

**Integration of Formal and Semi - formal Local Governance Systems  
to Ensure Accountability, Transparency and Legitimacy  
for Sustainable Development in India.**

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**ABSTRACT**

It is now generally realized that the sustainable development can only be achieved through a strengthening of democratic governance institutions and processes that provide the necessary framework for social and economic progress. To minimize environmental change and to achieve sustainable development, the governance architecture needs to be strengthened not only at the international, regional and national levels but also at the local levels as these are inextricably linked and mutually interdependent. The eleventh schedule of the Indian Constitution devolves powers on several environmental activities such as soil conservation, water management, social forestry and non-conventional energy to the panchayats (rural local government - RLG). The twelfth schedule lists activities such as water supply, public health and sanitation, solid waste management and environmental protection which the municipalities (urban local government - ULG) can undertake. These grass root level institutions can facilitate greater participation by the people in local affairs, promote better planning and implementation of developmental and environmental programmes and be more responsive to the needs of the people with the overall objective of containing environmental change. The institutions such as village planning forum, district planning committee, etc., available under these local governments can be utilized for achieving the objective of development with environmental concerns. Further, there are several semi formal governance system including joint forest management committees, watershed committees, wetland conservation committees, biodiversity management committees, ecotourism committees, etc., are existing at local government levels. The present paper analyses the integrated role of RLGs, ULGs and semi formal governing institutions to achieve the objective of natural resource and environment management at local level. There are also strong arguments to recommend that there is a need for convergence of all semi-formal institutions related to environment at local level for effective delivery and achievement of the objective. It is

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concluded that the existing legal and non-legal frame work available with formal and semi-formal local governance system in India, if integrated and interlinked, can effectively be utilized for environment improvement at local levels, which in turn can result in overall environment improvement at national and global level.

*Key words: local governance, panchayats, environment improvement, sustainable development.*

**Introduction:** It is widely realized that there is a direct link between poverty and local environmental degradation. There is no doubt that the natural resources constitute the major means of livelihood and sustenance for people in most developing countries. In developed countries, environmental pollution poses a serious threat to the health and well being of large populations, especially the poor and marginalized among them. Environmental degradation, therefore, constitutes a direct threat to rural and urban people, particularly the poor, across the world. The U.N. Declaration on the Right to Development recognizes equitable access to basic resources as inherent to the right to development, which is a common right of mankind. In holding up the goal of “sustainable development”, the global declaration makes the right to equitable access to basic resources a right not only of present society but also of future generations. In predominantly agrarian societies such as India, wherein the larger proportion of the population is engaged in agricultural and allied activities, sustainable and equitable management of water and other natural resources are critical to enable and ensure the right to livelihood, which has been legally recognized as an inalienable part of the fundamental right to life (Chauhan *et al.*, 2003). The question that arises is as to the mode of governance that would ensure and protect such a right without compromising environmental concerns. It is now increasingly realized that the local governance system need to play an important role in environment improvement and reducing the environmental change (King, 2005).

The eleventh schedule of the Indian Constitution devolves powers on several environmental activities such as soil conservation, water management, social forestry and non-conventional energy to the panchayats (rural local government - RLG). The twelfth schedule lists activities such as water supply, public health and sanitation, solid waste management and environmental protection which the municipalities (urban local government - ULG) can undertake. These grass root level institutions can facilitate greater participation by the people in local affairs, promote better planning and implementation of developmental and

environmental programmes and be more responsive to the needs of the people with the overall objective of containing environmental change. The institutions such as village planning forum, district planning committee, etc., available under these local governments can be utilized for achieving the objective of development with environmental concerns. Further, there are several semi formal governance system including joint forest management committees, watershed committees, wetland conservation committees, biodiversity management committees, ecotourism committees, etc., are existing at local government levels. It is therefore necessary to integrate all these institutions in order to achieve meaningful sustainable development in India by incorporating accountability, transparency and legitimacy in the systems of these institutions. This present paper analyses the possible ways of integrating these institutions to achieve the objective of minimizing environmental change and to improve environment within the present legal framework in India.

