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## ANALYSIS OF THE LAW ON MARINE ENVIRONMENT PROTECTION OF THE PEOPLE'S REPUBLIC OF CHINA

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### Abstract

In the year of 1983, the People's Republic of China enacted the sweeping legislation to combat maritime environmental problems of the nation and to work on those issues. The law was specifically formulated to protect the maritime environment of the China and to protect the resources, prevent damage caused by pollution and maintain the ecological balance of the sea. The purpose of enacting the said law was to deal with the effect of coastal construction projects near the maritime, offshore oil prospecting and development, land source pollutants and the damage by ships which are caused to the sea. It became an utmost need to save the maritime environment and therefore, a law on the same subject was enacted.

Through this article the author intends to analyse the Law of Marine Environment Protection of People's Republic of China. The article will first discuss the environmental laws enacted by China and then shift its discussion upon analysing the legal aspects of Marine Environmental Protection Law. The article will then focus on the recent developments or amendments that have been made in the law and the importance it carries.

Keywords: Law, People's Republic of China, Marine Environment, Protection, Pollution, Ecological Balance

### 抽象的

1983年，中华人民共和国颁布了全面的立法，以解决国家海洋环境问题并着手解决这些问题。为了保护我国海洋环境，保护资源，防止污染破坏，维护海洋生态平衡，专门制定了该法。制定该法的目的是为了处理近海沿岸建设工程的影响、近海石油勘探开发、陆源污染物和船舶对海洋造成的损害。拯救海洋环境成为迫切需要，因此制定了有关同一主题的法律。

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笔者拟通过本文对《中华人民共和国海洋环境保护法》进行分析。本文将首先讨论中国制定的环境法律，然后将讨论转向分析海洋环境保护法的法律方面。然后，本文将重点关注法律的最新发展或修订及其重要性。

关键词：法律，中华人民共和国，海洋环境，保护，污染，生态平衡

## 1. Introduction

Every country has their own marine law so that it can be protected from any type of destruction, this is apart from international maritime law standards known as “Admiralty Law”. Maritime matters include the coastal times and water jurisdictions as well. The Bohai Sea, the Yellow Sea, the East China Sea, and the South China Sea are all part of China's maritime boundary. With a vast range of marine resources and a great deal of potential for development, the sea area encompasses temperate zones, subtropics, and tropical regions. China has seen huge economic gains from the exploration of marine resources, and the marine economy plays an essential part in the country's economic system. The gross ocean product (GOP) was 7.7611 trillion yuan in 2017, i.e., 6.9% more from the previous year.<sup>1</sup> Growth in China's marine sector continued at a rapid pace, rising from the previously 3.8439 trillion yuan in 2010. China's GOP contributes 9.4% of the GDP and has been a massive part of the GDP for the past eight years. The development of the marine economy fosters the consumption of marine resources; nevertheless,

excessive reliance on marine resources impedes the marine economy's long-term viability.

In the year of 1983, the People's Republic of China (PRC) enacted the sweeping legislation to combat maritime environmental problems of the nation and to work on those issues.<sup>2</sup> The law was specifically formulated to protect the maritime environment of the China and to protect the resources, prevent damage caused by pollution and maintain the ecological balance of the sea. The purpose of enacting the said law was to deal with the effect of coastal construction projects near the maritime, offshore oil prospecting and development, land source pollutants and the damage by ships which are caused to the sea.<sup>3</sup> It became an utmost need to save the maritime environment and therefore, a law on the same subject was enacted.

Although in the recent years, China has adopted and revised a number of legislations related to maritime development and protection, with the latest amendment being made in the year 2017, the roots for environment development by China started long back. The law enacted in the year 1983 is regarded as the first attempt made by China for developing a law related to maritime

<sup>1</sup> J. Yu and W. Bi. 2019. Evolution of Marine Environmental Governance Policy in China. Sustainability <https://doi.org/10.3390/su11185076>

<sup>2</sup> Marine Environment Protection Law of the People's Republic of China, Act of 1983, China.

