



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

CORPORATE PHILANTHROPY IN INDIA

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ABSTRACT

धर्मपरं हितं साधु धर्मेणैव न जीवति। (Arthashastra, 1.14)

"The good of the people is paramount; it is through righteousness alone that one can live."

The key target of this study is to understand Corporate Social Responsibility (CSR) in India with its connectivity to various other Acts or Statutes of Parliament. This study brought forth the concept of CSR with its implied understanding of Social Responsibility since ancient India to modern India. Corporate Social Responsibility (CSR) is a concept that has evolved over centuries, influenced by cultural, philosophical, and economic factors.

In ancient India, CSR principles were deeply rooted in the societal fabric, guided by concepts such as dharma (duty) and ahimsa (non-violence). Kings, merchants, and individuals were expected to fulfill their social responsibilities by promoting the welfare of their subjects, engaging in ethical business practices, protecting the environment, and supporting philanthropic endeavors.

Modern India has witnessed the formalization of CSR through legislation such as the Companies Act, 2013, which mandates companies meeting certain criteria to allocate a portion of their profits towards CSR activities. Indian companies are increasingly recognizing the importance of CSR in building sustainable businesses and enhancing their reputation. CSR initiatives in modern India encompass a wide range of activities, including education, healthcare, environmental conservation, and community development.

Comparatively, CSR practices vary across countries due to cultural, regulatory, and economic differences. Western countries often emphasize shareholder value and voluntary CSR initiatives driven by market forces. In contrast, emerging economies like India may have a stronger emphasis on societal welfare, with CSR sometimes mandated by law.

In conclusion, CSR represents a paradigm shift in business thinking, transcending profit-centric approaches towards a more holistic model that embraces social responsibility and sustainability. By embracing CSR as a core business imperative, companies can drive positive change, foster inclusive growth, and contribute to a more equitable and resilient world. CSR represents a fundamental pillar of responsible business conduct, embodying the ethos of ethical leadership and sustainable development. By integrating CSR into their DNA, organizations can not only enhance their reputation and competitive advantage but also contribute to a more equitable, resilient, and prosperous society for present and future generations. This abstract explores the interpretation and practice of CSR in ancient India, and modern India.

INTRODUCTION

Corporate Social Responsibility (CSR) is a management concept whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders.¹

‘Corporate Social Responsibility is the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large.’²

In the context of sustainable development goals (SDGs) set forth by the United Nations, CSR serves as a powerful tool for advancing the global agenda. By aligning CSR initiatives with the SDGs, businesses contribute to collective efforts aimed at eradicating poverty, promoting social equity, and protecting the planet. Every business organization while doing business uses resources such as sunlight, water, air, place and in return gives it’s contribution for country’s growth by producing, manufacturing goods, products, giving services and in return gives pollution also whether of noise or air or soil or water to the society.

When we take something from the society, we ought to repay it and here is the latest example of applicability of this principle where on August 29, 2023, The National Green Tribunal (NGT) has

¹ According to The United Nations Industrial Development Organisation

² According to World Business Council for Sustainable Development

directed the Border Roads Organisation (BRO) to plant “at least 10,000 trees within a month” in Uttarakhand as part of compensatory plantation for felling trees during construction of road.

CSR IN ANCIENT INDIA

In the context of Corporate Social Responsibility (CSR), several ancient and historic texts from India provide valuable insights and principles that can guide ethical conduct, responsible business practices, and philanthropy. While ancient texts may not explicitly address CSR in the modern sense, they offer timeless wisdom and ethical principles that can inspire individuals and organizations to engage in responsible conduct, philanthropy, and community welfare. By drawing upon the insights from these historic works, contemporary practitioners of CSR can enrich their understanding of ethical business practices and contribute positively to society.

Here are some references:

Manusmriti:

Manusmriti, also known as the Laws of Manu, is an ancient Hindu legal text that lays down rules and principles governing social, moral, and ethical conduct. While some of its injunctions may be considered archaic today, Manusmriti contains provisions related to charity, philanthropy, and social welfare. It emphasizes the duty of individuals, particularly those belonging to the higher varnas (castes), to contribute to the well-being of society through acts of charity and righteous conduct.

Panchatantra:

The Panchatantra is a collection of ancient Indian fables and moral stories attributed to Vishnu Sharma. It imparts wisdom on various aspects of life, including governance, diplomacy, and ethics, through the use of animal allegories. The stories often convey moral lessons about the importance of ethical behavior, compassion, and social responsibility in interpersonal and societal relationships.

