Global Water Scarcity Conference

Glasgow

IHP-HELP Centre for Water Law, Policy & Science

UNESCO

# Tackling the Global Water Crisis – an International Legal Perspective

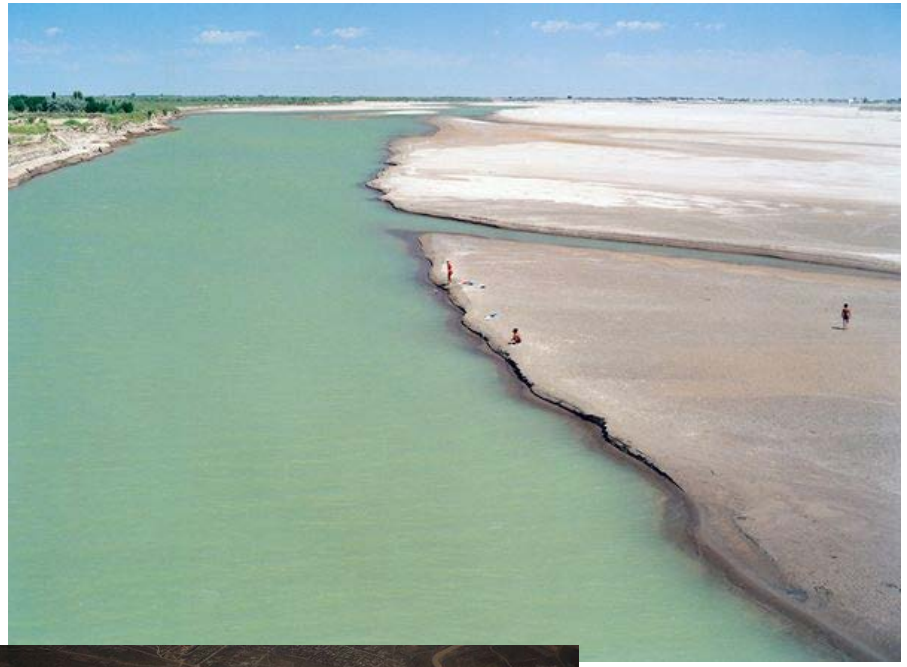
22-23 May 12

Prof Patricia Wouters

# The Global Water *Crisis?*

What is the problem?

# Global Water Challenges



A dam on the Mekong - Opening the floodgates

- A giant dam is about to be built. Protests are about to erupt
- Is Laos building a dam at Xayaburi?

May 5th 2012 | from the print edition
The Economist

Central Asia

- Aral Sea
- Syr Darya

# Global Water Challenges

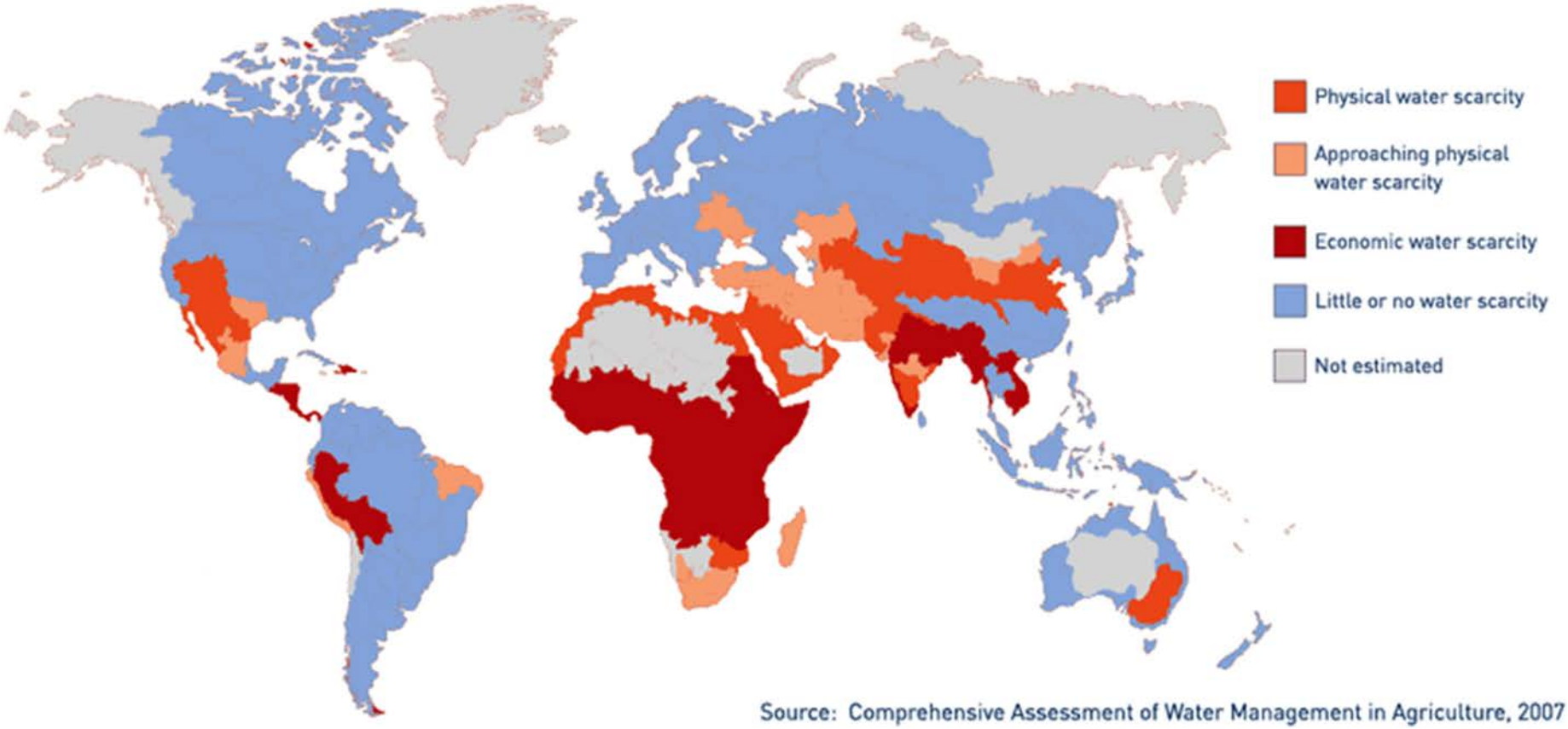
- An Indian boatman sits near the polluted river waters of the Ganges at Sangam, the confluence of the Ganges, Yamuna and mythical Saraswati rivers in Allahabad.
- Allahabad High Court, in the northern state of Uttar Pradesh, ordered the closure of more than 100 tanneries that pour tons of toxic chromium into the Ganges each year in the industrial city of Kanpur.