<sup>3</sup> Mitchell A. Silk, “CHINA'S MARINE ENVIRONMENTAL PROTECTION LAW: THE DRAGON CREEPING IN MURKY WATERS”,

Occasional Papers/ Reprints Series in Contemporary Asian Studies NUMBER 6 - 1985 (71), ISSN 0730-0107. Visited on Feb 2021.

<https://core.ac.uk/download/pdf/56353826.pdf>

environment. This law applies to the internal seas of China, the territorial seas, and to all other seas and its areas which have a jurisdiction covered under the PRC. The law provided for the establishment, protection and management of special marine reserves, marine sanctuaries and tourist areas of China.

## 2. Environmental Regulatory Framework/ China's Environmental Law Framework

Environmental protection and preservation are of the utmost importance that should be paid attention by each nation. Protecting the environment in China is not a new concept but it has some very deep roots embedded into them. If we go back in history, we can trace that environment laws appear in the codes of Qin,<sup>4</sup> Tang,<sup>5</sup> and Qing dynasties.<sup>6</sup> The PRC after the fall of all three dynasties made more legislations with respect to enhancing China's Environmental Law.<sup>7</sup> The PRC formulated the environment protection after realising potential threats that rapid modernization posed on the environment, with this beginning in the year

1953. Since the year 1978, the PRC'S environmental protection scheme has begun to reach the fulfilment of its plan. It was in the years 1978 as well as 1982 that the PRC Government included provisions in the Constitutions on environmental protection.<sup>8</sup> Later, in the year 1979 the PRC passed its first Environmental Protection Law and Forestry Law. After that there have been many number of legislations and rules passed in the similar context of environment protection.

Corporate operations are heavily influenced by environmental legislation, including – Environmental Protection Law, Law on Environmental Impact Assessment (EIA Law), Administrative Measures for Pollutant Emission Permitting (for trial implementation), Emergency Response Law, Cleaner Production Promotion Law, Circular Economy Promotion Law.<sup>9</sup> In addition to environmental laws, there are also laws governing specific environmental issues, such as the Air Pollution Prevention and Control Law, Marine Environment Protection Law, Water Pollution Prevention and Control Law, Solid Wastes Pollution Prevention and

<sup>4</sup> The Qin dynasty lasted roughly from 211 B.C. until 206 B.C. Of the Qin Code provisions dealing with environment concerns there included prohibitions against cutting trees in a forest and blocking water passage in the spring, and burning grass or straw for fertilizer, picking plants that had just sprouted, or poaching young birds in the summer.

<sup>5</sup> The Tang dynasty lasted from 618 A.D. to 907 A.D. In the "Miscellaneous Articles" section of the Tang Code, there were provisions regulating, inter alia, the digging of pits (394), land use [mountainsides and lake shores (405)], and the burning of fields and wilderness lands at the wrong season (430). W. Johnson, *The Tang [Tang] Code*, Princeton, N.J. 1979, 287-289.

During the Tang dynasty there was also much concern with the problem of deforestation.

<sup>6</sup> The Qing dynasty lasted from 1644 A.D. to 1911 A.D. There are numerous provisions in the Qing Code related to environmental protection and conservation. See the

relevant articles in "Land and Tenements" (such as sees. 97, 98), "Miscellaneous Offenses" (such as sec. 376), and "Public Ways" (such as sees. 433, 434), translated in Sir George T. Staunton, *Ta Tsing Leu Lee*, Taipei 1966 (reprint), 103-105, 411, 471-473.

<sup>7</sup> Note 3—"CHINA'S MARINE ENVIRONMENTAL PROTECTION LAW: THE DRAGON CREEPING IN MURKY WATERS",

<sup>8</sup> Article 6 provides: "Mineral resources, waters, and those forests, underdeveloped lands and other marine and land resources owned by the state, are the property of the whole people." Article 11 provides: "The state protects the environment and natural resources, and prevents and eliminates pollution and other hazards to the public."

<sup>9</sup> W. Qing, et al. 2021. *Environmental Law and Practice in China: Overview*. Thomson Reuters: Practical Law.

