



Food and Agriculture Organization
of the United Nations

STRENGTHENING CIVIC SPACES IN SPATIAL PLANNING PROCESSES

PART I – OVERVIEW OF THE TECHNICAL GUIDE ON REGULATED SPATIAL
PLANNING AND TENURE TO BALANCE SOCIETAL PRIORITIES IN THE USE OF
LAND, FISHERIES AND FORESTS

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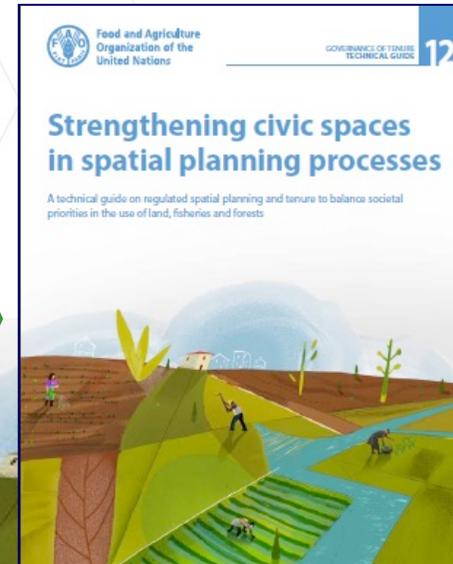
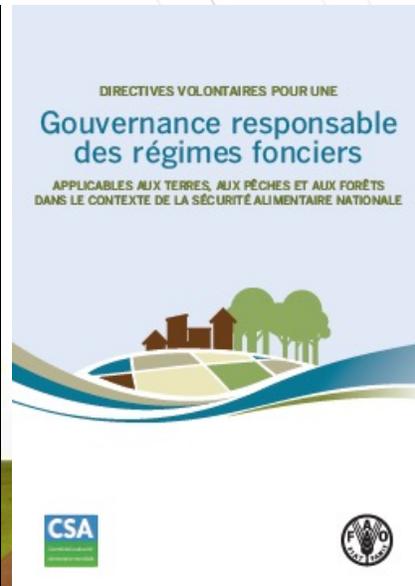


Photo: FAO

PART I



Overview of the technical guide on regulated spatial planning and tenure to balance societal priorities in the use of land, fisheries and forests



INTRODUCTION



- Decisions over who gets access to land, fisheries and forests, for how long, and under what conditions, i.e. decisions over tenure, have important implications for people's livelihoods. Spatial planning procedures can have a considerable impact on the legitimate tenure rights of respective right holders and, in the long term, can affect livelihoods.
- The Technical Guide acknowledges the link between spatial planning and tenure and provides guidance on the importance of recognizing legitimate tenure rights in spatial planning processes.



INTRODUCTION (CONTINUED)



- The focus on **vulnerable and marginalized people and communities** in the VGGT, a **human-rights based approach** to spatial planning is required: individuals and communities are right holders, the State is the duty bearer that has committed to uphold human rights.
- Essential elements in a human-rights based approach to spatial planning are: **access to information, meaningful participation, accountability, and access to justice**. These elements are pivotal for spatial planning processes in line with the Voluntary Guidelines on Responsible Governance of Tenure (VGGT).
- The strategies presented in this Technical Guide seek to strengthen these four elements.



CLARIFICATION OF TERMINOLOGY



- “Regulated spatial planning affects tenure rights by legally constraining their use. [...] spatial planning should reconcile and harmonize different objectives of the use of land, fisheries and forests” (VGGT paragraph 20.1).
- Legitimate tenure rights comprise both tenure rights recognized by law and socially recognized tenure rights (a.k.a. customary tenure rights).



