

# Overview of Legal & Institutional Frameworks

Presented by

Dr. V. Sathyanarayana,

Infrastructure Development Corporation (Karnataka) Limited,  
Bengaluru



Date: 19-01-2017

Place: Bhagalpur, Bihar

Under Sanitation Capacity Platform  
(SCBP)



# Legal and regulatory framework for FSM... 1

## Background



- Presently there exists no specific sanitation law either at central level or at any state level dealing exclusively with safe handling, transport and disposal of septage in a holistic manner
- There exist no comprehensive legal framework on sanitation or safe disposal of faecal sludge.
- Environmental laws, municipal laws, different national and state level policies and programmes regulates the right to sanitation and sanitation services in a piecemeal manner
- Sanitation laws in India stem from
  - Constitution of India
  - Environmental (Protection) Act, 1986
  - The Water (Prevention and Control of Pollution) Act
  - Legislations for prohibition of employment as Manual Scavengers and their Rehabilitation

# Legal and regulatory framework for FSM...2

## Constitution of India



- The right to sanitation in India takes its legal basis mainly from fundamental rights enshrined in the Constitution and most importantly fundamental rights to life
- Judiciary decisions has interpreted fundamental right to life (Article 21) to include right to sanitation/right to clean and wholesome healthy environment
- Directive principles casts duty upon the government to create conditions through legal and regulatory interventions to ensure right to sanitation (Article 48A)
- It is a fundamental duty of every citizen to protect and improve environment [Article 51-A(g)]

**The Concept of sanitation in India includes personal hygiene, home sanitation, safe water, garbage disposal, excreta disposal and waste water disposal**

Source: Nirmal Bharat Abhiyan Guidelines, GoI, 2012

# Legal and regulatory framework for FSM...3

## Environmental laws



- Environmental Protection Act 1986
  - Scope of the Act is broad and encompass protection of various variant of environment including water, land.
  - Government is given power to take samples of water, soil and other substance from any place for analysis
- Water (Prevention & Control and Pollution) Act, 1974
  - The purpose of Water Act is to prevents and control water pollution and restore water quality
  - Water Act can be used as a tool to prevent illegal discharge of faecal sludge into the water bodies
  - Lack of proper construction, overflow and opening of septic tank during rainy season results in pollution of water
  - Practice of disposing faecal matters directly into water bodies or agriculture field also causes water pollution

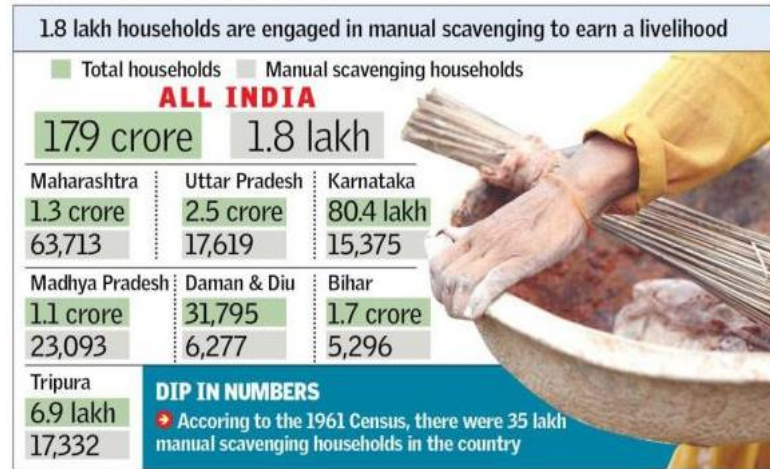
# Central Legislation on FSM...4

## The Employment Of Manual Scavengers And Construction Of Dry Latrines (Prohibition) Act, 1993



- Primary legal instrument to eradicate practice of Manual scavenging
- Prohibits engaging in or employing for or permit to be engaged in or employed for manually carrying human excreta
- Executive Authority is empowered under the Act to prevent manual scavenging
- Contravention of the Act attracts imprisonment for a term extend to one year or with fine, which may extend to Rs. 2000 or both. In case of continuation, with additional fine Rs.100 every day

### A PERVERSIVE SCOURGE



Source: Socio-Economic Caste census data – July 2015

#### Primary reasons for the Act's inefficacy

- The Act did not address the more insidious forms of manual scavenging, such as cleaning open gutters, manholes and septic tanks which is one of the primary reason for Act's inefficacy.