<https://uk.practicallaw.thomsonreuters.com/3-503-4201>

Control Law, Soil Pollution Prevention and Control Law, Environmental Noise Pollution Prevention and Control Law, Radioactive Pollution Prevention and Control Law, Grassland Law, Forestry Law, Water Law, Regulation for the Central Environmental Inspection.<sup>10</sup>

### 3. China's Marine Environmental Law Framework

China is a State of the Coastal region with long coastlines. The development of China's Marine Environmental Law has generally followed the work of Environmental Law. It is said that the

Following is the table listing all the legal developments in Marine Environmental Law Framework in China:

modern legal concept of environmental protection law in China has been established much later if it is compared to other Asian Countries, even though there had always been an awareness about the protection of environment in the Chinese culture. The inspiration to enact a law for marine environment protection can be traced back to United Nations Conference on the Human Environment held in Stockholm in 1972. China after attending this conference started paying attention towards environment protection. The reconstruction of the Chinese legal system and environment protection started taking place from the year 1978 with the open-door policy and economic reforms.<sup>11</sup>

Year	Law/Regulation	Released Authority
1974	Rules of Preventing Coast Water Pollution of the P.R.C. [ <i>NOW INVALID</i> ]	State Council
1982	Law of the People's Republic of China on Maritime Environmental Protection [Maritime Environmental Protection Law] <sup>12</sup>	Standing Committee of the National People's Congress
1982	People's Republic on the Protection of Cultural Relics <sup>13</sup>	Standing Committee of the National People's Congress
1983	Regulations of the People's Republic of China on the Administration of Environmental Protection in the Exploration and Development of Offshore Petroleum	State Council

<sup>10</sup> Id.

<sup>11</sup> Zou, Keyuan., Implementing marine environmental protection law in China: progress, problems and prospects.,1999, Marine Policy. 23. 207-225. 10.1016/S0308-597X(98)00043-8. Visited on Feb 2021.

<sup>12</sup> Revised in 1999, 2013 and 2016, the 2016 amendment has been effective on Nov 7, 2016.

<sup>13</sup> Revised in 1991, 2002, 2007, 2013 and 2015.

1983	Regulations of the People's Republic of China on the Control over Prevention of Pollution by Vessels in Sea Waters <i>[NOW INVALID]</i>	State Council
1983	Maritime Traffic Safety Law of the People's Republic of China <sup>14</sup>	Standing Committee of the National People's Congress
1984	Law of the People's Republic of China on Prevention and Control of Water Pollution <sup>15</sup>	Standing Committee of the National People's Congress
1986	Fisheries Law of the People's Republic of China <sup>16</sup>	Standing Committee of the National People's Congress
1986	Mineral Resources Law of the People's Republic of China	Standing Committee of the National People's Congress
1988	Law of the People's Republic of China on the Protection of Wildlife <sup>17</sup> [wildlife protected under this Law refers to the species of terrestrial and aquatic wildlife]	Standing Committee of the National People's Congress
1989	The Environmental Protection Law of the People's Republic of China <sup>18</sup>	Standing Committee of the National People's Congress
1990	Administrative Regulation on the Prevention and Control of Pollution Damages to the Marine Environment by Coastal Engineering Construction Projects of the People's Republic of China <sup>19</sup>	State Council

<sup>14</sup> Revised in 2016.

<sup>15</sup> Revised in 1996, 2008 and 2017, the 2017 amendment will take effect in 2018.

<sup>16</sup> Revised in 2000 and 2004.

<sup>17</sup> Revised in 2004.

<sup>18</sup> Revised in 2015.

<sup>19</sup> 2007 amendment.

