

FSSM in Urban India: Legal and Institutional Framework

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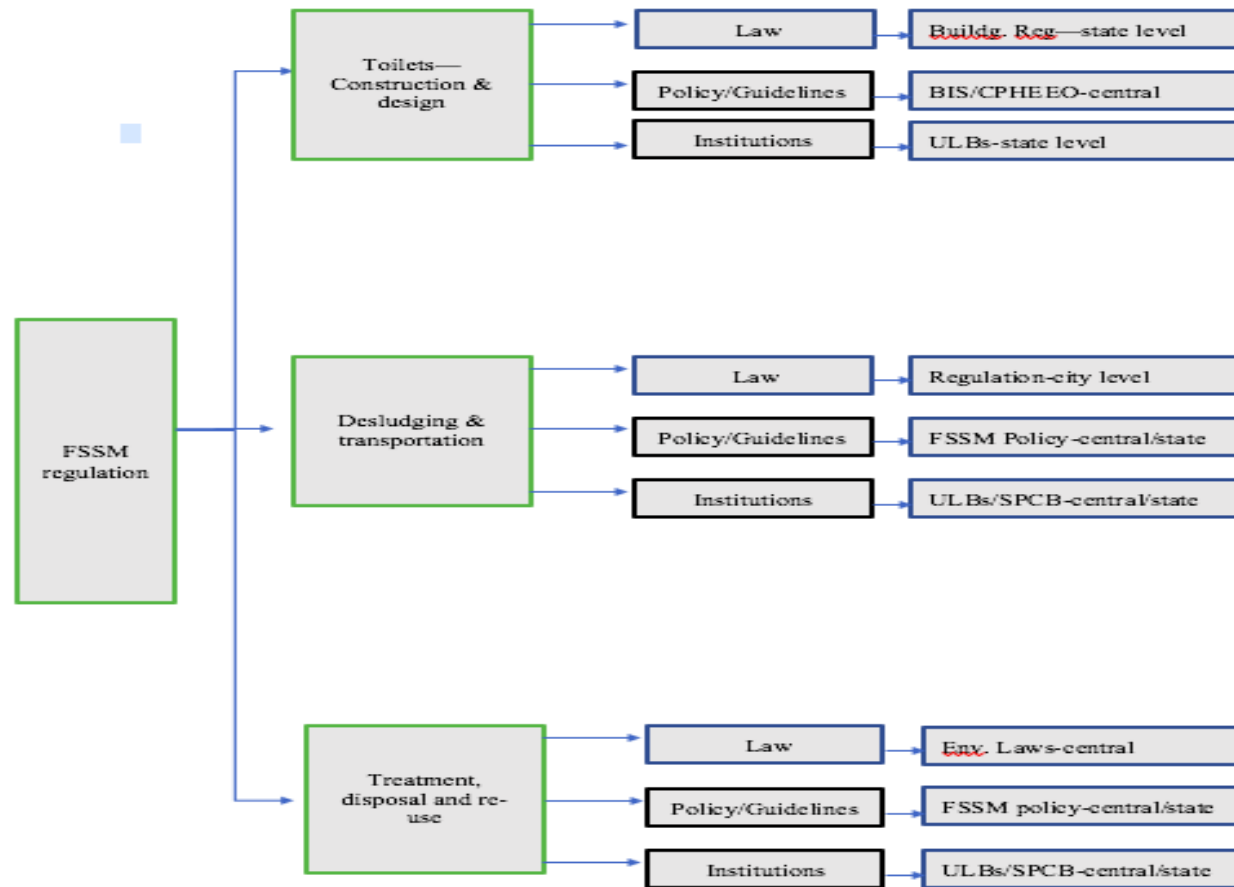
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Framework?

- Regulation is expected through multiple instruments of varying nature and scale
- ‘Regulation’—‘legal regulation’
 - Regulation—controlling or disciplining of actor(s)
 - ‘legal regulation’ is part of regulation
- Law as one of the instruments of regulation
- Tools of regulation—force and punishment, incentives, collective welfare
- ‘Framework’—law, policies, guidelines, manuals, implementing agencies, enforcement agencies

FSSM regulation: fragmentation and complexity

Figure 1: multi-scalar regulatory framework



Roles and responsibilities: overview

Actual work	Construction of toilets and OSS: at the household level + masons Desludging/emptying/transportation: ULBs and private Treatment and disposal: ULBs
Monitoring	ULBs (eg Health Officer in Bikaner). Informal service providers are not monitored because they generally carry out the work secretly probably because they believe or know their work as 'against the rules' or 'illegal'.
Enforcement of environmental standards	State Pollution Control Board
Policy making	State Government, special state-level agencies created for specific projects (eg RUIDP) Eg RUIDP has drafted the current Draft FSSM Guidelines in Rajasthan
Project design	Generally, this is done at the ULB level. However, sometimes, this is also done at the state level.

