Sticks and carrots for reducing property-level risks from floods: an EU–US comparative perspective

Aim and approach

Research Focus

What are the legal and policy requirements applicable to existing buildings after a flood event?

Examples

• United States
• England
• Netherlands

Methods

Legal comparative approach

• Dogmatic approach - in-depth analysis of primary and legal sources and overview of the legal systems

• Functional approach – the relation of the legal system to wider society – demonstrated through cases
## Comparing legal and flood risk management systems

### United States
- Federal institutions have more extensive competencies
- Can follow-up on implementation
- Legislation – directly binding on the population
- Primary responsibility rests with the state and federal governments
- Moral hazard recognised – levy effect
- Devolution of responsibilities to state and local governments
- Post-disaster relief of different types

### The Netherlands
- Decentralised unitary state – functional decentralisation
- Responsibilities devolved to administrative bodies
- Dutch constitution – keep the country habitable and protect and improve the environment
- High institutionalisation of FRM – public authorities
- High safety standards of protection – national solidarity
- Low public awareness
- Increasing importance of spatial planning
- Lack of effective recovery mechanisms

### England
- No requirement on government to provide flood protection
- Government responsibilities are enacted in legislation
- Complex governance with many public, private and citizen actors
- Responsibility rests with the property owner
- Broad range of FRM strategies adopted for decades
- No set standards of protection
- Reflexive approach
Policies for influencing resilience to existing properties

- **Insurance**
  - Incentivise or mandate resilient reinstatement or pre-flood adaptation
  - National Flood Insurance Program

- **Compensation**
  - Mandate resilient reinstatement and resilience during re-development
  - Flood Re Calamities Compensation Act

- **Building regulations**
  - Building regulations present in all three countries
  - US - Stafford Disaster Act 1974

- **Approaches facilitating post-event adaptation**
  - Property Level Flood Resilience Grant Scheme
Lessons from cross-country legal analysis

• High potential for influencing the resilience of existing properties either during redevelopment or post-event reconstruction;

...........but the approaches to mandate or incentivise resilience are lacking or ineffective;

• Importantly, analysis has highlighted that the legal situations are not barriers to these measures;

• Despite different legal and FRM approaches adopted in the three countries, many common challenges and therefore relevant lessons;

• Examples of localised best practices and successful implementation of resilience to existing properties;

• Look to the lessons from transferring these successes more widely.

• Tighten building regulations for new development as well as re-development and post-disaster reconstruction

• Mandate that government-backed recovery requires resilient reinstatement

• Develop effective public-partnerships to strengthen ties between private market insurance and risk reduction through incentivising property owners
Thank you