

# River Basin Multi-Stakeholder Platforms: the practice of ‘good water governance’ in Afghanistan

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The article describes local realities and contextual circumstances in Afghanistan which are influencing cooperation on water sharing during dry years. The contribution assesses the performance of multi-stakeholder platforms for water management as a ‘good’ water governance model promoted by the European Union in Afghanistan’s post-civil war environment. Based on interviews with key stakeholders held in 2011-12, and using criteria derived from (a) the new Afghanistan Water Law and (b) MSP literature, especially Verhallen, Warner, and Santbergen (2007), we scrutinize water management and conflict resolution in two sub-basins in North Afghanistan, the Lower Kunduz and the Taloqan, singled out as pilots for the new model, in two very dry years: 2008 and 2011. The article concludes that there is a predictable implementation gap between models and practices. It highlights that 7 years after the introduction of good governance models, water allocation is still driven by what may appear as a darker side of governance. The article questions whether it actually is for the worst, including when it comes to limiting inequity in water access and preventing conflicts.

## 1. Introduction

### 1.1. *Exporting Multi-Stakeholder Platforms as a model of ‘good water governance’*

Multi-Stakeholder Platforms (MSP)<sup>1</sup> started to attract interest in the water sector at the turn of the millennium, in response to an increasing tendency towards network governance. Hemmati (2002) called attention to MSPs at the international level, Edmunds and Wollenberg (2001) in forestry, while others analysed multi-stakeholder deliberation at the watershed level (Moreyra & Wegerich, 2006; Faysse, 2006; Warner, 2005; 2007).

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<sup>1</sup> In a descriptive sense, MSPs are “a decision-making body (voluntary or statutory) comprising different stakeholders who perceive the same management resource problem, realize their interdependence for solving it, and come together to agree on action strategies for solving the problem.” (Steins & Edwards, 1998).

Despite stern warnings from development experts (Cooke & Kothari, 2001) multi-stakeholder deliberation took off as a model of good governance. As an inclusive form of decision-making and as a mode of democratisation in resource management with the promise of more accountability, equal representation and voice, open dialogue unencumbered by power differences, patronage, MSPs come well-recommended by multilateral aid organisations, NGOs and the EU. In such policy development, functionalist approaches are dominant: ‘getting the institutions right’ (Mehta et al., 1999) for Common Pool Resource management. MSPs are considered ‘good governance’ by actors external to the settings they are expected to work in; Swatuk (2005, quoted in Merrey, 2009) calls them ‘global norm entrepreneurs’.

This has meant imposing institutions and norms based on external models, not building on local cultural values and traditions but starting from a normative base deemed universal. Donors have started to prescribe them as conditionality for aid funds.

The hegemony of these norms also prevents alternative models for river (sub)basin management from emerging and spreading (Merrey, 2009). The translation of MSP into Southern contexts however can be deeply problematic. A level playing field is not guaranteed. Predicated on progressivist liberal principles of equality, accountability and participation, MSPs can trip over non-egalitarian power structures in the communities they are proposed for. Research in Bangladesh shows for example that stakeholder representation is more often than not replaced by family and patronage relations (Warner, 2007). While Edmunds and Wollenberg (2001) have suggested levelling strategies, these do not extend to larger, structural power relations.

Since 2004, the EU has played a pivotal role in promoting in Afghanistan what it sees as ‘good water governance’. It has been actively piloting its implementation in the Panj-Amu River Basin, through integrated programs and has facilitated its adoption in a new Water Law in 2009. In the early 2000s, at that time when new governance principles were promoted, there was only limited understanding of existing institutions and therefore a lack of grounded justifications about the added value of the ‘good’ model would bring to the institutional arrangements already in place. Consequently, attempts to justify the introduction of this new governance model relied mainly on broad and often vague generalisations. For instance, Afghan officials in charge of piloting water sector reform argued that it was necessary because three decades of war and years of droughts had left, “a shortage of efficient institutions, organisational capabilities of staff and effective rules and regulations in regards to water use” (Mahmoodi, 2008). In fact, when reforms were being considered during the early 2000s, foreign advisors and donors tended to view water governance in Afghanistan as a blank slate (Thomas, 2013), or as an anarchic and chaotic system that needed to be saved. Consequently, they have assumed that—given enough capacity building and support – new “good” models would inevitably improve on existing institutions perceived as ineffective including by national MEW officials (Thomas, 2013). This would in turn lead local and national actors to accept them as a logical improvement.

The new governance structures, conceptualized in the West, have thus been exported to a country emerging from decades of wars and civil unrest, and characterized by traditionalist power structures.

The present paper looks at how water users responded to this call for ‘good governance’. It analyses how another – perhaps ‘darker’ - side of local governance played out and performed in times of crisis, as compared to the expected model. It questions whether a strict application of “good governance” would necessarily mean better performance.

The ‘dark’ side of water governance referred to here concern institutional arrangements that seem chaotic or anarchic, and when water access is shaped mostly by unstructured, illegal, ad-hoc or self-organized practices, in a context of intermittent violence and insecurity.

The paper is based on a research project carried out by the Afghanistan Research and Evaluation Unit (AREU) in 2011/12, focusing on how devolution to the basin level and multi-stakeholder deliberation functioned (process) and impacted on water penury in times of drought (result), seven years after the “good water management principles” were being piloted. Out of all sub-basins the Taloqan sub-basin (TSB) and the Lower-Kunduz sub-basins (LKSB) have been exposed to the new ‘good governance’ for the longest period. Within the entire Panj-Amu River Basin, moreover, most issues and tensions arose around water allocation during dry years in these two sub-basins.

This contribution assesses the success of the MSPs as a transferred institutional technology, and addresses the institutional practices unfolded in the context of MSP deliberations over water allocation in the context of the very dry year 2011 in post-civil war Afghanistan. How different were they from ideal MSP set-up sanctioned in the contemporary water management discourses and from the key water governance principles underlined in the 2009 Afghanistan Water Law? Was there an implementation gap? If so, to what extent (and for whom) did implementation gap matter when it comes to mitigating water access inequities for downstreamers and easing tensions among parties? Would a strict application of the “good governance model” have made a difference for the better? And if not, what does it say about the relevance of the recent Afghan Water Law?

To assess the ‘success’ of MSP implementation in Afghanistan, we look at *efficacy, efficiency, and sustainability* criteria (a). We also assessed at the extent to which devolution of decision making power, decentralization and broad based participation (i.e. the key water governance principles enshrined in the Afghan Water Law) were practiced (b).

The analysis reported here is based on 114 interviews with all major stakeholders – including *mirabs*, village elders and representatives involved in MSP deliberations - held in all Provinces falling in the study area: Takhar, Baghlan and Kunduz. A sample of irrigation canals representing 97% of the total irrigated area in these provinces was taken. Interviews were also conducted in the capital Kabul, interviewees including members of Parliament and high-ranking ministry staff.

After introducing our assessment criteria and the main contour of the water sector reform in Afghanistan in Section 2, we provide a background description of the sub-basins studied. We then delve the performance of the model in the two river basins under the 2011 crisis conditions in Sections 4 (Lower Kunduz) and 5 (Taloqan). We then seek to answer the above questions in Section 6.

1.2. The New Water Law

In February 2008, the Water Sector Strategy (WSS) further confirmed its goal to develop sustainable water resources management policies and structures through the progressive implementation of IWRM (Government of the Islamic Republic of Afghanistan, 2008). A year later, a new Water Law was adopted by the Parliament. This document sealed the adoption of the “holy trinity” (Warner, 2007), an almost unassailable triad consisting of integrated water resource management (IWRM), river basin management (RBM), and participation via Multi-Stakeholder Platforms (MSPs) (GIRoA, 2009).

The Water Law provides a legal framework defining the duties of decentralized MSPs at the river basin and sub-river basin level in the form of River Basin Agencies (RBA), River Basin Councils (RBCs) as well as sub-RBAs (SBAs) and sub-RBCs (SBCs) (see Figure 1). In a nutshell, SBCs would be mainly representing water users, providing them decision-making authority; SBAs were to be composed of government representatives, who would be expected to limit their role to lending technical advice. At the time of the research, it was planned to limit the composition of SBC to 15 to 20 seats. The model is based on a mix of sector-based (irrigation, hydropower, etc) and geographical (upper catchments, main cities and irrigated plains) representation. The model thus tends to be as generic as possible in order to cover all possible types of river basin management issues.

Thus, participation is conceptualized here as the decentralization of decision-making from a central authority to localized and broad-based MSPs at sub-basin level, and the delegation of decision-making power from the local government authorities to water users representatives.

Decision-making on water allocation in times of dry years is expected to be dealt within the framework described above. At the time of the research there were no specific policies and rules detailing how droughts should be dealt with.

This research, assesses the extent to which the three key water governance principles introduced by the 2009 Afghan Water Law (i.e. *devolution of decision-making power, decentralization and broad-based participation*) were actually practiced, in the context of MSP deliberations over water allocation during the very dry year 2011.

