

## **Part B: Institutional, Legislative and regulatory framework in Uttar Pradesh**

According to the Census 2011, only 28% of urban households and only about 2.2% of rural households in the State of Uttar Pradesh are connected to piped sewer system. Premises which are not connected to the central sewage system depend on localised solutions like usage of soak pits, septic tanks etc. Around 47% of the urban population in UP depends on the septic tanks. Though these services currently form a large portion of sanitation services in Uttar Pradesh<sup>1</sup>, there is very little achieved in terms of managing the faecal sludge extracted as evident from the widespread pollution of existing water bodies in and around the city. Sludge from all the households that are connected to septic tanks, and those connected to pit latrines (both sanitary and insanitary), finds its way to an open drain. This has resulted in poor sanitation conditions in Uttar Pradesh resulting in unhygienic and unhealthy conditions. The present situation thus in UP requires immediate steps to be taken for ensuring proper management of Faecal Sludge. This part of the note discusses about the existing institutional, legislative and regulatory framework in the State of UP for management of Faecal Sludge generated in the State.

According to the Constitution of India, water and sanitation are state subjects. Statutory powers are conferred to the State for making laws on water and sanitation. The 74th Constitutional Amendment Act of 1992 reformed the sector by transferring responsibility for domestic, industrial, and commercial water supply and sewerage (WSS) from state agencies, such as Departments of Public Health Engineering and State Water Boards, to Urban Local Bodies (ULBs). While the Central Government is responsible for developing policies, guidelines<sup>1</sup> and designing programmes/schemes, the planning and implementation is done by respective state governments. Management and delivery of urban basic services in UP is governed by various institutions. ULBs are responsible for implementation of projects. The table below sets out the institutional framework for the urban sanitation sector, which would also be applicable for faecal sludge management related aspects.

Table 1: Institutional Framework

Levels	Entity	Responsibilities
Government of India	Planning Commission	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 linkages between public health and sanitation, clarifying institutional roles, capacity-building and training support to States and ULBs, providing financial assistance for City Sanitation Plans (CSP), monitoring and evaluating projects, and mainstreaming sanitation into relevant programs on urban infrastructure and housing across various central ministries.</li> </ul>

<sup>1</sup> In UP, 46.9% of the urban households and 12% of rural households are served by septic tanks.

Levels	Entity	Responsibilities
<b>Government of Uttar Pradesh</b>	Urban Development Department (UDD)	<ul style="list-style-type: none"> <li>• Responsible for 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>• liason with the central government and external funding agencies</li> <li>• administrative and financial management of municipalities</li> </ul>
	Parastatal Agencies such as Uttar Pradesh Jal Nigam and Jal Sansthan	<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> </ul>
	Regulating agencies (Uttar Pradesh Pollution Control Board)	<ul style="list-style-type: none"> <li>• Responsible for prevention, control and regulation of pollution</li> </ul>
<b>Local Governments</b>	Urban Local Bodies such as municipal corporation, municipalities etc.	<p>Planning, design, implementation, operation and maintenance of water supply and sanitation services in cities and towns</p> <p>Responsible for service delivery, O&amp;M of sanitation facilities</p>
	Development Authorities	Responsible for the planning, implementation, O&M of sanitation services

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 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. Another entity such as the Micro-Finance Institutions are involved in providing micro-finance for setting-up sanitation facilities.

**Key Question**

Which are the local Acts/Regulations applicable to FSM services?

**a. Uttar Pradesh Municipal Adhiniyam, 1959**

Municipal Corporation (Nagar Nigam) for 16 of the cities in Uttar Pradesh is established under Uttar Pradesh Municipal Adhiniyam.