Dan Morrison in Allahabad, India
For National Geographic News
Published November 23, 2011

- Scientists Race to Save World's Rice Bowl From Climate Change
- More frequent floods and droughts expected in Southeast Asia.

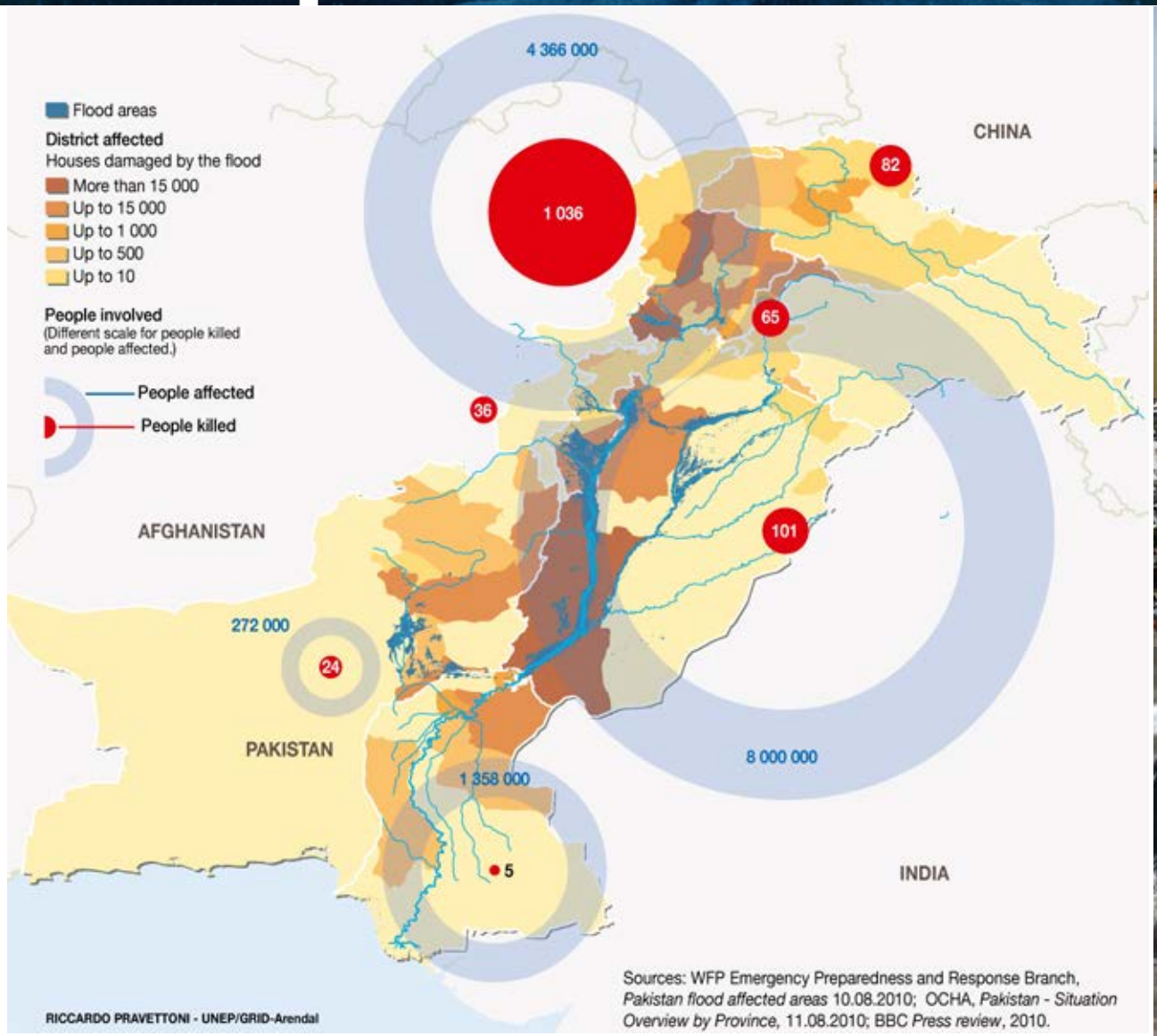
Ker Than
For National Geographic News
Published May 2, 2012

# Availability and Access issues: Too little…



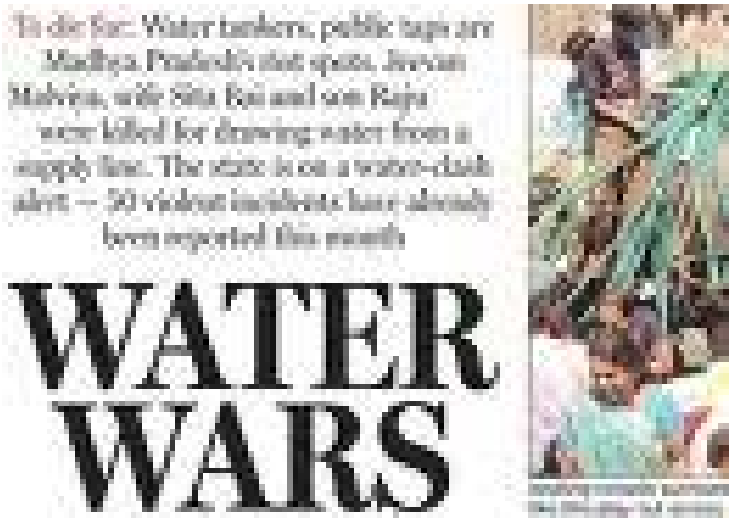

Source: Comprehensive Assessment of Water Management in Agriculture, 2007

# Availability and Access issues: too much



# Conflicts-of-use - Water security challenges

# Conflicts-of-use over water?



Hydro-diplomacy?