1990	Regulations of the People's Republic of China on the Prevention of Pollution Damage to the Marine Environment by Land-Sourced Pollutants	State Council
1992	Law of the PRC on the Territorial Sea and the Contiguous Zone	Standing Committee of the National People's Congress
1995	Law of the People's Republic of China on the Prevention and Control of Solid Waste Pollution <sup>20</sup>	Standing Committee of the National People's Congress
1998	Law on the Exclusive Economic Zone and the Continental Shelf of the People's Republic of China	Standing Committee of the National People's Congress
2002	Law of the People's Republic of China on the Administration of the Use of Sea Areas	Standing Committee of the National People's Congress
2002	Law of the People's Republic of China on Environmental Impact Assessment <sup>21</sup>	Standing Committee of the National People's Congress
2003	Port law of the People's Republic of China	Standing Committee of the National People's Congress
2005	Renewable Energy Law of the People's Republic of China <sup>22</sup>	Standing Committee of the National People's Congress
2009	Island Protection Law of the People's Republic of China	Standing Committee of the National People's Congress
2014	Opinions of the Supreme People's Court on Fully Strengthening Environmental Resources Trial Work to	Supreme People's Court

<sup>20</sup> Revised in 2004, 2013, 2015 and 2016.

<sup>21</sup> Revised in 2016, 2016 amendment has been effective on Sep 1, 2016.

<sup>22</sup> 2009 amendment.

	Provide Powerful Judicial Safeguards for Promoting Eco-civilization Construction	
2015	Opinions of the Supreme People's Court on Comprehensively Carrying Forward the Strategy of Producing Fine Works on the Trial of Cases involving Foreign-related Commercial and Maritime Affairs to Provide Effective Judicial Safeguard for Establishing the Open Economic System and Building up a Maritime Power	Supreme People's Court
2016	Deep sea area resources exploration and development law of the People's Republic of China	Standing Committee of the National People's Congress
2016	Provisions of the Supreme People's Court concerning Some Issues on Hearing Relevant Cases Occurring in Sea Areas under Chinese Jurisdiction (1) and (2)	Supreme People's Court
2016	Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues concerning the Application of Law in the Handling of Criminal Cases of Environmental Pollution	Supreme People's Court

In terms of both number and scope of coverage, China's domestic laws are extensive.<sup>23</sup> The Marine Environmental Protection Law of the PRC regulates overall marine environmental protection, as well as specific administrative regulations and rules relating to preventing pollution from ships, marine engineering activities, offshore oil projects, and dumping polluting materials. Regulations on marine ecological environment conservation are also included in China's marine resources utilisation legislation. To protect the maritime environment, China also uses marine zoning, environmental

impact assessments, and the creation of marine nature reserves.

The drafting of the Marine Environmental Protection Law was done keeping in view the importance of the United Nations Conference. By the time drafting of this law started, the conference came to an end and the United Nations Convention on the Law of the Sea (UNCLOS) was formed. The UNCLOS made it very clear that coastal states should take necessary steps and measures to prevent, reduce and control pollution of the marine environment.<sup>24</sup> Hence, Marine Environmental

<sup>23</sup> Li, Y. (2018). Evolution and issues of marine pollution law in China: From 1970s to 2018. *International Journal of Legal Discourse*, 3(2), 287–310. doi:10.1515/ijld-2018-2012

<sup>24</sup> The UNCLOS, Article 194(1), United Nations, Act of 1982.

Protection Law took considerable amount of reference from the UNCLOS.

The enactment of the Marine Environment Protection Law in 1982 marked the beginning of the Chinese marine environmental governance policy framework. Between 1982 and 2000, 16 marine environmental governance policies were implemented.<sup>25</sup> According to Chinese legal scholars Ma and Chen, the purpose of Marine Environmental Protection Law enactment was to:<sup>26</sup>

1. *Promote the development of China's Marine Undertaking.*
2. *To safeguard the China's Marine Rights and the fulfilment of international obligation of protecting the seas of the world.*
3. *To defend China's Legal Rights and Interest.*

These reasons if elaborated will fulfil the sole purpose of the law implemented by the PRC. These reasons, somehow, put a lot of emphasis upon China's economic development as well. According to reports, the real reason China enacted the law of Marine Environment Protection was due to the deteriorating marine environment caused largely by human activities and the need to develop economic welfare in the nation. Hence, the Marine Environmental Protection Law was enacted to protect the marine activities, maintain ecological balances, protect

people's health not only near the coastal areas but across the country and to protect the marine understandings.

The Marine Environment Protection Law is divided into chapters: Prevention & Control of Pollution Damage to the Marine Environment—by Coastal Construction Projects, by Offshore Oil Exploration and Exploitation, by Land-Sourced Pollutants, by Vessels, by Dumping of Wastes, Legal Liabilities and Supplementary Provisions.

