Conclusion

The over all survey picturises complex but three different regimes of evolution, development and growth of water laws in India with each having their own social, political and economic set up affecting all state activities. It may be characterised by discreteness and lack of continuity.

Although of pre-colonial times the origin and development of water resources management in ancient Bharat is lost in legends but it is undeviable that legal precepts relating to water were principally customary. Based on religious sanctions and practices. The most ideal system in this period may be found during Mauryan rule. The laws upheld moral as well as legal commands in which former were mostly on individual aspects of water uses etc. While latter provided for public uses of water and were observed mainly due to grave consequences of sanctions like beheading etc. It dealt with proprietary in water, mischief against state water system, regulation of water for irrigation, water Transport etc. The state practices also extended to water uses in times of war. The concept of better distribution and obviation of individual monopoly finds its place only in Manu who himself ordained that tanks, wells, cisterns and fountains be built in a place where land boundaries met. All customary norms were observed and applied within the Vedic society influencing ones

rights to access and use of water and its distribution.

The local customs and community practices continued to govern water resources management in mediaevel Hindustan too. Though the Islamic principles recognised water as a common property of all and misuse and wastage sinful, how these religious principles relating to water were brought into practical operation and how effectively is unclear. The sanctions on water uses in Islam are less serious compared to those in vedic system.

The present system of water and water based resources management by law is creation of British who arrived in India with different experiences, backgrounds and objectives. They practiced colonial and imperialistic policies confiring all state activities within the bounds of such Philosophy and exploitative ideology which is reflected in almost every law made then. It were mainly English laws brought in step by step, is clear from Chapter, 1726 and 1833. But legal principles represented two distinct characterstics. First the principle of ownership of water is very much close to Roman law concept providing that there can be no ownership or proprietary rights in running water of a stream, river or other natural channel. Such water is "publici juris" in the sense it is public or common to anyone having a right to access. Saving clause in section 2 (c) of Easement Act, 1882 and many provisions under irrigation laws incorporate such principles. Two, all laws were

primarily aimed at facilitating the economic and administrative activities of the British Indians. Thus not having concern about social justice and related things. So all laws were moulded basically to subserve best the colonial interests and hence had "repressive" potentials. The conferral of wide, unstructured and undefined discretionary powers on statutory authorities and unsatisfactory procedures for redressal of grievances may be cited as evidence to such state of affairs. hThe operation of laws (made by a Legislative alien in representation and experience and without any sight of Indian conditions) of such a nature gave the wielders extensive control over vast resources. And the system so created fell without continuity and relationship of pre-British inst tutions and system. The multiplicity of cess, betterment contribution laws and laws relating to unrestricted fixation of water-rates in irrigation reinforces the exploitative and power securing nature of the rules without reciprocating benefits to those administered.

The pace of law making on the resources continues to be unabetted in post-colonial period too. A large number of enactments add to already existing volume of laws while constitution spells out policies as regards to equal distribution, non-monopolisation, protection, preservation and conservation of these resources, the planning process furnishes useful information for guidelines and further development in this field. But nothing much has been achieved in water resources management area as there is lack of effective and clear-cut planning taking into account the

quantity of available water resources in the country and their uses in different fields with the direction of development. Much less has been the impact of planning on legislation. The recommendations of National Barh Ayog for bringing about suitable legislation on flood control (which has been repeatedly emphasised in plans), for instance, is yet to be materialised- (Seee Annexure II). Thus in fact most of the planning relating to water resources necessitate and end up with, executive not legislative action. In this way most of Legislative activities go unnoticed to the pre-legislation experiences. The recently concluded National Water Policy, fixing priorities and declaring right to drinking water as a basic right, is still to be seen in action.

The Laws, thus, on various aspects of water resources satisfy only the quantum needs with near total incomprehension of relationship between policy, plans and the law. The multiplicity and operation of such laws is also vexed with many administrative and other problems. For example irrigation Laws in different states existing with earlier laws create confusion for administration as well as beneficiar in addition to "defining different lines of authority and diversification of control for operation and management of irrigation works."[85] Wide discretionary powers exist under these laws in matters of water-supply, water-courses, field channels, requisition of labour in emergency and normal times, drainage, prevention of water logging and levies. Such undefined discretion is antithesis to the constitutional

philosophy and policy of equitable distribution of the resources. Regulatory laws are made even to the extent of depriving one of his existing rights in water as, for example, Komaon And Garhwal Water (Collection, Retention and Distribution) Act, 1975 expressly abolished all existing rights. Many of the laws pose the problems of jurisdiction. For example water-supply in Uttar Pradesh is governed by a number of laws like U.P Water-Supply and Sewerage Act, 1975; municipal and Panchayati Raj Laws etc. There has not been any comprehensive legislation on flood control, urgently needed as per recommendations of the National Barh Ayog, dealing with all its aspects. Similarly there are very few laws on regulation of ground water uses while alarming problems relating to sub-soil waters are frequently noticed. The over exploitation of underground waters have resulted in reduction of water level some-times going much lower leading to drought and saline infestation in coastal areas.

"The sinking of Calcutta City due to over exploitation of the underground water adds another dimension to the prolstem.[86] There is also absence of laws on dam construction, dam safety etc. vast areas of inhabitation are submerged in execution of such projects in addition to biological, ecological problems and dam disasters. The result of absence of any jurisprodence on dam is that "dam construction.....is... virtually immune from constitutional and legal accountability"[87] It is only through "social Action Litigation" groups that some progress is made in this area. The pollution laws are couched

with so much technical and legal formalities as to make it near non-existent in terms of output. Lack of arrangement to procure feel-back, and evaluative measures hinder one to analyse gains from all such laws.

The unconvincing regime of water laws, as revealed by the foregoing survey, necessitates the following steps to make the same more purposeful-------

(i) The review of whole lot of colonial and post-cold water laws is of urgent concern with a view to ass their efficiency, feasibility and desirability in the changed circumstances,

(ii) to avoid confusion amd chaos as far as possible legislations should be reduced to minimum level,

(iii) the planning of water resources has not been satisfactory and even today major concern is noticed in agricultural sector[38] while other areas are equally important. A comprehensive integrated water resources planning is urgently needed, which takes into account the overall resources available in the country and priority of their uses in diff sectors alongwith the scientific and technological progress to establish legitimate relationship betw "science and society." Accordingly the laws may be evolved and expected to play its role,

(iv) in some areas like inter-state water disputes, model legislation is needed for resolution of a dispute. This would prevent the subject matter from being excessively politicised.

(v) The presence of laws with excessive discretionary powers makes it suspect of rendering adequate justice relating to water and water based resources. So the discretionary powers should be defined well and curtailed as far as possible.