

KEY POINTS

- The Yangtze River Protection Law (YRPL) was adopted on 26 December 2020 by the Standing Committee of the National People's Congress and came into force on 1 March 2021.
- The YRPL represents a landmark legislation to strengthen environmental protection and ecological restoration of a specific river basin in the People's Republic of China (PRC).
- Lessons and experiences from the legislative reforms reflected in the YRPL will serve as an important model to share knowledge and inform legislative frameworks planned for other river basins in the PRC, including the Yellow River basin, and for river basins in other developing member countries.

Yangtze River Protection Law of the People's Republic of China: Overview of Key Provisions and Policy Recommendations

Au Shion Yee
Senior Water Resources Specialist
East Asia Department
Asian Development Bank

Dongmei Guo
Environment Specialist
East Asia Department
Asian Development Bank

INTRODUCTION

This brief presents an overview of the policy recommendations prepared under a technical assistance (TA) project of the Asian Development Bank (ADB), which provided technical support and policy advice in the formulation and design of the Yangtze River Protection Law (YRPL), 2020 of the People's Republic of China (PRC).¹ The YRPL represents a legislative landmark for strengthening policy and regulatory frameworks to achieve environmental protection and Sustainable Development Goals in the PRC's largest and most significant river basin.²

In reviewing international experiences on river basin management, together with the PRC's own experiences and previous ADB support on ecological restoration and environmental protection in the Yangtze River basin,³ the TA project prepared a series of policy recommendations that were submitted to the Ministry of Ecology and Environment (MEE) and the National People's Congress (NPC) to provide technical guidance on the formulation and legislative structure of the law for decision makers. The recommendations covered the following areas: (i) institutional coordination, (ii) policy mechanisms,

¹ ADB. PRC: Policy Advice for the Yangtze River Protection Law of the People's Republic of China.

² Government of the PRC, National People's Congress (NPC). 2020. *The Yangtze River Protection Law of the People's Republic of China*. Beijing.

³ ADB. Regional: Strengthening Institutions for Localizing Agenda 2030 for Sustainable Development (TA 9387-REG); China Council for International Cooperation on Environment and Development (CCICED). 2020. *From Recovery to Green Prosperity: Accelerating the Transition toward High-Quality Green Development during the 14th Five-Year Plan Period*. 2020 Policy Recommendations of the CCICED. Beijing; and ADB. 2020. *Enabling Nature-Positive Growth in the People's Republic of China's Yangtze River Economic Belt and Beyond*. Manila.



Chishui River at Renhuai town. The ecological protection and green development of Chishui River—one of the most ecologically significant watersheds of the Yangtze River, which flows through the provinces of Yunnan, Guizhou, and Sichuan before entering the Yangtze River mainstream—require a well-functioning cross-provincial eco-compensation mechanism (photo by Au Shion Yee).

(iii) environmental and water quality standards, (iv) monitoring methods and systems, and (v) environmental flow assessment.

THE YANGTZE RIVER BASIN— A RICH ECOSYSTEM AND ECONOMIC BELT UNDER THREAT

Traversing more than 6,300 kilometers (km) through diverse geographies and ecosystems from the vast Tibetan Plateau in the east to the densely populated coastal areas in the west, the PRC’s “mother river” is the longest and largest river system in the country. With more than 700 tributaries, a drainage basin covering more than 1.8 million square km (representing about one-fifth of the country’s total land area), the Yangtze River basin is home to more than 40% of the PRC’s population. Critically, it also represents an important national ecological asset that supports rich biodiversity and natural resources of global significance. The basin provides habitat to more than 400 species of fish, including 183 endemic species.⁴

In 2016, the PRC launched the Yangtze River Economic Belt (YREB) program, which covers nine provinces (Anhui, Guizhou, Hubei, Hunan, Jiangsu, Jiangxi, Sichuan, Yunnan, and Zhejiang) and two specially administered municipalities (Chongqing and Shanghai). The YREB contributes about 40% of the PRC’s gross domestic product and has a strategic role in development as one of the country’s primary economic growth centers (footnote 3).

Unfortunately, the Yangtze River and its massive basin continue to face environmental challenges arising from rapid economic

development and increasing population pressure. Pollution, industrialization, deforestation, unsustainable farming practices, biodiversity and habitat loss, and overexploitation of natural resources are among a myriad of issues seriously undermining and threatening the river’s ecosystem and ecological health. Failure to systematically curb ecosystem and environmental degradation will pose serious barriers to achieving green, inclusive development in line with the PRC’s vision for achieving an “ecological civilization.”⁵

Although there were already several laws and regulations concerning environmental protection in the Yangtze River basin prior to the adoption of the YRPL in 2020, these were subject to poor coordination, application, and enforcement. Most of the existing legislative instruments imbued a level of authority to both the central as well as provincial and local governments, with lack of role clarity and delegation of responsibilities for enforcement and compliance.

