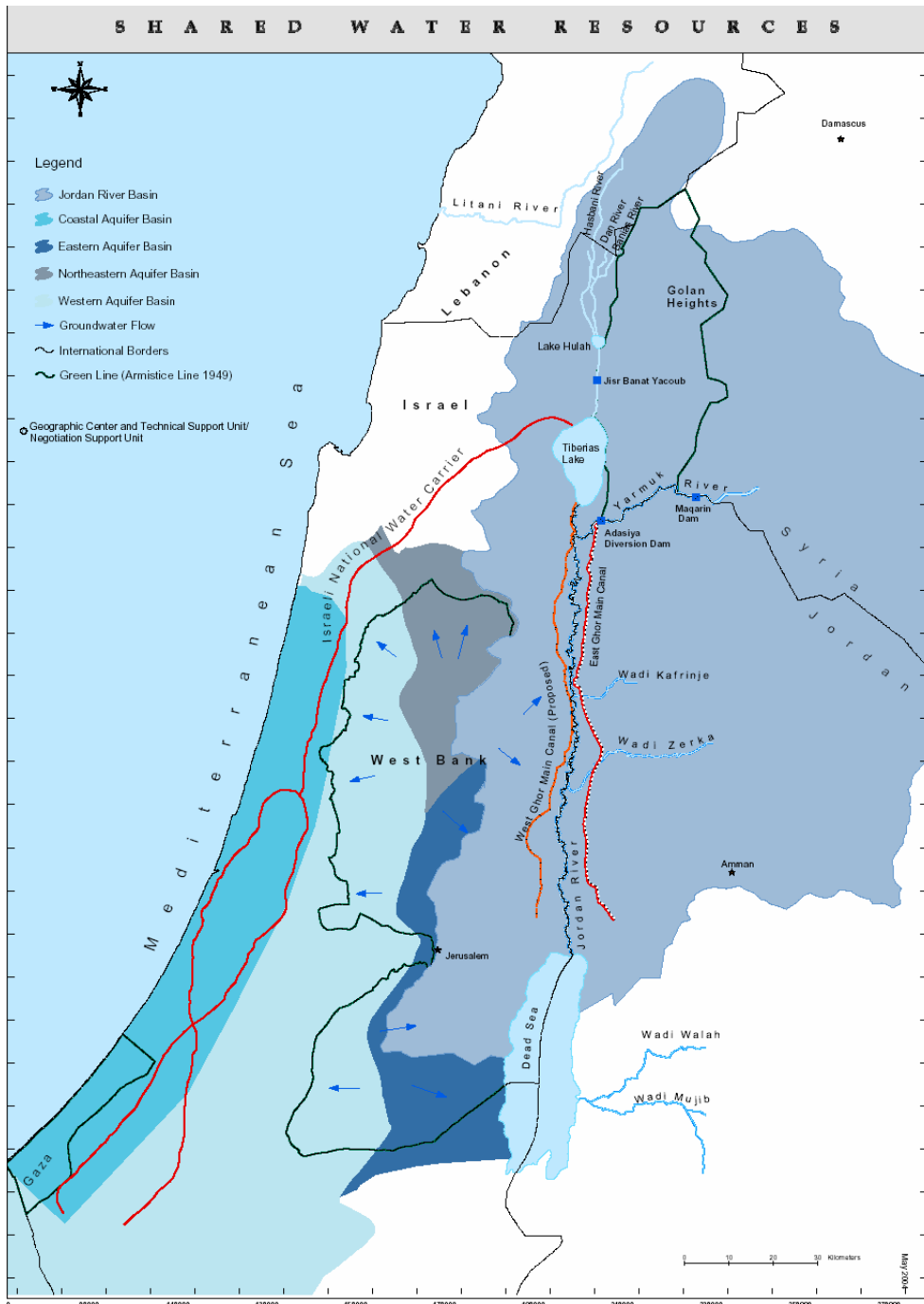


*The Water Rights of
the Co-riparians to the
Jordan River Basin*

**David J.H. Phillips, Shaddad Attili,
Stephen McCaffrey and John S. Murray**

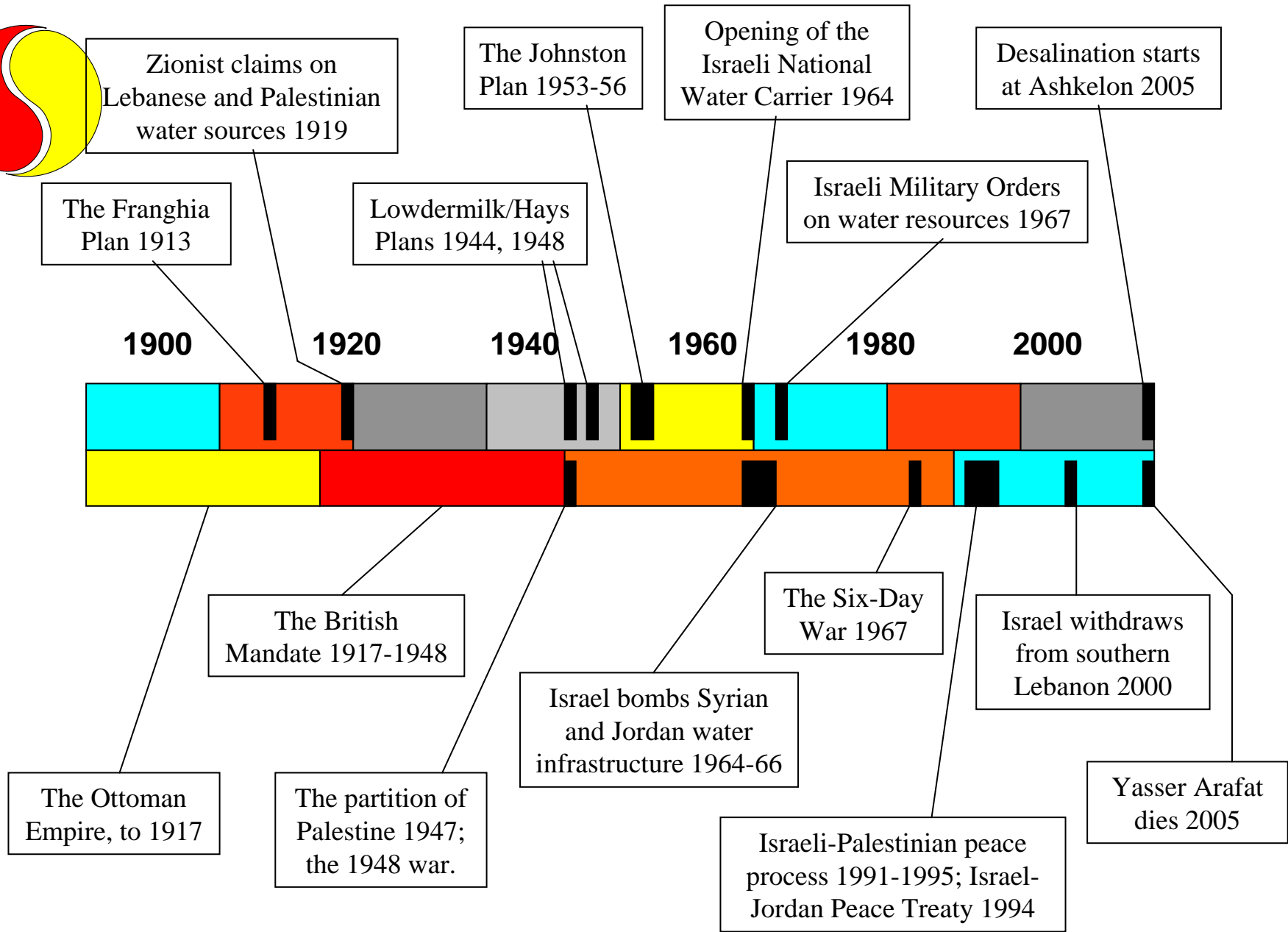
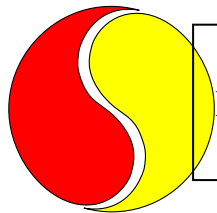
Chiang Rai, 28 November 2005

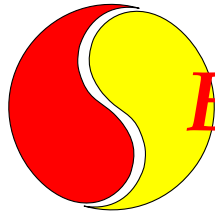


An overview of the shared water resources:

Five co-riparians exist in the Jordan River basin: Lebanon, Syria, Israel, Palestine and Jordan.

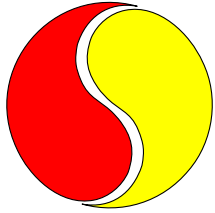
Israel and Palestine also share four groundwater aquifer basins, three in the West Bank, and one in the Gaza Strip. The last of these is the Coastal Aquifer and lies in part under the Gaza Strip, extending along the Mediterranean coast.



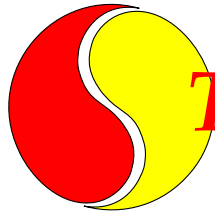


Elements of the Presentation

- ❖ The human right to water.
- ❖ The first attempt: the Johnston Plan.
- ❖ More recent Agreements.
- ❖ Key principles of international law.
- ❖ Generating equitable and reasonable distributions:
 - equal *per capita* allocations;
 - the development of a positive-sum outcome;
 - the need for cooperative management.

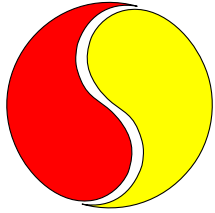


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- **Conclusions.**

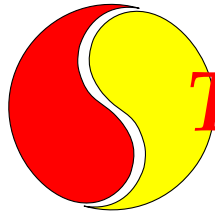


The Human Right to Water

- ❖ *The International Covenant on Economic, Social and Cultural Rights of 1966 is the key Treaty.*
- ❖ *This was signed by Israel in 1992 and by the other co-riparians in 1976.*
- ❖ *General Comment No. 15 of 2002 clarified the human right to water. This is independent of colour, class, or creed.*