THE FOUR STRATEGIES EXPLAINED



1

**ACCESS
TO INFORMATION**

2

**MEANINGFUL
PARTICIPATION**

3

ACCOUNTABILITY

4

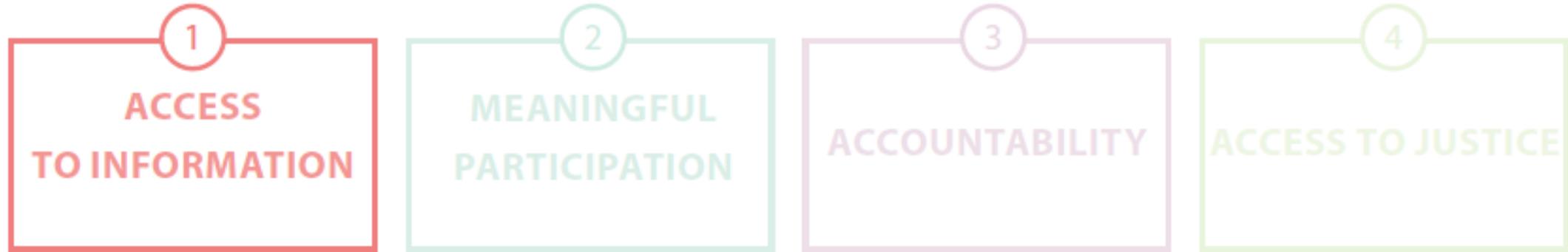
ACCESS TO JUSTICE



STRATEGY: ACCESS TO INFORMATION



This is an essential precondition



TWO-WAY STREET OF INFORMATION



Access to information is a **two-way street**:

- spatial planners and those working on their behalf should ensure that clear information is provided in full and in a timely manner **to** those people, communities and others potentially affected; and
- spatial planners and those working on their behalf should be gathering and gaining information **from** potentially affected people, communities and others when creating and implementing spatial plans.



ACCESS TO INFORMATION – STRATEGY 1



Invest in and adapt outreach strategies to the local context to ensure access to information for all people, communities and others before and during spatial planning processes:

- a) Who needs to know what, when and how.
- b) Information dissemination throughout the entire spatial planning process using a variety of media outlets and information communication technologies.
- c) Provide all relevant information in official and local languages.
- d) Use communication tools appropriate to the cultural traditions or local knowledge.
- e) Hold meetings that allow attendance all right holders or enable representatives to travel to meetings.
- f) Utilize local and customary social institutions for knowledge dissemination.



ACCESS TO INFORMATION – STRATEGY 2



Enable target groups to absorb, **process and contextualize information** about the spatial planning process and related changes to the resource use and land tenure:

- a) Explain the relevance of the proposed plan, its implications for tenure and what mechanisms of influence exist.
- b) Plan several sessions and sufficient time for communities to absorb and process the information provided to them about the spatial planning process and potential impacts.
- c) Engage specific experts to explain information clearly and in more detail if needed.



ACCESS TO INFORMATION – STRATEGY 3



Strengthen **human and institutional capacities** among communities to decentralize knowledge bases and strengthen spatial planning in the future:

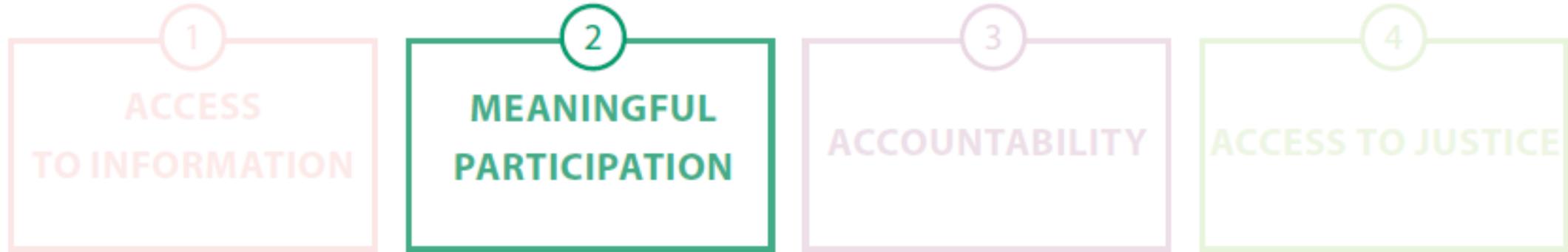
- a) Designate and empower community members to have an active role in the spatial planning process through specialized individual and organisational capacity development and learning opportunities.
- b) Support communities to reach out to others communities in similar situations.