# Competition+ over the Nile: Land Grabs

## New York Times - When the Nile Runs Dry

Lester R. Brown (1 June 2011)

*"Affluent countries like Saudi Arabia, South Korea, China and India have descended on fertile plains across the African continent, acquiring huge tracts of land to produce wheat, rice and corn for consumption back home. .. Growing water demand, driven by population growth and foreign land and water acquisitions, are straining the Nile's natural limits. "*

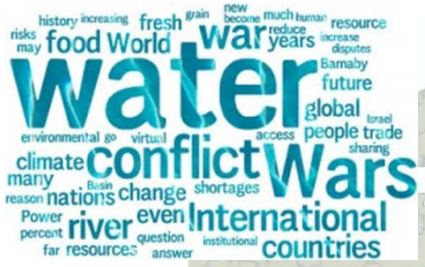
# US Senate Report – Avoiding Water Wars (Feb 2011)

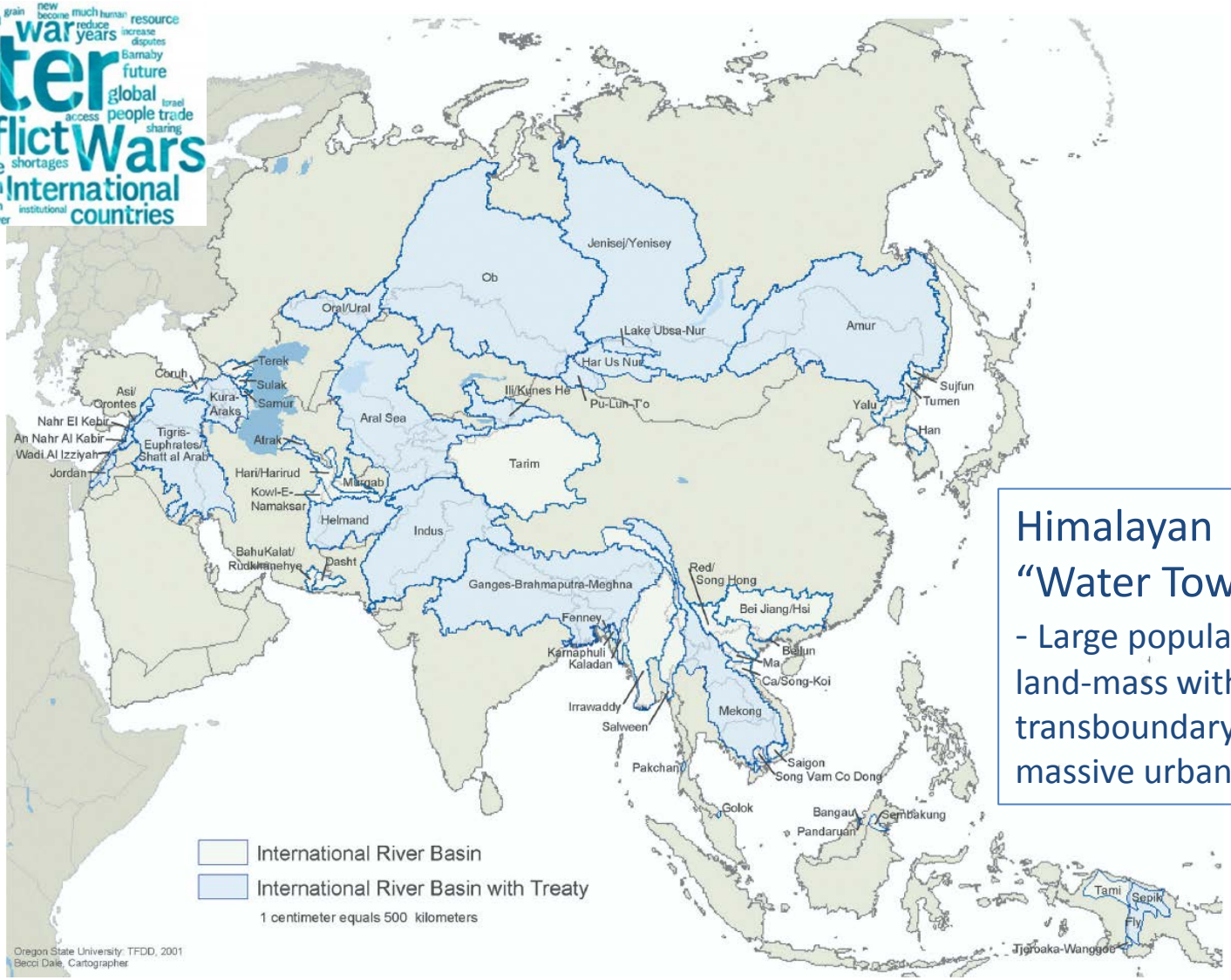
By neglecting the interconnectivity

of water issues between Central and South Asia, the U.S. approach

could exacerbate regional tensions.

# International Waters across Asia



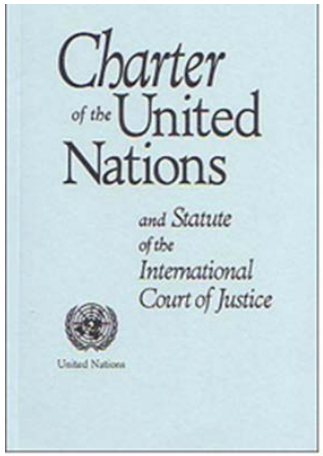

Himalayan "Water Towers"

- Large population; land-mass with 60+ transboundary waters; massive urban centres

# United Nations: Water for all

Promoting regional peace and security and the fundamental freedoms of all through the peaceful management of the world's water resources.