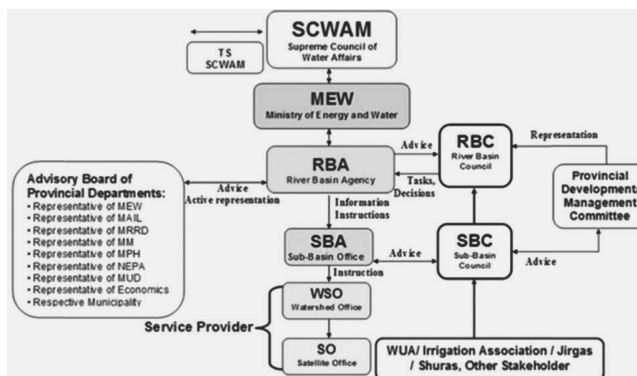


Figure 1. Organisational set-up for River Basin Management according to the Water Law

We supplement these criteria with MSP criteria from the literature (see below). The results are presented in Section 5.

### 1.3. Operationalising MSP performance

Multi-Stakeholder Platforms (MSPs) are presented as ‘neutral spaces for negotiations in order to solve water conflicts among different (multiple) actors, who are all invited to participate in the discussion.’ (Moreyra & Wegerich 2006). Yet, Moreyra and Wegerich note, ‘in the background there may be far more sensitive issues at stake that shape the arenas of negotiation of policy design and implementation’ such as power issues.

Verhallen and Warner (2007) state that ‘genuine MSPs represent multiple, relevant identities, facilitate ‘real’ negotiation and generate “real” outputs. They propose to assess MSP performance on criteria of ‘efficacy’, ‘efficiency’ and ‘sustainability’ (Verhallen et al., 2007, p. 262). We discuss these concepts and how we have operationalized them for the purpose of the research.

*Efficacy:* Following the definition of Verhallen et al. (2007, p. 262). MSP efficacy “relates to the question if an MSP is an effective means to address complex [not everyday] water management issues, in a synergetic, sustainable way”. An effective process, in which everyone feels taken seriously, is not the same as an effective outcome, leading to desired changes or acceptable water allocation. In the context of this study, effective MSPs were expected to improve equity in allocation. In the study area, equity is a contested concept at sub-basin level. In both sub-basins covered in this research, two different water allocation principles are referred to: *abandâz* and *haqabah*. The dominant principle is *abandâz* (see BOX), which is not a right but rather a humanitarian gesture granted by upstreamers towards downstreamers (see more details further down). This principle does not guarantee water right and there is no measurable reference to equity with *abandâz*. In recent years, downstreamers have been contesting this principle, and claimed for more formal water rights (*haqabah*) whereby water sharing would be proportional to the amount of land in each Province. For the purpose of this research, we align our conceptualization of equity with downstreamers, who struggle for a larger share of water in times of acute stress. During dry years, perfect equity is in fact considered by downstreamers as another unattainable *nirvana*. What we looked at instead is whether the MSP processes tend to bring equity closer to or further away from the elusive benchmark.

*Efficiency and sustainability:* Efficiency is about whether “the resources bring the hoped-for value-for-effort”, while sustainability is in fact “adaptive efficacy over time” (. . .) “whether an MSP will work is ultimately in the eye of the stakeholders themselves – if they and their constituencies are happy, this is a measure of success”, irrespective of the perception of the observer (Verhallen et al., 2007, p. 262). More generally, outcome can be expected to be a key aspect of institutional legitimacy, in turn boosting institutional sustainability (Floyd, 2007). The MSP system in the Afghan water domain, enshrined in the Water Law was clearly conceived by its sponsors to continue beyond the project period.

In this analysis, we first look at efficiency and sustainability of the MSP in terms of its capacity (in the eyes of the water users) to resolve disputes. This may in a way be

stretching the concept, as MSP literature, notably, is often highly concerned with process. Ramirez (1999) however has identified MSPs as an alternative dispute resolution (ADR) mechanism early on. It therefore makes sense to see how MSPs perform in extremely dry years, when such disputes were most likely to emerge. This is especially relevant in Afghanistan, given the vital livelihood importance of surviving the dry season in exceptionally dry years, and considering relatively volatile socio-political context in the early years of post-civil war. In terms of sustainability we look at whether the water users and actors involved in the MSP process consider the financial costs of the process worthwhile.

Apart from financial sustainability, we may also consider social sustainability an indicator of long-term viability. Warner (2007) has noted that while MSPs do not solve problems, they can be expected to increase social capital and may create a joint learning environment in dealing with conflict and facilitating adaptation to shared natural-resource challenges. In the context of this research we have assessed whether the sub-basin working groups (see Section 2.3) initiated in 2004 as embryonic of future sub-river basin organizations (Warner & Thomas, 2013) have succeeded in at least creating social capital to better deal with the issue of water allocation in dry years.

## 2. Piloting river MSPs in Afghanistan: History and limitations

Since 2004, policymakers and international donors have attempted to introduce “good” water governance concepts to the reform of Afghanistan’s water sector, and started assisting the Afghan Government in drafting a new Water Law. Since 2005, in parallel with the process of drafting a new Afghan Water Law, the Afghan Ministry of Energy and Water (MEW) has been piloting the introduction of the participatory model concepts through the Panj-Amu River Basin Program (PARBP). The two sub-basins covered in this paper were the first two sub-basins to be included in the PARBP.

The programme, run under the aegis of the MEW, was funded by the EU. Designed as an integrated package, PARBP was seeking (a) major infrastructure rehabilitation/development; (b) water institution building at the canal (WUAs, irrigation associations) and middle levels (RBAs/RBCs and SBAs/SBCs); (c) on-farm water management; and (d) upper-catchment rehabilitation and conservation.

The development of SBAs/SBCs was led by the Landell-Mills Limited (LML) consultancy company, which also led the large-scale infrastructure rehabilitation component of the program. In 2005, LML set up working groups in each sub-basin. The working groups, which met on a monthly basis, were composed of actors such as water users, *mirabs* and local government staff related to line-ministries (such as the MEW), who fit the expected profile of future SBA and SBC members. This decision to coordinate through a single working group was justified, at the time, by the absence of an official Water Law and regulations on river (sub)basin organizations.

From 2005 to 2008, the agendas were suggested by the PARBP technical assistance team and focused mainly around sub-basin profiling, identification of water users and uses, role playing, discussions on the composition of future SBC, and fee collection. According to Varzi and Wegerich (2008), the level of MSP development in these first three

years was poor, characterized by a general lack of buy-in across working-group members. A mismatch between the agenda of the facilitators and the concerns of ministry and water users was a major grievance. An example is an insistence on multi-user mapping, despite no intersectoral conflicts being reported, and quantification of water demand, in spite of absent water control structures and measuring equipment for monitoring actual consumption. In addition, frustration at the lack of tangible progress in addressing critical flood issues and infrastructure rehabilitation, mainly due to lengthy administrative procedures and issues of quality control, grew stronger over the years. High turnover of participants also disrupted the expected learning process. Thus, as a result of a classical approach not responsive to expressed stakeholders' needs, the pilot PARBP failed to establish itself as a legitimate problem-solving actor.

Interest visibly faded, and the platform stopped meeting between April 2008 and January 2011. Even during the severely dry year of 2008, during which one would expect stakeholder coordination to be most crucial, the sub-basin working group failed to meet even once. During that 3-year gap, the program re-focused its efforts on developing regulations at central ministry level in Kabul.

At the national level, the MEW was clearly less interested in governance aspects of the integrated package of the PARBP, as compared to the infrastructure component. According to a senior MEW national advisor, most people in MEW have construction companies involved in those infrastructure rehabilitation projects. This approach is consistent with MEW's broader rhetoric on the water sector, eager to resume their "hydraulic mission" (Reissner, 1986/1993) started in the 1970s but ground to a halt due to the various wars. As one spokesperson noted: "all they talk about in the MEW is dams, dams, dams".