### **Amendment**

In the year 2017, there has been an amendment in the Marine Environmental Protection Law. In order to meet the new requirements of the protection of the marine system and its environment, the amendments are necessary to be made from time to time. It is also evident from the Law, that after its enactment a number of other laws or regulations have been passed for the betterment of the marine environment and growth of the marine regions of the nation. The Law on Marine Environment Protection of the PRC was revised and became effective on the 5 of November 2017.<sup>27</sup> The revised Marine Environmental Protection Law has added a clause which states that “*the State sets ecological protection red lines in key marine ecological functional zones, eco-sensitive areas and fragile*

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1. States shall take, individually or jointly as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source, using for this purpose the best practicable means at their disposal and in accordance with their capabilities, and they shall endeavour to harmonize their policies in this connection.

<sup>25</sup>Supra 1; The Protection and Preservation of the Marine Environment, China.org.cn, Available at <http://www.china.org.cn/e-white/6/6-III.htm>

<sup>26</sup> Supra 2.

<sup>27</sup> Keyuan Zou, Jiayi Wang, Enforcing Marine Environmental Law in China: Some New Measures, *Chinese Journal of International Law*, Volume 18, Issue 1, March 2019, Pages 193–207.

<https://doi.org/10.1093/chinesejil/jmz006>



*zones, and strictly implements protection.*”<sup>28</sup> The amendment focussed on building a stronger and stricter “conservation culture” that the Central Government has been pushing for. For the same, more severe penalties are now to be imposed on violations relating to pollution, and several provisions pertaining to marine ecological compensation have also been added. For instance, the amendment enhances penalties for actions that cause marine environment pollution by eliminating the fine’s upper limit of 300,000 yuan (\$44,840 USD) and imposing fines of up to 20 to 30 percent of direct losses caused by pollution.<sup>29</sup>

The new law also imposes restrictions on certain developments in sea areas that violate the target set for environmental protection or those that discharge pollutants surpassing the standard amounts. Several articles had also been amended and moulded to suit the new Marine Environmental Protection Law that was enforced in 2016.

#### **4. Evolution of China Marine Environmental Governance Policy**

Economic development was still the priority of national growth at the time of the construction of China's maritime environmental governance system. This made it difficult for the governance of the marine environment in China to function well. Gradually, land pollution, oil pollution, coastal engineering pollution, and other challenges emerged as marine development progressed. To ensure long-term marine

sustenance businesses, the general public, and other stakeholders began to participate in marine environmental governance.

The Chinese Government lacked experience in marine environmental control throughout the early stages of the policy development. Ex-post control was consistent with China's national conditions and facilitated the timely resolution of marine environmental problems. The simple problem-oriented framework; however, could not match the requirements of marine environmental governance when the policy structure for marine environmental governance improved. The prevention aspect of policymaking is apparent, and it has steadily transitioned to ex-ante control. China's marine environment governance has progressed from a single policy tool to a multipolicy tool, becoming a policy tool system controlled by executive orders and supplemented by economic and legal measures.<sup>30</sup> The concentration of marine environment governance has evolved from a single environmental governance system to ecosystem governance. The Chinese Government focused on the governance of typical ecosystems such as islands, important fisheries, and Marine Protected Areas, issuing the ‘Island Protection Law’ and other policies to protect the ecosystems of islands and surrounding sea areas, as well as strengthening port shoreline resource protection and protecting inshore fishery resources.

<sup>28</sup> The Marine Environment Protection Law, Article 3, Act of 1983.

Article 3 This Law shall apply to the territory of the People's Republic of China and other sea areas under the jurisdiction of the People's Republic of China.

<sup>29</sup> Zinghua, China revises law on marine environment protection, EN.PEOPLE.CN, <http://en.people.cn/n3/2016/0829/c90882-9107020.html>, Visited on Sept. 20, 2021.

<sup>30</sup> Supra 1.