**Local Environmental Law in India:** The subject of local environmental law in India has necessarily to be approached with a historical perspective. The use and management of natural resources for human purposes has a history that is substantially older than the history of modern law introduced through colonial rule (Vani and Asthana 2004). These traditions have persisted, resulting in a sustained tension between State and non-state legal frameworks. The modern or formal legal framework relating to natural resources in India has its origin in the colonial period, which has been carried forward into the post-Constitutional period in a substantially identical form. The jurisprudential framework underlying formal natural resources law is the Anglo-Saxon legal system, the foundation of the Indian legal system today (Vani and Asthana 2004). Under this system, the three identified sources of law are statute, precedent and doctrine in that order of precedence, with statute bearing over-riding authority over the other sources. Wherever precedent or doctrine contradicts statute, however old the former, the latter will prevail. This is of particular importance in the realm of natural resources management in India, where there prevails a significant level of combination of old and new technologies and institutions.

**Dharmic Law and Customs:** In pre-modern Indian society, the undisputed law - making and judicial authority of the King did not permit him to modify either dharmic laws or common customs of localities and group. The King was prohibited [by Dharmic law] from interfering with the customs of countries, castes and families and other group. In addition to this prohibition, the State was also expected to 'act' in support of customary law (Vani, 2002).

Rural society was left to be ruled by custom and tradition rather than by royal edict. In the Muslim period, for example, which substantially followed the mode of governance of earlier Hindu kings, there were no taxes on horticulture, sheep raising, fisheries or on forest holdings. When once a tax was imposed by a governor in Srinagar on sheep and fishing, strong local protests resulted in a royal edict withdrawing the tax as it was opposed to custom. With custom having an authority as an independent source of law, local control and management of resources was thus not only de facto, but de jure (Vani, 2002). The role of the State in resource management, construction of water systems, giving land grants - did not preclude local autonomy in management. The role of the State in the realm of custom was “administrative” not “legislative”. This particular legal arrangement promoted local law-making in consonance with local conditions and needs. Custom is of current relevance because of the persistence of customary practices or local laws in the use of natural resources in the country. This may be observed in prevailing community forest use practices, traditional water technologies, landholding patterns, agricultural practices, fisheries, common land uses for agricultural and non-agricultural purposes, etc (Vani, 2002).