STRATEGY: MEANINGFUL PARTICIPATION



To foster equitable and participatory processes



OWNERSHIP, COMMITMENT, PARTICIPATION AND INCLUSION



- Meaningful participation is crucial in **achieving ownership and commitment** to a spatial plan by all affected parties and is ultimately imperative to its success and sustainability.
- A human rights-based approach to spatial planning requires a **high degree of participation** especially by vulnerable and marginalized communities, civil society, minorities, women, young people and indigenous peoples.
- Meaningful participation does not constitute a one-time act of consultation, but is a **genuine inclusion of relevant actors** to ensure that spatial planning is conducted in a way that is conducive to the realisation of human rights and the protection of legitimate tenure rights.



MEANINGFUL PARTICIPATION –STRATEGY 1



Ensure **proper representation** to allow meaningful participation of affected actors within spatial planning processes:

- a) Produce an inventory of all legitimate rights and right holders, recognizing all forms of tenure with those affected by the spatial planning process.
- b) Include relevant sectors, governmental bodies and civil society organisations to protect all tenure rights throughout the spatial planning process, including those of migrating communities and informal settlers.
- c) Identify, support and include local forms of community organization.
- d) Provide mechanisms to identify proper representation of affected communities in spatial planning decision-making processes.
- e) Overcome social and cultural dynamics that hinder participation in spatial planning processes.



MEANINGFUL PARTICIPATION –STRATEGY 2



Empower affected communities to be partners in decision-making processes through meaningful engagement throughout the spatial planning process:

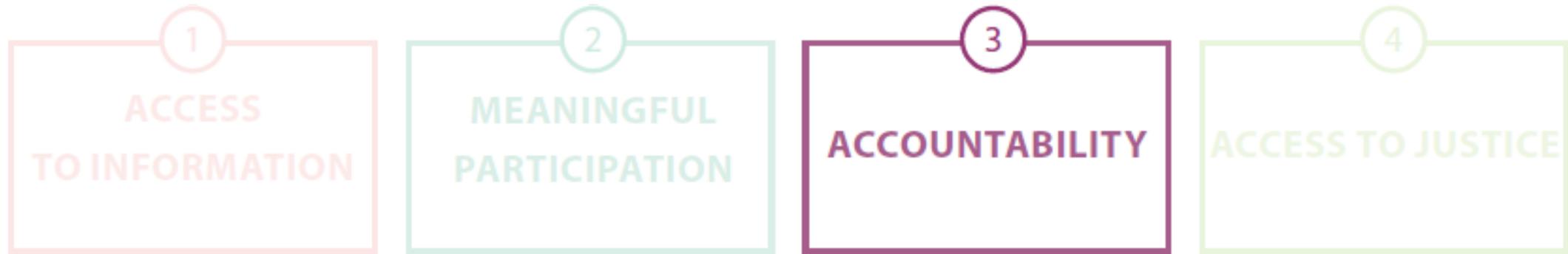
- a) Apply consultation and negotiation throughout the spatial planning process designed in cooperation with the rights holders and respecting local customs and governance structures.
- b) Take local knowledge into account to inform spatial planning regulations.
- c) Use spatial planning tools and technologies appropriate to local contexts and necessary for informed decisions.
- d) Conduct impact assessment with affected communities to ensure awareness of potential impacts of spatial planning decisions.



STRATEGY: ACCOUNTABILITY



civic empowerment enables right holders to hold each other and Government accountable, and Government can hold right holders accountable for their rights and duties



HUMAN RIGHTS, SUBSIDIARITY, WORKING RELATIONSHIPS AND POLITICAL WILL



- Accountability is one of the guiding principles of the VGGT and a **fundamental human rights principle**.
- A key factor to strengthen accountability in spatial planning processes is observing the principle of **subsidiarity**. This contributes to the spatial plan corresponding to *de facto* tenure arrangements and the needs of affected communities and individuals.
Subsidiarity refers to locating spatial planning processes (plan formulation, implementation and monitoring) at the lowest governance level possible unless action on a higher level is more efficient (GIZ 2012).
- Accountable spatial planning procedures require **continuous collaborative working relationships** and **political will** amongst the ministries and their devolved governance structures.