#### Manual scavenging in context of FSM

In Indian cities, most of the septic tanks are de-sludged manually. This is considered as an unpleasant and repulsive job, precipitates human contact with faecal matter, and since the sludge (including fresh excreta) generally gets spilled around the tank during emptying, this poses a risk of transmission of diseases of fecal origin – in any case, this is tantamount to manual scavenging.

# Central Legislation on FSM...5

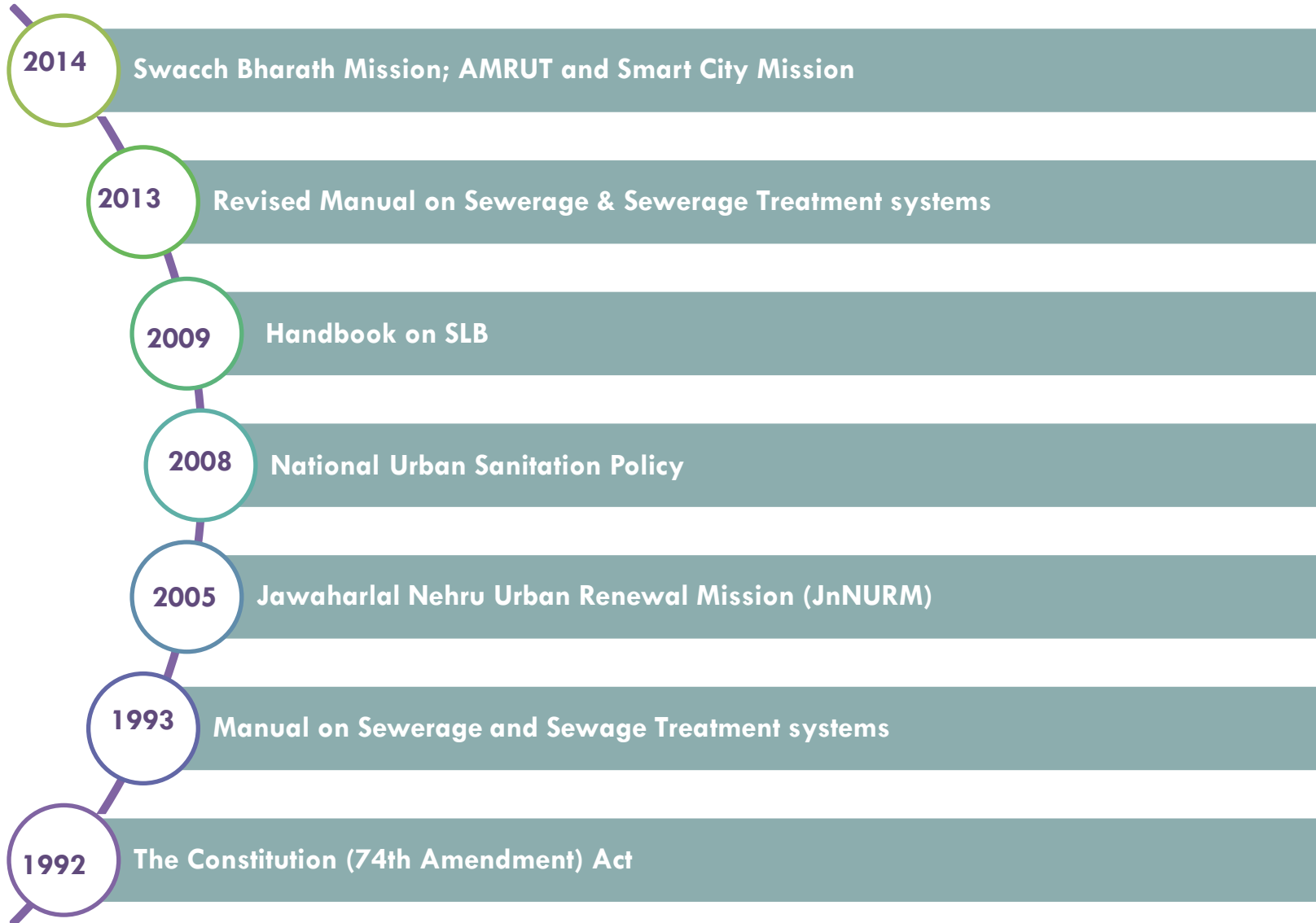
Prohibition of Employment as Manual Scavengers & their Rehabilitation Act, 2013



- Act has wider scope and higher penalties compared to 1993 Act. The Objectives of the Act is to;
  - prohibit employment as manual scavengers
  - rehabilitate manual scavengers and their families
  - prohibit manual cleaning of sewers and septic tanks without protective equipment
- Act regulates insanitary latrines and engaging of manual scavengers by-
  - Prohibiting construction of an insanitary latrines and requiring owner of the insanitary latrines to demolish or convert thereof into sanitary latrines
  - Prohibiting engaging or employing manual scavenger by any person, local authority or any agency
  - Discharging every person engaged or employed for manual scavenging from obligation to do manual scavenging
  - Prohibiting hazardous manual cleaning of septic tanks and sewers to ensure health and safety of workers

Duty is cast on every local authority to use appropriate technological appliances for cleaning. However, no time period, funds or other directive has been given for such transition of methods of cleaning.