### **3. Geographical and institutional context of the Taloqan and the Lower-Kunduz sub-basins**

#### *3.1. General profile*

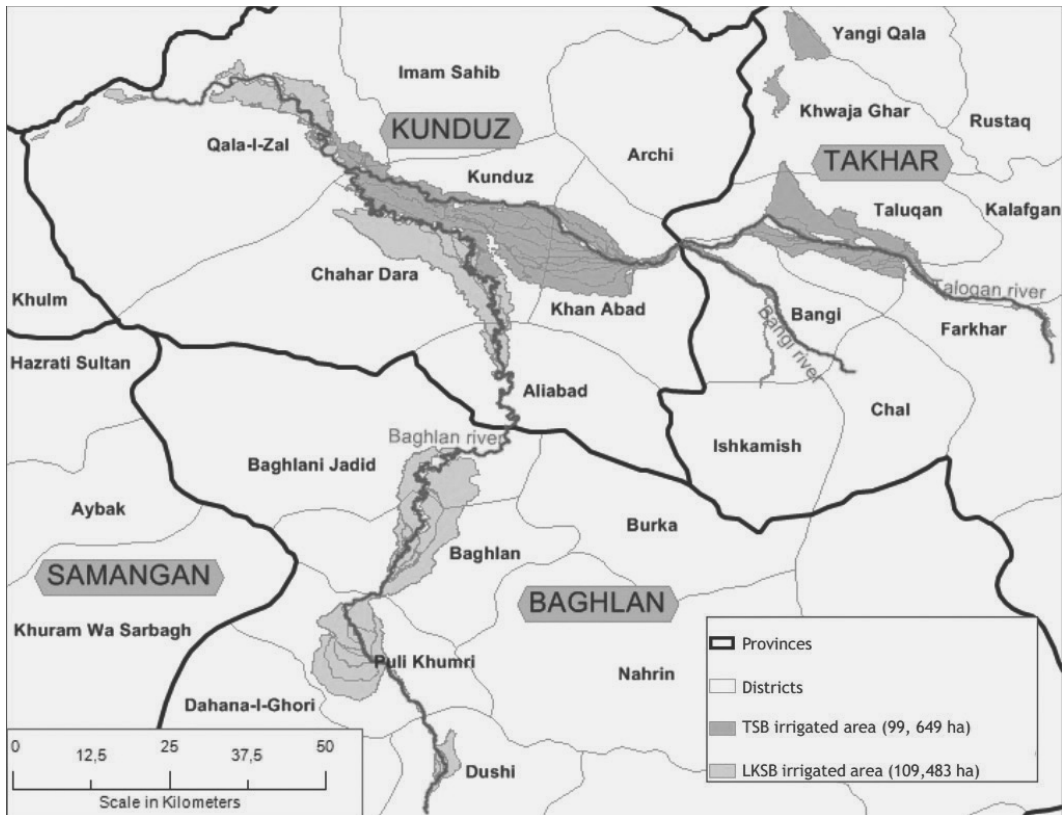
Both the Taloqan and Lower Kunduz sub-basins have a relatively short history of rapid and scattered settlement of heterogeneous population (Pashtun from the South and East, Uzbeks and Tajiks from the North) in the first half of the 20th century. A 1960s study suggests a low level of social interaction between settlements of different ethnic communities; family and tribal ties prevail (Société Grenobloise d'Etudes et d'Applications Hydrauliques [Sogreah], 1966). After a period of growth in the 1970s, conflicts between factions and the emergence of warlords during two decades of turmoil (1980s-90s) eroded social ties, encumbering collective action (Thomas & Ahmad, 2009).

The two sub-basins comprise three provinces (Takhar, Kunduz and Baghlan), collectively known as the 'bread basket' of Afghanistan. Both sub-basins have a command area close to 100,000 ha (see MAP 1). In each province, more than 75% of the population lives in rural areas. As the provincial economy is so dominated by agriculture, water shortage directly affects the majority of the population. This is particularly true for Kunduz, where 85 percent of the population has access to irrigated land (see TABLES 1, 2 and 3 in Annex).

Both rivers are characterized by high discharge variability within and between seasons. Variations in snow coverage of the mountains leads to discharge variations by a factor 5. The absence of formal storage and regulation infrastructure makes for high levels of uncertainty with farmers. Irrigation of the first crop of the season (mainly wheat) in April, May is complementary, but the second crop (including rice, vegetables, corn and mung-bean) almost totally depends on it as there is barely any rainfall in Summer.

Since the 1980s the region’s water resources have been under increasing pressure. Paddy rice cultivation expanded and irrigation intensified following the collapse of the cotton and sugar-beet factories as well as the collapse of local government (including the Department of Agriculture) which used to contain rice expansion through a mix of initiatives and coercive measures up to the late 1970s (Pasquet, 2007).

The lay of the irrigation system shows upstream-downstream dynamics to be in line with provincial demarcations, as it features two large pockets of irrigated land clearly separated by provincial boundaries (see MAP 1).



Map 1: Irrigated areas of the Taloqan and Lower-Kunduz sub-basins



Table 1  
Urban/rural population distribution in Kunduz, Takhar and Baghlan Provinces

|                  | Kunduz (Downstream TSB and LKSB) | Baghlan (Upstream LKSB) | Takhar (Upstream TSB) |
|------------------|----------------------------------|-------------------------|-----------------------|
| Total Population | 34.5%                            | 31.4%                   | 34.0%                 |
| Rural Population | 32.3%                            | 31.1%                   | 36.6%                 |
| Urban Population | 44.2%                            | 32.8%                   | 23.1%                 |

Table 2  
Sources of income by rural households in Kunduz and Baghlan Provinces

|                    | Sources of income by households (rural) |                         |                       |
|--------------------|---|-------------------------|-----------------------|
|                    | Kunduz (downstream TSB and LKSB)        | Baghlan (upstream LKSB) | Takhar (upstream TSB) |
| Agriculture        | 76%                                     | 54%                     | 65%                   |
| Livestock          | 28%                                     | 24%                     | 19%                   |
| Opium              | 0%                                      | 3%                      | 3%                    |
| Trade and Services | 19%                                     | 26%                     | 20%                   |
| Manufacture        | 6%                                      | 8%                      | 4%                    |
| Non-Farm Labour    | 14%                                     | 30%                     | 39%                   |
| Remittances        | 1%                                      | 2%                      | 3%                    |
| Other              | 4%                                      | 3%                      | 5%                    |

Table 3  
Access to irrigated and rainfed land in Kunduz, Takhar and Baghlan provinces

|   | Kunduz (Downstream TSB and LKSB) | Baghlan (Upstream LKSB) | Takhar (Upstream TSB) |
|---|----------------------------------|-------------------------|-----------------------|
| % of households with access to irrigated land | 85%                              | 62%                     | 48%                   |
| % of households with access to rainfed land   | 15%                              | 74%                     | 65%                   |

### Water rights system at sub-basin level in North Afghanistan: *abandâz* and *haqabah*

In the study area, unlike other sub-basins in Afghanistan, there have never been any formal or secure water rights at the sub-basin level. In both the TSB and LKSB, water allocation has instead been dealt with through the traditional system of *abandâz*. *Abandâz* is a temporary voluntary upstream restraint to allow access to downstreamers, as a humanitarian gesture. During *abandâz* negotiations, upstream water users remain in control of how much water they are ready to release. Since the beginning of the period of irrigation development in the area currently delimited as the LKSB and TSB, *abandâz* has been defined in terms of number of days during which the upstream Province (i.e. Takhar or Baghlan) would fully or partially close its canal intakes to leave water flowing in the river towards the downstream Province of Kunduz. This system is not exclusively community-managed; Government authorities (including Provincial Governors and Water Management Departments) have been involved in either defining, monitoring or at least legitimizing *abandâz*.

### 3.2. 2008: poorly defined and poorly implemented *abandâz* in a very dry year

The severity of drought in 2008 took many in North Afghanistan by surprise. Local and national government actors as well as several community leaders were out of the country during the previous drought in the late 1990s-early 2000s, when Taliban were in power. The lack of recent experience hampered efforts to respond properly to the water allocation crisis (i.e. implementing a reasonable *abandâz*, see *BOX*).

The tradition of *abandâz* proved hardy and effective in times of water penury, even during past periods of armed turmoil. Nevertheless, in this exceptionally dry year, this system came to be contested by downstreamers. In the LKSB, an *ad-hoc* delegation from Kunduz (composed of local government (WMD), a Governor representative and elders) engaged in a discussion for accessing water with Baghlan authorities and a selection of water users representatives. The discussion quickly turned emotional and confrontational. The WMD director of Kunduz requested water for his province through a rhetoric of secured water rights (*haqabah*) rather than *abandâz*. The WMD director and water users' representatives in Baghlan took offense.

Different Baghlan representatives insisted that “*choosing haqabah would be like putting your foot on the neck of Baghlan farmers to prevent them from swallowing their meal.*” Tensions rising between both parties was facilitated by personal rivalries between both directors. The Baghlan WMD director agreed to a three-day *abandâz* and took responsibility for ensuring its enforcement. In practice however, he did not follow through and failed to initiate the set-up of a monitoring system with the Baghlan *mirabs*. *Mirabs* and elders seized on the director's lax approach as an opportunity to default on agreements. As a result, the *abandâz* did not last even for a day on most Baghlan canals. In any case, in the summer of 2008, the canals located in the ‘Pul-i-Khumri’, ‘Baghlan’ and ‘Baghlani Jadid’ districts were largely out of government control due to the presence of the insurgency. Enforcing *abandâz* in those conditions would have been very uncertain. Indeed, during this period, the government had limited access to areas such around the canal intakes of Pul-i-Khumri and Baghlan districts where insurgent leaders were well established. This meant that the WMD was not in a position to send staffs or ask for the support of the local police to monitor the intakes and ensure that they would remain closed during the duration of the *abandâz*.

As a result, 68% of the Kunduz Province (and 74% of its most downstream section) could not be irrigated or suffered from poor water access. By contrast, around 26% of Baghlan had poor water access, largely due to technical constraints rather than limited resources.

