Spatial Planning in the context of the Responsible Governance of Tenure

Why Spatial Planning?

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Learning objectives

At the end of the lesson, learners should be able to:

- understand the main reasons for the importance of spatial planning;
- understand the context within which spatial planning may contribute to sustainable development.

Introduction

The use of land, fisheries and forests is essential to a wide range of stakeholders resulting in a variety of demands and interests, often of a contradictory character. In order to manage and balance such diverse interests, spatial planning plays a crucial role.

There are many situations which show the interconnected relationships between land, fisheries and forests and their diverse uses. These interconnections have spatial and temporal aspects. We will begin the lesson by reviewing how these often competing interconnections affect land, fisheries and forests over time. Then, we will discuss the role of spatial planning in reconciling and harmonizing these diverse interests in the uses of land, fisheries and forests, and in promoting sustainable development.

Situations

Have you ever come across any of these situations?

Large-scale land acquisitions: Fisher folks are removed from their livelihood because of the need for ecosystem conservation or because a hotel complex is being built.

“Our rights on the land and waters were ignored by local authorities. We were removed and our legitimate tenure rights were disregarded and undermined.”

“The land was legitimately acquired by regional authorities and local populations were provided with compensation. Furthermore, the development of a naturalistic area will benefit the whole region and the environment.”

Post-conflict management In a post-conflict situation, stock needs to be taken of the natural resources and their uses to improve decision-making and resource management.
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"At the beginning of the war, we had to flee from our country and leave our land and our houses. When we came back, we found our houses partially destroyed and our land occupied."

“We have occupied this land abandoned by the population. In this region, we have settled our new houses and have found a new source of life. We cannot leave this place."

Transhumance, (nomadic) pastoralism - Rights to land, fisheries and forests are recorded without taking into account the passage of animals and their grazing of the stubble on the fields at some specific period in the year.

Formalization of land ownership rights -- Land is privatized so as to impede access by women who have the right to collect the fruits and/or leaves of the trees.

Deforestation, agricultural expansion -- Natural forest is invaded by agricultural expansion thereby reducing the living space of indigenous people.

Spatial planning rationale

Each of these examples shows that land, fisheries and forests are becoming increasingly scarce and are progressively affected by competition among diverse interests. The increase of sales, leases and concessions in developing countries is proof that the global competition for scarce land, fisheries and forests has gained a new dimension. These global developments modify the role of spatial planning and increase its significance. This is the first important point to highlight on spatial planning:

KEY INFORMATION

Balancing of competing and sometimes contradictory uses of land, fisheries and forests by all stakeholders is at the core of spatial planning, together with the joint identification of those uses for which the highest consensus can be achieved, ideally for the purpose of sustainability.

1 Stakeholders - Land, fisheries and forests stakeholders are land, fisheries and forests users and those affected from the (changes in) uses.
Spatial planning and transparency

The use of adequate, locally adapted systems providing information on, for instance, availability of resources, existing tenure rights and the various uses of land and resources can create transparency at national and decentralized levels.

Thus, transparency is an important basis for all further planning and responsible decision-making on the uses of land, fisheries and forests - that is, responsible governance.

When the interconnections between competing uses of land and other resources are exacerbated, conflicts can arise. Why does it happen and how can this be managed?

WHY?

Land, fisheries and forests have different functions that can change over time. The particular priorities of people will also determine preferences in terms of those functions. Sometimes, too, functions will compete with or eliminate each other. These different functions need to be considered when defining the use of these resources. Conflicts easily arise due to different interests and individual priorities regarding the functions for which land, fisheries and forests are to be used:

- In sub-Saharan Africa, pastoralists and farmers often have competing interests over land.
- In South Africa, mining of precious metals often interferes with other uses.
- In Asia, the rapid growth of cities affects surrounding agricultural areas.
- In the Amazon region, new settlement areas destroy the rainforests.

HOW?