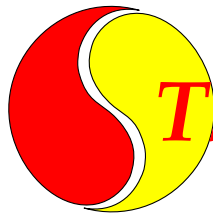


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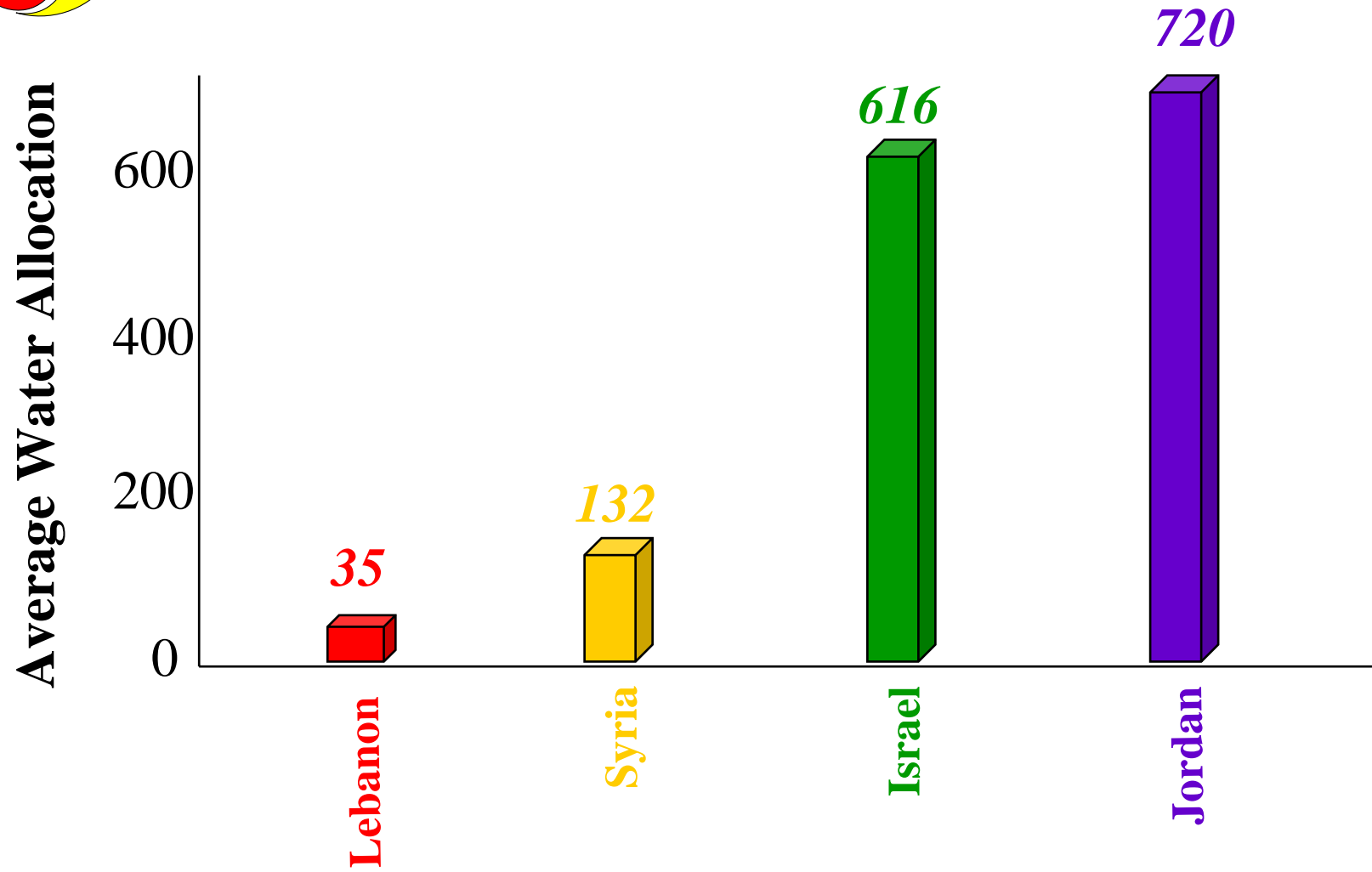


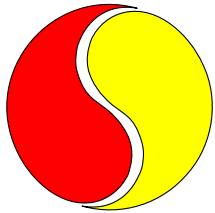
The Johnston Plan [1]

- ❖ Essentially a rights-based approach.
- ❖ Demand was based only on irrigable land areas and estimated water duties in Lebanon, Syria and Jordan.
- ❖ Israel was allocated the 'residual flow'.
- ❖ The Plan was never officially accepted, and in any event does not comply with modern-day principles of international water law.
- ❖ Some authors contend that it has been largely adhered to by the co-riparians.

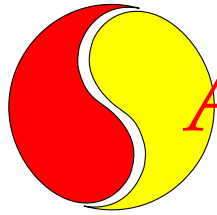


The Johnston Plan [2]



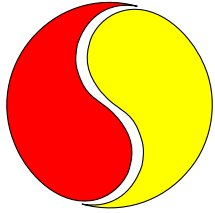


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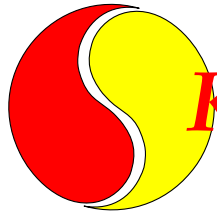


Agreements Between the Co-riparians

- ❖ These range from three agreements during the British/French Mandate period, to several in the 1990s.
- ❖ None of these are basin-wide in nature (most are bilateral). Relatively few of them include quantitative allocations.
- ❖ Those that do so, are not considered to reflect the principles of customary international water law.
- ❖ **As a result, there is no basin-wide understanding or agreement on equitable and reasonable use.**



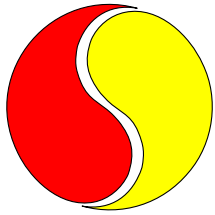
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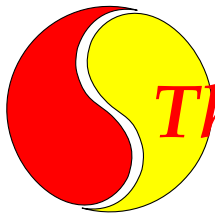
Key Principles of International Law

- ❖ The three key principles of customary international water law are:
 - equitable and reasonable use;
 - the avoidance of significant harm;
 - the need for prior notification.