Similarly, in the Taloqan sub-basin, a (downstream) Kunduz and (upstream) Takhar delegation composed of local government officials and water user representatives agreed to partially close intakes for 10 days (a form of *abandâz*), but implementation failed due to a lack of commitment in enforcing agreements from the Takhar side. A key argument put forward by local and national actors was that the Kunduz Provincial governor was of Takhar origin and had vested interests (i.e. irrigated land) in Takhar and therefore did not

put much effort into pushing downstream water users' interests. During the course of the irrigation season, in the absence of results, elders from Kunduz, particularly from the TSB, attempted to mobilize their elected representatives from the Provincial Council (PC) as well as Members of Parliament (MP) in Kabul in order to change a water sharing arrangement perceived as inequitable. The intervention of the MEW remained limited and hesitant until mid-August 2008, when formal meetings were organized with the facilitation of PARBP-TA, in search of a water allocation plan (Warner & Thomas 2013)<sup>2</sup>. Water users had put up road blockages in Kunduz, supported by the insurgency, particularly implanted around Kunduz city. Nevertheless, at this stage in the irrigation season, the damage on crops had already been done. Thus, discussions took the form of a theoretical exercise on what should have been done. By the end of the 2008 irrigation season, 43% of Kunduz Province (and 60% of the most downstream section) could not be irrigated for the second crop, while only around 20% of the upstream province of Takhar suffered from shortage, again mainly due to technical constraints rather than resource scarcity.

Variations in inter-provincial water access between 2008 and a normal hydrological year, 2009, is summarized in Tables 4 and 5. These differences raised concerns among national MEW actors.

Table 4  
Variations in interprovincial water access 2008-2009: Lower Kunduz

|  | Dry year (2008)    |                     | Normal year (2009) |                     |
|--|--------------------|---------------------|--------------------|---------------------|
|  | Upstream (Baghlan) | Downstream (Kunduz) | Upstream (Baghlan) | Downstream (Kunduz) |
| Poor water access – dry likely*            | 26 %               | 27 %                | 28 %               | 68 %                |
| Normal water access – non-rice crop likely | 37 %               | 50 %                | 36 %               | 28 %                |
| Good water access – rice-crop likely       | 37 %               | 23 %                | 36 %               | 4 %                 |

\* 10 to 15% of the 'poor water access area is expected to include non-irrigable land areas such as settlements and roads.

Even in dry years, most of the 'poor water access' in the upstream area is due to technical constraints rather than resource constraints.

Table 5  
Variations in interprovincial water access 2008-2009: Baghlan

|  | Dry year (2008)   |                     | Normal year (2009) |                     |
|--|-------------------|---------------------|--------------------|---------------------|
|  | Upstream (Takhar) | Downstream (Kunduz) | Upstream (Takhar)  | Downstream (Kunduz) |
| Poor water access – Dry likely*            | 20 %              | 19 %                | 22 %               | 43 %                |
| Normal water access – non-rice crop likely | 39 %              | 36 %                | 38 %               | 35 %                |
| Good water access – rice-crop likely       | 41 %              | 45 %                | 40 %               | 22 %                |

\* 10 to 15% of the 'poor water access area is expected to include non-irrigable land areas such as settlements and roads.

Even in dry years, most of the 'poor water access' in the upstream area is due to technical constraints rather than resource constraints.

<sup>2</sup> Note that this meeting was not organized by the sub-basin working group and did not count as such.

#### 4. The case of the Lower Kunduz: devolution of decision-making power

Let us now zoom in on the period encompassing the dry year 2011. The formal institutional setting of sub-basin agencies and councils was still absent; the PARBP sub-basin working group met again after a long absence (see above) but did not take the lead. Instead, in parallel to the PARBP processes, local actors joined together to solve water allocation issues. The case studies explore how they performed.

##### 4.1. Social processes of decision-making in the lower Kunduz during 2011

Early in the 2011 irrigation season, a formal Water Allocation Commission (WAC) was formed in Kunduz province, under the responsibility of the Provincial Governor (PG), to look exclusively after water allocation issues among canals within the province. The composition was a mix of representatives from the Governor's office, the WMD, the DAIL, the PC, and water users' representatives at canal level in Kunduz.

Only a week later, when the water level fell really low in the upstream part of Kunduz, the WAC decided to file a request for *abandâz* to Baghlan. At first, the discussion was mainly between Governors and WMD directors of each Province. Baghlan water users were not involved in this first meeting, during which the Baghlan PG promised to the Kunduz WAC members that an *abandâz* would be given. He delegated responsibility to the WMD director to execute this promise. The WMD director ensured Kunduz WAC members that an *abandâz* of at least seven days would be starting within a few days.

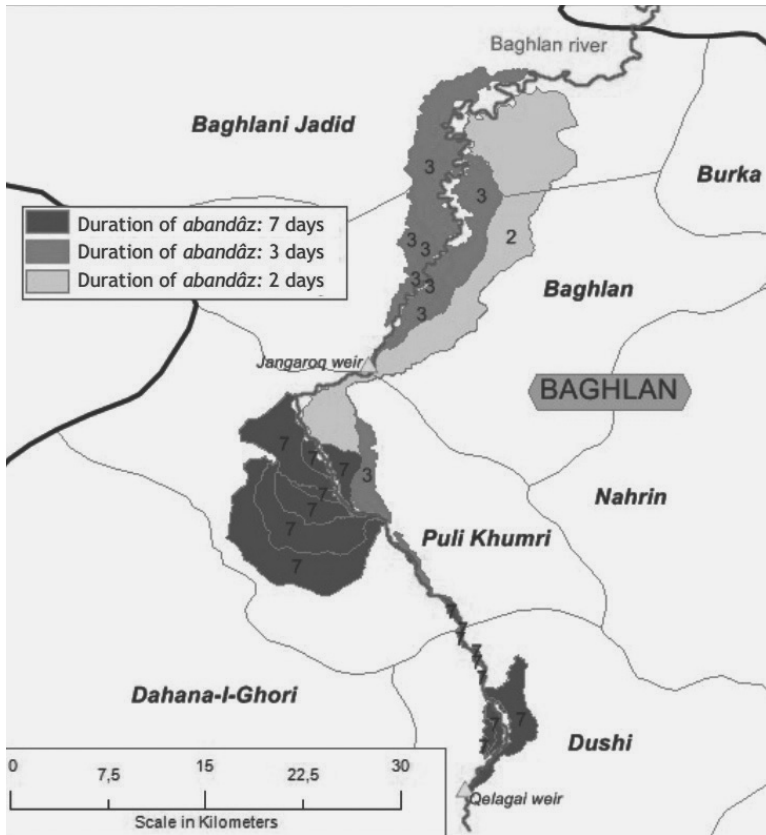
From this formal engagement followed a series of *ad-hoc* meetings and platforms mainly among Baghlan stakeholders on the execution of the *abandâz*.

Two tracks could be observed in this series. For some canals located in the most upstream Doshi and Pul-i-Khumri districts, the decision on duration of *abandâz* was presented by the WMD director as a *fait accompli*. In these meetings, no water users from Kunduz were involved. Despite protests by canals representatives, the WMD excluded any possibility for change and as a result, an *adandâz* of seven days was confirmed.

On some other canals, in the downstream districts of Baghlan and Baghlani Jadid, water-user representatives were able to oppose and change the initial decision of the WMD director. This led to a series of discussions. In some of these meetings Kunduz water users were involved but mainly as observers. The outcome was an *abandâz* of three days for most canals, and only two days for the largest canals of the Province.

In the end, different numbers of days of *abandâz* were thus defined in different canals, and through different processes (see MAP 2). The difference in process and outcome can in fact explained by local relations of power - the different zones correspond to different areas of influence of the Baghlan WMD director and Provincial Governor.

In the Pul-i-Khumri district, where a longer *abandâz* was imposed the Government had a stronger position of authority. This was mainly due to a change in the local security context. Just before the irrigation season, insurgent groups long active in the district were pushed back through military operations. Their leadership accepted the proposition of the government to be incorporated into the national peace and reconciliation program. Thus,



Map 2: Abandâz duration in different canals of Baghlan province, as agreed for the month of July 2011

in May 2011 the government regained control of the area. When water users from the area suggested a demonstration to voice their discontent with the WMD imposition of a seven-day *abandâz*, former insurgent leaders discouraged them, arguing that such demonstration may be construed as a covered attempt to re-instigate turmoil in this formerly volatile area. The perspective of bearing responsibility for potentially serious consequences discouraged the discontented water users. As a *mirab* from one of the largest Pul-i-Khumri canals explained: *'After the military operation that weakened the insurgents, the government has kept strong pressure on us because we are from the insurgent area.'*

In Baghlan district however, where two to three days of *abandâz* were negotiated, the local power dynamics were different and the WMD had much less authority as compare to local leaders backed-up by their powerful district governor. After the first intra-Baghlan meetings where it became clear that a 7 days *abandâz* could not be imposed, the WMD director organized another meeting, bringing on board the water users members of the Kunduz WAC, to whom he had initially promised a 7-day *abandâz*. This seemingly more inclusive and participatory turn in the discussion process in fact became a strategy to

demonstrate to Kunduz that a reduction in *abandâz* would be due to a lack of support from Baghlan district water users. As Baghlan representatives resisted the suggestion of a seven-day *abandâz*, the WMD director tried to save face in front of Kunduz as he failed to uphold his promise. He endorsed a role of facilitator and deadlock breaker to eventually secure a two to three-day *abandâz* for Kunduz. Participation including water users of both Provinces was thus an option by default. In the end, Kunduz water users were mainly observers of the refusal of Baghlan district to agree on more than two to three days of *abandâz*.