**Key definitions under the Act relevant to FSM**

- **“Cesspool”** includes a settlement tank or other tank for the reception or disposal of foul matter from building
- **“Drain”** includes a sewer, tunnel, pipe, ditch, gutter or channel and cistern flush-tank, septic-tank, or other devices for carrying off or treating sewage offensive matter, polluted water, sullage, waste water, drain water, or subsoil water and any culvert, ventilation shaft or pipe or other appliance or fitting connected therewith and any ejectors, compressed air mains, sealed sewage main and special machinery or apparatus for raising, collecting, expelling or removing sewage offensive matter from any place;
- **“Privy”** means a place set apart for defecating or urinating or both, together with the structure comprising such place, the receptacle therein for human excreta and the fitting and apparatus, if any, connected therewith, and includes a closet of the dry type, an aqua privy, a latrine and a urinal;
- **“Sewage”** means night-soil and other contents of water-closets, latrines, privies, urinals, cess-pools, or drains and polluted water from sinks, bath-rooms, stables, cattle-sheds, and other like places and includes trade effluent and discharges from manufactories of all kinds;

**Key Question**

*What powers the Corporation has with regard to can take with regard to FSM within its jurisdiction?*

The obligatory function of the Corporation includes collection, removal, treatment and disposal of sewage [refer **Section 114 (iii)** of the Act]. As the term sewage amongst other means to include night-soil, privies and cesspool, this obligatory function of the corporation thus mandates corporation to take necessary steps for management of faecal sludge. Further the obligations of corporation in this regard also includes supplying, constructing and maintaining the receptacles, fittings pipes and other appliances on or for the use of premises for receiving and conducting the sewage into drains under the control of Corporation [refer **Section 114 (vi)** of the Act].

The discretionary powers of the Corporation include making necessary arrangement for preparation of compost manure from nightsoil and rubbish.

*This power thus authorises corporation to take up projects and schemes for establishing and maintaining Faecal sludge Treatment Plants within its jurisdiction to ensure treatment of the faecal sludge collected within its jurisdiction.*

**Section 137-A** of the Act authorises the corporation to undertake any project for supply of urban infrastructure or services through private sector participation.