Recognizing the importance of the YREB and the seriousness of its ecological challenges, a landmark symposium on improving the development of the YREB, held on 5 January 2016 and chaired by President Xi Jinping of the PRC, highlighted the importance of protecting the ecological system as a critical long-term task and warned against uncontrolled exploitation. President Xi noted that the status and role of the river and the economic belt require that future development should prioritize ecology and “green development” (Setting Down Rules for Green Development, p. 6), while also stressing the importance of basin-wide coordination across the upper, middle, and lower reaches to overcome administrative barriers for improving monitoring mechanisms, as well as disaster risk management.

⁴ ADB. 2020. *Policy Advice for the Yangtze River Protection Law of the People’s Republic of China*. Consultant’s report. Manila (TA 9734-PRC).

⁵ A. Hanson. 2019. *Ecological Civilization in the People’s Republic of China: Values, Action, and Future Needs*. *ADB East Asia Working Paper Series*. No. 21. Manila: ADB.



Agricultural farmlands at Gouba village, Guizhou Province. Since the management and farming practices in the upper reaches of the Yangtze River basin have direct impacts on downstream water quality and river health, the Yangtze River Protection Law includes among its key provisions the tightened control of agricultural nonpoint source pollution (photo by Au Shion Yee).

In 2018, President Xi again outlined (i) the urgent need to establish and improve the ecological environment's coordinated protection system and mechanism, (ii) the need to progress with the establishment of a market-oriented and diversified ecological compensation mechanism, and (iii) the need for rule of law to protect the Yangtze River. Formalizing these important elements in a legislative framework represents a key milestone for the future development pathway of the Yangtze River basin and the YREB. The YRPL provides an avenue for translating strategic policy and planning targets into practical, enforceable implementation outcomes.

THE YANGTZE RIVER PROTECTION LAW— THE FIRST LEGISLATION OF ITS KIND

As the PRC's first legislation targeting the ecological protection and restoration of a specific river basin, the YRPL represents a significant milestone toward achieving the Government of the PRC's vision for an "ecological civilization"—the country's key driving philosophy that has been enshrined in the Constitution of the PRC since 2018 for a green and prosperous future (footnote 5). The YRPL not only encapsulates the relevant decisions and plans of the Central Committee of the Communist Party of China to strengthen environmental protection and restoration of the Yangtze River basin, but also supports the rational and efficient utilization of resources,

and the safeguarding of ecological security, ensuring harmony between people and nature, and contributing toward the overall sustainable development of the country.

After two deliberations by the PRC's top legislature (i.e., the NPC Standing Committee) and two rounds of public consultation,⁶ the YRPL was adopted on 26 December 2020 at the 24th session of the 13th NPC Standing Committee and came into effect on 1 March 2021. The YRPL consists of 96 provisions in nine chapters: (i) general provisions, (ii) planning and management, (iii) resource conservation,

As the PRC's first legislation targeting the ecological protection and restoration of a specific river basin, the Yangtze River Protection Law represents a significant milestone toward achieving the Government of the PRC's vision for an "ecological civilization"—the country's key driving philosophy since 2018 for a green and prosperous future.

⁶ The policy advice TA project (footnote 1) was implemented during the review period of the initial draft legislation and was well positioned to provide support with timely policy recommendations that were considered during the two public consultation periods. The recommendations focused on the institutional reform elements of the legislation, which are considered the most important aspect for its effective implementation. During the first round of public consultation in December 2019, the TA team submitted 83 recommendations, of which 22 were fully adopted and 6 partially adopted. In the second round of public consultation on the revised version of the YRPL in October 2020, the TA team submitted an additional 17 recommendations, of which 7 were fully adopted and 1 partially adopted in the approved final version of the legislation.



Ecotourism in Anhui Province. Ecotourism—an important sector that supports rural livelihood diversification and the protection of important natural capital assets and cultural heritage—is one of the green development approaches advocated by the Government of the People’s Republic of China to promote nature-positive growth in the Yangtze River Economic Belt and beyond (photo by Au Shion Yee).

(iv) water pollution prevention and control, (v) ecological restoration, (vi) green development, (vii) safeguard and supervision, (viii) legal liabilities, and (ix) supplementary provisions. The key areas of the YRPL are summarized below.

Coordinating and Unifying the Management of the Yangtze River Basin

Establishment of a national coordination mechanism. The general provisions of the YRPL stipulate the establishment of a national river basin coordination mechanism to provide unified guidance and overall coordination of efforts to protect and restore the Yangtze River basin through a centralized management approach. This approach will clarify roles relating to overlapping and unclear management functions of different bodies, and facilitate the sustainable and coordinated development of the basin. The key functions of the national coordination mechanism include (i) review of key policies and plans for the environmental protection and restoration of the Yangtze River, (ii) coordination across regions and departments on the resolution of major issues affecting the ecological system of the Yangtze River basin, and (iii) supervision and examination of the implementation of projects to protect the Yangtze River.

