

Understanding Water Rights and Water Allocation

**NARBO's 1st Thematic Workshop on Water Rights
and Water Allocation**
5–9 December 2005, Hanoi, Viet Nam

Ian Fox

Principal Project Specialist (Natural Resources)
Asian Development Bank



Water Rights

- Essential elements of all definitions:
 - quantity
 - purpose
 - period of use
 - conditionality
- **but does not normally imply ownership of the water itself**



Trading Water Rights?

- Economic value promotes greater efficiency and less waste
- Easier to protect the rights of the poor and traditional users
- Makes people more aware of the value of water



Water as a Human Right (1)

'the human right to water entitles everyone to ... safe and acceptable water for personal and domestic use.'



Water as a Human Right (2)

- Explicitly recognized water as a fundamental human right
- Adopted by the UN Committee on Economic, Social and Cultural Rights (November 2002)



Water as a Human Right (3)

- Holds governments accountable for ensuring equitable access to water
- Provides a framework to assist governments in establishing effective policies and strategies



Poverty and Water Rights (1)



**Water rights protect
the poor's water
from being stolen**

**Insecure access
discourages the
poor's productivity**

- Bruns, 2004

Poverty and Water Rights (2)



Water rights can help the poor to:

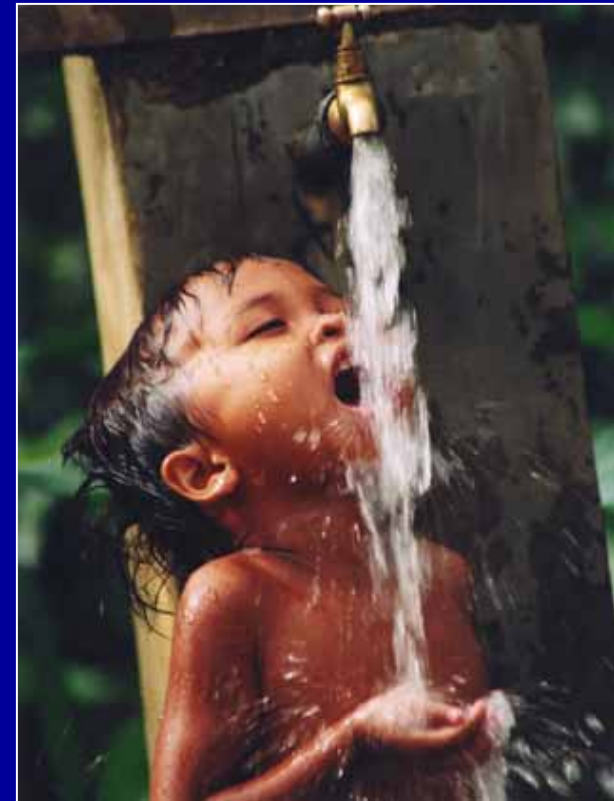
- Safeguard access to basic needs
- Sustain livelihoods
- Participate in governance
- Prevent and resolve conflicts
- Invest in improving their live

- Bruns, 2004

Challenges to the Adoption of Water Rights (1)

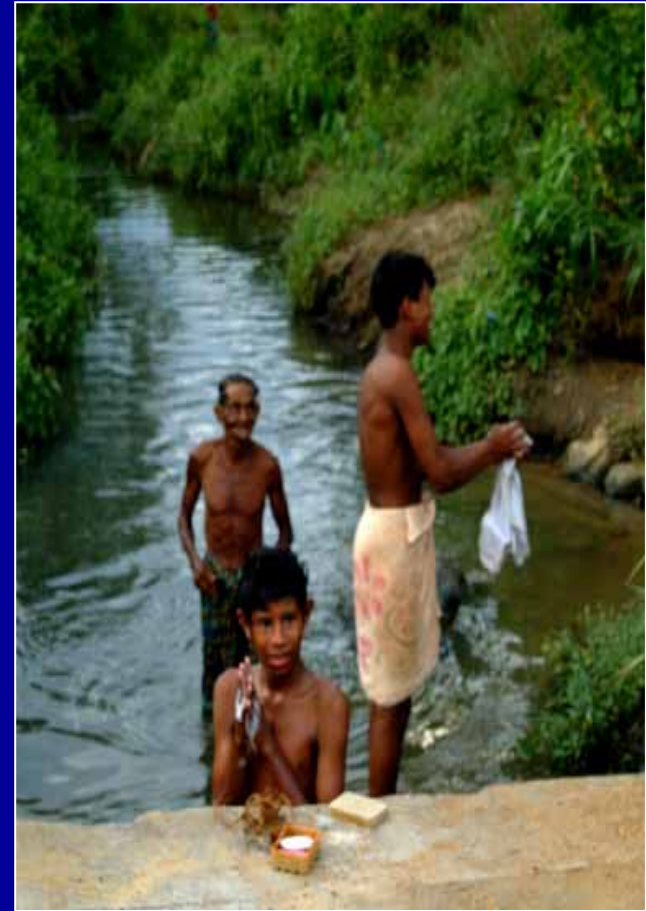
- Local institutions for water rights and allocation are often unsupported by national law
- Customary rights may lack legal standing
- Regulations are often incomplete, contradictory, and un-enforced