In summary, where the government had strong authority, there has been very little room for decision-making by water users, but the outcome has been advantageous for the downstream province of Kunduz. In areas where the Government had less authority, there have been more discussions with Baghlan water users, and to a lesser extent with Kunduz, but the outcome has been less advantageous to Kunduz. Therefore the decision-making process was far from the 'level playing field' expected in an ideal MSP set-up as suggested by Verhallen et al. (2007).

Later on in the irrigation season, members of the Kunduz WAC requested for a second *abandâz*. While formally open to such demand to help Kunduz water users faced with water penury, in practice Baghlan authorities used delay tactics. This time, they made no promises to Kunduz, as they knew that Baghlan water users would show much stronger resistance this time; a potentially conflictive situation. The absence of discussions for a second *abandâz* showed the limits of the capacity of the Provincial Governor and WMD director in Baghlan to impose decisions on water users in their Province, and the limits to their interest in aligning their interests with water users of Kunduz.

#### 4.2. Lower Kunduz: Difference between 2008 and 2011

There are notable differences in outcome between the dry year of 2008 and the dry year of 2011: In 2008, an informal three-day agreement was made but in fact not even respected for a day. In 2011, on the other hand, approximately half of the upstream Province was subject to an *abandâz* of seven days while most of the other half observed a three-day *abandâz*. Furthermore, the implementation was well respected.

Explaining this contrast requires an understanding of the changes in power relations along with local political interests and opportunities from 2008 to 2011.

A first explanation widely proffered to justify the poor performance in *abandâz* in 2008 was that the conflictive personal relationships between WMD directors and delegation of elders on both sides hampered the quality of the process. The replacement of a number of actors between 2008 and 2011, including the Kunduz WMD director and both provinces' provincial governors facilitated better support to Kunduz, as opposed to tensions in 2008.

Another reason was the selection of SBA directors taking place during the same period of negotiation over *abandâz*. The possibility of a promotion for the Baghlan WMD director encouraged him to act in support of the downstream province of Kunduz, in line with the terms of reference of his future position. For a number of observers, these two points largely explained the "100 percent change" in the attitude of the Baghlan WMD director towards the interests of downstream water users.

A changing political and security context in Pul-i-Khumri District reinforced the government authority in the area. In this context, the WMD has been able to push for seven days of *abandâz* in all the canals, sometimes by using tight police presence in the area, which would have not been possible in 2008.

The tensions and conflicts that emerged in 2008, partly as a consequence of the lack of support offered by Baghlan to Kunduz, were voiced to the government in Kabul. A high-ranking member of the MEW came from Kabul to Baghlan during the 2008 irrigation season to personally convey his dissatisfaction. In 2009, a letter from the vice-president urging the resolution of water allocation issues between the two provinces provided an additional incentive for the Baghlan WMD to demonstrate improved results during the 2011 event.

What transpires from the above-mentioned points, is that from 2008 to 2011 a change in power gaps along with local political interests and opportunities realigned the interests of the downstream province water users with local government interests in the upstream province.

## 5. The case of the Taloqan sub-basin: challenging the decentralization paradigm

### 5.1. Social processes of decision-making

Following the 2008 crisis and the poorly implemented *abandâz*, MPs continued to push the concerns of Kunduz constituencies, until they found a way to access the President, who ordered in April 2009, the setting-up of a commission to resolve the matter. This commission was led by a close advisor to the President and comprised mainly ministerial representatives (MEW, MAIL) and security commanders for the North. Their mandate was to define *haqabah* in an area that had practiced traditional *abandâz* for as long as elders could remember.

Interviewees are unanimous that the making of the decree was not a participatory process. As even the WMD director from downstream Kunduz acknowledged: “*The delegation just came to ask for data such as the command area in both provinces and the type of crops grown. [ . . . ] The delegation went back to Kabul and took its decision there. Nobody was asked to comment, not even the governors.*” In Takhar, suspicions of hidden political motives were high when the Kabul delegation arrived. Thus the neutrality of the commission was questioned from the start. The head of the WMD openly expressed misgivings about manipulation along ethnic lines.

The decree assigned almost two thirds of the Taloqan’s surface flow to Kunduz. It contained a number of technical flaws that heightened the perception of a rushed, non-concerted decision, but also possibly biased favorable to Kunduz. For instance, rice was given three times as much irrigation right as non-rice crops, but the data on rice cropped area on which the allocation was based were dating from a period when rice was not yet abundant in Takhar but already widespread in Kunduz. The head of the commission did not hide that the content of the decree had been designed to correct “*an injustice against Kunduz.*”

At the ministerial level, the endorsement of the decree by MAIL is unclear: the deputy minister refused to comment on persistent claims from a high-ranking official that he was given little choice but to sign the decree despite his initial disapproval. Although the director of the Independent Directorate of Local Governance (IDLG) signed the decree, he acknowledged that *'MEW and President Karzai made the decree'* and he rubber-stamped it.

Thus, in May 2009, one month after the official publication of the Water Law, and for the first time in the sub-basin's history, a Presidential decree was issued stipulating fixed rights for each province. Not only was this decree technically illegal (as a decree may not supersede the law), it simply overruled the principle of decision-making by a decentralized MSP.

In the course of 2009, a Takhar protest letter citing technical flaws in the process and content of the decree, went unanswered. A delegation from Takhar went to Kabul to see the President, whom they managed to reach through a high-level contact.

In response to the complaint, Karzai ordered the formation of a new committee for better fact-finding. But as there was enough water in the river during 2009 and 2010, the initial perception of urgency in settling the matter faded. In 2011, another dry year, however, the issue returned.

## 5.2. *Crisis of 2011: dealing with the presidential decree*

Early in the irrigation season, a Kunduz WAC, similar to that described in the LKSB case but composed of entirely different individuals, went to Takhar to demand water allocation based on the 2009 decree. A meeting was convened comprising of the formal Kunduz WAC and an informal group of Takhar water users, governor, line ministries and provincial councillors.

While Kunduz WAC pushed for applying the official decree, Takhar Provincial Councilors and water users' representatives strongly opposed its implementation, arguing about what they saw as biased and misinformed decisions of the Presidential commission.

In the end a consensual agreement on a follow-up procedure was found. Both parties agreed to leave water allocation decisions and implementation to a joint inter-provincial WAC. While officially the joint-WAC was mandated to apply the decree, in reality it was implicitly accepted that it would only be "a smokescreen". In practice, the joint-WAC was informally requested to find an acceptable compromise between *haqabah* and *abandâz*.

Strictly applying the decree would have meant endangering the relationship between the provinces. But at the same time, ignoring it would be an offense to Kabul; a perspective that Takhar's Governor and WMD director could not accept considering their hierarchy had designed and signed the decree. At the end of the meeting, four water user representatives from each province were chosen to form a joint committee. In Takhar, upstream canals were overrepresented – three members out of four. As it was anticipated that most defaulting on the water allocation compromise would come from those large canals, it was felt that more community leaders from this area would be needed to prevent such actions. The platform was formally recognized by governors. Although not formally members, the



Governor office and WMD were requested to assist water user representatives of the joint-WAC in case it would fail to make agreements respected.

The joint WAC defined operational rules for opening and closing gates at the main canal headworks. For traditional canals, negotiations focused on how many sandbags to remove from traditional endogenous intakes<sup>3</sup>. The smallest canals and the ones located in the upper-valleys were ignored (including the Bangi district valley (see MAP 1), as the transaction cost of monitoring them would be too high. Thus, the joint-WAC actions focused only on the large irrigated plain of Takhar.

During the implementation, several irregularities were reported. For instance, Takhar delegates would permit Takhar farmers to 'adjust' headwork gates when Kunduz delegates could not monitor. Although aware of such practices, the Takhar governor and WMD director would usually turn a blind eye on them.

These illegal adjustments were facilitated by the recent modernization of several headworks, which in fact gave upstreamers better technical control of the river than before, when endogenous structures were harder to operate and less effective in controlling flows. As the WUA chairman of one canal in Khanabad puts it: *'Nowadays, they are many modern intakes and headworks with gates, so they can control the flow better and take more water and nothing is left for us. When we see the EC flag on the intakes of Taloqan we are not happy.'*

However, when Kunduz joint-WAC members faced repeated, and in some occasions, violent opposition from frustrated Takhar farmers to respect the agreements the Takhar Governor would provide them with police support. In other occasions the WMD director would make personal visits to Takhar farmer representatives to reason with them. Kunduz members of Parliament, who have no formal authority in these water affairs, would also bring their influence to bear on the Takhar Governor, reminding him, through phone calls, of the presidentially sanctioned agreement.