# Policy initiatives in sanitation sector



# Policy Level Intervention....1

## National Urban Sanitation Policy (NUSP)



- MoUD issued NUSP in 2008 with the primary goal to transform urban India into community-driven, totally sanitized, health and liveable cities and towns;
- According to this definition a fully sanitised city should have:
  - Communities and institutions aware about sanitation.
  - People who have changed their behaviour and have adopted healthy sanitation practices.
  - All urban dwellers with access to safe and hygienic sanitation facilities, so that no one defecates in the open.
  - Strengthened national, state, city and local institutions (public, private and community), capable of planning, implementing, operate and maintain sanitation facilities.
  - 100% of human excreta and liquid wastes from all sanitation facilities including toilets are disposed off safely.



- Promoting proper disposal and treatment of sludge from on-site installations
- Ensuring that the human waste are collected safely confined and disposed of after treatment in environment friendly way

### POLICY GOALS

Awareness Generation and Behaviour Change

Open defecation free city

Integrated city-wide sanitation

Sanitary and safe disposal

Proper O&M of all Sanitary Installation

**NUSP mandates states to develop state urban sanitation strategies and work with cities to develop City Sanitation Plans**



# Policy Level Intervention....3

## NATIONAL WATER POLICY 2012



- Water policy for the first time, recognized water for sanitation and hygiene as a problem and recommended incentives for decentralized and water-saving sanitation and sewerage system
- National Water Policy 2012 provides following basic principles of Sanitation
  - Access to safe and clean drinking water and sanitation should be regarded as a right to life essential to the full enjoyment of life and all other human rights
  - To provide improved water supply in rural areas with proper sewerage facilities
  - Reuse of urban water effluents from kitchens and bathrooms, after primary treatment, in flush toilets should be encouraged
  - Urban water supply and sewage treatment schemes should be integrated and executed simultaneously. Water supply bills should include sewerage charges.

# Institutional framework for Sanitation and Septage management



Levels	Entity	Responsibilities
<b>Govt. of India</b>	Neeti ayog	Planning and allocation of central Government funds through Five Year Plans
	Ministry of Urban Development	<ul style="list-style-type: none"> <li>• Development of guidelines, schemes, national level policies, funding support, technical assistance</li> <li>• Designing and implementing national-level strategies on sanitation, capacity-building, financial assistance for CSP, monitoring and evaluating urban projects.</li> </ul>
<b>State Govt.</b>	Urban Development Department (UDD) & Directorate of Municipal Administration (DMA)	<ul style="list-style-type: none"> <li>• Providing technical support, funding support for sanitation facilities</li> <li>• Monitor and evaluation of programmes</li> <li>• supervision of municipal administration</li> <li>• coordination with related state government departments</li> <li>• liaison with the central government and external funding agencies</li> <li>• administrative and financial management of municipalities</li> </ul>
	Parastatal Agencies such water and sanitation Boards	<ul style="list-style-type: none"> <li>• Development, promotion and implementation of State level plan,</li> <li>• Establishment of standards for sewerage services in the state</li> <li>• service delivery, O&amp;M of sanitation facilities</li> </ul>
<b>Local Govt.</b>	Urban Local Bodies such as municipalities and corporations	Planning, design, implementation, operation and maintenance of water supply and sanitation services in cities and towns
	Development Authorities	Planning, implementation, O&M of sanitation services



## Institutional framework for Sanitation and Septage management

- *Apart from the Governmental institutional set-up, various educational institutions, corporate entities, NGO's, non-profit organisations, multi-lateral agencies such as ADB, WB and foundations such as Bill & Mellinda gates foundation, USAID are actively involved at various levels to provide technical assistance, funding support, implementing various sanitation-based initiatives, training local communities and conducting awareness programmes. Micro-Finance Institutions are involved in providing micro-finance for setting-up sanitation facilities.*