2013: UN International Year of Water Cooperation



# Role of International Law

*International law is clearly much more than a simple set of rules. It is a culture in the broadest sense in that it constitutes a method of communicating claims, counter-claims, expectations and anticipations as well as providing a framework for assessing and prioritising such demands.*

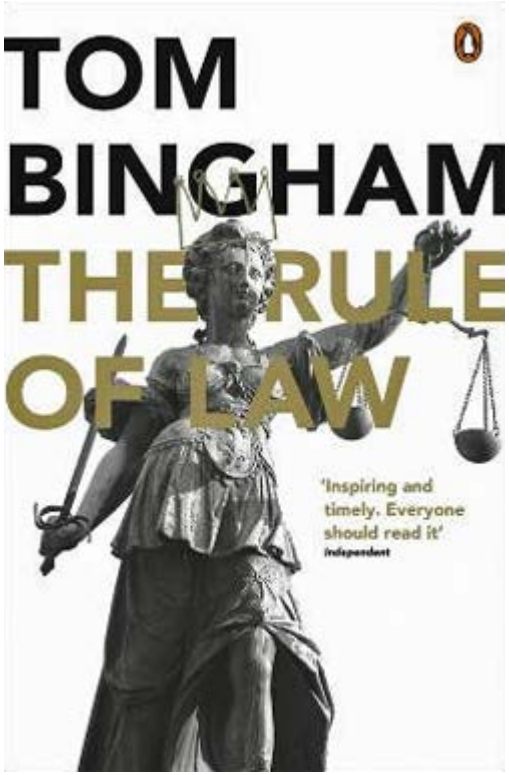
Shaw, 2003

# Role of Law = Rule of Law

*" If the daunting challenges now facing the world are to be overcome, it must be in important part through the medium of rules, internationally agreed, internationally implemented and, if necessary, internationally enforced.*

*That is what the rule of law requires in the international order. "*

Lord Bingham The Rule of Law (2010)



# Rule of law as foundation for a fair society

Rule of Law as foundation for:

1. good governance
2. accountability
3. certainty
4. legality

As core conditions for an effective economy and a fair society.

# Hydro-nation imperatives

Vision for water security in a threatened world

*… A hydro-nation manages its water to drive its economy, improve its society, protect its environment and contribute to its international obligations."*

*Hydro-nation consultation*

The Scottish Government

- Water is key to peace and stability
- central to provide powerful, multifaceted contributions to "Rio+20" on "a green economy in the context of sustainable development and poverty eradication" and "the institutional framework for sustainable development".

*Ministerial Declaration*
*(Marseille World Water Forum 2012)*

# Global Water Scarcity / Role of Law

## Water Scarcity Issues

- Quality
- Quantity
- Urbanisation
- Industrialisation
- Population growth

## Role of Law

- Rules of the game
- Fairness
- Transparency

# Functional Role of International (Water) Law

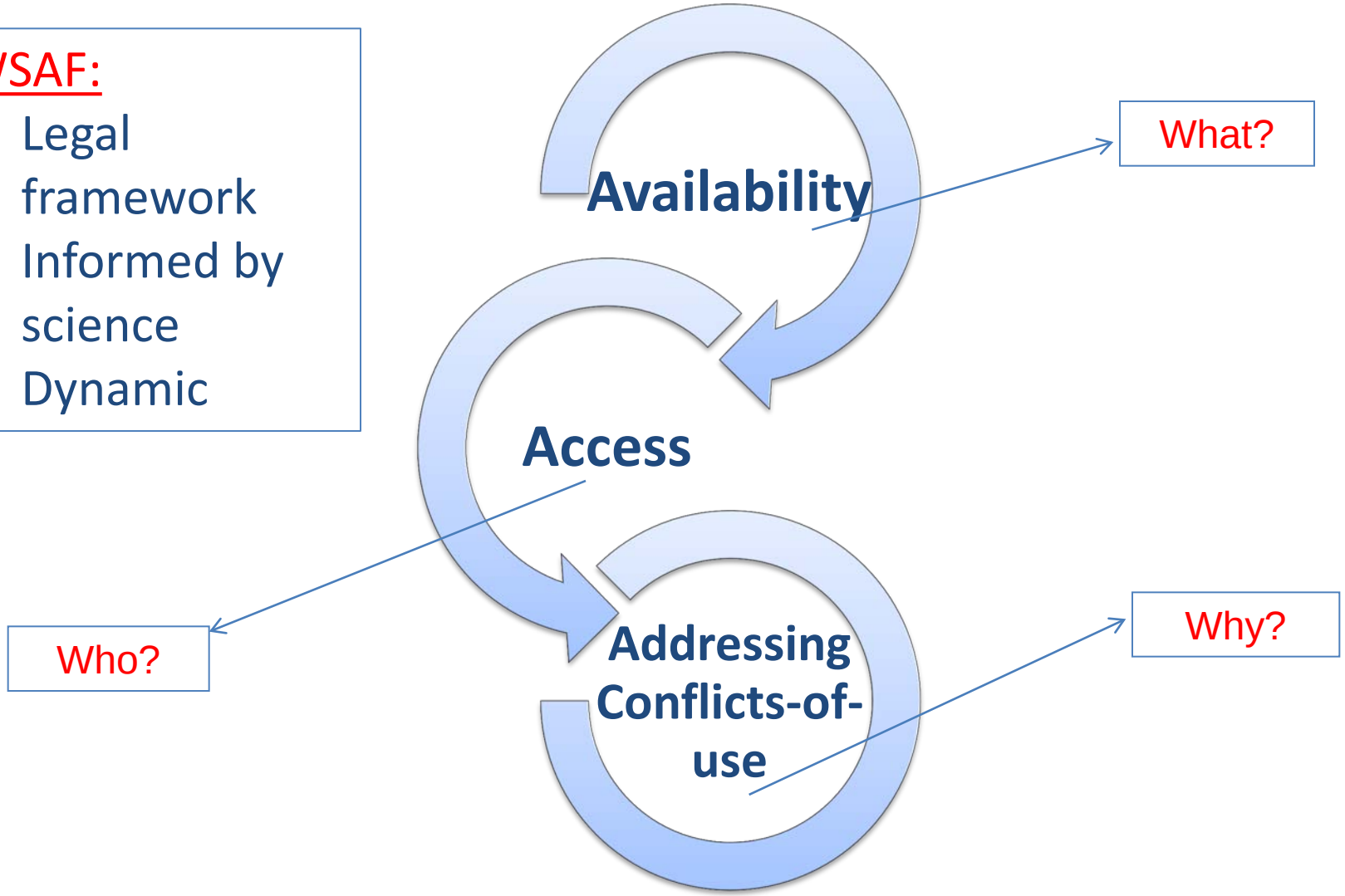
(i) Meta-framework for international relations among sovereign states (law of nations)
(ii) Platform for integration (across scales, sectors and disciplines)
(iii) Mechanism for operational interface (substantive and procedural rules of implementation)

Global community (community-of-interests)

# Water Security: Legal Analytical Framework

WSAF:

1. Legal framework
2. Informed by science
3. Dynamic



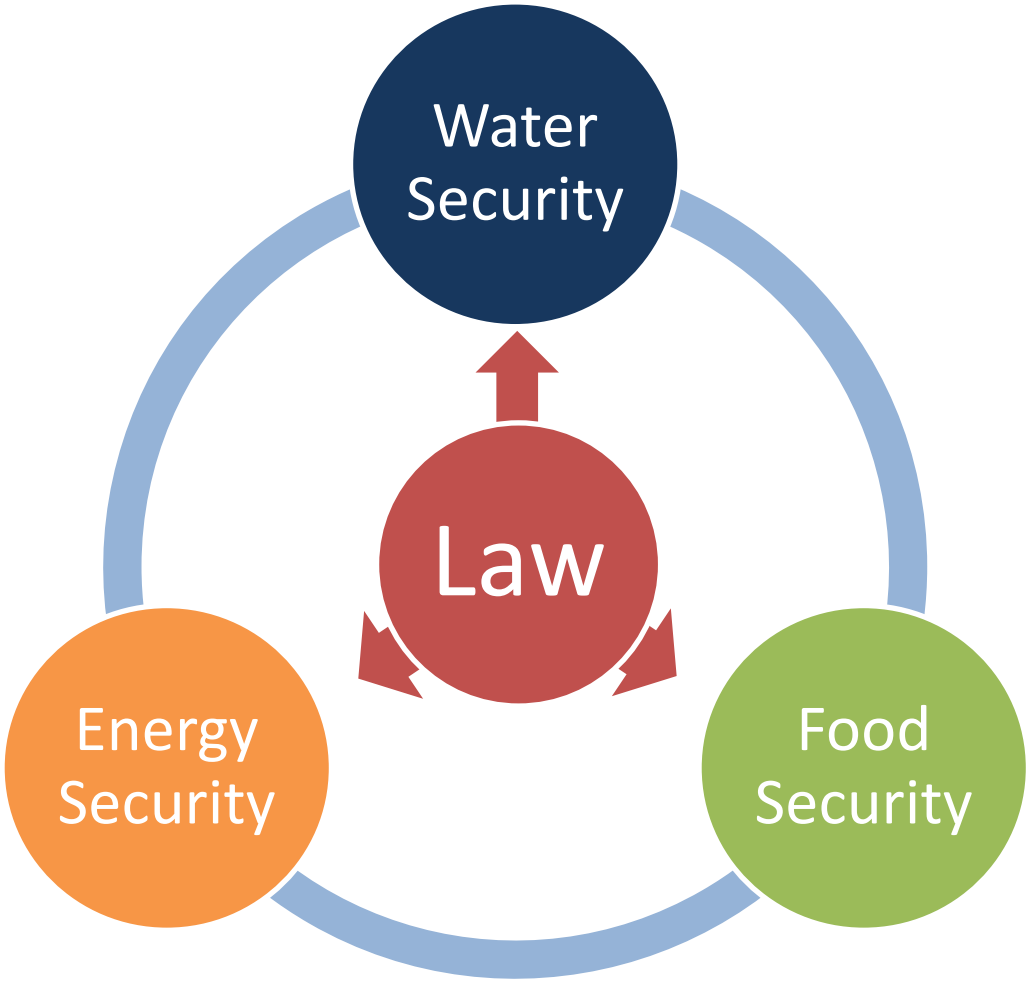
# Rules of International Water Law

- Treaties
- Rules of customary law
- General principles

- UN Watercourses Convention (1997)
- Regional treaties (UN ECE Helsinki Convention; SADC)
- State practice (i.e. China; Turkey)

- Equitable and reasonable use
- procedural rules
- peaceful settlement of disputes