Overall, the way the joint-WAC informally functioned, with the monitoring and support of the Takhar authorities and the interventions of external actors (i.e. MPs), was a balancing act between local and national interests. The introduction of the presidential decree through the involvement of MPs, the President's office and the MEW in Kabul pushed the governor and WMD of Takhar to align their interests more closely with those of Kunduz water users, at least more than in 2008. In other words, the decree created room for cooperation and support to the downstream Province. However, the Governor and WMD director also had to take into consideration the rejection of the decree by Takhar actors, to avoid or limit unrest in the Province, which is directly a responsibility of the Governor. The matter was complicated by the clan ties between the WMD director and the most influential community leaders of upstream Takhar canals, who were particularly virulent against the decree at first. Keeping both sides at peace was the main driver for the intervention, rather than satisfying the terms of official *haqabah*. The governor used short-term 'pacifying tactics' of questionable sustainability.

<sup>3</sup> Most canals in Afghanistan are regulated through temporary intakes which are composed of indigenous materials including boulders, branches and sandbags.

## 6. Discussion

This section addresses the questions proposed in Section 1. First we look at the questions: ‘*How different were Afghanistan’s water MSPs from ideal MSP set-up sanctioned in the contemporary water management discourses and from the key water governance principles underlined in the 2009 Afghanistan Water Law?*’ and ‘*Was there an implementation gap?*’ (Section 4.1). We then address the question related to the performance of the MSP: ‘*To what extent (and for whom) did the implementation gap matter when it comes to mitigating water access inequities for downstreamers and easing tensions among parties? Would a strict application of the “good governance” model have made a difference for the better?*’

The performance issues are assessed in terms of (a) the devolution and decentralisation of decision-making power as stipulated in the Water Law (sections 6.2.1 and 6.2.2), ‘efficacy’, ‘efficiency’ and ‘sustainability’ (b) expressed as: broad(er) based MSPs (6.2.3), limiting inequity (6.2.4 and 6.2.5), conflict prevention (6.2.6) and social and financial sustainability (6.2.7 and 6.2.8).

Throughout the section, we reflect on the lessons learnt regarding the dark side of governance and its performance.

### 6.1. Implementation gap

The LKSB case shows that in contrast with the MSP set-up proposed by the Water Law, water allocation was not decided through one single sub-basin platform, but mediated through various platforms with demarcations along provincial boundaries. While a formal WAC was registered in Kunduz, in Baghlan only *ad-hoc* meetings were organized under the initiative of the local government.

Whether in the LKSB or TSB, the role of the Governor was critical in legitimizing the decisions on *abandâz*. In the EU-backed policy model, its role and responsibilities were not mentioned at all. In addition, while the Baghlan WMD director was very important in shaping more favorable decisions for Kunduz, the policy model suggests limiting the role of the WMD and other line ministries sitting on the sub-RBA in an advisory role only.

While the model emphasizes the leading role of water users (in sub-RBCs) in decision-making, the practice in Baghlan (LKSB) shows that the composition of *ad-hoc* platforms and level of water users’ participation was shaped by local political interests and power dynamics.

The case of the LKSB shows that the national actors including Ministry officials and vice-president do keep an eye on local government actors –including the WMD and other government representatives- trying to influence them in influencing certain outcomes. Furthermore, the case of the TSB illustrates the readiness and the capacity of national actors such as MPs, Kabul Ministries and the Presidential office to directly take part in breaking deadlocks over water allocation, when, in times of crisis, local actors are in an impasse.

Thus boundaries of decision-making over water allocation do stretch far beyond the sub-basin limits, towards the capital Kabul. The presidential decree and non-participatory genesis in spite of the devolutionary water law seems further evidence of this trend. By contrast, the Water Law promotes decentralized decision-making.

Overall, the key differences between model and practices (see TABLE 6) reveal clear gaps between the “good” water governance principles enshrined in the Law and the actual practices on the ground.

Table 6  
Models versus practices in water allocation in the TSB/LKSB during the 2011 dry year

| SBA / SBC model  | Sub-basin    | Actual practices observed in 2011  |
|--|--------------|--|
| SBC as single formal decision-making platform for water allocation at sub-basin level          | LKSB         | No specific sub-basin level platform.<br>Flexible composition of WACs.<br>Various arrangements with demarcations along provincial boundaries.<br>Borders of participation in decision-making shaped by geographical and political borders of the “problem-shed”. |
|  | TSB          | Water allocation mediated through WACs, with a clear demarcation along provincial boundaries.  |
| WMD staff as technical advisors in SBAs<br>Undefined role of governors                         | LKSB         | Central importance of governors and WMD in shaping or imposing decisions.  |
|  | TSB          | Central importance of governors and WMD in balancing national and local interests.   |
| Water users as key decision makers via SBCs  | TSB and LKSB | Limited or non-existent direct discussion between water user representatives from both provinces.  |
|  | LKSB         | Composition of ad-hoc platforms and level of water user participation shaped by local political interests and power dynamics.<br>Participation of water users only when WMD unable to impose its decisions.  |
| Decentralising decision-making from national agencies/actors to sub-basin institutions /actors | LKSB         | Pressure from central Ministry of Energy and Water (MEW) on local WMD to shape water allocation decision.  |
|  | TSB          | Significant influence of MPs, senior MEW and the president’s office in shaping water allocation.<br>Presidential decree defining water rights of provinces issued after a non-participatory process.   |
| Composition of SBCs covering the whole watershed (or sub-basin) area                           | TSB          | Various MSP arrangements with demarcations along provincial boundaries (different WACs in Kunduz; No WAC in Takhar but joint WAC at interprovincial level).<br>Flexible composition of the WACs in Kunduz.   |
|  | TSB and LKSB | Borders of participation in decision-making shaped by geographical and political borders of the “problem-shed”.<br>Borders of decision-making stretching as far as Kabul.  |
| Representation of multiple water sectors in sub-RBCs   | TSB and LKSB | Irrigation the only water sector represented.  |

## 6.2. *MSP performance in the face of implementation gaps*

6.2.1. *Poor devolution of decision-making power: did it matter?* In the LKSB, there is little doubt among the Kunduz WAC members and other water users that they were able to secure water, although not entirely satisfactorily, almost entirely thanks to the supportive role of the Baghlan WMD director and provincial governor in the *abandâz* negotiations between Baghlan and Kunduz. In Kunduz the large majority of interviews pointed to an unambiguous perception that if negotiations had been conducted among water users alone, Kunduz would have been unlikely to secure as many days' *abandâz* as it did. This perception is now shared even by PARPB-TA leaders who were in charge of forming and developing SBA and sub-RBC.

In the TSB, the introduction of the decree (although not fully implemented) at national level, as well as the involvement of the governor and MEW in decision-making for a compromise has been beneficial for Kunduz.

Considering that the MSP policy model chosen is keen on limiting line-ministry involvement to a technical advisory role, it is questionable, judging by our findings, that a strict application of the model would actually make sense as far as more equitable water access is concerned.

More generally, what appeared as 'dark' governance (i.e. poor devolution of decision-making) for the proponent of the reform turned out to be a key reason for better water access for downstream users.

6.2.2. *Limited decentralization in decision-making power: how significant?* The proactive role played by central actors and institutions (i.e. governors, directors of WMD, MPs or the Presidential office) contrast with the principle of decentralization of decision-making (Section 4.1). This may be dismissed as a temporary crisis intervention, but signs are that they are a harbinger of a driver for greater control. MPs openly acknowledge that in other domains, too, decrees have trumped the law. The Afghan state itself, then, doesn't necessarily seem ready to relinquish the control needed for meaningful devolution and decentralization. For water users, calling on their MP in Kabul still ensures higher chances of success than negotiating with their peers. For all Kunduz interviewees, State figures played a prominent and indispensable role without which the situation for downstream Kunduz would be worse. Given the continued role of Kabul actors, a rigid decentralisation drive on the part of donors would seem counterproductive (in the current context) when it comes to limiting inequity in and conflicts over water access.

Thus, once again, 'good' water governance principles such as decentralization of decision-making got challenged by better performing arrangements that are usually associated with 'dark' governance by policy makers, (e.g. ad'hoc mobilization of constituencies that have no legitimacy as far as the water law is concerned).

6.2.3. *Broad-based MSP: conducive or unfavorable to decision-making?* By contrast with the generic model of the SBC (with a mix of sector based and geographical representation covering all possible types of river basin management issues) (Section 2.2),

the MSP processes in 2011 showed multiple MSPs, with flexible composition, changing based on the evolving nature and ramifications of the problems (see Kunduz MSPs with the TSB for instance). Contrary to the generic model, arrangements left room for flexibility and adaptability in participation.