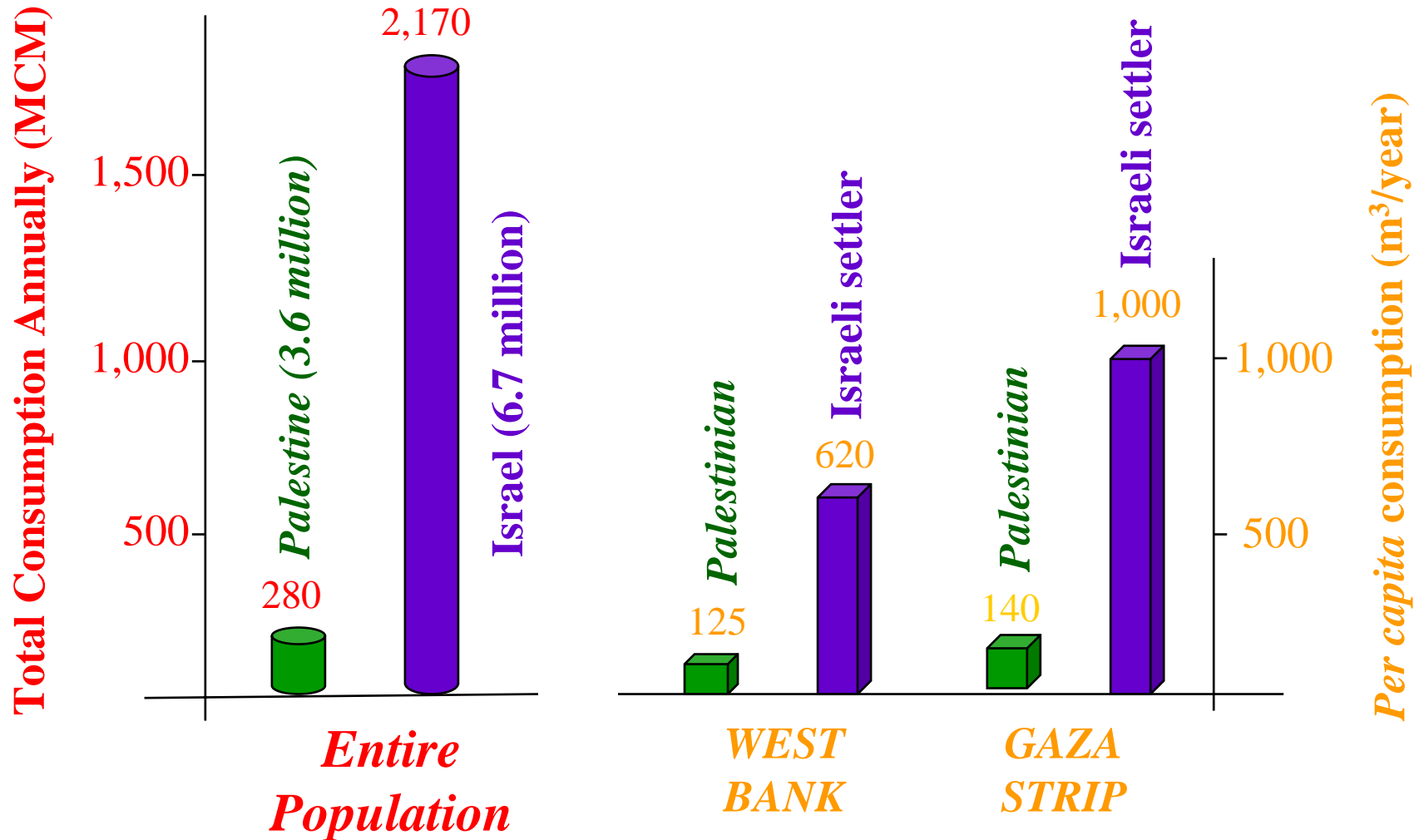
- ❖ Any future basin-wide Agreement (or any other Agreement between States) should be based on these principles.

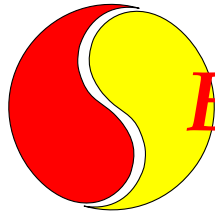


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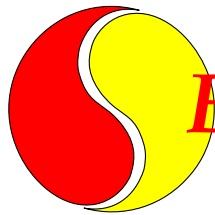
The Present Inequitable Water Distribution





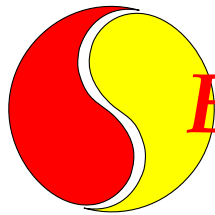
Equal per capita Allocations [1]

- ❖ Shuval (1992, 2000, 2005) proposed equal *per capita* allocations for Palestinians and Israelis.
- ❖ 125m³/person/year was suggested for 'domestic, urban and industrial use'.
- ❖ Isaac (1994) proposed the same concept, calling this 'water equity'.
- ❖ This appears an excellent starting point to determine equitable and reasonable allocations for all five co-riparians.



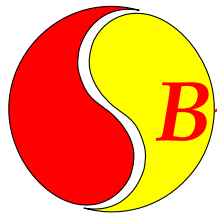
Equal per capita Allocations [2]

- ❖ **On this basis:**
 - **Israel and Palestine would utilize 1,300 MCM/year for sectors other than agriculture, leaving an acceptable reserve.**
 - **Jordan would utilize about 700 MCM/year of 880 MCM/year in total.**
- ❖ **This shows that an acceptable solution to the Palestinian/Israeli negotiations is attainable.**
- ❖ **Jordan faces more intractable problems.**