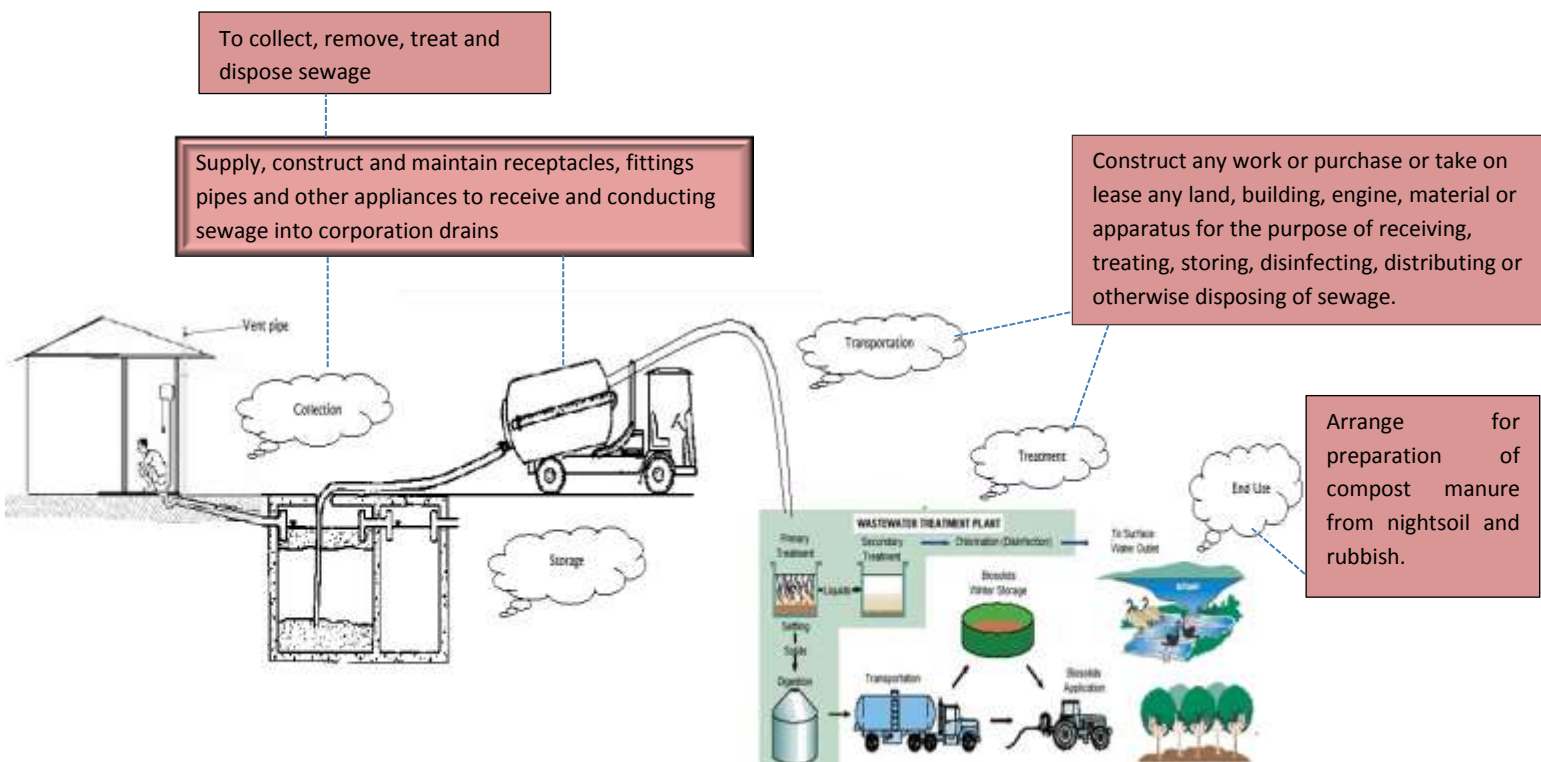
*The Corporation may involve the private sectors in implementation of the project relating to finance, construct, maintain and operation of FSTP are concerned.*

**Section 251** authorises the Municipal commissioner to 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.

*This Section thus empowers Commissioner to construct treatment plants and other works necessary for receiving, treating and disposing of Faecal sludge and to procure land, apparatus (tankers, vacuum de-sludging equipment etc.) necessary in this regard.*

**Section 255** of the Act entitles the municipal commissioner to inspect and examine all the drains, ventilation shafts and pipes, cesspools, water closets, privies, latrines and urinals etc. which are set up at the charge of corporation fund on the premises not belonging to Corporation, for the use or benefit of the owner or occupier of the said premises. As per Section 390 of the Act, the Commissioner has powers to inspect any building or other premises for the purposes of ascertaining the sanitary condition thereof.