Thus the generic approach would be unlikely to have been more effective in addressing water allocation issues in 2011. This is largely because most members of a generic platform would not have been directly concerned by the practical issues at stake. For instance, out of the 13 water sectors proposed by the SBC model (at the time of research) only two (“small-scale irrigation” and “large-scale irrigation”) would have been relevant for the 2011 crisis.

In other words, what worked was an arrangement that appeared as much more chaotic and much less systematic than what the ‘good’ governance model suggested.

6.2.4. *Efficacy of MSP: did it limit inequity?*

*Lower Kunduz sub-basin:* The equity balance in water access between upstream and downstream Provinces on the Lower Kunduz clearly improved between 2008 and 2011, while water availability was not better in 2011. While around 68 percent of Kunduz Province had little or no water access in 2008, this figure dropped to 45 percent in 2011 (SEE FIGURE 2 AND FIGURE 3).

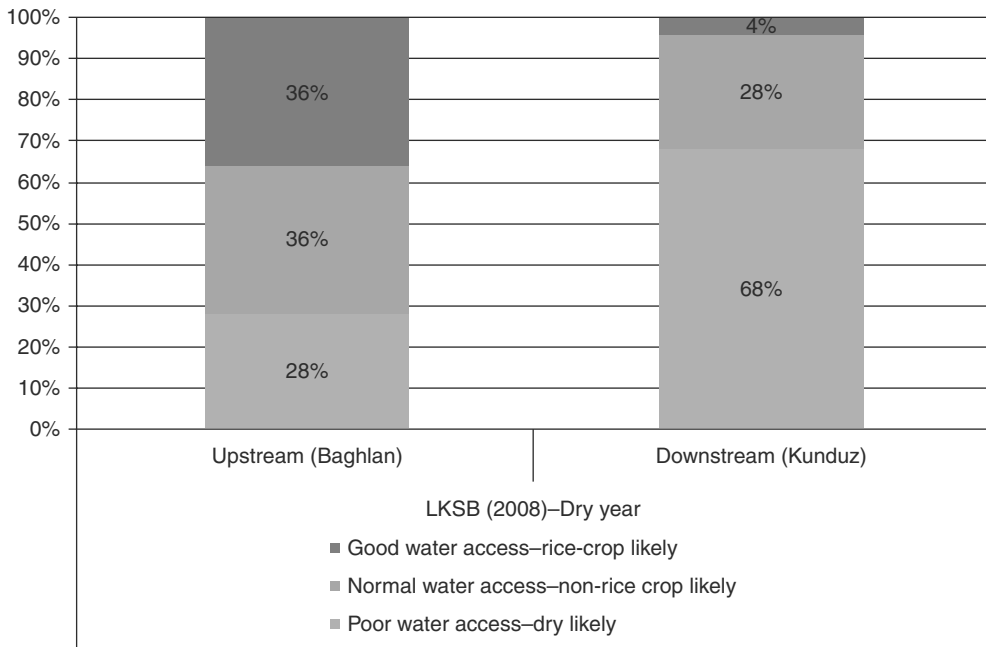


Figure 2: LOWER-KUNDUZ SUB-BASIN. Crop classification based on NDVI – Early September 2008

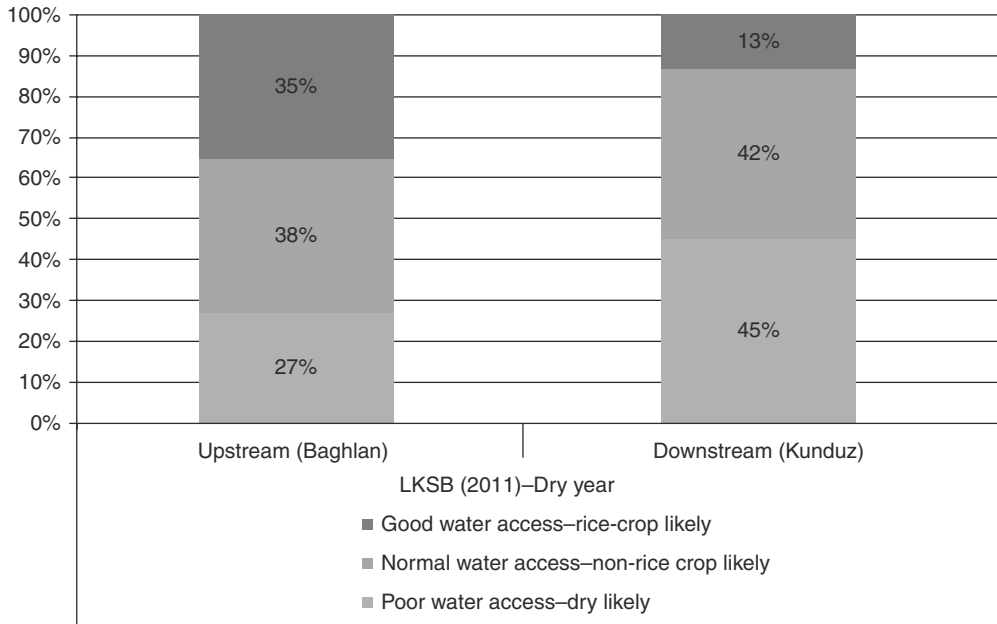


Figure 3: LOWER-KUNDUZ SUB-BASIN. Crop classification based on NDVI – Early September 2011

All interviews conducted in Kunduz indicate a strong perception that the improved *abandâz* of 2011, both in content and implementation, as compared to 2008 was a key reason behind this positive change. Nevertheless groundwater use in downstream Kunduz to compensate for the shortage of surface water much wider in 2011 as compare to 2008, partly because farmers better anticipated shortages. Thus, these practices also contributed to the improvement.

*Taloqan sub-basin:* All our Kunduz respondents felt that despite not being strictly applied, the decree has been especially influential on Takhar authorities (WMD and Governor), thus greatly contributing to the improvement in water access to Kunduz (SEE FIGURE 4 AND FIGURE 5). Nevertheless, similarly to the LKSB increased pumping, especially in the most downstream canals in Kunduz are part of the explanation too. Pumping was a secondary source of irrigation in 12 out of 49 canals.

In other words, despite institutional arrangements that go against principles associated with ‘good governance’ and appear much more chaotic, the issue of inequity in water access was mitigated to some extent. This clearly questions the often implicit assumption, among policy makers, that institutional arrangements that do not fit the definition of good governance are likely to perform poorly.

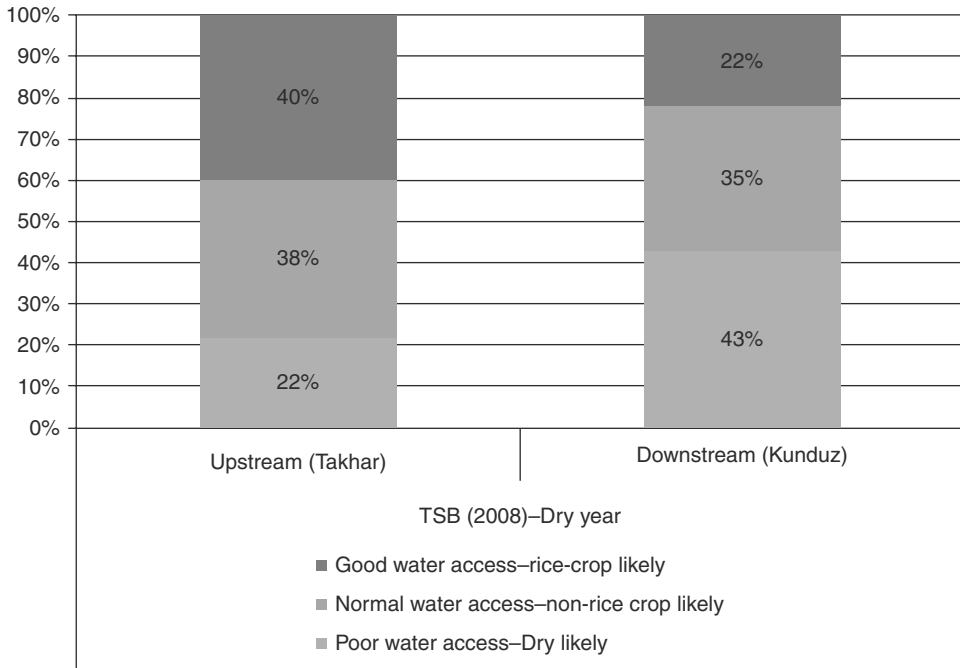


Figure 4: TALOQAN SUB-BASIN. Crop classification based on NDVI – Early September 2008