# STATE LEVEL LEGAL AND REGULATORY FRAMEWORK

# Legal and regulatory Framework

## Background

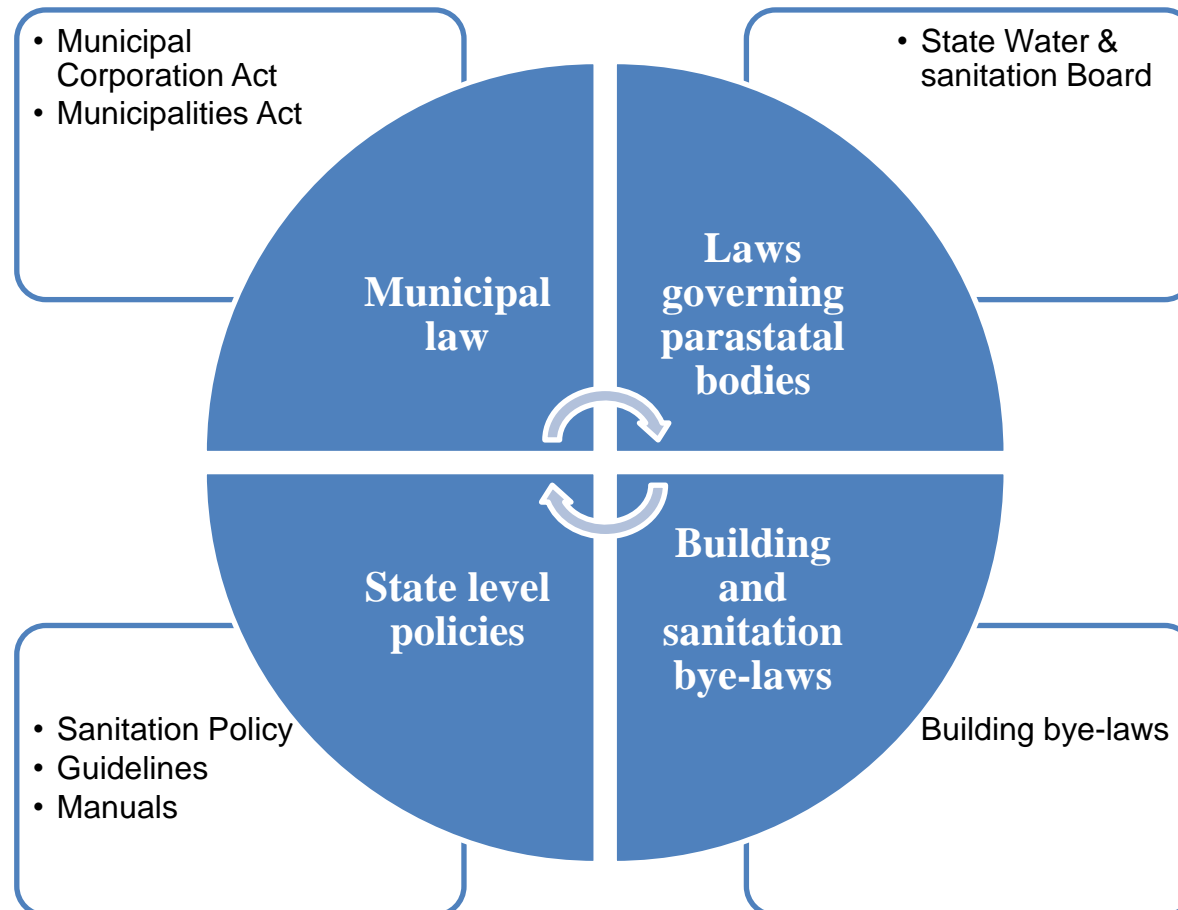


- Provision of sanitation facilities primarily rests with municipal bodies
- Legal and regulatory framework on Septage management in India is focused to provide centralised piped sewer system
- Only 32.7% of urban and 2.2% of rural households in India are connected to piped sewer system
- Remaining population thus depend on on-site sanitation system like soak pits, septic tanks

Total Household	246,692,667	Percentage of households having
		Piped sewer system 11.9
		Septic Tank 22.2
		Open 49.8
Urban Household	78,865,937	Percentage of households having
		Piped sewer system 32.7
		Septic Tank 38.2
		Open 12.6
Rural Household	167,826,730	Percentage of households having
		Piped sewer system 2.2
		Septic Tank 14.7

Type of Latrine System: Source: 2011 Census

# State level legal and regulatory framework for sanitation



**The Municipal Laws in India are focused towards provision of centralised sewerage networking (public drain) by the local bodies and many of the provisions relating to sanitation in the law put emphasise on the function and duties of the local bodies to provide corporate drains, drainage system and sewage disposal works. As such, the municipal laws does not directly provide specific roles and responsibilities of corporation in providing a decentralized sanitation services**