Participatory spatial planning can be used to mediate between different interest groups and to help identify compromises. Spatial planning creates the prerequisites to achieve a type of use of land, fisheries and forests that is:

- environmentally sustainable
- socially just and desirable
- economically sound
Spatial planning activates social processes of decision-making and consensus-building concerning the utilization and protection of areas that may have different tenure rights (i.e. private, communal or public areas).

Refer to V.Gs. 20.2, 20.4 and 3B

V.G. 20.2: "States should develop through consultation and participation, and publicize, gender-sensitive policies and laws on regulated spatial planning. Where appropriate, formal planning systems should consider methods of planning and territorial development used by indigenous peoples and other communities with customary tenure systems, and decision-making processes within those communities."

V.G. 20.4: "States should ensure that there is wide public participation in the development of planning proposals and the review of draft spatial plans to ensure that priorities and interests of communities, including indigenous peoples and food-producing communities, are reflected (…)."

V.G. 3B: "States should engage with and seek the support of those who, having legitimate tenure rights, could be affected by decisions, prior to decisions being taken, and respond to their contributions (…)."

Example

In Kakamega, Kenya, local communities living close to the forest compete with the Government which manages the forest, for the use of local natural resources.

Government officers control whether community members illegally extract forest products and order them to pay fines for disobeying the forest laws.

Local forest-adjacent communities, and especially the poorer households, are heavily dependent on forest products and services for their livelihood.

Participatory land use planning created a platform for discussion of their opposite objectives. Both sides affirmed that they welcomed the opportunity to gain a deeper understanding of the motives and constraints of the other party which cause them to act as they do.
“When we had the opportunity to discuss with government officers, we could explain that the products we collect in the forest are our main source of living.”

Local communities

“Now we can understand the motives of the other party and we can try to find a compromise between forest protection and exploitation for living.”

Government officers

Social and spatial equity are important considerations in spatial planning. The public sector must continue to be responsible where collective, that is, public interest objectives and facilities are involved.

Spatial planning can provide a number of typical public goods that the market and the private sector cannot provide.

Example ➞ Protected areas can be planned, infrastructure can be built to promote development and accessibility to land and basic services can be ensured.

Proper spatial planning can contribute to increased overall welfare by avoiding or minimizing the impact of negative externalities\(^2\). Certain activities could be spatially planned in such a way that positive externalities are enhanced, as shown in the adjacent examples.

Example ➞ Afforestation could contribute to improved water supply or tourism activities; afforestation upstream can mitigate or halt erosion and the consequent unwanted sedimentation downstream.

Spatial planning can serve by reconciling and harmonizing different objectives for the use of land, fisheries and forests by different stakeholders.

Example ➞ Intensification of cash crops for export may occur at the cost of subsistence staple crops. Industrial suburbs may expand at the cost of agricultural development.

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\(^2\) Externalities: In economics, an externality is the cost or benefit that affects a party who did not choose to incur that cost or benefit. A negative externality is an economic activity that imposes a negative effect on an unrelated third party. A positive externality is the positive effect an activity imposes on an unrelated third party. (Source: Wikipedia)
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Uses of land, fisheries and forests and tenure rights

As well as considering the different uses of land, fisheries and forests and how to reconcile them, one should realize that the uses of these natural resources are strictly related to tenure rights.

Different functions and uses can imply different owners and/or users. A change in resource use can, therefore, result in the displacement of current users. For example, foreign land investors may buy the land presently occupied and used by local residents.

The concurrence of different tenure systems is another reason why use and ownership are closely linked. Due to legal pluralism and the poor recognition of local tenure rights, different individuals or groups can claim ownership over the same piece of land, fisheries and forests. For example, pastoralists in search of healthier pastures may compete with farmers for land use.

Refer to section 3A of the VGs

VGs 3A: "States should recognize and respect all legitimate tenure right holders and their rights. They should take reasonable measures to identify record and respect legitimate tenure right holders and their rights, whether formally recorded or no (...)."