- Bruns, 2004



Challenges to the Adoption of Water Rights (2)

- Water users may have little knowledge of the laws and regulations
 - Courts are often distant, distrusted, and take a long time to deliver verdicts
- Bruns, 2004



Challenges to the Adoption of Water Rights (3)

- Technical measurements of water flows may be non-existent
- Difficulty of guaranteeing fair sharing among users

- Bruns, 2004



Approaches to Water Rights Reform



Parallel-track reform

Participation

Customary rights

Pro-poor reform

Action research

Sharing international experience

Priorities

- from the International Working
Conference on Water Rights, Viet Nam,
12-15 February 2003

Frameworks and Arrangements for Water Rights and Allocation (1)

Cambodia

- No formal water rights and water allocation
- Law on Water Resources Management (draft)
- Policies on water

Kazakhstan

- Committee of Water Resources + 8 water management basin boards
- Water deliver restrictions, water permits, water registration and control.

Lao PDR

- Water Resources Law of 1996
- Sectoral policies
- Constitution of 1991



Frameworks and Arrangements for Water Rights and Allocation (2)

Malaysia

- Federal Constitution distributes rights between federal and state governments
 - conflict resolution through ad-hoc inter-agency consultations
- National Water Resources Council formed in 1985
 - water crisis in 1998

Indonesia

- Not a well-defined system
- Indonesian Constitution (God-granted)
- New Water Law of 2004

India

National water policy in 1987 sets priorities (drinking, irrigation, industry)

Mongolia

Water Law of 1996 gives considerable power to local authorities



Frameworks and Arrangements for New Water Rights and Allocation (3)

Water Resources Act of 1992 and its by-laws set rights for various purposes

Papua New Guinea

Water Resources Act of 1982 – does not cover customary claims

Philippines

- Water Code of 1976, implemented through National Water Resources Board
- Allocates for domestic, municipal, irrigation, power, fisheries, livestock, industrial, recreational, other uses

People's Republic of China

- Water Law of 1988
- Ministry of Water Resources and 7 major river basin commissions



Frameworks and Arrangements for Water Rights and Allocation (4)

Sri Lanka

- No formal water rights
- State Lands Ordinance of 1947
- National Water Resources Policy

Thailand

- Water rights not clearly-defined
- National Water Law (draft)
- River Basin Committees

Uzbekistan

- Ministry of Land Reclamation and Water Management
- provincial water management bodies

Vietnam

- Law on Water Resources (1988)
- Decree 179/1999 (implementing the law on WR)
- Decree 149/2004 (licensing)



ADB's Water Policy – Provisions on Water Rights and Allocation (1)

- Encourage to adopt participatory and negotiated approaches for water allocation
- Support the evolution of water allocation through markets of transferable water rights once the necessary policy, legal and institutional framework for IWRM in a river basin context have been put in place

WATER for ALL



ADB's Water Policy – Provisions on Water Rights and Allocation (2)

- Help to develop water rights in a manner that protects the rights of the poor to equitable water services
- Support the introduction of systems of water entitlements, or usage rights

WATER for ALL

ADB's Assistance to Developing Member Countries (1)

Azerbaijan

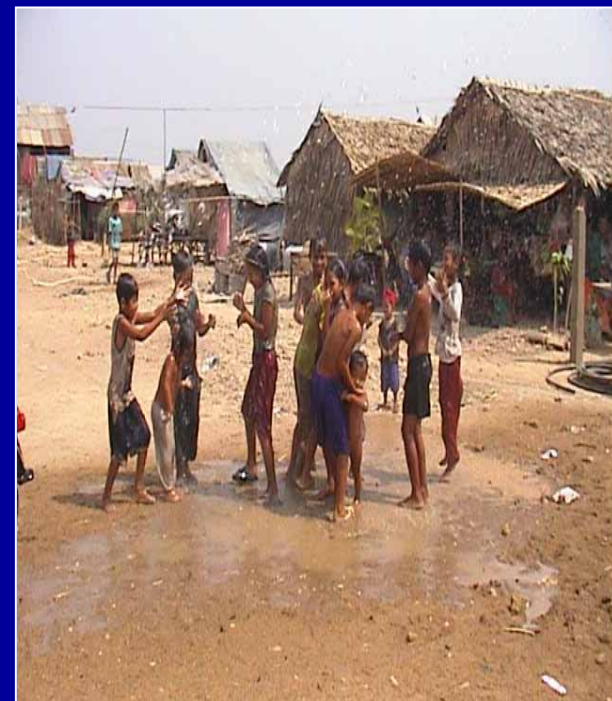
Build capacity on river basin management, water allocation, and water resources assessment

Cambodia

Clarify the regulatory framework and form of legal agreements for water use ownership rights of farmer water user community (FWUC)

India

- Appraise the extent of intersectoral conflicts on use of water
- Appraise needs and prospects for introducing water rights and procedures for intersectoral water allocation
- Assess technical capacity to support implementation of water allocation, water rights and basin management