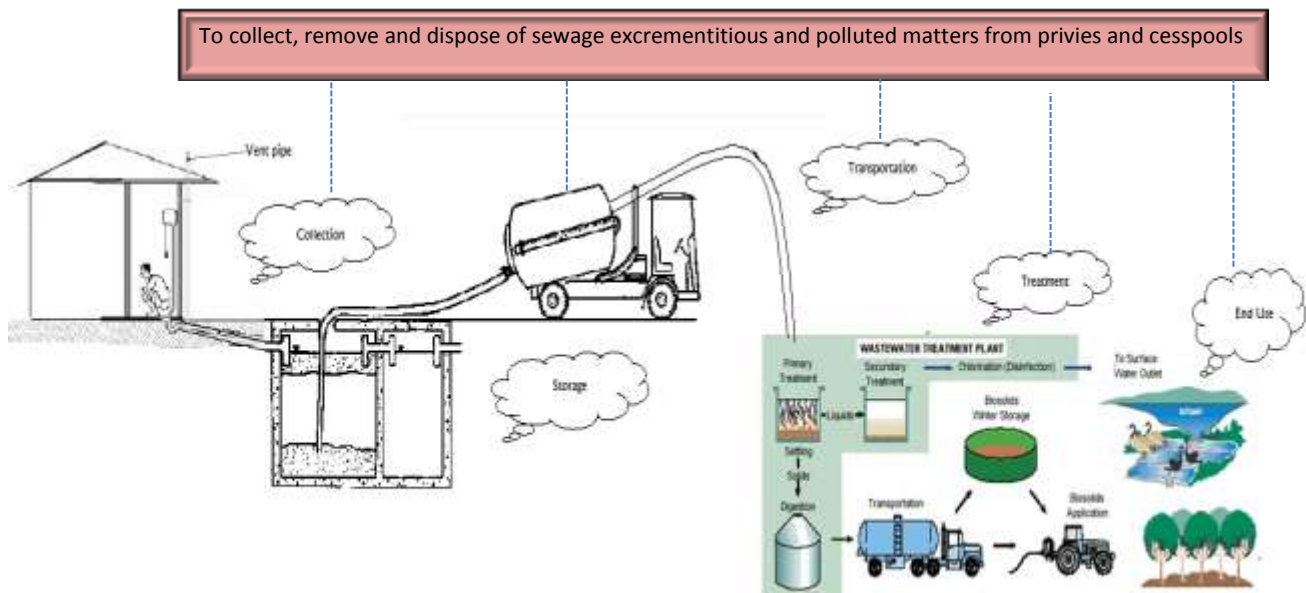
**The Municipal Corporation Act however is focused towards provision of centralised sewerage networking (public drain) by the corporation and many of the provisions relating to sanitation in the Act put emphasise on the function and duties of the Corporation to provide corporate drains, drainage system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



The above diagram provides a pictorial representation of the key activities of the ULBs relevant to Faecal Sludge Management across the different processes involved in the sanitation value chain.

**b. Uttar Pradesh Municipalities Act, 1916**

Like other municipal laws of the State, UP Municipalities Act, 1916 also emphasises on construction of central sewerage network for keeping the area within its jurisdiction properly cleansed and drained<sup>2</sup> and many of the provisions relating to sanitation under the Act is focused on provision of public drains and its maintenance. Very few provisions in the law which enables undertaking of septage management in a decentralised way are shown in the diagram below with description;



**Section 196** of the Act authorises municipality to undertake house-scavenging<sup>3</sup> of any houses or buildings within the municipal area and in this regard provides for collection, removal and disposal of excrementitious and polluted matters from privies and cesspools. House-scavenging can be undertaken by the municipality either *suo-moto* through issue of notice or on application by the occupier of the house/ building or with the consent of the occupier. Municipalities through bye-laws may regulate the matters relating to house-scavenging activities.

**Section 201** of the Act authorises Magistrate, on the complaint filed by the occupier of the house or building, to imposes fine on the customary sweepers<sup>4</sup> or to forfeit the right to undertake house scavenging, for their negligence in performing house-scavenging in a proper way.

**Section 267** authorises municipality to require the owner/occupier of the land or building to close, remove, alter, repair, cleanse, disinfect any cesspool or other receptacle for filth, sullage water, or other refuse which open on to a street or drain and to provide such cesspools or other receptacles as in its opinion be provided for the building or land.

<sup>2</sup> Section 189 of UP Municipalities Act, 1916

<sup>3</sup> Section 195 of the UP Municipalities Act defines “House-scavenging” as the removal of filth, rubbish, odour or other offensive matter from the dust-bin, privy, cesspool or other receptacle for such matter in or pertaining to a house or a building.

<sup>4</sup> Sweeper who ha customary right to do the house scavenging of a house or building.

**Section 269** empowers municipality to require the owner/occupier of any land or building to cleanse, repair, cover, fill up or drain off a tank which may appear to be injurious to health or offensive to the neighbourhood.