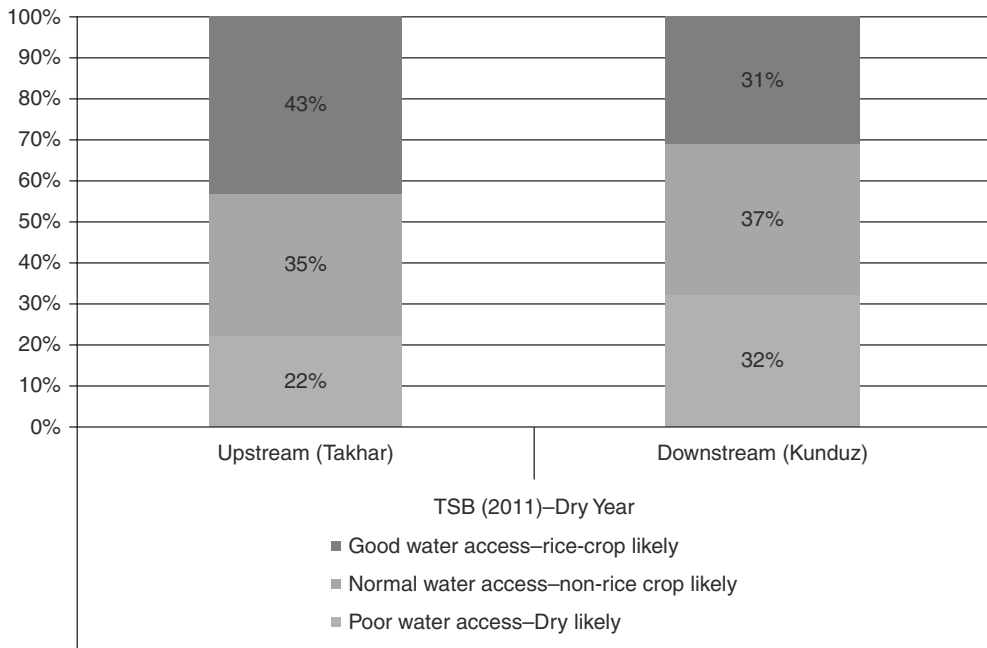


Figure 5: TALOQAN SUB-BASIN. Crop classification based on NDVI – Early September 2011

6.2.5. *Rights, equity and conflicts: Would creating and enforcing water rights be a viable solution?* In the LKSB, all Kunduz interviewees would like to radically change allocation from *abandâz* to *haqabah*. But when they demanded this in 2008, all the upstream Baghlan stakeholders took offence and used this to limit their water release. Baghlan stakeholders see *haqabah* as ‘suicide’ to give life to others, and see those who would accept *haqabah* as ‘traitors’. Islamic jurisprudence (both Sunni and Shia) also privileges upstreamers in times of water penury – although sharing and generosity is also emphasized in Friday sermons. *Abandâz* may not be consensual, but changing it just like that is likely to meet with resistance.

Creating water rights, another liberal paradigm, is likely to exacerbate rather than reduce tensions in this context. For the foreseeable future, it seems therefore unlikely that RBCs, would be effective in fulfilling their responsibility of “establish[ing] the necessary conditions in order to evaluate, adjust and deny use permits in the respective basin.” (Afghan Water Law article 14–1.4).

Thus, arrangements that could be fit the label ‘dark’ governance may be safer and prevent exacerbation of tensions.

6.2.6. *Efficiency and sustainability of MSP: did it contain conflicts?* In the LKSB, conflict prevention at inter-provincial level was perceived as much better in 2011 as compared to 2008. Although positively received by Kunduz water users and government officials at MEW in Kabul, this performance however came at a cost: the level of resentment against local government increased within Baghlan, particularly in the areas where it was perceived that decisions were forced.

Within Kunduz Province, there have also been high tensions between the two most downstream districts not so much when it came to decision-making but due to low enforcement capacity on the part of government authorities to limit defaulting. Despite the security situation, which was clearly perceived as hampering the implementation of water allocation agreements, mirabs and water users’ representatives felt that the WAC still managed to prevent conflicts from escalating.

The formation of the inter-Provincial (joint-)WAC in the TSB and its sub-sequent activities were generally felt to have succeeded in striking a practical compromise to the conflictive *haqabah* as defined in the decree. Thus, the expected role of the joint-WAC in curbing potentially severe conflicts was praised across the spectrum of stakeholders. Their authority however depended in part, on outside sources: the presidential decree and the support from both the WMD and governor of Takhar.

Overall, despite fundamental gaps between policy models and on-the-ground practices observed in both sub-basins, performance in terms of limiting inequity in water access between provinces and in terms of limiting conflict escalation has been encouraging. This shows once again that the somewhat chaotic and unstructured institutional arrangements of the WAC did not necessarily translate into poorer containment of conflicts.



6.2.7. *Efficiency and social sustainability: the failure of the PARBP sub-basin working group to generate social capital.* Despite more than 23 meetings facilitated by the PARBP-TA, and in spite of the experience of 2008, the sub-basin working groups have never been able to produce and implement any water allocation plan. Not only have they failed to contribute to any practical problem resolution on water allocation, they have also failed to generate social capital. More than three years after the pioneering study by Varzi and Wegerich (2008), the directors of WMD still talked about the sub-basin working groups in terms of the same symptoms: absence of tangible progress, high turnover of participants, and irrelevance of points of agenda as defined by external facilitators. Thus, reality refused to conform to the theory.

6.2.8. *Financial sustainability of MSPs* In both sub-basins, the stakeholders in the WAC who were involved in formal meetings for decision-making and monitoring activities were financially compensated by PARBP-TA.

There is little doubt that this financial support has supported the efficacy of the WAC activities. For 2011, according to local observers involved in facilitating the process:

*If there had not been any logistical support, some rich farmers and elders would have paid to go and talk to Taloqan [ . . . ], and to monitor. But they would have gone two or three times at most, not as much as they did with the financial support from PARBP.*

Nevertheless, this is not a sustainable source of funding. According to the most recent regulation (draft) prepared by the PARBP-TA on RBCs:

*“RBCs are the leading units in the river basins. Hence, they are obliged to enhance economic sustainability by generating income for the units.”* How such incomes may be generated or what could be the necessary financial sources to run RBCs has not been studied or discussed so far. Collecting taxes may not be very credible considering that for instance land taxes have virtually disappeared.

None of the representatives interviewed in Kunduz believed that farmers would be willing to pay for the services received in 2011 even if they felt that results were better than in 2008. This is possibly due to the fact that water users may doubt the replicability of the 2011 performance, in changing social and political contexts.

## 7. Conclusions

Seven years after the introduction of “good” water governance principles in Afghanistan we still find significant gaps between practices and models. It is important to acknowledge that implementing IWRM, RBM and participation through MSPs with results that would bring added value to existing practices always takes time. It is granted that the ideal if models are rarely reached in practice anyway (Mosse, 2005). Yet the research findings may also indicate a discomfort with if not a rejection of the Holy trinity of “good” water governance by local actors in a context of post-civil war and civil unrest.

Several of our findings discussed also suggest that a strict application of the MSP model of contemporary water management may be counter-productive in post conflict context of Afghanistan. What could be gained in terms of ‘good governance’ compliance through a strict application of the Law may come at the cost of performance.

The idea that a strict application of the MSP model of contemporary water management may be counter-productive in post conflict context of Afghanistan is an important lesson to be learnt. It suggests that while trying to put more efforts in the adoption of “good” water governance, local and international actors supporting such process should remain cautious about the possible implications of a too strict enforcement of the Law (assuming enforcement capacity improves in the future). More generally speaking, the findings of this research warn against the assumption that water governance in a post-civil war country like Afghanistan would either be a blank slate or be most likely corrupted by the ‘dark’ side of governance,

Afghan decision-makers and donors should put more effort in reflecting on what ‘dark’ governance may have to offer.

Does that mean that the local arrangements are necessarily better and that the Water Law is irrelevant per se? One should be guarded against such conclusion. The extent of the argument about how gains in terms of good governance could come at the cost of performance needs to be nuanced. The LKSB case has shown that the factors that triggered the re-alignment of interests between the government authorities of upstream Baghlan province and the Kunduz stakeholders are neither stable, predictable nor controllable - including through policy intervention. The social and political drivers of the 2011 ‘success’ are unstable and certainly reversible. Future changes in local politics are expected to lead to different outcomes, not necessarily for the best. After all, the positive input of the Governors was as much a key to success in 2011 as it was the root cause of problems in 2008. Furthermore, although the inter-provincial tensions have been successfully curbed, this came at a cost of increased resentments within Baghlan between a number of water users and the local government. Whether such trade-off is sustainable is seriously put into question by a majority of interviews among Baghlan water users.

Similar remarks apply to the case of the TSB. Clearly the influence of the presidential decree, as a centralized management input, on water access for downstream water users contributed to the tolerable performance for 2011. The containment of Takhar water users’ frustration through short-term pacifying strategies is unlikely to be sustainable and replicable.

Thus, the arrangement arrived at may just have been a ‘one-off’, due to a favourable socio-political context.

We are not claiming that throwing away the MSP model and just letting people make their own ‘dark’ arrangements will always bring better performance. Further insight into the structural drivers of water allocation performance is still needed.

Nevertheless, in light of the evidence, there is a clear need for the actors and institutions involved in piloting water reform to start taking stock of the gaps between models and reality, and of whether and how these should be filled. Developing an alternative model between existing practices and imported models may be one way forward.

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