Creation of basin-wide information sharing platform. The national coordination mechanism is also responsible for strengthening data sharing between the relevant departments of the State Council of the PRC and provincial governments in the Yangtze River basin. This will build on the existing river monitoring station network and information sharing system with spatial data support relating to the basin’s ecological environment, hydrology, meteorology, natural resources, transport and shipping, disaster management, and law enforcement.

Establishment of local coordination mechanisms. The YRPL requires localities within the Yangtze River basin to establish coordination mechanisms for local rules and regulations, land use planning, supervision, law enforcement, and related functions. Joint law enforcement will be conducted according to the laws for cross-administrative areas, ecologically sensitive areas, and environmental violation-prone areas in the Yangtze River basin, as well as for cases of major violations.

Formation of an expert advisory committee. An expert advisory committee will be established under the national coordination mechanism to mobilize specialized institutions and human resources for professional consultations on major development strategies, policies, and master planning across the basin. In addition, relevant departments of the State Council and the provincial governments in the Yangtze River basin will be required to organize and conduct a third-party impact assessment of proposed construction and major infrastructure projects and land use planning on the basin’s environment and ecosystems.

Improving Government Responsibilities

The comprehensive, transboundary, and macro-level features of the YRPL make it one of the laws that is most demanding of government responsibilities.

Definition of government responsibilities. The YRPL defines government responsibilities, extensively covering areas such as river basin planning and layout; green development strategies; resource development, utilization, and conservation; pollution prevention and control; environmental restoration; and financial input for environmental protection such as ecological compensation.



Longxi River in the upper Yangtze River basin. Longxi River, a first-level tributary of the Yangtze River, has suffered from some of the worst floods in the country; hence, the Yangtze River Protection Law includes provisions supporting measures to improve capabilities for natural disaster management and prevention (photos by Au Shion Yee).

Strengthening the systematic management of the basin's diverse natural resources and ecosystems (i.e., rivers, lakes, forests, mountains, grasslands, and farmlands) needs a basin-wide, comprehensive, and holistic management system that features river-bank coordination, land-sea coordination, and social governance.

Specification of an accountability system of local governments.

The State Council implements the accountability and evaluation system for environmental protection of the Yangtze River basin. Moreover, the central government and its offices will be responsible for evaluating the progress of local (e.g., provincial and county) governments toward environmental protection and restoration goals.

Clarification of a dialogue system with local governments.

For areas with ineffective cooperation, ongoing conflict, or complaints in relation to environmental protection activities connected to the Yangtze River, the YRPL provides clear mechanisms for relevant departments of the State Council and provincial governments in the basin to undertake consultations and dialogue with local governments (at or above the county level) and require them to undertake timely rectification measures to resolve important issues.

Establishment of a reporting system of governments. The State Council is required to regularly report to the NPC Standing Committee on the state of the environment and updates on protection and restoration measures in the Yangtze River basin. Similarly, local governments (at or above the county level) in the Yangtze River basin must also regularly report to the NPC deputies on work progress in relation to local environmental protection and restoration programs and activities.

Enhancing Integrated and Coordinated Management

Assessment of natural resource and environmental carrying capacities. The YRPL mandates the Natural Resources Department of the State Council (as well as other relevant departments) to carry out surveys of the different natural resources in the Yangtze River basin. This is to establish a basic database of these natural assets (i.e., land, minerals, water flows, forests, grasslands, and wetlands); conduct assessments of resource and environmental carrying capacities; and report on the state of natural resources in the basin. The industrial structure and layout in the Yangtze River basin should be compatible with its ecosystems and environmental carrying capacities.

Implementation of the “three lines and one list.” The “three lines and one list” refers to an environmental zoning and management system that focuses on environmental quality improvement while integrating the requirements of the “three lines” (ecological protection red line, environmental quality bottom line, and resource utilization upper line) and the “one list” (environmental access negative list). Through spatial management, the YRPL will regulate economic activities and human behavior to ensure they do not exceed the carrying capacity of natural resources and ecological environments, thereby allowing time and space for natural ecosystems to recover. The provincial governments in the Yangtze River basin are required to develop the environmental zoning and management plan and the environmental access list, based on the state of the ecological environment and resource utilization within their administrative regions.

Evaluation of the integrity of the basin's aquatic organisms. In conjunction with relevant departments of the State Council

and the provincial governments in the Yangtze River basin, agriculture and rural authorities of the State Council must establish an index system and organize the evaluation of the integrity of aquatic organisms in the Yangtze River basin. Results of the evaluation will be an important basis for measuring the overall condition of the basin's ecosystems. The integrity index of aquatic organisms will be linked with the basin's water environmental quality standards.