**Section 270** provides for inspection of drains, privies, cesspools and other receptacle for filth.

**Section 273** of the Act empowers municipality to regulate the disposal of rubbish, night-soil etc. by providing receptacles and place for the temporary deposit of offensive matter and rubbish, appointing places for the disposal of night-soil and other offensive matters and rubbish, directing removal of any such offensive matters along a street, deposited or otherwise disposed of and may impose punishment for contravention of any directions given in this regard.<sup>5</sup>

### c. Uttar Pradesh Water Supply and Sewerage Act, 1975

The Jal Nigam was formed for development and regulation of water supply and sewerage services. Nigam is responsible for reparation, execution, promotion and financing the schemes relating to water supply and for sewerage and sewage disposal in the State. In this regard, Nigam is empowered to provide necessary service to the State Government and local bodies and on request to private institution or individuals. Further, Nigam is responsible for following aspects relating to sewerage and sewerage disposal related aspects;

- Preparation of state plans for sewerage and drainage;
- to establish state standards for sewerage services
- to review annually the technical, financial, economic and other aspects of sewerage systems of every Jal Sansthans constituted under the Act.
- operate, run and maintain any water works and sewerage systems; and
- to assess the requirements for manpower and training in relation to water supply and sewerage services in the State
- inspect sewerage facilities in the State
- prepare and carryout schemes<sup>6</sup>.

The Act also establishes Jal Sansthans for the improvement of water supply and sewerage services in certain areas within the State as State Government may consider necessary<sup>7</sup>. The Jal Sansthans is responsible to plan, promote and execute schemes of and operate, sewerage, sewage treatment and disposal and treatment of trade effluents<sup>8</sup>. As per Section 74 of the Act, the owner or occupier of any premises is entitled to empty sewage of the premises into a sewer of a Jal Sansthan after obtaining written permission. If in the opinion of Jal Sansthan any premises are without sufficient means of effectual disposal of sewage and the sewer of the Jal Sansthan is situated at a distance of 50 meters from any part of the premises, the Jal Sansthan may by written notice require the owner of the premises to have sewer connection<sup>9</sup>.

<b>Key Question</b>	<i>How will the regulation of FSM services be carried out and which is the Authority responsible for the same?</i>
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<sup>5</sup> Section 274 of the UP Municipalities Act, 1916

<sup>6</sup> Section 14 of the Uttar Pradesh Water Supply and Sewerage Act, 1975

<sup>7</sup> Section 20 of the Uttar Pradesh Water Supply and Sewerage Act, 1975

<sup>8</sup> Section 24 of the Uttar Pradesh Water Supply and Sewerage Act, 1975

<sup>9</sup> Section 75 of the Uttar Pradesh Water Supply and Sewerage Act, 1975

The Jal Sansthan has power to examine or test any private sewer or cess-pool if it believes to be defective<sup>10</sup>. Any officer of the Nigam or the Jal Sansthan authorised by it, has power to entry and survey<sup>11</sup> and to disinfect or clean any tank, pool or well after notices to the owner or occupier of such premises. The cost of the cleaning or disinfection will be recovered from the owner or occupier of such tank, pool or well<sup>12</sup>.

#### d. Uttar Pradesh Urban Sanitation Policy

The vision of the Policy is “all the cities and towns become totally sanitised healthy and liveable”. The key goals of the Urban Sanitation Policy are as follows:

- (a) Awareness generation and behaviour change
  - (i) Generating awareness about sanitation and its related hazards amongst the communities and institutions and to encourage behavioural changes for the adoption of healthy sanitation practices
  - (ii) Generating awareness about sanitation and its linkages with public and environmental health
- (b) Open defecation free Cities
  - (i) Achieving open defecation free cities
  - (ii) Providing safe sanitation facilities including proper disposal arrangements
- (c) Integrated city-wide sanitation
  - (i) Strengthening city and local institution (public private and community) to accord priority to sanitation provision, including planning, implementation and O&M management
  - (ii) Extending access to proper sanitation facilities for poor communities and other un-served settlement
- (d) Sanitary and safe disposal
  - 100% of human excreta and liquid waste from all sanitation must be disposed of safely
  - (i) Functioning of sewerage network and ensuring connection of house holds
  - (ii) Promoting recycle and reuse of treated water
  - (iii) Promoting proper disposal and treatment of sludge

The Policy also provides provisions as to how to achieve the goals.