# Interventions of local bodies in the septage management chain



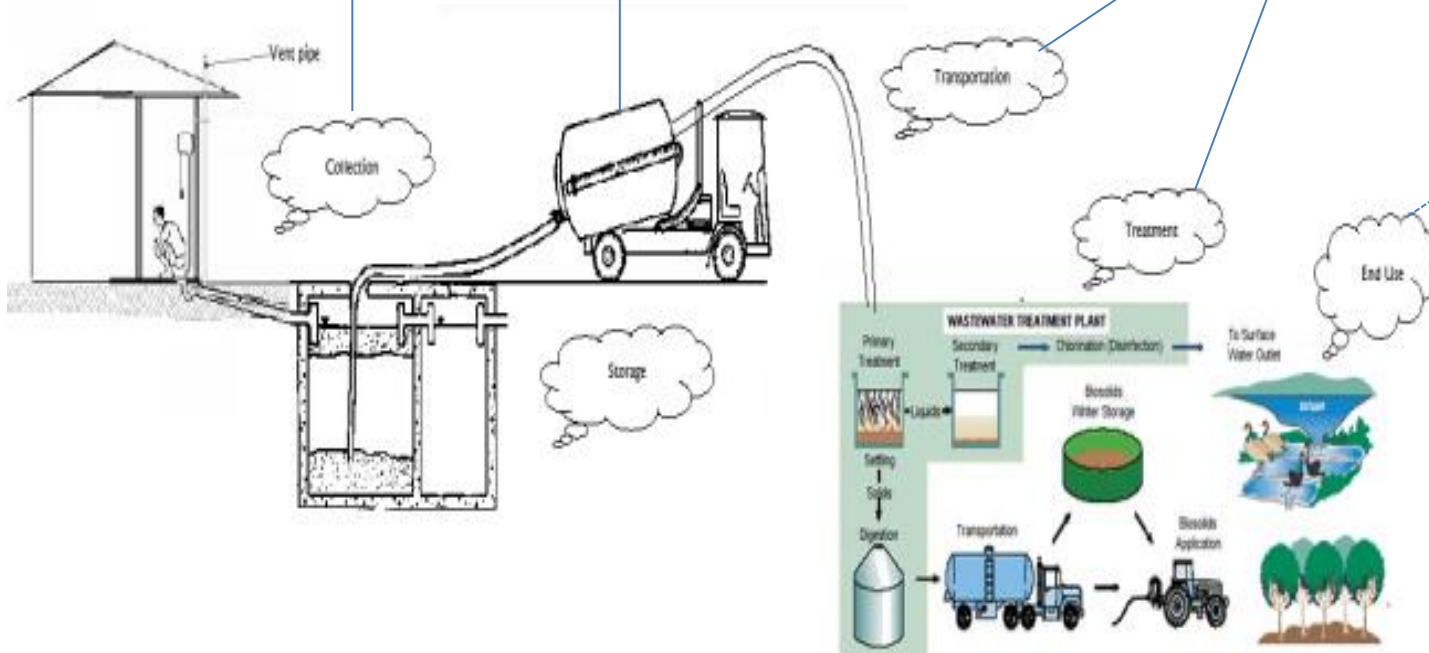
means night-soil and other contents of water-closets, latrines, privies, urinals, cess-pools etc.

To collect, remove, treat and dispose sewage

Supply, construct and maintain receptacles, fittings pipes and other appliances to receive and conducting sewage into corporation drains

Construct any work or purchase or take on lease any land, building, engine, material or apparatus for the purpose of receiving, treating, storing, disinfecting, distributing or otherwise disposing of sewage.

Arrange for preparation of compost manure from nightsoil & rubbish.



# Legal and institutional challenges in Septage Management







# Thank You!



[www.niua.org](http://www.niua.org)

[www.ideck.in](http://www.ideck.in)



National Institute of Urban Affairs  
Core 4B, India Habitat Centre,  
Lodhi Road  
New Delhi 110003

9/7, K.C.N. Bhavan, Yamunabai  
Road, Madhavnagar Extension, Off  
Race Course Road, Bengaluru  
560001



011-24617517, 24643284

Phone: +91 80 4344 8000



[agupta@niua.org](mailto:agupta@niua.org), [jdash@niua.org](mailto:jdash@niua.org) [sathya@idfc.com](mailto:sathya@idfc.com)



National Institute of Urban Affairs