Focus on the coordinated management of water resources, water ecosystems, and water environment. The YRPL dedicates one chapter each to (i) resource conservation, (ii) water pollution prevention and control, and (iii) environmental restoration. Provisions made in the chapter for water pollution prevention and control in the Yangtze River basin contain specific requirements, including (i) cap control of total phosphorus, (ii) upgraded solid waste supervision, (iii) tightened control of agricultural nonpoint source pollution, (iv) investigation and assessment of key groundwater pollution sources and hidden environmental risks, (v) strict control over the transportation of hazardous chemicals, and (vi) accelerated relocation and transformation of hazardous chemical companies in key areas.

Setting Down Rules for Green Development

The green development concept. In the pursuit of economic and social progress, the Yangtze River basin will focus on achieving environmental protection and ecological restoration goals in parallel with a green development approach, which will promote well-coordinated environmental conservation while avoiding large-scale excessive development. The YRPL adopts principles to support green development through measures to improve overall coordination and river basin governance, use of science-based planning, and adoption of innovative technologies.

A green development approach will promote well-coordinated environmental conservation while avoiding large-scale excessive development.

Overall planning for green development. The Development and Reform Department of the State Council will be responsible for preparing the Yangtze River basin development plan that will systematically coordinate environmental protection and green development of the Yangtze River's upper and lower reaches, left and right banks, and mainstream and tributaries. In addition, the YRPL requires that (i) the industrial structure and layout in the Yangtze River basin must be compatible with achieving environment protection goals and environmental carrying capacities, (ii) industries with potential for serious negative impact on the ecosystems will be restricted in key ecological function zones in the Yangtze River basin, and (iii) heavily

polluting enterprises and projects will be prohibited from relocating operations to the upper and middle reaches of the Yangtze River.

The green development red lines. The YRPL clearly imposes bans on (i) the construction and expansion of chemical parks and chemical projects within 1 km of the shoreline of the Yangtze River's mainstream and tributaries; and (ii) the construction, renovation, and expansion of tailings ponds within 3 km of the shoreline of the Yangtze River's mainstream and 1 km of the shoreline of the major tributaries, except for the purpose of improving safety and protecting the environment.

Measures for green development. The YRPL defines specific measures for green development, which include (i) advancing industrial upgrading and green development transformation; (ii) accelerating the construction of sponge cities, with measures to address water pollution through natural infiltration and purification of rainwater and runoff; (iii) scientifically determining the scale and intensity of breeding, and strengthening the management of aquaculture activities; (iv) stepping up efforts to build a comprehensive transportation system in the Yangtze River basin; (v) constructing, in a coordinated manner, facilities for receiving and transferring ship pollutants and liquefied natural gas filling stations for ships; and (vi) formulating construction and transformation plans for shore power facilities and power receiving facilities at ports.

The green development evaluation mechanism. The relevant departments of the State Council and the provincial governments in the Yangtze River basin are responsible for establishing a green development evaluation mechanism for development zones, including conducting regular assessments of intensive resource and energy use and environmental protection in these zones. Based on the evaluation results, the local governments (at or above the county level) in the Yangtze River basin must optimize and adjust industrial product portfolios and energy conservation and emission reduction measures in development zones.

Explicitly Stipulating the Implementation of Ecological Compensation

The establishment of a legal mechanism to support ecological compensation can facilitate fair distribution of environmental and economic benefits between resource users and managers of environmental assets across the basin. Through benefit coordination and sharing mechanisms, upstream and downstream areas can work together to support the overall green development of the river basin.

Ecological compensation measures. The YRPL incorporates specific provisions on the application of ecological compensation policy measures. These include (i) establishing a compensation system for ecological protection, (ii) increasing financial transfer payments to compensate areas of ecological importance (e.g., sources of the Yangtze River mainstream and its major tributaries) and key water conservation areas in the upper reaches,

and (iii) mandating the development of specific market-based measures to support policy reforms.

Ecological compensation funds. The YRPL also includes provisions to support the establishment of a market-oriented ecological compensation fund for investment in the environmental restoration of the Yangtze River, in accordance with national principles guiding policy support, corporate and social participation, and use of market mechanisms.

Ecological compensation channels. Local governments in the lower and middle reaches of the Yangtze River are required under the YRPL to provide support for environmental restoration and related protection measures in the headwaters and upper reaches of the basin, which are recognized to hold high ecological value. Support can take the form of projects, funding assistance, or technical inputs, or can be delivered through specific management actions. The YRPL includes provisions that promote the establishment of (i) horizontal ecological compensation between local governments; and (ii) ecological compensation between other relevant parties, including the private sector and businesses through voluntary participation and cooperation (e.g., corporate social responsibility).