ACCOUNTABILITY – STRATEGY 1



In situations where **institutional and legal mandates** overlap and undermine accountability in land governance, **local approaches and coordination** should be encouraged:

- a) Provide clear information regarding legal mandates, potential overlaps and their impact on local level spatial planning processes.
- b) Encourage local governments to harmonize land use and other management plans, such as forest or integrated coastal zone management plans, in a comprehensive spatial plan based on participatory planning processes.



ACCOUNTABILITY – STRATEGY 2



Ensure greater accountability through **fostering participatory planning approaches at the lowest possible governance level:**

- a) Understand the socio-political context of the area that the spatial plan affects.
- b) Acknowledge existing local land, fishery and forest uses where those uses exceed single administrative units and encourage joint spatial planning across administrative boundaries.
- c) Record orally communicated, traditional resource use arrangements where appropriate.
- d) Include communities in boundary delineation and encourage inclusive and participatory mapping to recognize customary rights and empower local communities in spatial planning processes where appropriate.



ACCOUNTABILITY – STRATEGY 3



Establish **participatory and regular monitoring and evaluation procedures** to increase accountability in implementation and enforcement of spatial plans:

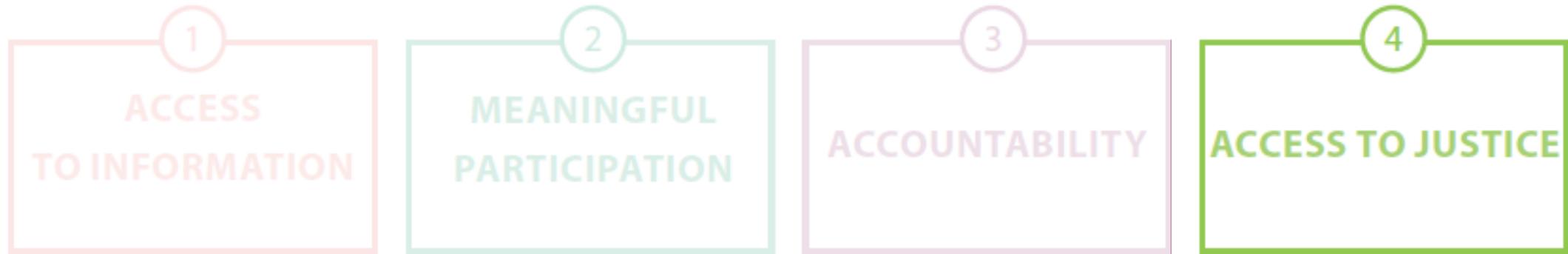
- a) Include communities in drafting spatial plans at the local level as the basis for a joint monitoring and evaluation of the implementation of the plan.
- b) Ensure that activities and measures identified in spatial plans are supported by a budget that considers those measures, as well as the costs of procedural requirements to ensure participatory and inclusive processes.



STRATEGY: ACCESS TO JUSTICE



Access to information, meaningful participation, accountability help to strengthen access to justice



TENURE GOVERNANCE, LAW AND EQUITY



- Providing access to justice is one of the essential VGGT principles contributing to the responsible governance of tenure.
- In terms of law, justice relates to strengthening the ability to voice complaints in a meaningful way and improve access to conflict resolution mechanism.
- In terms of equity, access to justice involves balancing diverging interests within a spatial plan and ensuring that all actors involved benefit appropriately from produced benefits.



ACCESS TO JUSTICE – STRATEGY 1



Promote equity and justice within spatial planning processes by making the protection of legitimate tenure rights an explicit objective of the spatial plan, even if the spatial plan can lead to a restriction of these rights:

- a) Seek guidance from existing international safeguards in spatial planning procedures to protect legitimate tenure rights.
- b) Consider supporting access to resources for marginalized groups where lack of access restricts the ability to make a livelihood and where national food security benefits are limited.
- c) Establish agreements with participation of local communities as a precondition for third party investments that require transfer of tenure rights.



