

PREFACE

Floods are a grave menace and result in heavy economic losses and generate social problems such as rehabilitation and resettlement. In India the losses from floods are of sufficient magnitude and every year one or other part of the country is subjected to disastrous floods. Consequently, in the context of the economic reconstruction of the country, it is essential that flood control and flood prevention be considered as national problems and tackled on a priority basis.

The United States of America has had flood problems in her major rivers and the federal government there enacted various statutes and set up different executive organisations to deal with the problem. In addition to the conventional methods of flood control such as embankments, levees and storage reservoirs, the zoning of flood plains of rivers is adopted as an important method of minimising losses from floods.

There are essentially two methods of flood control. One is to physically control the floods by such means as construction of embankments, storage reservoirs and levees, and the other to reduce flood losses by the zoning of flood plains. The implementation of various flood control measures affect the rights of the individual, and, therefore, legislation is necessary which in turn raises several legal issues. Firstly, there is the question of the legislative competence of the Union and States under the constitutional division of legislative powers. Further, the legislation has to meet the tests of constitutionality under articles 14, 19 and 31 of the Constitution of India and satisfy the norms of fairness and fair procedure. The study discusses in detail the aforesaid constitutional and legal aspects of flood control legislation.

In India there is a multiplicity of state statutes relating to irrigation and water rights. These enactments only incidentally touch one or another aspect of flood control. Only the Madras Rivers Conservancy Act of 1884 deals with the concept of flood plain zoning restricting certain activities on river beds. No statute exists which comprehensively deals with all aspects of flood control. In order to make the present study fruitful, an analysis and evaluation of existing state statutory provisions relating to flood control have been attempted. Finally, it has been suggested that the Union Government should prepare a Model Bill incorporating all aspects of flood control for guidance to the states in enacting a comprehensive legislation on flood control.

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