

Such plans will deal with matters of common interest, sharing of resources, finance and so on. Similarly even metropolitan planning will be carried out.

These provisions, if translated into law will improve the integrated planning process and promote the development of areas with common problems.

Bestowing such powers to the urban and urban bodies will increase the degree of accountability expected from them. Provisions will also have to<sup>be</sup> included in various laws in the form of sanctions etc. to check unlawful exercise of powers and mandatory performance of duties. Provision for a municipal ombudsman who can check arbitrary exercise of power will be a welcome step here.

#### IV CONCLUSION

If water and water based resources are to be developed well, ecological strains reduced and the fruits of development distributed fairly and equitably, its management and use has to be accountable. Therefore for every action relating to the use and management of the resource, the notion of accountability is inevitably involved. The purpose of this paper was not to study the operation of this notion in the whole realm of water use and management but only to highlight certain such examples wherein it becomes applicable. The emph-

asis of this paper was an accountability in law as law is a potential resource for securing sustainable and equitable development of the resource.

The study, first and foremost, recommends with urgency the need to legislate on areas wherein regulation is absolutely necessary like laws for prevention and control of floods and droughts, soil conservation, water shed management, management of small water bodies, ground water management and so on.

Secondly, there is an imminent need to strengthen the grass root democratic structures like the panchayats and municipalities.

Thirdly, from the study of all the Acts an interesting finding emerges. The occurrence of indemnity clauses is more in the post-independence statutes than in the pre-independence statutes. Since the indemnity clauses protect the actions of the administrators taken in good faith, one would have expected it to appear more in the pre-independence statutes. As far as judicial officers, including a judge, magistrate, justice of the peace, collector or other persons acting judicially are concerned, the Judicial Officers Protection Act, 1850, protects them provided the authority concern

in good faith believes to have jurisdiction to deal with the matter. Subject to this limitation, even their mala fide actions are protected. Under the General Clauses Act, 1897 an act is deemed to be done in good faith if it is done honestly, whether negligently or not. The Law Commission in its first report has also recommended that such clauses should not be made to extend to negligent acts however honestly done. Therefore, it is very necessary to dilute immunity for the administrators by making this amendment so that more accountability can be ensured.

Further, the finality or ouster clauses that frequently appear in all the Acts needs to be removed unless proper independent dispute settlement machinery is provided in the Act itself. Even though such clauses serve the purpose of checking the flooding of cases in the courts, it can do harm too. By adding this clause, the administrator many a times become the judge of his/her own cause which is contrary to the ordinary canons of justice. Even if court intervention is to be sought, it can only be done through a writ petition which is again a restrictive remedy available in exceptional circumstances. Further in environmental disputes, a suit is a more appropriate remedy

as it involves complicated questions of fact which can be resolved only after recording evidence.

Fifthly, specific penalties have to be laid down for specific offences committed by the administrators in the statute itself and an environment court or ombudsman/<sup>or</sup> a tribunal wherein the ordinary citizen has easy access has to be constituted. In this way the need to strain the courts in SAL cases will become minimal and for all environmental offences speedy delivery of justice may become a reality.

Sixthly, more scope will have to be provided to involve the people at all levels of management including planning and policy making. In the region specific model of control, unless this is done desired results may not be attained. There should be provisions accommodating irrigation committees like in the Maharashtra Irrigation Act, 1976, fisheries cooperatives, ferries cooperatives and ordinary NGOs working for certain legitimate causes within the Act.

Last but not the <sup>4</sup>last, no development is possible without accountability of the people. If the beneficiaries take proper care of the resource, legal interference may not be necessary in many areas. In M.C.Mehta's<sup>56</sup> case, it was observed that environment consciousness must be built up at the grassroot level by including such a subject in the curriculum of schools. In the laws, more imaginative

strategies like incentives and disincentives will have to be devised to secure accountability of the users rather than penalising them for misuse of the resource.