ADB's Assistance to Developing Member Countries (2)

Indonesia

- Clarify the legal status of water rights in 4 strategic river basins
- Analyze the social dimensions to recognize traditional water rights

Kazakhstan

Assess the role of government in controlling water resource allocation

Kazakhstan and Kyrgyz Republic

- Improve transboundary water management at the Chui-Talas river basins
- Develop a water rights analysis as a basis for a water allocation policy



ADB's Assistance to Developing Member Countries (3)

Lao PDR

- Prepare the draft national water policy, covering issues on water allocation and licensing of water use
- Develop a river basin model for bulk sharing of water
- Develop agricultural development plans, covering water rights and allocation provisions

Nepal

Examine the possibility of water rights trading

Pakistan

Prepare analytical papers on water use rights



ADB's Assistance to Developing Member Countries (4)

Philippines

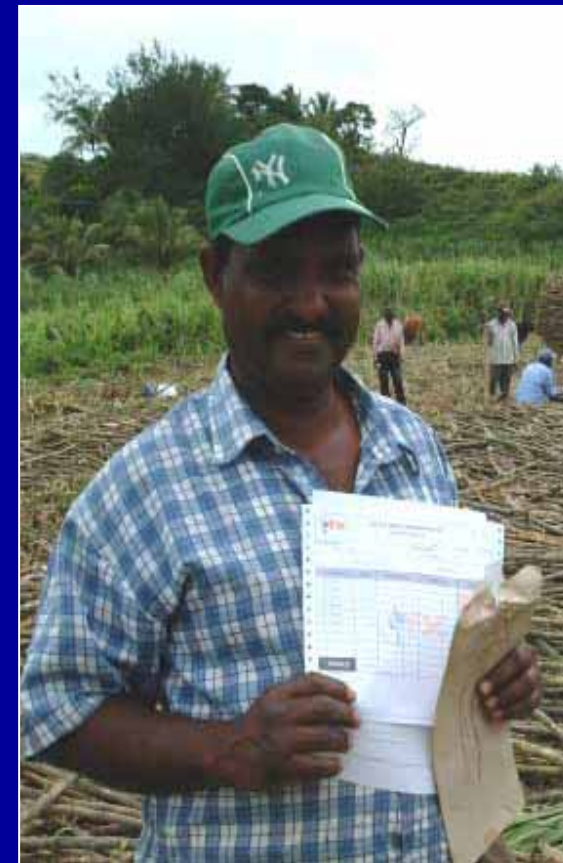
- Provide advice on legal issues relating to water rights from the Wawa Dam
- Assess existing policies, laws, decrees, regulations and circulars governing water rights, water allocation and water pricing

Sri Lanka

Assist in building government's capacity to implement water reforms

Timor-Leste

Assist in formulating a national water policy covering water sharing and water allocation.



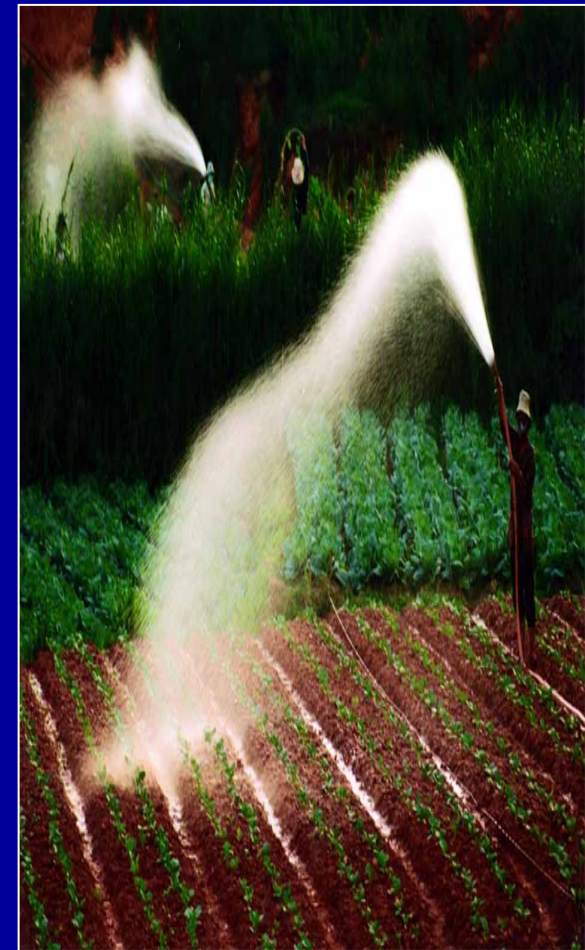
ADB's Assistance to Developing Member Countries (5)

Uzbekistan

- Strengthen the capacity for water allocation, monitoring and accounting
- Implement water policy and institutional reforms

Viet Nam

- Assist in water resources planning, including a system of water abstraction rights for large rivers in Viet Nam
- Increase public awareness and education regarding water allocation, water rights, water permits and water resource management



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