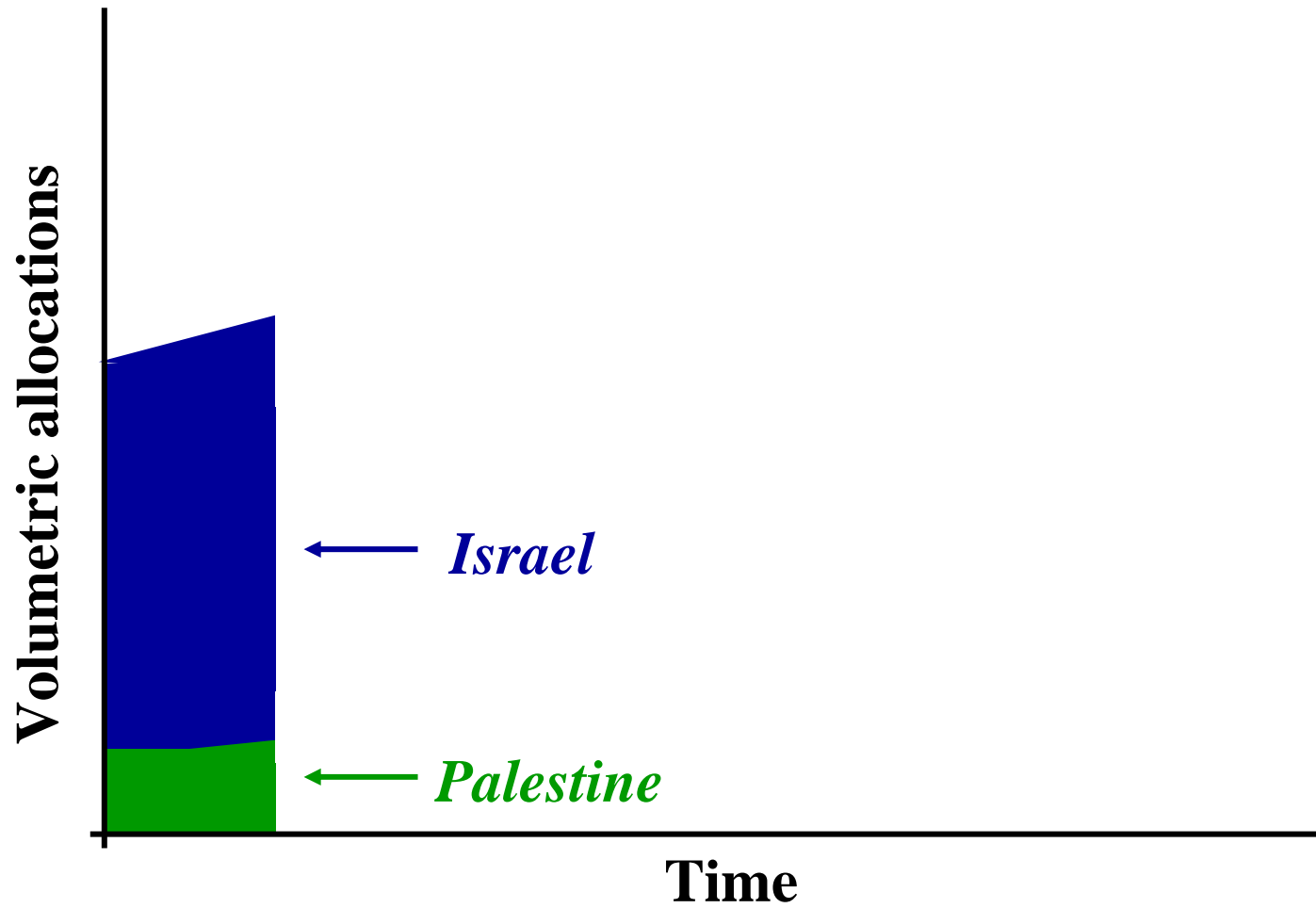


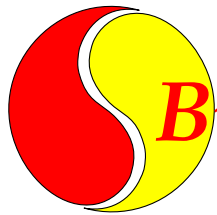
Equitable and Reasonable Distributions [1]

- ❖ The reallocation of the existing resources will not occur if this is a 'zero-sum game'.
- ❖ Israel will not give up significant resources if this decreases its own water availability.
- ❖ A 'positive-sum outcome' must therefore be generated. This must occur both bilaterally (with Palestine) and multilaterally.