Accordingly, investigation of tenure rights needs to be a central part of situation analysis, discussion and decision-making about future use. All tenure rights should be considered, including periodic and overlapping rights. This means the rights of:

- Public institutions
- Private investors
- Individuals or groups, in particular, marginalized groups, such as smallholder farmers, women, ethnic minorities, and young people.

The defined use of land, fisheries and forests may predetermine who will use the resource and will, therefore, have an impact on peoples’ access to land, fisheries and forests. It is not in the interest of sustainable spatial planning to deprive somebody of the legitimate right to access his or her resource and/or to legitimate someone else to use the resource to which other stakeholders have had previous rights.
**Why Spatial Planning?**

**Refer to VGs20.3**

20.3: (...) Spatial planning should consider all tenure rights, including overlapping and periodic rights. Appropriate risk assessments for spatial planning should be required.

Although tenure-related aspects receive more attention nowadays, the necessity to better integrate tenure issues into spatial planning remains. This involves a clear distinction between state, common and private property and the provision of tenure security for all stakeholders. This is an additional, important point to highlight about spatial planning:

**KEY INFORMATION**

Spatial planning can provide a system that develops and stimulates certain uses, restrictions and prescriptions over land, fisheries and forests, and coordinates the activities of the various actors to make proper use of resources. This means that spatial planning can regulate, through legal constraint, that use which affects tenure rights.

**Refer to section 3A of the V.Gs.**

3A: "States should safeguard legitimate tenure rights against threats and infringements."

**Spatial planning benefits and objectives**

“My country has not been able to go beyond traditional land-use planning to create a more rational territorial organization of land uses...”

“This is a problem. Well-executed spatial planning strategies support a sustainable model of development in communities and allow them to achieve several objectives. The benefits of implementing spatial planning should be seriously considered by countries...”

**Why would a country decide to implement spatial planning?**

We can understand it if we carefully review the benefits related to spatial planning and the objectives spatial planning can achieve.

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3 Tenure security - "Security of tenure is the certainty that a person’s rights to land will be recognized by others and protected in cases of specific challenges" (FAO, 2002). The security can derive from different formal and/or informal sources and take on many different forms such as titles, leases, tenancy contracts, occupancy permits, customary rights, land tax declarations, political statements or the provision of public services.
The three pillars of sustainability
The importance of spatial planning is related to the benefits that concern the three pillars of sustainability:

1. Social sustainability
2. Economic sustainability
3. Environmental sustainability

Governance is often considered as the fourth pillar of sustainability. The key attributes and processes that characterize good governance comprise stakeholder participation, transparency of decision-making, accountability of actors, rule of law and predictability. Good governance is also associated with efficient and effective management of natural, human and financial resources, and fair and equitable allocation of resources and benefits (UNESCAP, 2009). Good governance is about the processes for making and implementing decisions; it is not about making "correct" decisions, but about the best possible process for making those decisions.

Sustainable development is defined as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (WCED, 1987). There is a vital need for the active participation of all sectors of society in consultation and decision-making related to sustainable development.

Spatial planning benefits
The United Nations Economic Commission for Europe (UNECE, 2008) lists a number of concrete benefits of spatial planning related to the three pillars of sustainability.

**Social sustainability**
involves people

Spatial planning may help considering the needs of the local communities in policy development and may support the provision of local facilities where they are lacking. In addition, spatial planning promotes the creation and maintenance of pleasant, healthy and safe environments.

**Economic sustainability**
affects profit

Spatial planning provides more stability and confidence for investment and allows decisions to be made in a more efficient and
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consistent way. Spatial planning helps identify land in appropriate locations to meet the need for economic development and to identify development that meets the needs of local communities.

**Environmental sustainability affects the planet**

Spatial planning allows people to address potential environmental risks (e.g. flooding, air quality) and to adapt to climate changes. It promotes the use of previously developed (brownfield⁴) land and minimizes development on greenfield land⁵. In addition, spatial planning may contribute to conserving important environmental, historic and cultural assets.

