FSSM in Urban India: Legal and Institutional Framework

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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

- Toilets—Construction & design
  - Law
  - Policy/Guidelines
  - Institutions
  - Build. Reg—state level
  - BIS/CPHEEO-central
  - ULBs-state level

- Desludging & transportation
  - Law
  - Policy/Guidelines
  - Institutions
  - Regulation-city level
  - FSSM Policy-central/state
  - ULBs/SPCB-central/state

- Treatment, disposal and reuse
  - Law
  - Policy/Guidelines
  - Institutions
  - ULBs/SPCB-central/state
  - FSSM policy-central/state
  - Law—central
## Roles and responsibilities: overview

<table>
<thead>
<tr>
<th>Actual work</th>
<th>Construction of toilets and OSS: at the household level + masons</th>
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<tbody>
<tr>
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<td>Desludging/emptying/transportation: ULBs and private</td>
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<td>Treatment and disposal: ULBs</td>
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<td>Monitoring</td>
<td>ULBs (eg Health Officer in Bikaner).</td>
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<td>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’.</td>
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<td>Enforcement of environmental standards</td>
<td>State Pollution Control Board</td>
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<td>Policy making</td>
<td>State Government, special state-level agencies created for specific projects (eg RUIDP)</td>
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<td>Eg RUIDP has drafted the current Draft FSSM Guidelines in Rajasthan</td>
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<td>Project design</td>
<td>Generally, this is done at the ULB level. However, sometimes, this is also done at the state level.</td>
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Role of law

• If law has been ineffective, is there any role for law?
  – Disciplinary function (OSS, service providers)
  – Legitimisation 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 (e.g., 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

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<tr>
<th>Sl No</th>
<th>State</th>
<th>Instrument</th>
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<tr>
<td>1</td>
<td>Bihar</td>
<td>Guidelines for Faecal Sludge and Septage Management, 2018</td>
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<tr>
<td>2</td>
<td>Delhi</td>
<td>Delhi Water Board Septage Management Regulations, 2018</td>
</tr>
<tr>
<td>3</td>
<td>Jharkhand</td>
<td>Faecal Sludge and Septage Management Policy</td>
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<tr>
<td>5</td>
<td>Odisha</td>
<td>Model Faecal Sludge &amp; Septage Management Regulations, 2018</td>
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<td>Urban Septage Management Guidelines, 2016</td>
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<tr>
<td>6</td>
<td>Rajasthan</td>
<td>Faecal Sludge and Septage Management Policy, 2018</td>
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<tr>
<td>7</td>
<td>Tamil Nadu</td>
<td>Operational Guidelines for Septage Management for Urban and Rural Local Bodies, 2014</td>
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<tr>
<td>8</td>
<td>Telangana</td>
<td>Faecal Sludge and Septage Management Policy, 2018</td>
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<tr>
<td>9</td>
<td>Uttar Pradesh</td>
<td>Faecal Sludge and Septage Management Operational Guideline, 2017 (Draft)</td>
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**City specific instruments**

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<tr>
<td>10</td>
<td>Warrangal, Telangana</td>
<td>Operative Guidelines on Septage Management (Collection, Transportation, Treatment and Disposal) in Greater Warangal Municipal Corporation (GWMC)</td>
</tr>
<tr>
<td>11</td>
<td>Vishakhapatnam, Andhra Pradesh</td>
<td>Faecal Sludge and Septage Management Policy and Operational Guidelines</td>
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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