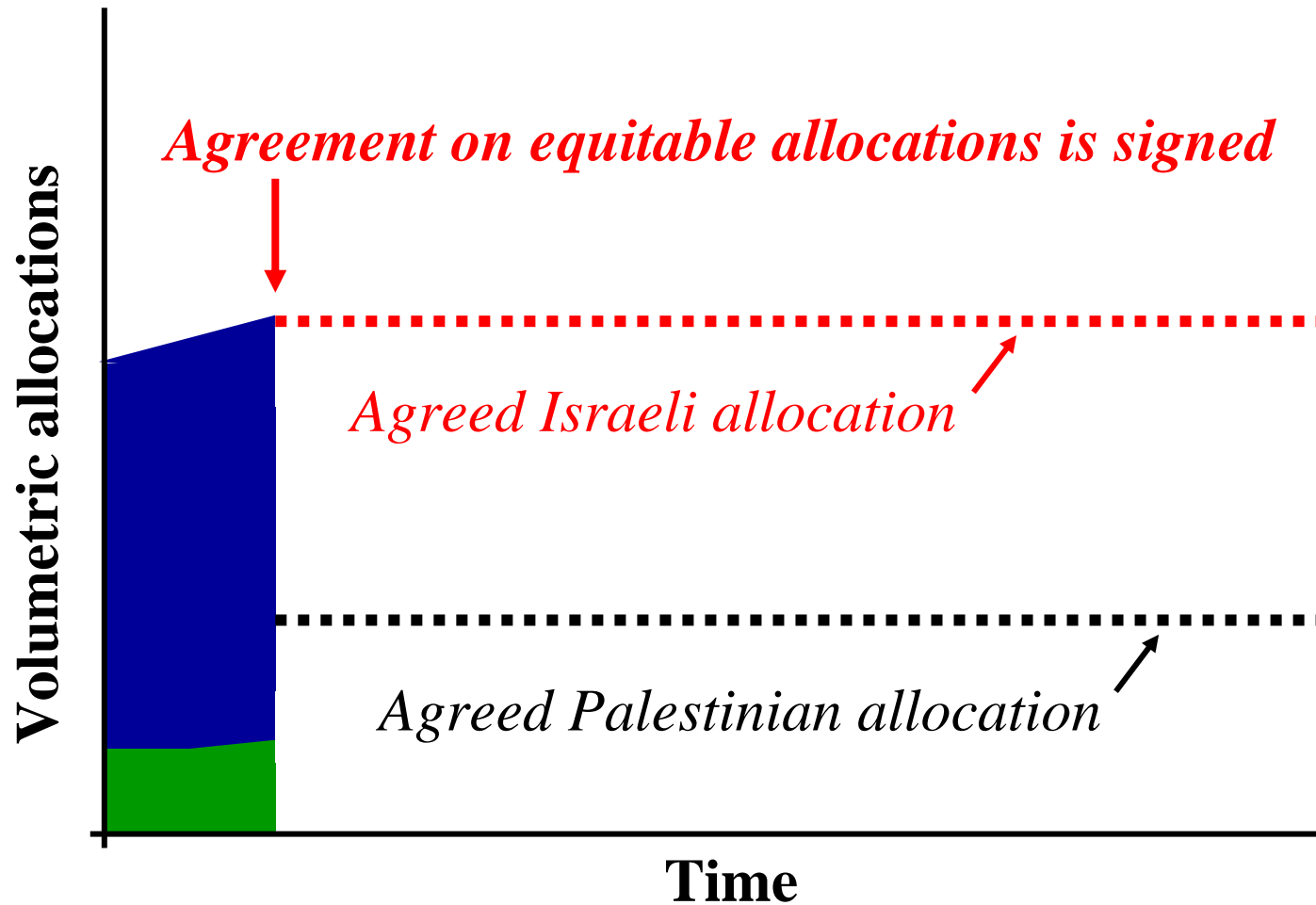


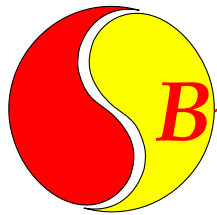
Bilateral Transition: Current Scenario



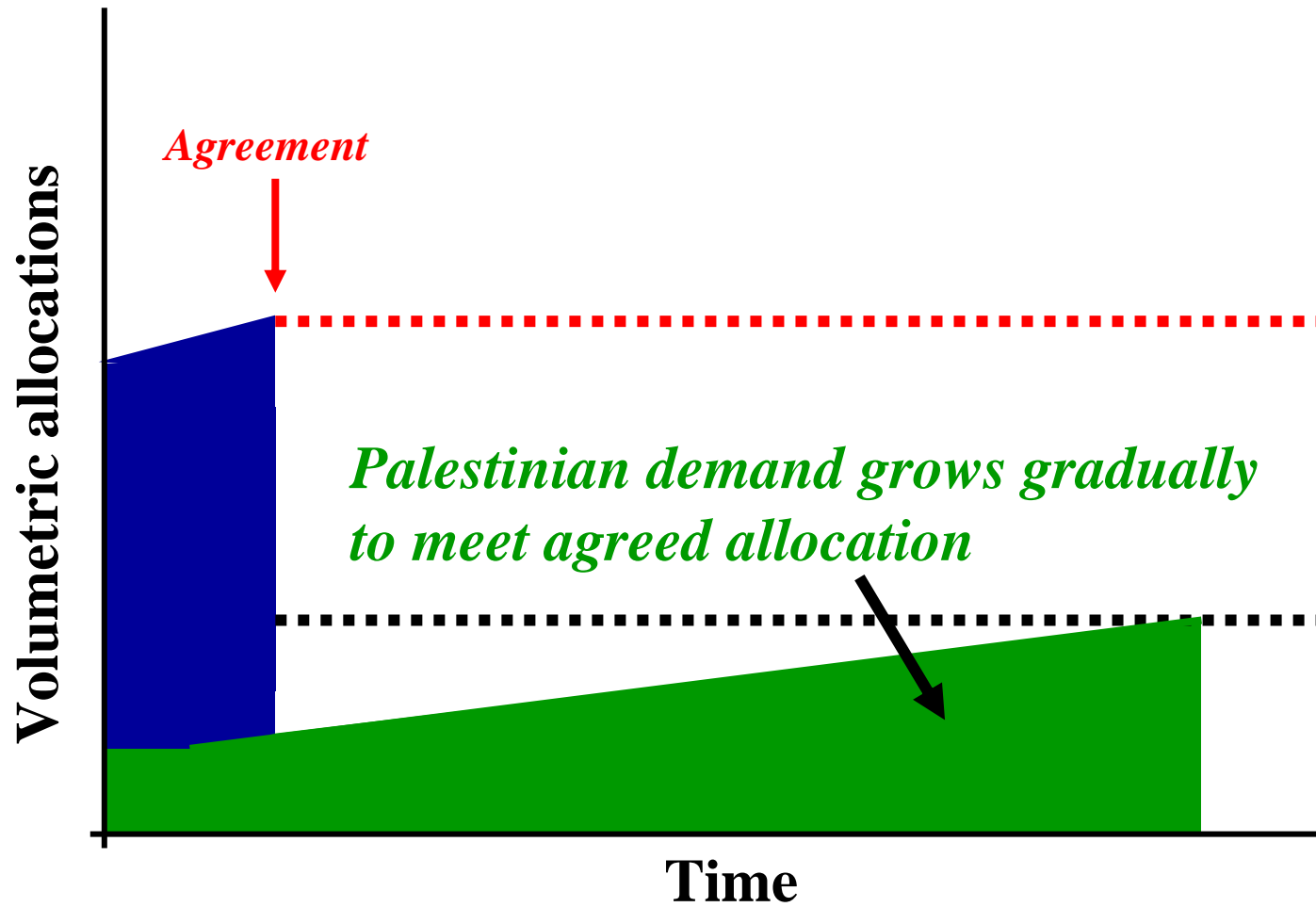


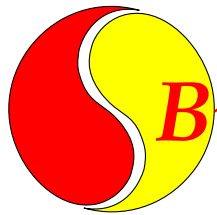
Bilateral Transition: Step 1



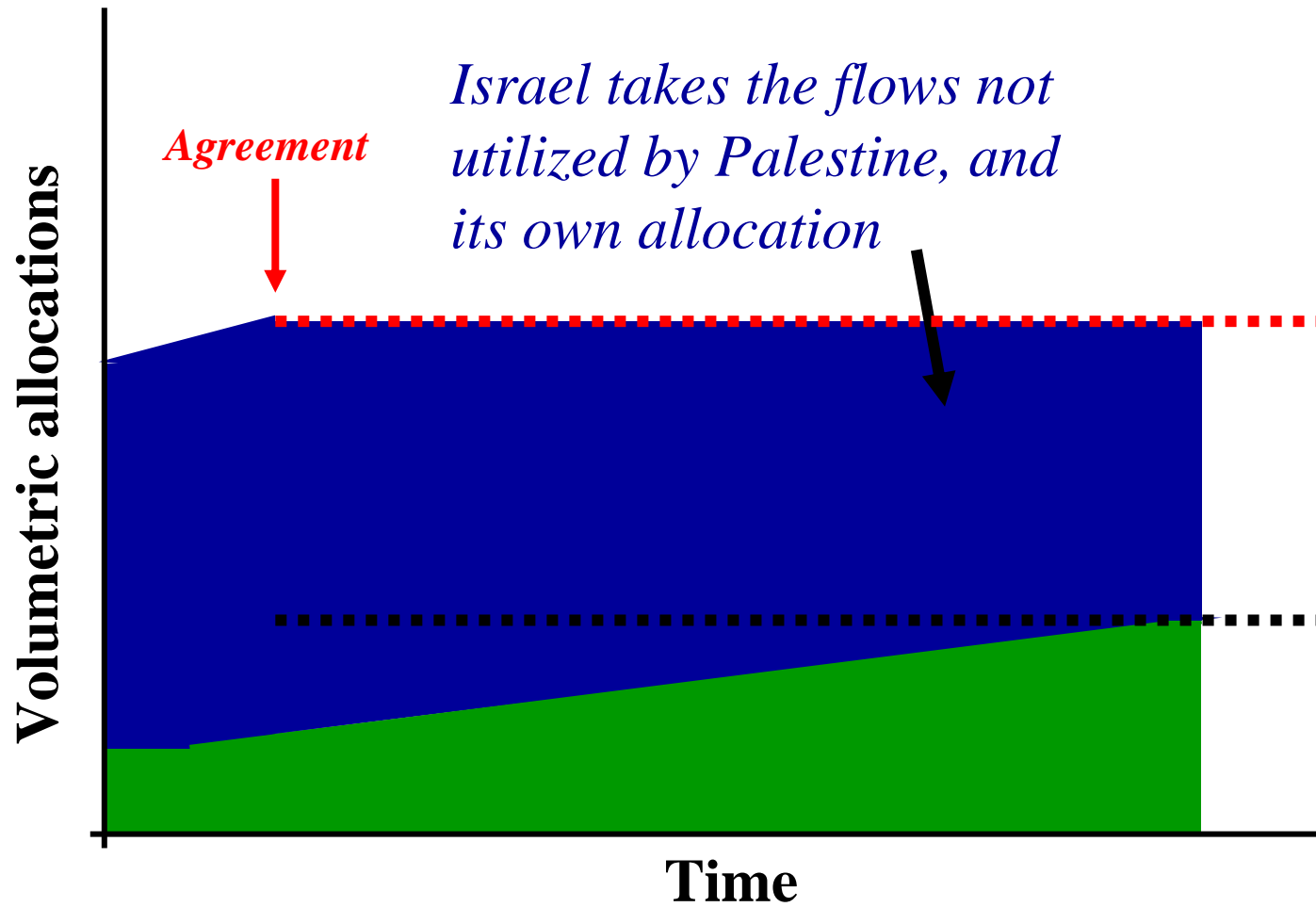


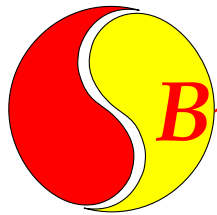
Bilateral Transition: Step 2



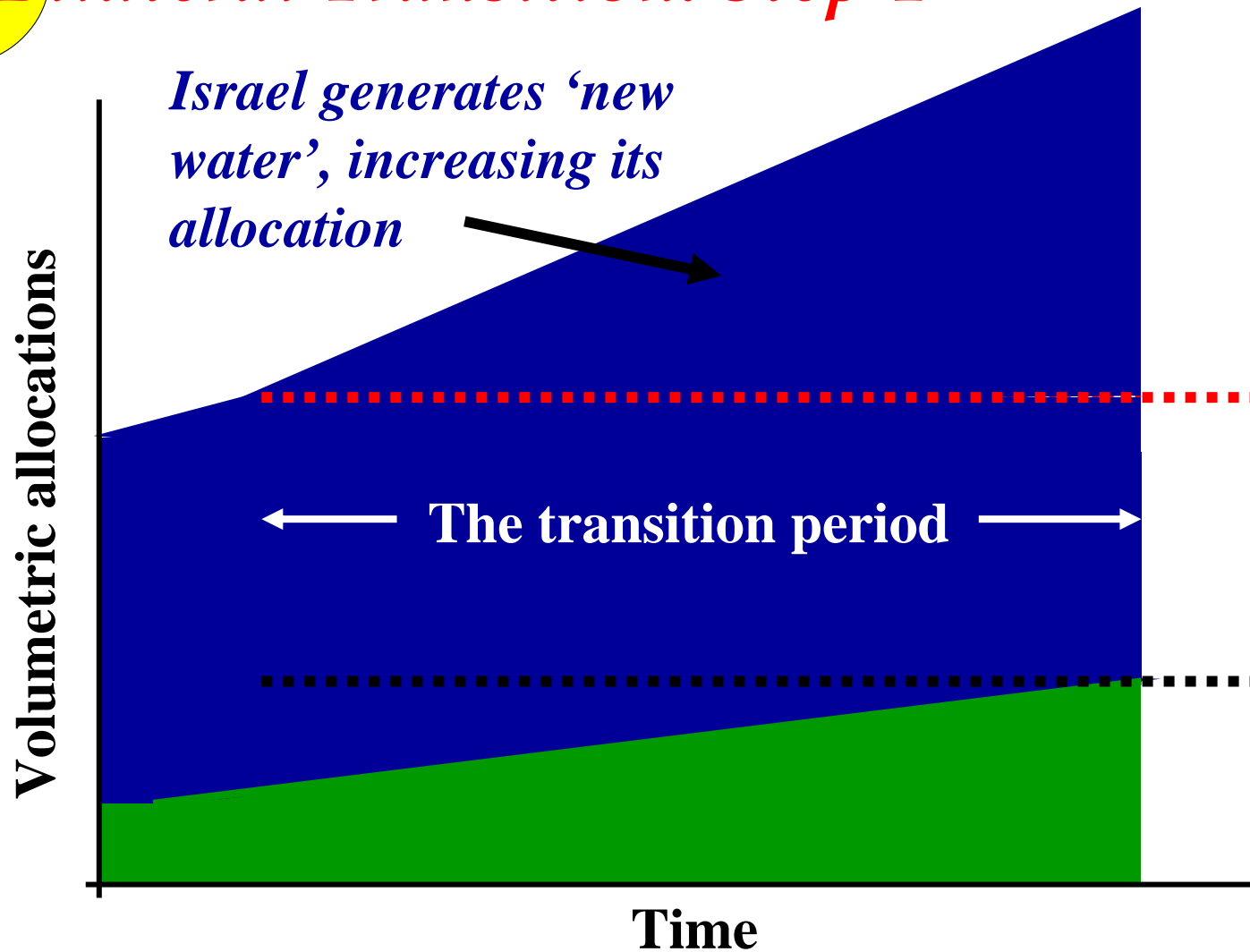


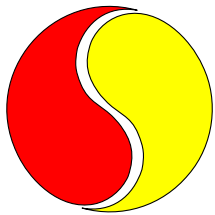
Bilateral Transition: Step 3





Bilateral Transition: Step 4



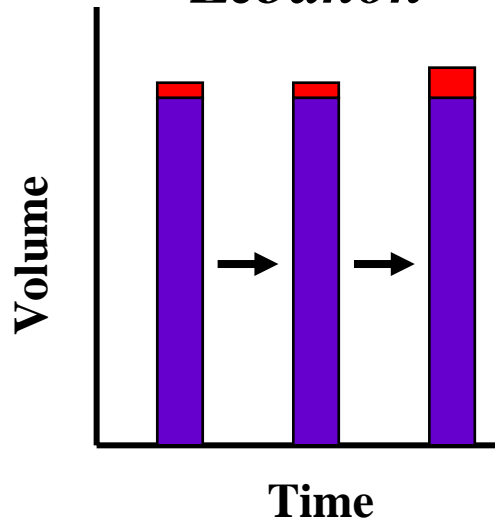


■ 'New water'

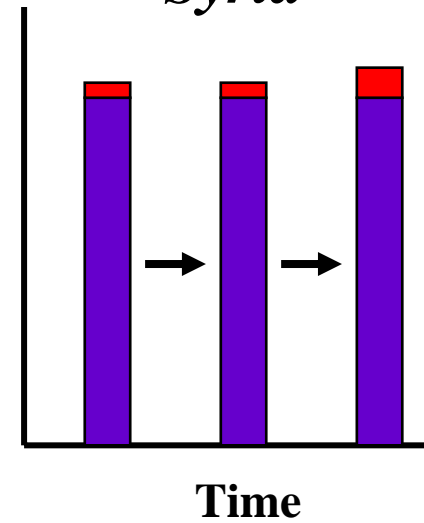