Role of law

- If law has been ineffective, is there any role for law?
 - Disciplinary function (OSS, service providers)
 - Legitimation function (formalisation of service providers)
 - Facilitative function (establishment of institutional mechanism, GPS tracking etc.)
 - Transparency and accountability as right
- Relative capability of policy/guidelines and law
 - **Is law better than other instruments?**
 - Enforceability through courts (otherwise all systems of rules have methods of enforcement)

FSSM chain I: Construction of OSS

- Norms and standards exist—building regulations, BIS standards, CPHEEO Guidelines
- Issues
 - Individual households do not follow the norms and standards (ignorance, unwillingness, poverty)
 - Monitoring and enforcement seem difficult (unawareness, incapacity)
- Construction is driven by people's perceptions, availability of local expertise and policy priority (ODF)
 - eg tendency among people to build deep pits to avoid emptying it frequently
 - Ongoing sensitisation leading to new concepts—eg ODF+, sustainable sanitation

FSSM chain II: Collection, transportation and treatment

- Environmental laws, but detailed operational guidelines and procedure are needed
 - Very limited infrastructure, but situation seems to be improving (eg FSTPs and co-treatment plants)
 - Public, private formal (companies and contractors) and private informal (individuals—dalits)
 - Issues: regulatory gap, informality, infrastructure (regulation: need more elaboration)
- Issues related to safety of workers
 - Slowly getting importance
 - But still a major issue—laws relating to manual scavenging (2013 Act, Rules and *Safai Karamchari Andolan* case) are not fully followed

Contd.

- Contrary view
 - Contractors and ULBs claimed compliance with safety rules
 - Sanitation workers and NGOs stated otherwise (death of sanitation workers in Bikaner—did not get compensation even after one and half years)
- Presence of informal service providers
 - Feeling of illegality leads to secrecy
 - Invisibility adds to difficulty in monitoring
 - Inadequate infrastructure leads to open dumping
- Effective implementation requires money, technology and adequate trained people

Emerging FSSM framework

- Policies, guidelines, regulations

<u>Sl No</u>	<u>State</u>	<u>Instrument</u>
1	Bihar	Guidelines for Faecal Sludge and Septage Management, 2018
2	Delhi	Delhi Water Board Septage Management Regulations, 2018
3	Jharkhand	Faecal Sludge and Septage Management Policy
4	Maharashtra	Guidelines for Septage Management, 2016
5	Odisha	Model Faecal Sludge & Septage Management Regulations, 2018 Urban Septage Management Guidelines, 2016
6	Rajasthan	Faecal Sludge and Septage Management Policy, 2018
7	Tamil Nadu	Operational Guidelines for Septage Management for Urban and Rural Local Bodies, 2014
8	Telangana	Faecal Sludge and Septage Management Policy, 2018
9	Uttar Pradesh	Faecal Sludge and Septage Management Operational Guideline, 2017 (Draft)
<u>City specific instruments</u>		
11	Vishakhapatnam, Andhra Pradesh	Faecal Sludge and Septage Management Policy and Operational Guidelines
10	Warrangal, Telangana	Operative Guidelines on Septage Management (Collection, Transportation, Treatment and Disposal) in Greater Warangal Municipal Corporation (GWMC)

Key features

- An attempt to address the issue of fragmentation
- Holistic treatment of the FSSM chain
 - Regulation of OSS
 - Regulation/ formalisation of service providers
 - Regulation of treatment and disposal
- Clarify the linkages with existing laws—effectuating existing regulatory framework
- Why would it lead to effective implementation of the regulatory framework?
 - Adoption to implementation/enforcement

Points for further strengthening

- Regulation is not a self-executing framework—money, technology, trained people, institutions for implementation, enforcement, coordination
- Adoption of FSSM rules at the city level/state level (clear earmarking of duties and responsibilities of all actors)
- Capacity building—eg training of masons, architectures to implement the rules (cradle not grave!)
- Formalisation of service providers and strict enforcement of law relating their safety
- FSSM as part of SBM-Urban (Just ODF is inadequate)
- Simplification of rules so that all stakeholders can understand them—A compendium of the framework
 - Accessibility—language, non-technical language