**Spatial planning objectives**

In addition, spatial planning is widely applicable to most countries since it allows us to achieve a number of important objectives. We have summarized spatial planning objectives, as outlined and described by the South African National Development and Planning Commission (1999) and cited by UNECE, in the following three areas.

1. **Protection**

Spatial planning aims to protect:

- **The rights of people**

  Once people gain access to land, fisheries and forests, in effect, they obtain certain rights and obligations. It is necessary to manage change in such a way that those rights and obligations are respected.

- **Natural systems**

  Natural systems have their own operational requirements which must be respected if long-term sustainable human development is to be achieved and if large-scale environmental degradation is to be avoided or at least minimized.

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⁴ Brownfield is a term used in urban planning to describe land previously used for commercial or industrial purposes. Such land has been contaminated with hazardous waste or pollution, or is feared to be so. Once cleaned up, such an area can become host to a business development such as a retail park. The term applies more generally to previously used land or to sections of industrial or commercial facilities that are to be upgraded. (Source: Wikipedia)

⁵ Greenfield land is undeveloped land in a city or rural area that is used for agriculture, landscape design or is left to evolve naturally. These areas of land are usually agricultural or amenity properties being considered for urban development.(Source: Wikipedia)
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1. **Quality and efficiency**

Spatial planning has the objective to achieve a higher quality of service delivery by all spheres of government and to make efficient use of resources. Resources, such as land, water, energy, finance, building materials, skills etc. are in short supply. Those that are available must, in all contexts, be used wisely and in a sustainable manner to ensure that maximum benefit is obtained from them.

2. **Guide to action**

Spatial planning has the objective to provide vision and consistent direction, as well as a strategic assessment of what is possible in various contexts, and to coordinate actions and investments to ensure maximum positive impact from them. In addition, it aims to set priorities and to avoid duplication of effort by different departments and spheres of government, to enable significant inroads to be made into meeting the developmental needs of the country in a fair way.

**Example: spatial planning implementation**

The rate of urbanization is increasing in many countries. In many of them, however, municipalities have not developed spatial planning policies to regulate the development of the new urban settlements. Where plans do exist, they are often out of date or inefficient to manage these levels of urban growth.

The outcomes of the failure to implement spatial planning policies are: reluctance of businesses to locate or invest in these areas, corrupt practices to obtain building licenses and development of urban settlements detrimental to the environment.

The importance of spatial planning is related to the benefits that concern the three pillars of sustainability: social (people), environmental (planet) and economic (profit) (WCED, 1987).

The aim of spatial planning is to manage rapid growth and urbanization, providing more stability and confidence for investment, avoiding corruption and ad hoc decision-making, protecting natural systems and conserving important environmental assets.
Spatial planning and international development goals

A useful framework for spatial planning is provided by international development goals defined within international processes. The most relevant development goals for spatial planning include:
- The post-2015 Development Agenda and the Millennium Development Goals (MDG)
- The international conventions on climate protection, biodiversity and combating desertification
- International agreements such as the Agenda 21 (though not legally binding) or the declaration on forests

Spatial planning is an important lever for promoting sustainable development and improving the quality of life (UNECE, 2008). The growing commitment to sustainable development in many countries and the increasing interest in spatial planning systems and policies means that there is currently considerable opportunity to reshape and strengthen spatial planning systems.

Many international development goals cannot be achieved without a proper system of spatial planning in place.

Eradication of hunger is included in the Post-2015 Development Agenda.

*How can spatial planning contribute to this development goal?*

By ensuring sufficient space and adequate land for agricultural production and the need to promote diversified sustainable management of land, fisheries and forests. Also, access to food and agricultural products is enhanced through spatial planning by means of ensuring proper and efficient infrastructure.

**Voluntary Guidelines, 20.5:**

“Spatial planning should take duly into account the need to promote diversified sustainable management of land, fisheries and forests, including agro-ecological approaches and sustainable intensification, and to meet the challenges of climate change and food security.”