Promoting a High Degree of Public Participation

In view of the Yangtze River's strategic position and existing environmental and development challenges (as presented in the figure), legislation related to its protection have been advanced since the 1990s. The 19th National Congress of the Chinese Communist Party called for efforts to facilitate the sustainable

and coordinated development of the YREB to protect and restore the health and ecological environment of the Yangtze River basin.

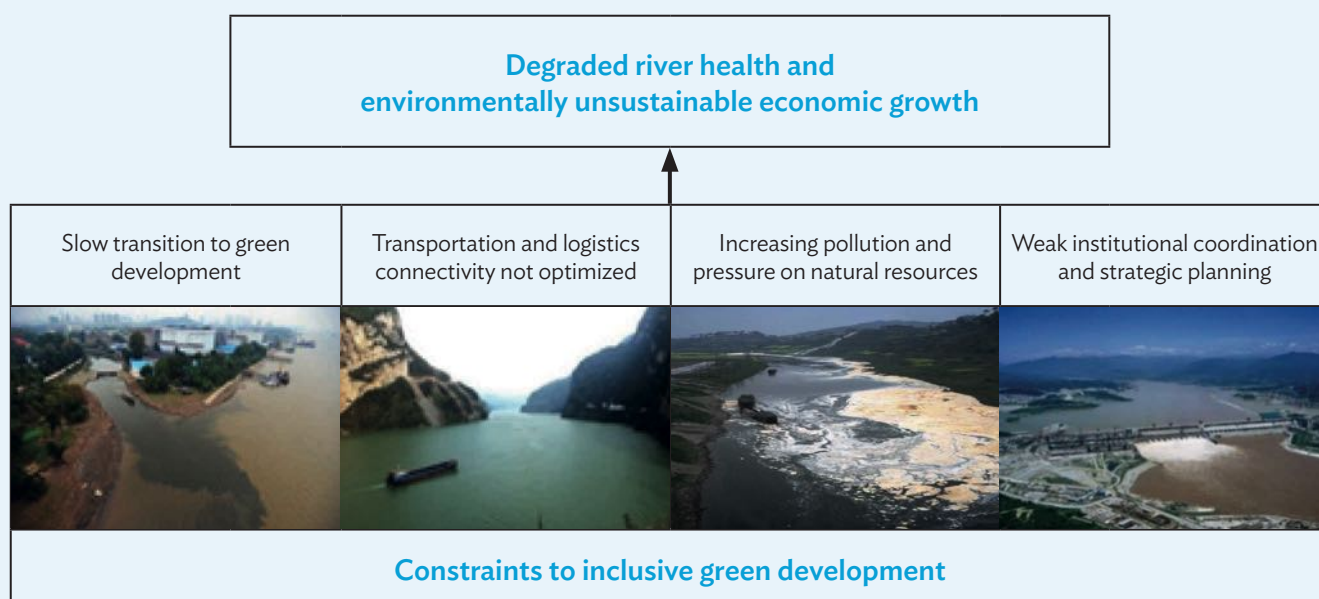
Public consultation. In March 2019, the NPC Standing Committee listed the YRPL in the Category I Projects of the legislative plan. The legislative process for the development of the YRPL involved solicitation of public comments during two stages: (i) on 28 December 2019 and (ii) on 21 October 2020. A total of 83 recommendations were submitted during the YRPL's first round of public consultation and 17 recommendations were submitted during the second round.

Inputs from technical experts. The ADB-supported TA project (footnote 1) was proposed following several expert consultation meetings and international seminars reviewing the PRC's practices and relevant international experiences in environmental protection and management of river basins. Findings gathered from these timely discussions were submitted to the Department of Laws, Regulations, and Standards of the MEE and the Environmental Protection and Resources Conservation Committee of the NPC as part of the process to gain support for the TA project to provide technical advice and policy recommendations for supporting the development of the legislation.

Clarifying and Enhancing the Legislative Framework and Relevant Provisions

The final approved version of the YRPL presents a clearer framework and details more stringent provisions, benefiting from the two rounds of deliberation and public consultation.

Environmental and Development Challenges in the Yangtze River Economic Belt



Source: Asian Development Bank.

Significant changes in the framework and content of the Yangtze River Protection Law. Following the second round of deliberations, the YRPL comprised 92 articles in 9 chapters, 8 more articles than the previous version. These changes reflect more closely the need for a well-coordinated system of protection of the Yangtze River, taking fully into account the submissions received during the public consultation process.

