



A review of Foreign Exchange Management Act

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Abstract

The 200th anniversary of the 1819 Supreme Court decision *McCulloch v. Maryland* offers scholars a special opportunity to study the shortcomings of the federal The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as they were revealed by FEMA's failures in Puerto Rico during and after Hurricane Maria. Under Article I, Section 8 of the Constitution, as it has been interpreted by *McCulloch*, a law passed by Congress must be necessary and proper for executing its powers. In light of the expansive capacities allotted for disaster relief under the Stafford Act, and the catastrophic failure of FEMA to provide meaningful aid to vulnerable populations in Puerto Rico in the Fall of 2017, scholars of race and class justice are faced with a melancholy-inducing reminder: Even a well-drafted law passed by Congress for the betterment of the general welfare may be "necessary," but not rise to the level of "proper." Meaningfully, the test for propriety here grows out of by *McCulloch*'s demand that laws cohere to the "letter and spirit" of the Constitution, as well as anti-subordination interpretations of the Fifth and Fourteenth Amendments that require equal protection to be pursued in light of the lived experience of vulnerable and minority populations

ISSN : 2278-6848

9 772278 684800 03
© International Journal for
Research Publication and Seminar

Key word: FEMA, regulation, provision

INTRODUCTION

The Foreign Exchange Management Act, 1999 (FEMA) is an Act of the Parliament of India "to consolidate and change the law relating to foreign exchange with the objective of facilitating external trade and payments and for promoting the orderly development and maintenance of foreign exchange market in India". It was passed in the winter session of Parliament in 1999, replacing the Foreign Exchange Regulation Act (FERA). This act makes offences related to foreign exchange civil offenses. It extends to the whole of India., replacing FERA, which had become incompatible with the pro-liberalization policies of the Government of India. It enabled a new foreign exchange management regime consistent with the emerging framework of the World Trade Organization (WTO). It also