■ Jordan River

■ Other water resources

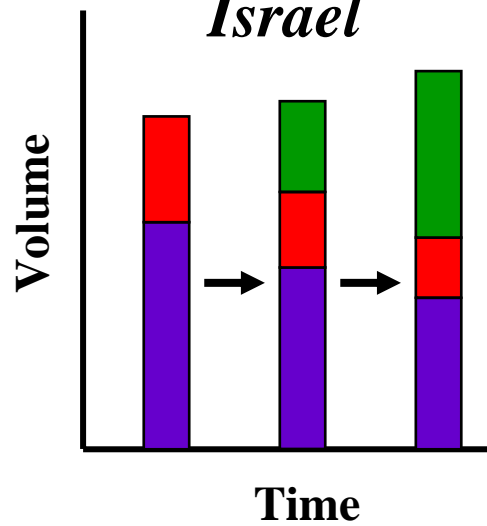
Lebanon



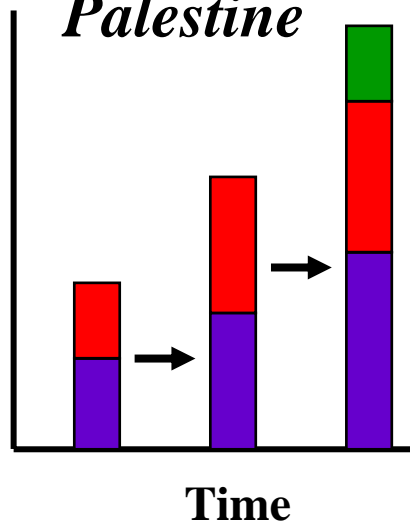
Syria



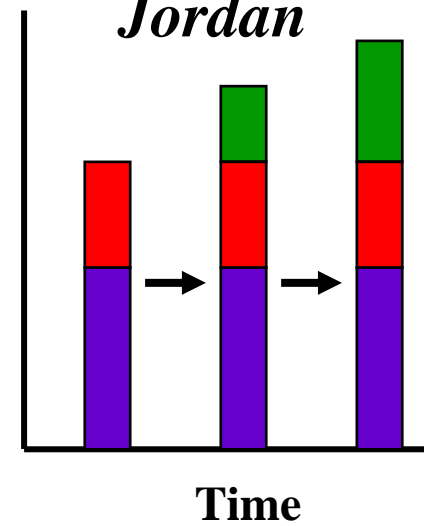
Israel

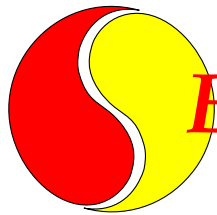


Palestine



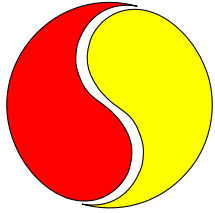
Jordan



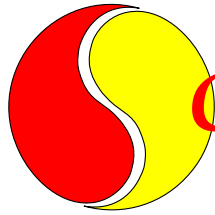


Equitable and Reasonable Distributions [4]

- ❖ International parties can assist in generating the 'positive-sum outcome'.
- ❖ The costs of developing 'new water' at the scale envisaged (about 1,000 MCM/year) are relatively minor.
- ❖ One element arising from this would be the cooperative management of the shared water resources in the region.
- ❖ **If this can be attained, water can be used as a vehicle for peace, not as a tool to generate further conflict.**

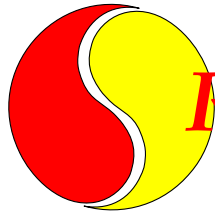


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Conclusions on the Jordan River basin

- ❖ None of the pre-existing Agreements complies with customary international water law.
- ❖ A basin-wide Agreement is to be preferred in the future, with the Palestinian-Israeli Agreement 'nested within this'.
- ❖ Equal *per capita* allocations provide a good starting point for equitable utilization.
- ❖ A 'positive sum outcome' is the only viable solution, and is attainable.
- ❖ The costs are affordable, and further conflict is altogether avoidable, on this basis.



Relevance to the Mekong River basin

- ❖ **Even where conflict or potential conflict exists, solutions can be found.**
- ❖ **Those solutions involving 'positive-sum outcomes' can be made hard to resist, or to refuse.**
- ❖ **The Jordan River example given here is only one type of positive-sum outcome. Several others exist.**