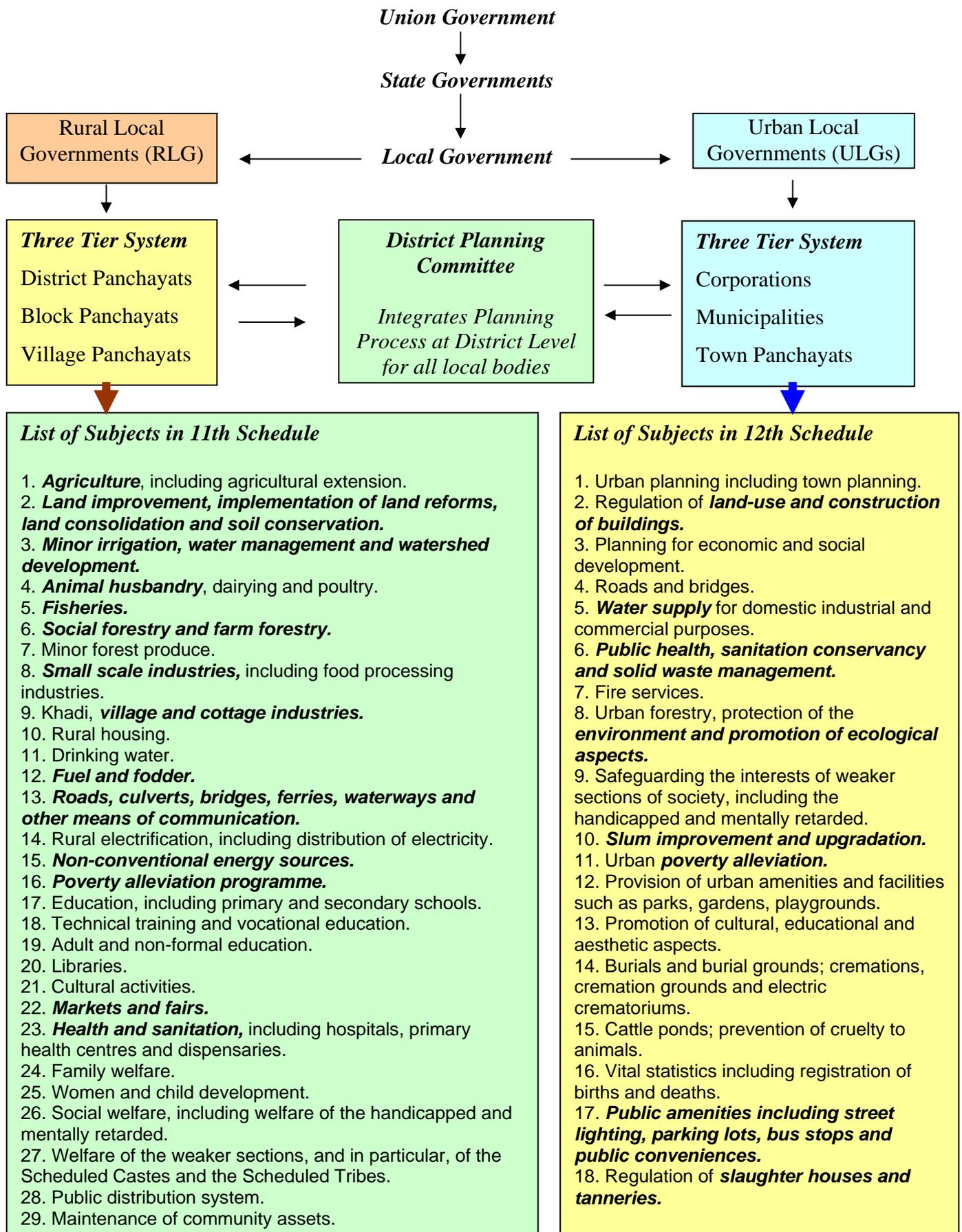
**Local Governance in India:** Local government institutions have always existed in India in one form or another since ancient times. The term ‘panchayat’ that is used to refer to modern elected local government institutions is an ancient one, denoting the tradition of a committee of five persons (usually village elders), which functioned to administer the affairs of the local community (HDRC, UNDP India 2003). The ancient Panchayat, however, had a range of powers and functions that has not been seen in modern times. The present form of local government owes its genesis to British colonial rule (Vani and Asthana 2004). The role envisaged initially for them was mainly of a civic nature like maintaining health and sanitation, promoting education, and “minor matters of village importance.

**Earlier Constitutional Provisions for Local Government:** Power to legislate for local government which includes village administration rests with the States by virtue of entry 5, List II of the Seventh Schedule. Under Article 40, the Directive Principles of State Policy of the Constitution imposes a duty on States to establish Panchayat Raj. According to this Article, “The State shall take steps to organize village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.”

**Provisions after 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments:** The 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts of 1992 and 1993 respectively were the first attempt to give a new constitutional status to Panchayats since the adoption of the Constitution. The amendments contain both mandatory and discretionary provisions. The mandatory provisions related to the structure of local governments, while the discretionary provisions related to the functions and powers of the local bodies.

The operative features of the 73<sup>rd</sup> Amendment [Art.243] are as follows.

1. The Constitution mandates the formation of a three-tier Panchayat system in every State, whose members are to be directly elected.
2. Mandatory provisions have been made for the tenure of Panchayats, their composition, reservation of seats for specific groups, disqualification of membership, constitution of Finance Commissions in every State for recommending financial structures for local bodies, etc.
3. The Legislatures of States to endow Panchayats with powers.
  - Such endowing is subject to the provisions of the Constitution (i.e. existing distribution of legislative powers).
  - The Panchayats may be endowed with such powers as may enable them to function as institutions of self-government.
  - Such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein.
  - The devolution of powers may be with respect to:
    - a) the preparation of plans for economic development and social justice.
    - b) The implementation of schemes for economic development and social justice as may be entrusted to them, including those in relation to the matters listed in the Eleventh Schedule.
    - c) Levy, collect and appropriate taxes, duties, tolls and fees as the State may determine subject to such conditions as it may consider appropriate.