#### Conclusion and Recommendations

As discussed in this note, there exist several policies and laws for regulating sewage management that are based on certain environmental laws, municipal laws, policies and legal provisions. But, FSM in specific is the missing and ignored component of the sanitation sector. On-site sanitation is not accorded priority. There is a preference for centralised advanced engineering solutions rather than septage

<sup>10</sup> Section 79 of the Uttar Pradesh Water Supply and Sewerage Act, 1975

<sup>11</sup> Section 81 of the Uttar Pradesh Water Supply and Sewerage Act, 1975

<sup>12</sup> Section 82 of the Uttar Pradesh Water Supply and Sewerage Act, 1975

management. There is a lack of explicit policies on sanitation, particularly on safe disposal of Faecal Sludge Management. The legal framework specifically empowering the concerned implementing officials to regulate construction, collection, transport and disposal of faecal sludge is not available. The existing legal provisions are also found to be poorly implemented. Although the municipal legislations of various states have provisions to regulate the unscientific practices relating to FSM, they are neither given due importance nor implemented in true spirit. Consequently, no ULB in the country has yet evolved its systems, let alone to a desirable level of sophistication. This can be attributed to, among others, lack of awareness, concern, or recognition of risks and lack of technical expertise.

In an ideal scenario it is expected to have a robust regulatory system for the safe removal/collection, transport, treatment, and disposal of faecal sludge. This would among others include,

- authorization and monitoring of individual household construction/installations on on-site facilities;
- authorization and training of service providers involved in construction of septic tanks;
- introducing systems and mechanisms for scientific emptying or de-sludging of tanks and transportation of septage;
- monitoring and supervision of activities like de-sludging, transportation and treatment;
- regulating desludging frequencies through introduction of concept of scheduled de-sludging;
- designation of sites for safe treatment and disposal;
- regularisation and registration of septage transport operators;
- Standardised operating procedure for all components of septage management (i.e. desludging, transportation, treatment and disposal)
- occupational health and safety measures for workers; and
- prohibition against disposal in water bodies, open lands, and agriculture farms.

But, the existing policy framework with regard to septage management in India is not adequate and requires to be strengthened. Taking few of the steps recommended below is suggested in this regard.

- Similar to the laws available for regulating industrial effluents, regulation for septage should be enforced;
- Additional powers should be vested with local bodies for enforcing the existing policies and laws relating to eradication of manual scavenging, regulating disposal of domestic waste into open land or water bodies resulting in environmental hazards;
- Providing clear delineation of roles and responsibilities of multiple agencies involved in water, sanitation, and public health;
- Introducing clear legal framework for hiring services of private service providers under suitable PPP framework in connection collection, transportation, treatment and disposal of faecal sludge;
- Comprehensive rules to regulate different aspects of FSM like design of Septic tanks, pits etc. (adapted to local conditions), periodicity of de-sludging of septic tanks, O&M of installations, Operating procedures for de-sludging including safety procedures, Methods and locations of transport, treatment and disposal for septage management
- Bringing awareness amongst stakeholders including policymakers, government officials, civil society and the common man regarding importance of septage management from environment and health perspectives;
- Penalty clauses for untreated discharge shall be introduced under Polluter Pays principle for recovering the full cost of collection and treatment of septage from the beneficiaries
- Corporate Social Responsibility needs to be further strengthened for septage management.



**LEGISLATIVE, INSTITUTIONAL AND REGULATORY FRAMEWORK IN UTTAR PRADESH**