ACCESS TO JUSTICE – STRATEGY 2



Strengthening access to justice for local communities by ensuring equitable access to land, fisheries and forests through support of community-based resource management:

- a) Encourage the establishment of community-based management structures through spatial planning processes to strengthen equitable access to and sustainable use of natural resources where communities otherwise lose their livelihood basis.
- b) Empower local communities to establish resource-sharing agreements among themselves to overcome conflicts related to inequitable access where spatial plans limit access to shared resources.



ACCESS TO JUSTICE – STRATEGY 3



Ensure continuous and contextualized avenues for justice before, during and after any process of a spatial planning initiative:

- a) Offer free or affordable legal advice to people, communities and others who cannot afford such support.
- b) Strengthen conflict resolution and grievance mechanisms that are accessible and agreed to by affected right holders.
- c) Review environmental and social impact assessments to determine the spatial distribution of the impacts (both positive and negative) of a spatial plan.
- d) Where necessary, provide just compensation that is equivalent to the loss effected by expropriation under a regulated spatial plan.



HOW TO USE THESE STRATEGIES IN SPATIAL PLANNING?



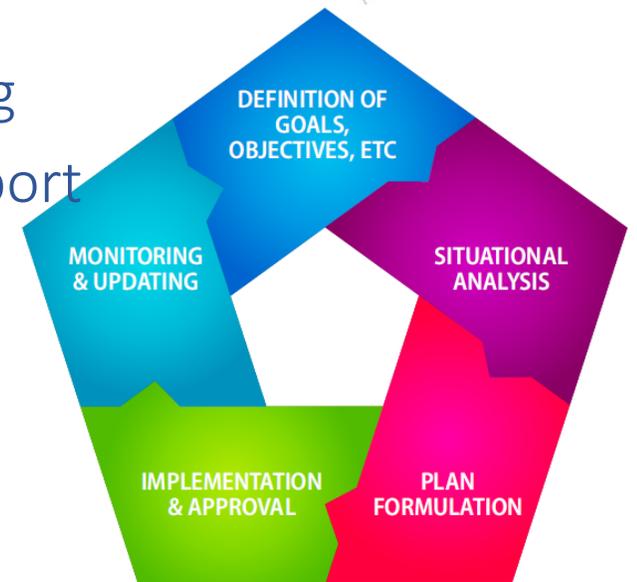
Access to information - Meaningful participation – Accountability - Access to justice



PRACTICAL IMPLEMENTATION OF THE STRATEGIES



- There is an array of strategies to strengthen civic space in spatial planning processes through enhanced access to information, meaningful participation, accountability and access to justice has been presented.
- **Strengthening civic spaces** helps to ensure that spatial planning processes are conducted with respect to the VGGT and in support of governments fulfilling and respecting their human rights obligations in these processes.
- **How to link these strategies to the spatial planning process?**



HOW TO USE THE STRATEGIES?



1
ACCESS
TO INFORMATION

2
MEANINGFUL
PARTICIPATION

3
ACCOUNTABILITY

4
ACCESS TO JUSTICE



- In each of the steps in the spatial planning process, look at the four strategies and apply them.
- Table 1 on page 87 in the Technical Guide provides detailed guidance.



SPATIAL PLANNING AND TENURE RIGHTS: LEAVE NO ONE BEHIND



- Spatial planning in line with the VGGT and the Technical Guide is crucial for achieving the Sustainable Development Goals.
- International agreements (e.g., CBD, UNCCD, UNFCCC) call for concerted efforts to protect biodiversity, combat climate change and ensure food security which often requires changes in land use.



Applying a human rights-based approach to spatial planning by strengthening civic spaces in the planning process allows tenure right holders to claim their legitimate tenure rights. It supports the recognition of tenure in the achievement of the SDGs that require changes in land use.



TAKE AWAY MESSAGES



Focus on the vulnerable and marginalized requires a human-rights based approach

Recognizing legitimate tenure rights, i.e. both legally and socially recognized tenure rights, in spatial planning processes

Apply four strategies in the spatial planning process:

1. access to information
2. meaningful participation
3. accountability
4. access to justice