# Rule of law: unlocking competing securities

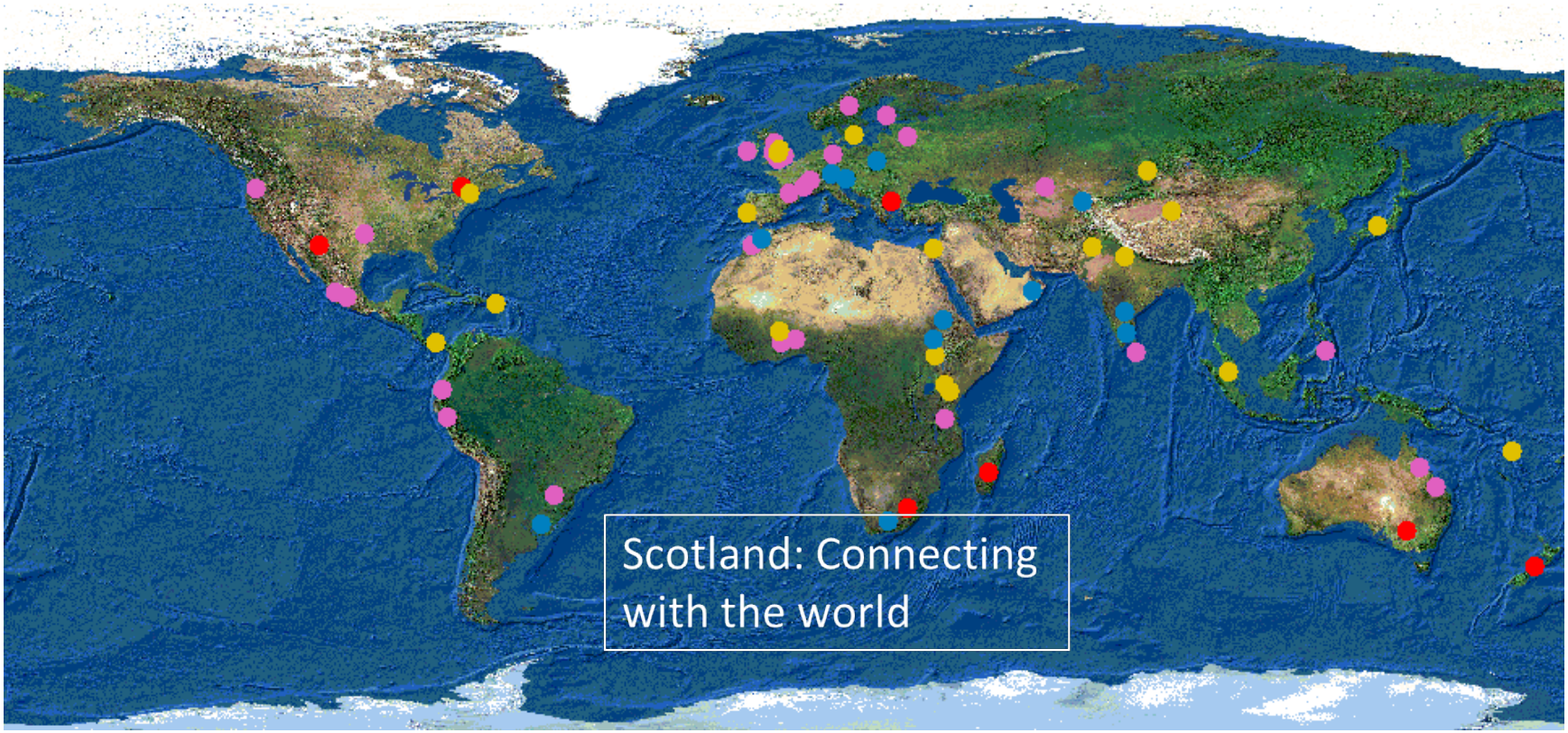



Legal instruments: platforms for transparency, equity and fairness between competing securities

- Legal frameworks
- Benefit-sharing (e.g. SADC)
- Institutional mechanisms for water allocation between competing sectors (e.g. soya bean irrigation vs. hydropower dams in Madhya-Pradesh, India)

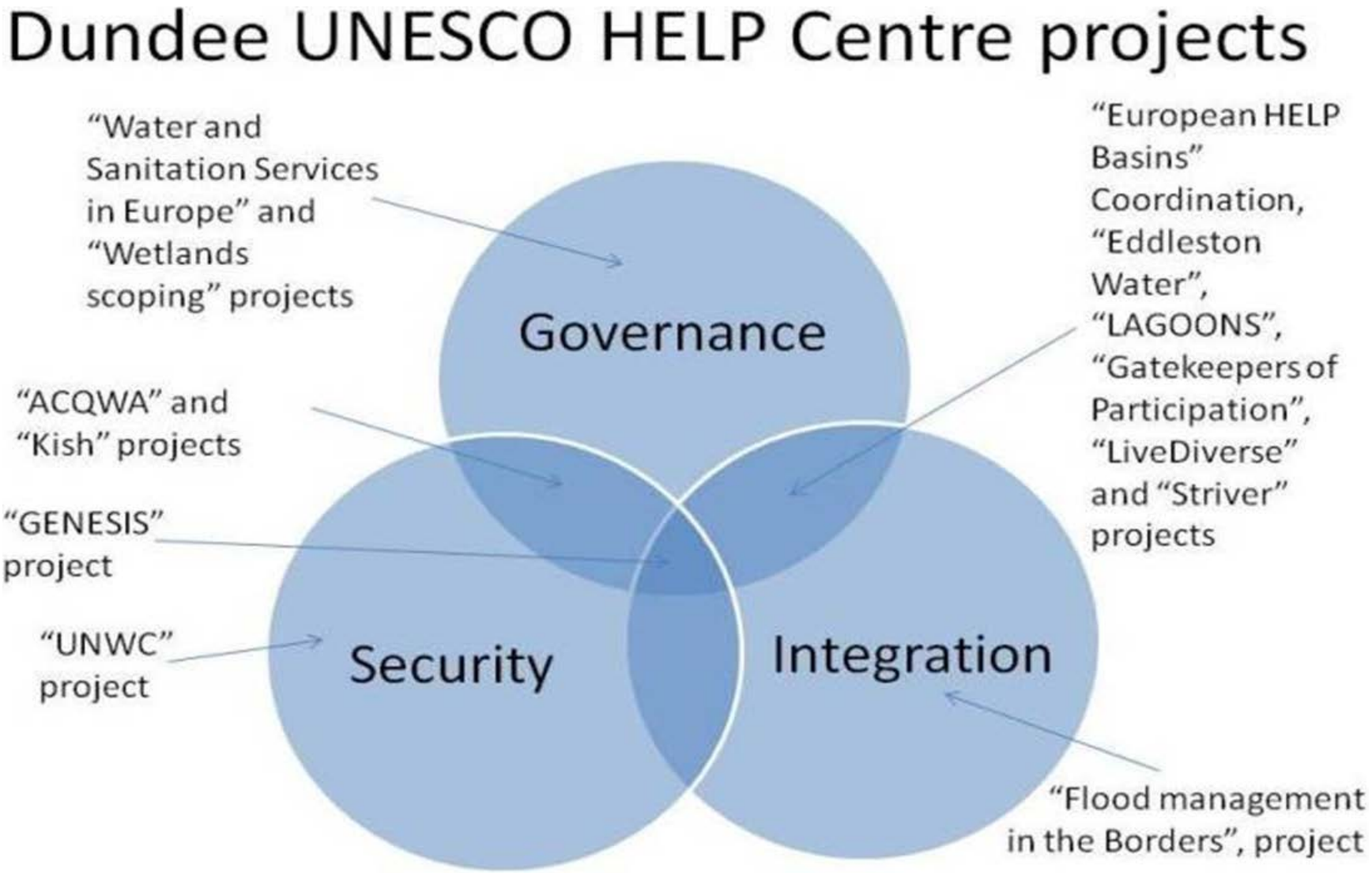
# Scotland: connecting & sharing best practice

