing issue. However, the full potential of CSR in addressing water issues remains untapped due to challenges like lack of coordination, inadequate focus on long-term solutions, limited community involvement, and insufficient monitoring.

Moreover, the convergence of CSR with water laws such as the **Water (Prevention and Control of Pollution) Act, 1974**, though promising, requires better alignment and enforcement to ensure sustainable water management. Many CSR initiatives tend to be short-term or fragmented, failing to tackle the root causes of India's water crisis. For CSR to be transformative, a more strategic approach is necessary, combining regulatory oversight with corporate engagement to deliver meaningful, lasting impacts.

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