Dharmashastra:

Dharmashastra refers to a genre of ancient Indian texts that elucidate principles of dharma (duty), righteousness, and moral conduct. These texts, including works such as the Dharmasutras and

Dharmashastras, provide guidelines for individuals, rulers, and society as a whole to uphold ethical standards and fulfill social responsibilities. They emphasize the importance of charity, compassion, and justice in maintaining social harmony and order.

Jataka Tales:

The Jataka Tales are a collection of stories from the Buddhist tradition that narrate the previous lives of Gautama Buddha, often with moral lessons. Many of these tales emphasize the virtues of generosity, compassion, and selflessness, highlighting the importance of altruistic actions and social responsibility in achieving spiritual growth and enlightenment.

Varna Dharma

Varna dharma or social duty defines the individual's obligations and responsibilities within the nation, society, community, business and family. This is directly relevant to social responsibility (CSR).

Arthashastra:

Written by Chanakya (Kautilya), an ancient Indian economist and strategist, the Arthashastra is an ancient treatise on statecraft, economics, and military strategy. It provides detailed guidelines for governance, taxation, trade, and administration. While primarily focused on the governance of kingdoms, the Arthashastra emphasizes the importance of ethical conduct and social responsibility among rulers, administrators, and merchants.

While the Arthashastra primarily focuses on governance, economics, and statecraft rather than CSR in the modern sense, certain verses can be interpreted to align with principles of corporate social responsibility (CSR).

Duty towards Subjects (Prajā):

प्रजानां च हिते राजा कृत्वा प्रजा हितं चरेत्। (Arthashastra, 1.19)

"The king shall regard the welfare of his subjects as his own welfare."

Ethical Conduct in Business:

व्याजयन्तां निरोध्येत रज्जूतस्य धनं कृते। (Arthashastra, 3.10)

"The king shall punish those who adulterate merchandise, to protect the wealth of the kingdom."

Environmental Protection:

नावकुप्येत वन्याः स्युः कण्ठारस्य वनानि च। (Arthashastra, 2.1)

"Forests should not be disturbed; no one should cut trees without permission."

Promotion of Welfare Programs:

नरपशवमय्यांश्च नगराणि ग्रामाणि च। निर्मन्त्रितानि राजानः कुर्युरारोग्यकर्मणि। (Arthashastra, 2.29)

"The king shall establish hospitals for humans and animals in towns and villages."

Promotion of Agriculture and Cattle:

कृषिगोरक्ष्याश्चैवाधिकरणं वृथा धनम्। (Arthashastra, 2.30)

"The king shall protect agriculture and cattle, as they are the sources of wealth."

These shlokas from the Arthashastra, when interpreted through the lens of CSR, emphasize the responsibilities of governance towards the welfare of the people, ethical conduct in business, protection of the environment, promotion of welfare programs, fair treatment of labor, and support for education.

Bhagavad Geeta

The concept of "**Lokasangraha**" (**welfare of the world**) mentioned in the Gita can be interpreted as a precursor to the modern concept of CSR, wherein individuals and organizations are encouraged to contribute to the well-being of society as a whole.

Sloka from BG which perfectly illustrates CSR according to modern standard:

Chapter 18, Verse 5:

यज्ञदानतपःकर्म न त्याज्यं कार्यमेव तत्।

यज्ञो दानं तपश्चैव पावनानि मनीषिणाम्॥

"Acts of sacrifice, charity, and austerity should not be given up; they must be performed. Indeed, sacrifice, charity, and austerity are the purifiers of the wise."

This verse emphasizes the importance of acts of sacrifice (yajna), charity (dana), and austerity (tapas) as means of purifying oneself and contributing to the welfare of society. It suggests that

these actions should be integral parts of one's life, reflecting the essence of CSR in promoting philanthropy and social welfare.

While the context of ancient India differs from modern corporate environments, these principles underscore the enduring importance of social responsibility and ethical conduct in society.

CSR IN COMPANY LAW

Corporate Social Responsibility commonly known as CSR is a mandatory provision in India enshrined in **Section 135 of the Companies Act, 2013**. In fact, India is the first country in the world to mandate CSR.

According to Section 135(1), every company with:

- A net worth of Rs 500 crore or more,
- A turnover of Rs 1,000 crore or more, or
- Net profit of Rs 5 crore or more,

Are required to spend 2 per cent of their average profits of the previous three years on CSR activities every year.