**Fig 1: Formal Governance System in India with Special Reference to Local Governance**

The Eleventh Schedule lists 29 functional items ranging from agricultural extension, implementation of land, reforms, poverty alleviation, and promotion of small-scale industries to health, primary and secondary education and family welfare. Of the matters listed in the Eleventh Schedule, as many as 14 are relevant to natural resources management and environment.

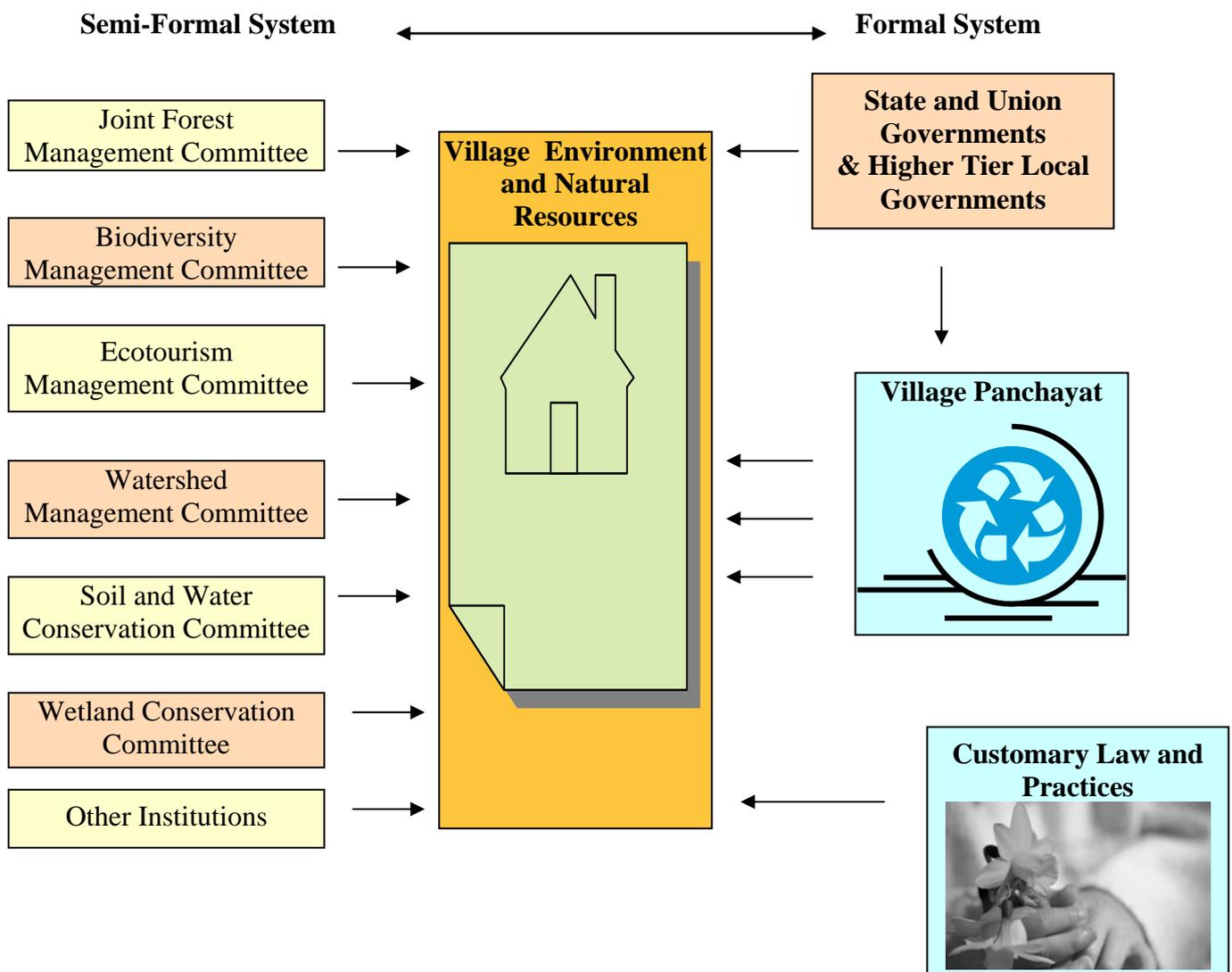
The position of Municipalities (ULG) after the 74<sup>th</sup> Constitutional Amendment is exactly identical to that of Panchayats in the Constitution. A half of the total 18 matters listed in the Twelfth Schedule relate to natural resources and environment.