**Tweed Basin as HELP demonstration basin**




## UNESCO HELP basins worldwide network

# Research projects: overview

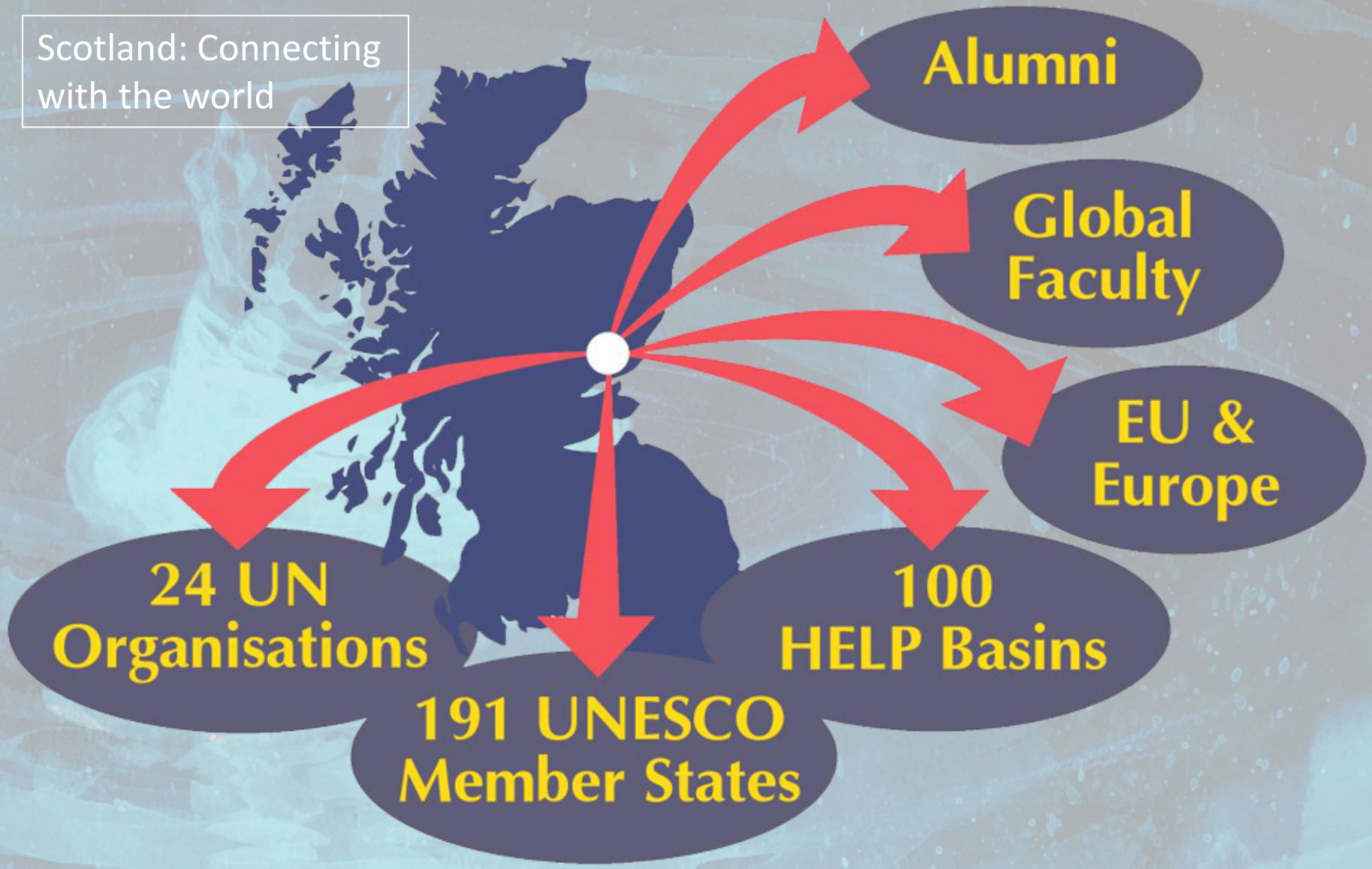


Scotland: Connecting with the world

**Platform for developing a new Generation of Local Water Leaders**

Centre for Water Law, Policy and Science

Scotland: Connecting with the world




**Platform for developing a new generation of Local Water Leaders**

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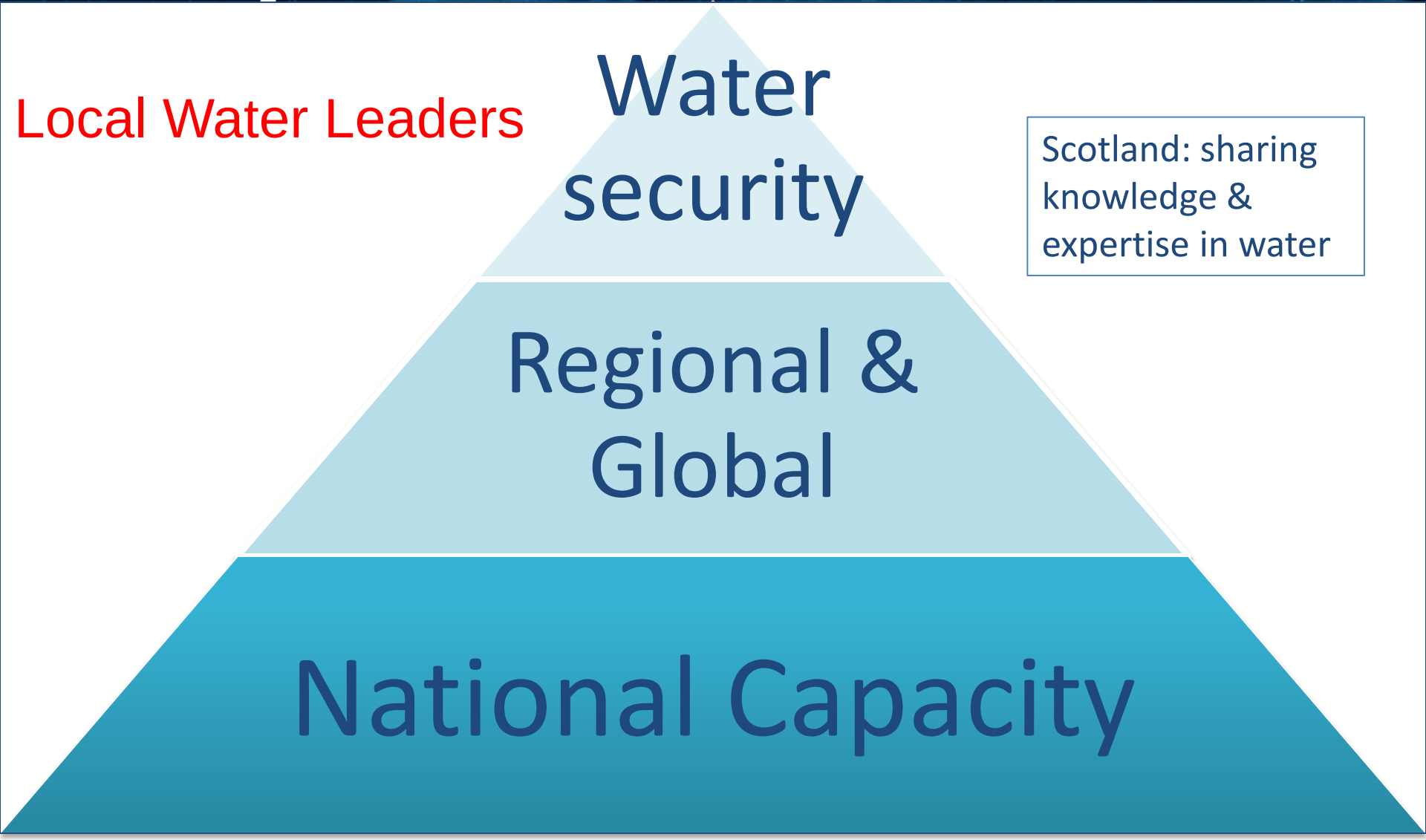
# Building Hydro-diplomacy - capacity tower