CSR COMMITTEE

A company has to be formulated under Section 135(1) which shall consist of 3 or more directors out of which at least one director has to be an independent director or it shall consist of 2 directors if it is a company which is not obliged to appoint independent directors as provided under Section 149(4).

FUNCTIONS OF THE CSR COMMITTEE -Section 135 (3):

- Formulation and recommendation to the board of a CSR policy which shall indicate the activities undertaken by the company
- Recommend the amount of expenditure in activities
- Monitor the CSR policy of the company from time to time

FUNCTIONS OF THE BOARD- Section 134 (4):

- Approve CSR policy as recommended by the committee and disclose contents of such policy in its report and also place it on to the website of the company.

- Ensure that the activities as are included in the CSR policy are undertaken by the company

COMPANIES (AMENDMENT) ACT, 2019

This Act was passed by the Parliament in July 2019. The changes recommended under the latest amendments to the Companies Act in regards to CSR as follows:

- Companies will have to keep an unspent amount into a special account for the purpose of CSR
- This amount, if left unspent after a period of 3 years, will be moved into a fund specified in Schedule VII of the Act. This could even be Prime Minister's relief fund.

SCHEDULE VII OF THE COMPANIES ACT, 2013

It specifies the areas or subjects to be undertaken by the company as CSR activities. Activities included in this schedule are of national importance and relates to sustainable and holistic development.

COMPANIES (CSR POLICY) RULES, 2014

It prescribes operational framework and the manner in which companies shall comply with CSR provisions of the Act.

GOVERNMENT PROMOTING CSR

National Voluntary Guidelines on Social, Environmental, and Economic Responsibilities of Business (NVGs):

Issued by the Ministry of Corporate Affairs in 2011, these guidelines provide a framework for businesses to integrate social and environmental concerns into their operations and interactions with stakeholders.

CSR AND INDIAN CONSTITUTIONAL LAW

The Constitution is THE BHAGVAD GEETA for every citizen of India. Every statute, act, law derives its force from the Constitution and no law can bypass this Constitution.

Article 47, 48A, and 51A(g) from the constitutional mandate to protect and improve the

environment.

It was held by Supreme Court that pollution free environment is an integral part of the right to life under Article 21 of the Constitution.³

It has been held that the public interest litigation is maintainable for ensuring enjoyment of pollution free water and air which is included in the 'RIGHT TO LIVE' under Article 21 of the constitution.⁴

Church of God (Full Gospel) in India Vs. K.K.R. Majestic Colony Welfare Assn. (2000)

The Apex Court held that noise pollution amounts to violation of Article 21 of the Constitution.

In Re Noise Pollution (AIR 2005)

The Supreme Court held that Freedom from noise pollution is a part of the right to life under article 21 of the Constitution. Anyone who wishes to live in peace, comfort, and quiet within his house has a right to prevent the noise as pollutant reaching him. Article 21 includes freedom from Noise Pollution

Kuldip Singh, J. *while delivering judgment on behalf of the court held that*⁵.

CSR AND ENVIRONMENT LAW

Environment Protection is the prime objective for every company doing CSR because it is the environment which gets most affected by companies pollutants and many resources in the environment are non-reuseable.

1. POLLUTER PAYS PRINCIPLE

The Polluter Pays Principle imposes liability on a person who pollutes the environment to compensate for the damage caused and restore it onto its original state. Apex Court in its judicial pronouncement enlightened this Polluter Pays Principle as being a part of the Environmental Law regime in the case of:

³ Municipal Council, Ratlam Vs. Shri Vardichand & Ors. (1980)

⁴ Subhas Kumar Vs. Union of India (AIR 1991)

⁵ industries are of vital importance for the country's progress as they generate foreign exchange and provides employment avenues, but having regard to pollution caused by them, principle of "Sustainable Development" has to be adopted as a balancing concept between ecology and development

Indian Council for Enviro-Legal Action Vs. Union of India (1996)

The court held that once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity.

2. PRECAUTIONARY PRINCIPLE

Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation. Precautionary Principle along with the principle of Polluter Pays Principle of sustainable development are mentioned in Section 20 of the NGT Act which instructs the tribunal to apply these principles while passing any order or decision or award

Vellore Citizens Welfare Forum Vs. Union of India (1996)

In this case, the Supreme Court first accepted and implemented the precautionary principle as part of the environmental law of the country and shifted the burden of proof onto the developer or industrialist who proposes to alter the status quo.