## Existing gaps

Although domestic legislation is extensive and covers a broad variety of subjects, the provisions are relatively simple and many are ineffective.<sup>31</sup> There are additional issues with the vertical and horizontal division of power. According to Article 5 of the PRC's Marine Environmental Protection Law, the State Oceanic Administration, the administrative department in charge of environmental protection under the State Council, is authorised to undertake marine environment supervision and control under the coastal local people's governments at or above the county level, all of which have the authority to monitor and manage the marine environment.

Further, the State Oceanic Administration is responsible for the monitoring and administration of the use of sea areas across China, according to Article 7 of the Law of the People's Republic of China on the Administration of Sea Regions, however, the marine administrative authorities of coastal governments at or above the county level also have the power to supervise and manage the use of sea areas close to the administrative area. This demonstrates that China uses a dual management system including the central and local administrations. This approach is sensible because activities that influence the marine ecology should be managed at the local level; nevertheless, the present prevalent problem is a lack of effective coordination mechanisms between central and local Governments, as well

as between locals and local Governments. Local Governments may condone actions that devastate the marine natural environment in their territories, for the purpose of economic development, even if the policy is beneficial.<sup>32</sup>

Professor Weibin Zhang of Anhui University of Finance and Economics presented a report at the 2019 Conference of the Marine Environment Law Committee of the China Association for Environment and Resources Law of the China Law Society, which was held in Zhoushan, Zhejiang Province, China, on the 22<sup>nd</sup> of June, 2019.<sup>33</sup> He assessed the challenges in achieving multi-subjects co-governance of the global marine ecological environment based on the current state of global marine ecological environment governance. He concluded by making a number of recommendations, including the creation of a global marine biological environment preservation concept led by the maritime community with a shared future, the development of a coordinating mechanism, and the formation of a multi-subjects co-governance committee. He also proposed the multi-subjects co-governance committee's basic framework.

Besides from the issue of power distribution and coordination between central and local Governments, there are also shortcomings in the administration of specific marine ecological environment pollution sources. For example, the Maritime Administrative Department, the Fishery Administrative Department, and the Military Environmental Protection Department all have the ability to supervise, administer, and

<sup>31</sup> Guan, C., 2011. Study on Coastal Ecosystem Management Law. Ocean University of China.

<sup>32</sup> Gao, Y., 2016. The International Obligation of Marine Ecosystem Management and China's Solutions: A Research from Perspective of Selecting Legislative Mode. Zhejiang University;

<https://doi.org/10.1016/j.resourpol.2020.101670>

<sup>33</sup> Zhang, Chao; Quan, Yongbo; Zhong, Haiyue (2019). The Building of Marine Ecological Civilization and Sustainable Development: Conference report. Marine Policy, (), 103627-. doi:10.1016/j.marpol.2019.103627 <https://doi.org/10.1016/j.marpol.2019.103627>

regulate different ships under the PRC's Marine Environmental Protection Law.<sup>34</sup> Due to the three departments' equal law enforcement status and parallel scope of tasks, such a legislative model results in the separation of powers in the management of ships as sources of pollution, and mutual disassociation of involvement is frequently the result.<sup>35</sup> Despite the fact that efficient management needs collaboration and coordination, the current legal framework in this area is inadequate.

Furthermore, there are notable flaws in cross-sectoral cooperation. Cross-departmental and cross-regional cooperation are mandated by Article 9 of the PRC's Marine Environmental Protection Law. However, the lack of a permanent collaboration framework as well as systematic cooperation and coordination provisions makes cooperation and efficient joint emergency responses difficult. Consultation or coordination between coastal areas or the governments of people's people at higher levels is necessary for transregional maritime environmental protection cooperation to work. Major cross-departmental maritime environment protection efforts should be coordinated by the State Council's administrative department responsible for environmental protection. If a problem cannot be resolved through cooperation, it should be referred to the State Council for resolution. China's Marine Environmental Protection Law notes that, in order for the planning and implementation of marine ecological environment protection to be unified