Coordination mechanism upgraded and penalties for violations increased. The final version of the YRPL includes 96 articles, 4 more articles than the previous version. The main changes included additional measures supporting (i) the establishment of the coordination mechanism at the State Council level to provide more authority, with responsibilities adjusted accordingly; (ii) the addition of the establishment of local coordination mechanisms in relevant areas in Article 6; (iii) the addition of Article 11 and Article 32 to improve the capabilities of disaster prevention, mitigation, resilience, and relief, specifically requiring the strengthening of monitoring, forecasting, early warning, defense, emergency response, recovery, and reconstruction systems for the management of natural disasters such as floods, droughts, forest and grassland fires, geological disasters, and earthquakes; (iv) the addition of Article 15 for strengthening protection of the cultural heritage of the Yangtze River basin, and recognizing this to be of national significance; (v) clarification in Article 79 on the importance of public participation processes; and (vi) a revision in Chapter VIII (Legal Liabilities), which included significantly increased penalties for violations.

POLICY RECOMMENDATIONS ON ENHANCING THE IMPLEMENTATION OF THE YANGTZE RIVER PROTECTION LAW

The YRPL clarifies and improves the relationships between (i) central and local governments, (ii) departments, (iii) river basins and administrative regions, and (iv) administrative regions in the Yangtze River basin.⁷ It provides an overview of institutions, mechanisms, systems, plans, schemes, and norms for well-coordinated protection of the Yangtze River basin. It also establishes the vision of green development, defined through arrangements based on natural resource and environmental carrying capacities.

With the YRPL effective since 1 March 2021, efforts to promote law enforcement will remain critically important to ensure that the maximum extent of desired outcomes is achieved in the Yangtze River basin. As with any new legal framework, the YRPL will be subject to ongoing review to adapt to varying circumstances and practical needs that arise from its implementation. The YRPL has neither clear provisions on climate change nor technical guidelines for law enforcement. These will be important considerations

The Yangtze River Protection Law establishes the vision of green development, defined through arrangements based on natural resource and environmental carrying capacities.

during the first 2–3 years of the implementation period and will act as test run for policy makers and regulators on the effectiveness of the legislation.

Strengthening the Role of the Yangtze River Basin Environmental Supervision and Administration Agency

At its heart, legislation for the protection of the Yangtze River lies in the reform of the river basin management system and operating mechanism. The YRPL clearly stipulates that the State Council is to establish an overall coordination mechanism, mandating that the relevant departments of the State Council and all levels of governments with responsibility in the Yangtze River basin implement decisions of the national coordination mechanism and fulfill the tasks assigned to them, according to the respective division of responsibilities.

Since the 1990s, the institutional arrangements for water management in river basins have undergone phased changes aligned with reforms of government institutions. River basin management arrangements in place are becoming incrementally more integrated.

The Yangtze River Basin Environmental Supervision and Administration Agency (ESAA), an agency under the MEE, is primarily responsible for environmental supervision, administrative law enforcement, and all related basin-wide management and monitoring activities. The agency will play an important role in improving overall river basin governance under the auspices of the YRPL—a critical focus of the national coordination mechanism.

Strengthening the law enforcement capacity of the Yangtze River Basin ESAA leverages its role in the overall supervision of pollution control and ecological protection in the basin. This will also promote integrated efforts in ecological conservation and green development, particularly with respect to policies and standards, monitoring and evaluation, supervision and law enforcement, and inspection and accountability. Similarly, this will also enhance the coordination mechanisms for environmental assessment, information sharing, and monitoring and evaluation activities. It is imperative, therefore, that the Yangtze River Basin ESAA is provided sufficient funding and

⁷ These include relationships between the MEE, Ministry of Natural Resources, and Ministry of Water Resources at the central government level, and equivalent provincial and county government agency counterparts and administrative bodies with functional responsibilities in the Yangtze River basin.

resources (both in terms of budget and human resources) to enable it to effectively carry out its expanded responsibilities delegated under the YRPL.⁸

Preparing the Implementation Plan for the Protection of the Yangtze River

An implementation plan that is regularly reviewed in line with the principles under the YRPL will be important for the protection of the Yangtze River. The plan should outline clear targets to be achieved, with corresponding indicators and time frames. It should also specify the division of responsibilities of the relevant departments of the State Council and the provincial governments in the Yangtze River basin. It is particularly important to indicate the dates for achieving phased results in governance measures, including application of scientific methods, and monitoring and review procedures. Standards and targets should also be reviewed with each update of the plan to remain relevant. Evaluation standards and key performance indicators for stakeholders must also be regularly revised.

Mainstreaming Climate Change in Watershed Management

With its fragile ecological environment, the Yangtze River basin is very sensitive and highly vulnerable to the impacts of climate change. Continued climate warming has resulted in increased frequency of extreme weather events. The 2020 flood season recorded some of the heaviest rainfalls and most destructive flooding across the country, with average rainfall in the Yangtze River basin at its highest level since 1961.