3. DEEP POCKET THEORY

It refers to the idea that the uncertainty of an activity should be borne by the person who is in a better or a relatively good position to handle such a risk.

This theory has been discussed in the case of:

M.C Mehta Vs. Union of India (1986)- Sriram Industries Case- Oleum Gas leak case

CSR INITIATIVES BY VARIOUS BUSINESS ORGANIZATIONS IN INDIA

1) INFOSYS

Infosys Science Foundation

It is not for profit trust was set up in 2009 by Infosys with the objective of encouraging, recognizing and fostering world class research connected to India. The foundation aims at honoring the outstanding achievements of researchers and scientists in 6 categories:

Economics

Engineering

Computer Science

Humanities and Social Science and Life Sciences

Mathematical Sciences and Physical Sciences

We can have a look at Infosys ESG report 2022-23 in which it is very clear how Infosys company is growing by each passing day while contributing towards country's growth.

ESG reports present:

Infosys has been regarded as the world's most ethical company for the third year in a row recognized by Ethisphere

Infosys has built groundwater injection wells at Bengaluru, Chandigarh, Chennai, Hyderabad, Jaipur, Mysuru and Pune campuses.

2) TATA GROUP

DHANII

DHANII stands for Dairy Health and Nutrition Initiative India Foundation (DHANII). DHANII is a nonprofit that works as a delivery and implementation arm for the Tata Dairy Mission initiative, an effort by the Tata Trusts to enhance the incomes of milk producers in rural India through capacity building.

Titan Kanya Programme

In 2013, Titan Company launched an initiative to empower the girl child. Called Titan Kanya, the programme has been implemented in partnership with Project Nanhi Kali, a non-governmental organization jointly run by the KC Mahindra Education Trust and the Nandi Foundation; and IIMPACT, an initiative of the alumni batch of 1978 from the Indian Institute of Management Ahmedabad. With an initial target of supporting 10,000 girls from urban, rural and tribal belts, located in remote areas with limited access to schools, Titan Kanya today has touched the lives of over 17,000 girls through its 400+ local learning centers spread across villages in Tamil Nadu, Uttar Pradesh, Uttarakhand and West Bengal.

Masti Ki Pathshala

Masti Ki Pathshala is a residential bridge course (RBC) for the all-round development of street children and child laborers to make Jamshedpur a child-labour-free city. The project started in

2016 with a school for 100 boys with a lot of roadblocks and pushback

3) MAHINDRA & MAHINDRA

K.C Mahindra Foundation

This foundation was founded by K.C. Mahindra Education Trust in the year 1953. It was set up to promote literacy and higher learning in the country.

Project Hariyali

This project has skilled 1,288 master trainers and trained 9,000 farmers in maintaining micro nurseries. This project aims at:

Enhancing Bio-diversity

Improving soil fertility

Improving livelihood- 25,984 lives of farmer's families were impacted by this project.

Project Nanhi Kali

This Project was founded in 1996 at K.C. Mahindra Education Trust by Anand Mahindra with the goal of educating underprivileged girls in India.

CONCLUSION

While ancient Indian principles continue to influence CSR in modern India, global trends and best practices also shape CSR strategies. Ultimately, CSR is a dynamic concept that reflects the evolving relationship between businesses and society, drawing on both traditional wisdom and contemporary approaches to sustainable development.

Comparatively, CSR practices vary across countries due to cultural, regulatory, and economic differences. Western countries often emphasize shareholder value and voluntary CSR initiatives driven by market forces. In contrast, emerging economies like India may have a stronger emphasis on societal welfare, with CSR sometimes mandated by law. CSR is not a new concept in India it's just a same person with novel name, earlier it was known as social responsibility. India is a country where through ancient times welfare of the people is regarded as of paramount importance. CSR initiatives in modern India encompass a wide range of activities, including education, healthcare,

environmental conservation, and community development.

In our mundane language we always say that 'SHARING IS CARING' and this thing is just so rooted in our culture whether we are in any position in life or whatever we do. Through Companies Act we have mandated CSR but since time immemorial we are doing welfare activities.

CSR represents a fundamental pillar of responsible business conduct, embodying the ethos of ethical leadership and sustainable development. By integrating CSR into our DNA, organizations can not only enhance their reputation and competitive advantage but also contribute to a more equitable, resilient, and prosperous society for present and future generations.

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