Empowering women and addressing inequalities

*How can spatial planning contribute to this development goal?*

Participatory spatial planning offers good opportunities for involving women in planning and decision-making, empowering them to take over responsibilities in the community and demonstrating that this is an effective contribution to sustainable development and peace.
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**Example**

In Ethiopia, the German Agency for International Cooperation’s (GIZ’s) project on Land-Use Planning and Natural Resource Management in Oromia Region incorporated *gender mainstreaming* into its design. Recruitment procedures promoted a gender balance of women and men staff, who were trained on integrating gender issues into all activities. Participatory land-use planning and participatory rural appraisal activities involved women and men from the target populations. Gender analysis tools were used to collect information about the control over resources, activities and workloads of all household members. As a result, women now participate fully in participatory land-use planning in Oromia and take part in public and family decision-making. Economic activities initiated by the project have continued through traditional women’s groups, with increasing numbers of women taking part.

*(Source: GIZ, p. 181–182)*

Prevention of and adaptation to climate change

*How can spatial planning contribute to this development goal?*

Spatial planning is important in *risk and hazard management* through the proper localization of structural measures (e.g. to mitigate the detrimental effects of natural hazards), as well as in the *planning* of different land uses and social and economic activities (for example, to include agro-ecological approaches and sustainable intensification).

Prevention and resolution of tenure conflicts

*How can spatial planning contribute to this development goal?*

By supporting a proper identification of private, public and communal *tenure rights* and the rights to use land, fisheries and forests, allowing for *prevention and resolution of conflicts* over these.

Spatial planning and international development goals

**Improved water sources and sanitation and enhancing access to basic health and education**

To ensure a growing population with sustainable access to sanitation and water sources, spatial planning is crucial in urban as well as rural areas. Similarly, proper spatial planning enhances the physical accessibility of the population to basic health and education.
Ensuring environmental sustainability and protecting biodiversity
Market-based activities will search profitable locations that are not necessarily in line with public and social interests. Spatial planning and rules and regulations on use and access to land, fisheries and forests are key in terms of protecting environmentally sensitive areas as well as developing new areas in a sustainable manner.

Improving the lives of slum-dwellers and landless people
The final development goal which we will examine in relation to spatial planning refers to landless people and slum-dwellers. Landless people may invade land to have access to resources and to build a shelter. In cities, these people become slum-dwellers.

How can spatial planning contribute to this development goal?
Combining innovative tenure policies with responsive spatial planning (including infrastructure provision and resource management) improves economic conditions, with a positive impact on the lives of slum-dwellers and landless people.

Once we have considered the objectives and benefits of spatial planning in the context of development goals, we can finally highlight a third important point about spatial planning:

KEY INFORMATION
Spatial planning can help to deliver a set of benefits related to economic, environmental and social sustainability. It is an important lever for promoting sustainable development, natural resources protection, more balanced accessibility and participation, and for improving the quality of life (UNECE, 2008).

Summary
At the core of spatial planning is the joint balancing of competing uses of land, fisheries and forests by all stakeholders and the joint identification of those uses for which the highest consensus can be achieved - ideally for the purpose of sustainability.

This makes spatial planning a central prerequisite for any (spatial) development that aims at social, ecological, economic and governance sustainability. Through spatial planning, a vision and consistent
direction should be set for the spatial development in order to coordinate actions and balance the various interests that exist with regards to the use of land, fisheries and forests.

Spatial planning can contribute to important development goals such as achieving food security, mitigating and adapting to climate change, protecting biodiversity, initiating economic growth and protecting people from natural disasters.

Use of land, fisheries and forests is closely related to tenure rights. The tenure regime (private, public or common property) may also have an influence on possible resource uses. Hence, the tenure rights of land, fisheries and forests (and water and minerals) are addressed increasingly in spatial planning. Sometimes spatial planning is accompanied by the formulation of rules on resource use and management including regulations on access to land, fisheries, forests and water.