### **Interaction between Formal, Semi-formal and Informal Systems at Village level.**

The Panchayat institutions are the constitutional authority at the gross root level having powers as per the provisions of the constitutions and state legislations. This formed the basis for formation of several semi formal governing institutions with the involvement of panchayats, which are being formed on democratic process (Baumann and Farrington 2003). The joint forest management committees, watershed committees, wetland conservation committees, biodiversity management committees, ecotourism committees, eco-development committees, kisan vikas sabhas, etc., are some of such systems created based on the above process. Presently, each of such institutions is created with a specific mandate and thus functioning as separate entity without any linkage to other. Lack of proper linkage to each other is compounding confusion, duplicating efforts and increasing financial expenditure (Chauhan *et al.*, 2003). In order to solve such problems, it is necessary to create complementarity among these institutions by converging them into one organization addressing different natural resource management needs. It is proposed that all these institutions have to be merged into one through the unifying factor, the Gram Panchayat (RLG). The unified institution may be called as Village Natural Resource Management Agency (Village – NRMA) with the proper combination of representation from various existing semi formal institutions in the village. This Village NRMA will have to function under concerned LG (Gram Panchayat) and accountable to the Gram Panchayat as it is a Constitutional, Democratic and Legal body available at local level. The plans and budget of V-NRMA have to be approved by the LG. However, the Village NRMA will function with specific authority under LG at village level to take care of overall management of the natural resources and environment in their jurisdiction with the support of various LGs and state

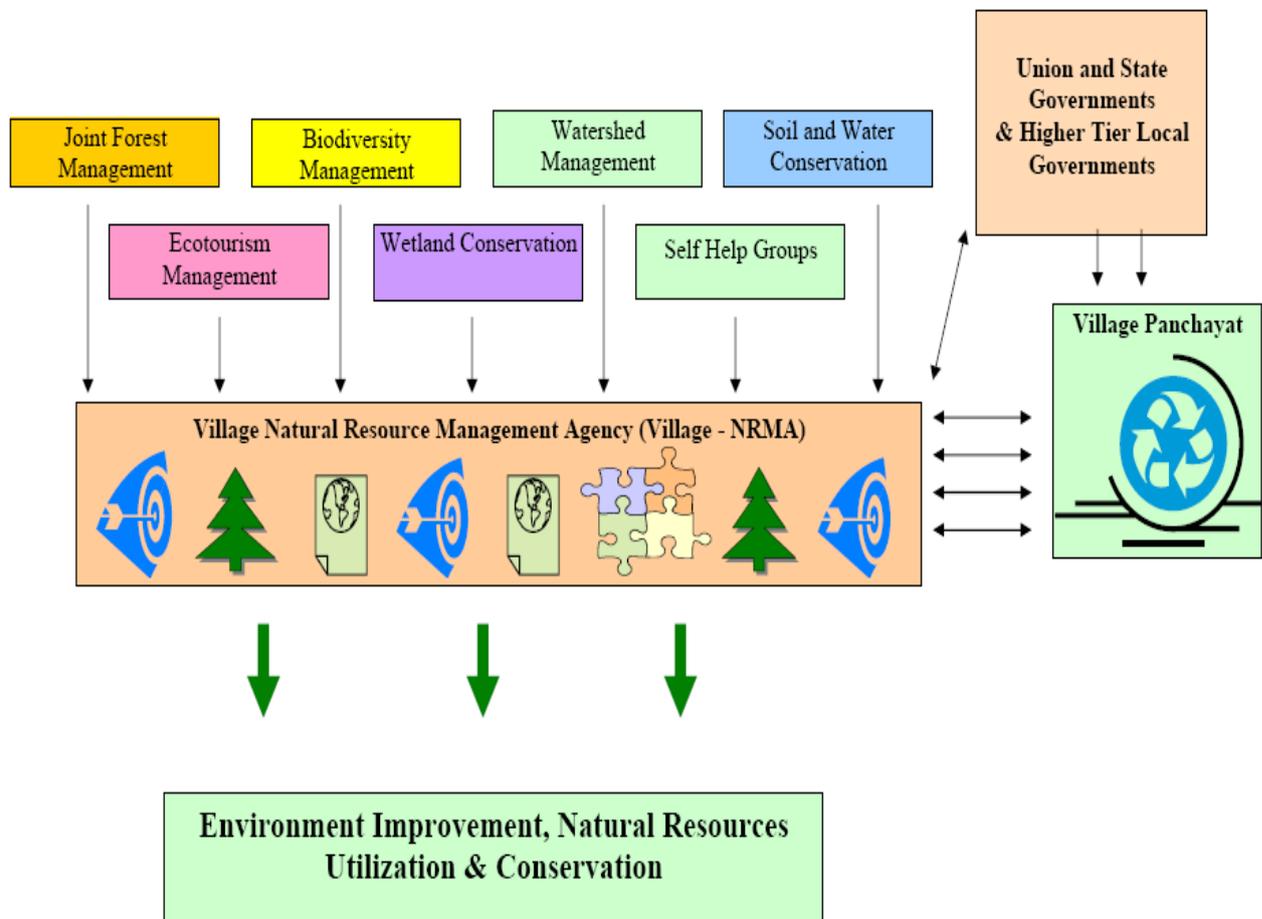
government line departments. The Village NRMA will also have to take care of the development and livelihood need of the people with the support of the Local, State and National governments. The village NRMA may be vested with powers to deal with the customary law and practices. The accepted customary practices may be duly reflected in their course of action for environment and natural resource improvement. The Village-NRMA may also be vested with the legal powers through existing law in force. A set of guidelines need to be framed to regulate and guide the Village NRAM to ensure environment improvement while administering activities by it at village level. This in turn will result in a holistic management of the natural resources through proper planning and implementation with the prevailing legal frame work. The V- NRMA shall produce annual report on environment and natural resources of the village concerned and make it available for all stakeholders to access.