across all provinces, autonomous regions and municipalities directly under the Central Government as well as all relevant departments, regional cooperation organisations can be established, however, this is currently not an obligation to impose the establishment regional cooperation among organisation.<sup>36</sup> Legislation aimed at preventing and controlling pollution in the maritime environment focuses on limiting pollution sources to those that have a negative impact on the ecosystem. Despite the inclusion of rules on the impact of these sources on marine ecosystems and biodiversity, the existing level of rigour is insufficient. In terms of legislation governing the use of marine resources, the PRC's Mineral Resources Law contains limited environmental protection requirements and does not address ecosystem and biodiversity protection. Although the PRC Fisheries Law and the PRC Wildlife Protection Law have safeguards to protect biological resources against the exploitation of marine mineral resources, these provisions are rather limited.<sup>37</sup> In terms of marine eco-environmental pollution regulation and marine resource utilisation legislation, attention to marine ecosystems and biodiversity is minimal. As a result, the prevention of marine pollution, the use of marine resources, and the protection of marine ecology and biodiversity have all been separated.

## 5. Conclusion

China is growing at a booming rate, and with the rapid growth in its economic development in its coastal region it is now pressurized to enact and

<sup>34</sup> Marine Environment Protection Law of the People's Republic of China, Article 5

<sup>35</sup> Gao, Y., 2016. The International Obligation of Marine Ecosystem Management and China's Solutions: A Research from Perspective of Selecting Legislative Mode. Zhejiang University

<sup>36</sup> Y. Chang, et al. 2020. The legal system for environmental protection during exploration and exploitation of marine mineral resources in China, Resources Policy, Vol 67.

<https://doi.org/10.1016/j.resourpol.2020.101670>

<sup>37</sup> Ibid

amend laws in a more comprehensive manner. There are several negative impacts upon the environment including global warming, oil spills, etc. But to combat these issues and come out more efficiently and effectively is something that China can do. It is imperative to improve the Marine Environmental Protection Law more widely, so that it can serve the purpose as a whole. The Marine Environment Law of China, though having been enacted a little late, is working in the right direction. Through more and better amendments made into the Act, China's Marine Environment Law could be improved.

China is in the process of formulating its first Five Year Plan for marine environment protection, which is a great development.<sup>38</sup> After analysing the legal regulation regarding marine environmental protection in China the author has the following observations:

The key stakeholders in marine environmental governance are the central government, local governments, businesses, and the general public. The government should make greater efforts to fully utilise the knowledge of diverse stakeholders in the formulation of marine environmental governance policy to fill gaps in information and knowledge management.<sup>39</sup>

*“Such participation enables stakeholders to gain some control over the policy process, which can lead to the more appropriate policy and implementation decisions.”<sup>40</sup>*

*“Marine environmental issues are cross-regional, complex and possess non-linear characteristics. The modern marine environment governance transforms the role of the central Government from omnipotence to meta-governance. It considers the active participation of the stakeholders and thus encourages a polycentric approach, allowing diverse actors to partake in decision-making, implementation, supervision, and other aspects of marine environmental governance.”<sup>41</sup>*

The use of policy tools encourages more rational and effective policy formation. To adapt to the various stages of China's marine environment development and accomplish environmental impact governance, China's marine environmental governance policy tools should include command and control tools, economic incentive tools, and persuasive tools. Further, evaluation of policies is an important aspect of scientific decision-making. We can inform decision-makers on the possible impact of policy options through policy assessments. Policy evaluations should be carried out throughout the policy-making process. China's policy assessment process for marine environmental governance has been critical in the development and adaptation of marine environmental governance policies and with some improvements it can become a model for the world.

<sup>38</sup> China sees results With Revamped Marine Environment Regulations, The Maritime Executive, October 1, 2021, Available at <https://www.maritime-executive.com/editorials/china-sees-results-with-revamped-marine-environment-regulations>

<sup>39</sup> H. Mahaseth and A. Pandey, The Need for Chinese Stakeholder Participation in Maritime Environmental

Governance, Modern Diplomacy, January 1, 2022, Available at <https://moderndiplomacy.eu/2022/01/01/the-need-for-chinese-stakeholder-participation-in-maritime-environmental-governance/>

<sup>40</sup> Id.

<sup>41</sup> Id.