# Building Hydro-diplomacy: Dundee 2011

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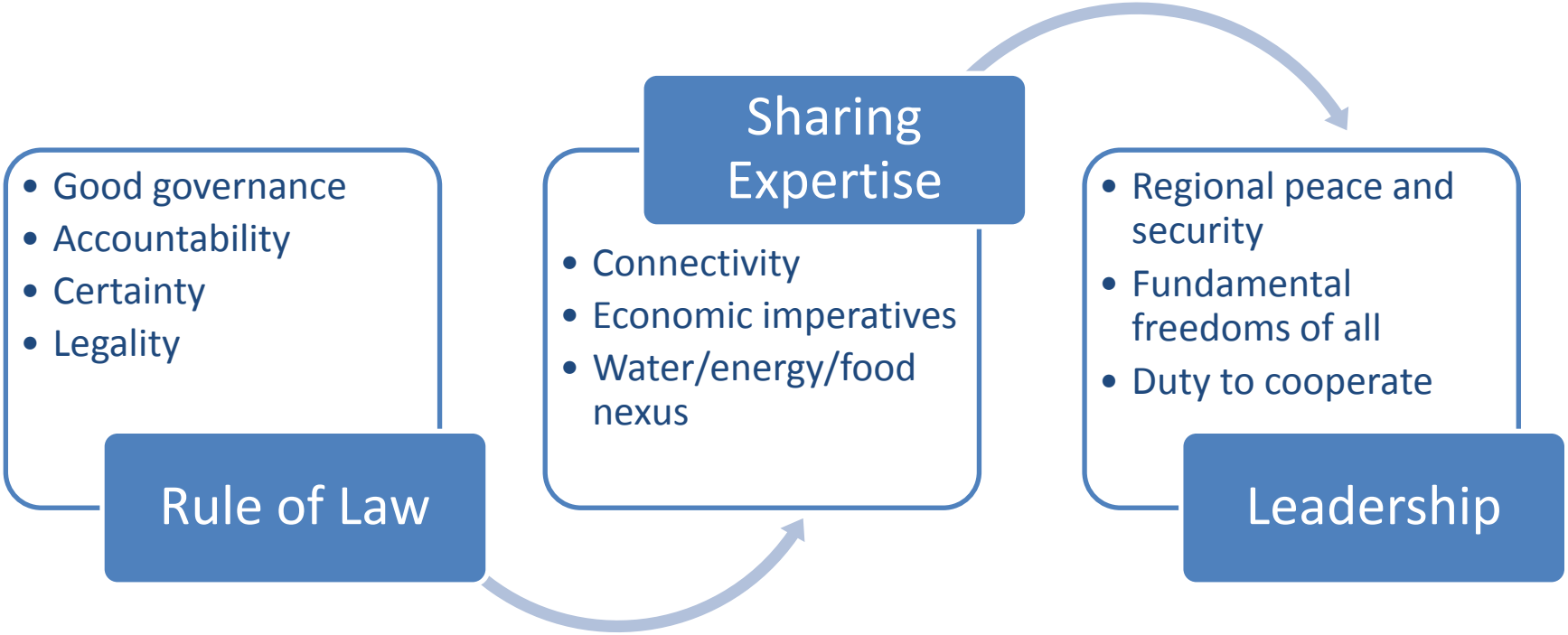
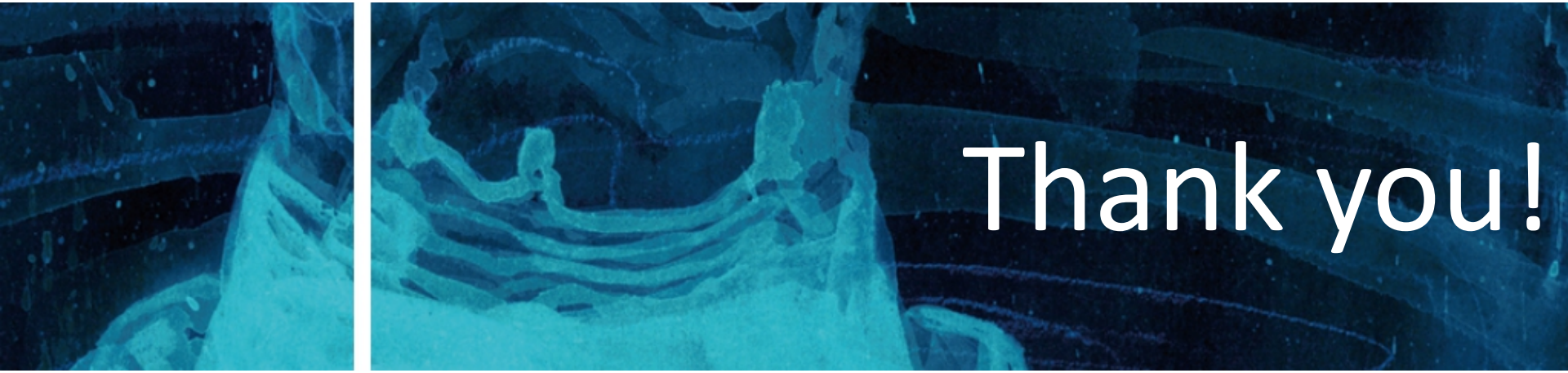
# Scotland as Hydro-Nation: Potential






www.dundee.ac.uk/water

(June 2012 Dundee IWL events)