Fig -2. The Interaction between Formal, Semi formal and Informal Systems at Village Level



**Fig - 3: Integration of Formal and Semi Formal Governance Systems at Village Level**

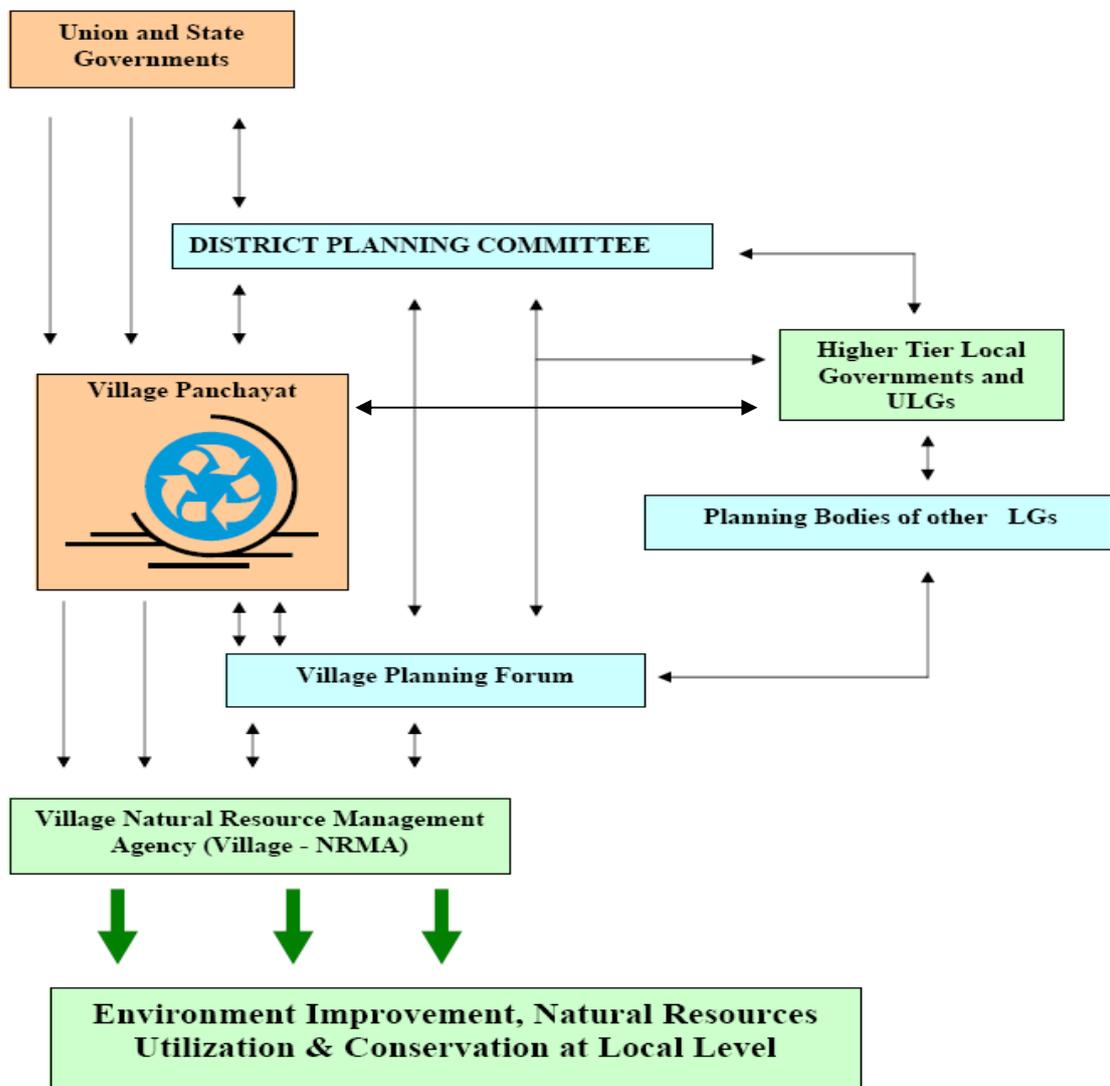
INTEGRATION OF FORMAL AND SEMI FORMAL SYSTEMS AT VILLAGE LEVEL FOR ENVIRONMENT IMPROVEMENT



**Integrating the Role of Various other Related Institutions with the Village Level Systems:** The village planning forum (body) takes care of planning activities related to each village. Each RLGs uses this body to formulate the plans of their own. Similarly such organization exists for ULGs. The Plans of all the local governing bodies such as Rural Local Government (RLG) and Urban Local Government have to be approved by the District Planning Committee (DPC), a Constitutional body regulating the plans of RLG and ULG in each district. The DPC has a technical support from the state for all purposes. This important organization can be well utilized to address the issue related to environmental improvement and change at local level. The mandate of these institutions has to be defined in the directions of environmental improvement with the involvement of all RLG and ULG in each district. The plan of action related to Natural resource and Environment may be prepared by the

Village-NRMA for funding under various sources including the local government sources. The planning body of each LG may take the proposals of the Village – NRMA into consideration while preparing its own annual or periodical plans and reflect the plans of Village-NRMA in its own plan as well. The approved plans of the LGs may then be scrutinized for all aspects including the environment aspects by the DPC. The DPC may recommend additional outlay according to the essential needs of each local body from higher tiers and may recommend the issues which are not able to be met up to the State and Union Governments.

**Fig -4: Integration of roles of various other Related Institutions with the Village level Systems**



## CONCLUSION

As discussed above there are several ways and means available in India for utilizing the local governing institutions, customary law, semi-formal governing institution for natural resource and environment management at local level. Therefore it is concluded that the existing legal and non-legal frame work available with formal and semi-formal local governance system in India, if integrated and interlinked can effectively be utilized for environment improvement and also for minimizing the environmental change at local levels, which in turn can result in overall environment improvement at national and global level.

**Acknowledgement:** The author is expresses his sincere thanks to the Government of Sikkim for allowing and supporting him to attend the conference, the Swiss Agency for Development and Cooperation, India for travel assistance and Department of Environmental Policy Analysis, Institute for Environmental Studies, Vrije Universiteit, Amsterdam for providing local logistical support at Amsterdam.

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