The Government of the PRC's commitment to ratifying the 2015 Paris Climate Change Agreement represented an important turning point. In September 2020, the government announced the target of achieving carbon neutrality before 2060, with peaking of emissions levels to occur by 2030. At that point, carbon intensity is estimated to be 65% less than 2005 levels per unit of gross domestic product. The government also initiated the update of the PRC's National Strategy for Climate Change Adaptation, 2014–2020 to extend to 2035; the update is expected to be completed by the end of 2021. Policy shifts over the last two national five-year plan periods (2011–2015 and 2016–2020) have set in motion an energy and climate change revolution across the country.

Land use and spatial planning for the Yangtze River basin needs to take into account climate change considerations. The specific plans and goals may be subject to review and update depending on the climate change planning scenarios, the economic growth projections, and the state of environment and ecological systems.

At the same time, the management and control of risks associated with climate change should also be taken into account during law enforcement. The speed and possible scale of climate change impacts need to be regularly reviewed, with relevant standards and/or targets updated when necessary.

Therefore, to respond to climate change threats, the YRPL implementation needs to carefully consider reducing the adverse effects of climate change on natural ecosystems and socioeconomic systems, improving economic and social resilience, and promoting climate-resilient and high-quality development.

Strengthening the Practicability of Information Disclosure

At present, while both public and private organizations have a growing awareness of their responsibility for improving environmental governance, information disclosure is also gaining increasing prominence to support environmental monitoring and supervision. In the enforcement of the YRPL, more attention needs to be paid to the practicability of relevant provisions and the feasibility and implementation of policies and measures. The information disclosure channels need to be further clarified.

Article 79 of the YRPL stipulates that citizens, legal persons, and unincorporated organizations have the right to access, upon application, information about the Yangtze River basin in accordance with the law. However, the scope and mechanism of information disclosure (e.g., online participation or application) are not specified. Such information, including the locations of protected areas, relief and compensation mechanisms, and highly sensitive riverbank environments, is essential to ensure

Implementation of the Yangtze River Protection Law needs to carefully consider reducing the adverse effects of climate change on natural ecosystems and socioeconomic systems, improving economic and social resilience, and promoting climate-resilient and high-quality development.

⁸ The Yangtze River Basin ESAA, previously known as the Yangtze River Basin Watershed Ecological and Environmental Supervision Bureau, is one of seven administrative bodies representing each of the key river basins and marine areas in the PRC. Recommendations for strengthening the coordination mechanisms of ESAs, including the need to ensure adequate resourcing for staffing and equipment to carry out expanded responsibilities following institutional reforms to the MEE introduced in March 2018, were provided under ADB's Strengthening Institutions for Localizing Agenda 2030 for Sustainable Development regional TA project (footnote 3) and contributed to the TA policy recommendations considered in the YRPL.

compliance under the law. Hence, during law enforcement, it is necessary to clarify the government departments to which citizens, legal persons, and unincorporated organizations can apply for information disclosure, as well as the channels for information access. In addition, information disclosure should also be supported by an integrated information sharing platform that can also support basin-wide planning and decision-making.

POLICY IMPLICATIONS FOR CONSIDERATION IN THE YELLOW RIVER BASIN LEGISLATION

The Government of the PRC and ADB will focus support for the Yellow River basin on environmentally sustainable development and climate change adaptation and mitigation, which are priority areas under ADB's country partnership strategy for the PRC, 2021–2025⁹ and are aligned with PRC's high-quality development goals outlined in the 14th Five-Year Plan, 2021–2025.¹⁰ The experiences and considerations in the development of the YRPL will provide valuable guidance to inform the design and development of environmental protection legislation for other river basins, including proposed legislation for the Yellow River basin.

The Yellow River is the second-longest river in the PRC. Its basin accounts for 8% of national gross domestic product and is critical for food security. However, the Yellow River basin faces complex development and environmental challenges. With only 2% of the country's water resources, the Yellow River basin region suffers from severe water scarcity and environmentally unsustainable development. Compared with the Yangtze River basin, the Yellow River basin has a more complex geography and landscape, which are characterized by fragile ecosystems, river systems with high sedimentation, and a relatively less developed economy. The Yellow River basin also experiences severe natural disasters such as floods and droughts, which are exacerbated by climate change impacts. Following many decades of intensive natural resource exploitation and development pressures, the ecological environment has

The experiences and considerations in the development of the Yangtze River Protection Law will provide valuable guidance to inform the design and development of environmental protection legislation for other river basins.

been severely degraded. These characteristics require special consideration in the preparation of a Yellow River protection law, especially in recognizing and enforcing the protection of key ecologically sensitive areas. The ecological restoration and protection of the Yellow River basin will be a long-term, complex process, and the development of specific legislation needs to also follow a careful, staged approach that considers key enablers and barriers. The lessons and experiences from the development of the YRPL offer valuable insights into the process of designing a legal framework tailored to the unique issues and circumstances of the Yellow River basin.

The existing legal framework for river basin management can neither solve the overall water shortages and environmental problems in the upper and lower reaches of the Yellow River basin, nor support the optimization and coordination of planning, governance, and compensation mechanisms of the various provincial, county, and administrative regions across the basin. Therefore, a specialized law for the protection of the Yellow River basin is needed to (i) provide guidance for the promotion of green and coordinated development, and (ii) strengthen the cooperation between upstream and downstream provinces and regions. It is vital to strengthen the spatial land management of the ecological environment; delineate ecological protection red lines; and clarify the boundaries for economic, social, and ecological spaces, similar to what has been achieved with the YRPL in the Yangtze River basin. A special research study should be conducted at the river basin scale to examine the key institutional and regulatory constraints posing barriers to achieving ecological and environmental protection goals aligned with the Government of the PRC's concerted efforts of promoting the ecological protection and high-quality development of the Yellow River basin as a major national strategy.

A MAJOR STEP TOWARD RESILIENT AND GREEN DEVELOPMENT

The passage of the YRPL presents a momentous stride to facilitating resilient and green development of the PRC's major river basin.

Based on inputs from domestic and international experiences, and lessons learned from river basin protection, the YRPL encapsulates provisions addressing key cross-sector problems (e.g., pollution, industrial development zones, and spatial and land use planning) affecting the ecological system and aquatic environment of the Yangtze River basin. It also integrates specific measures to support high-quality green development in the Yangtze River basin recognizing the importance of ecological and environmental assets as the key drivers for future economic development. With responsibilities and division of tasks clearly

⁹ ADB. 2021. *Country Partnership Strategy: People's Republic of China, 2021–2025—Toward High-Quality, Green Development*. Manila.

¹⁰ Government of the PRC, NPC. 2021. *The Fourteenth Five-Year Plan for the National Economic and Social Development of the People's Republic of China and the Outline of the Long-term Goals for 2035*. Beijing.

defined, accompanied by stringent penalties for noncompliance, the legal basis for enforcement is in place. Management coordination and public participation are also highlighted as critical features.

As the country's first legislation to tackle the protection and sustainable development of a specific river basin, the YRPL will serve as a functional model for other river basins in the PRC, as well other developing member countries in Asia and the Pacific and beyond that are facing mounting environmental challenges.

ADB's support for the development of the YRPL has been both timely and impactful, as it was aligned with the Government of the PRC's dominant focus and call for the protection, restoration, and sustainable development of its major river basins. Attention will now inevitably focus on implementation and compliance to understand how the legal framework can be practicably applied

to ensure the outcomes envisaged are being appropriately supported for the benefit of all resource users in the basin.

The challenge ahead remains in the YRPL's effective implementation. The YRPL needs to be well coordinated with key provisions of existing related laws, in particular the Environmental Protection Law (amended in 2015) and the Water Pollution Prevention and Control Law (amended in 2017), to ensure consistency with functional responsibilities and compliance requirements relating to ecological and environmental supervision and management. This issue was clearly identified in the drafting of the YRPL, but issues and challenges will inevitably arise during implementation and enforcement of provisions. Ongoing revisions and amendments to the YRPL and other existing laws will be necessary to execute key objectives and honor the intent of legislative frameworks while also minimizing areas of overlapping application and potential sources of conflict.

About the Asian Development Bank

ADB is committed to achieving a prosperous, inclusive, resilient, and sustainable Asia and the Pacific, while sustaining its efforts to eradicate extreme poverty. Established in 1966, it is owned by 68 members—49 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.

ADB Briefs are based on papers or notes prepared by ADB staff and their resource persons. The series is designed to provide concise, nontechnical accounts of policy issues of topical interest, with a view to facilitating informed debate. The Department of Communications administers the series.

Notes:

In this publication, "\$" refers to United States dollars. ADB recognizes "China" as the People's Republic of China.

The views expressed in this publication are those of the authors and do not necessarily reflect the views and policies of ADB or its Board of Governors or the governments they represent. ADB encourages printing or copying information exclusively for personal and noncommercial use with proper acknowledgment of ADB. Users are restricted from reselling, redistributing, or creating derivative works for commercial purposes without the express, written consent of ADB.

Asian Development Bank
6 ADB Avenue, Mandaluyong City
1550 Metro Manila, Philippines
Tel +63 2 8632 4444
Fax +63 2 8636 2444

www.adb.org/publications/series/adb-briefs



Creative Commons Attribution 3.0 IGO license (CC BY 3.0 IGO)

© 2021 ADB. The CC license does not apply to non-ADB copyright materials in this publication.

<https://www.adb.org/terms-use#openaccess> <http://www.adb.org/publications/corrigenda> pubsmarketing@adb.org