Regulating land use and ownership - Land holdings
A quick overview of experiences and approaches

Dr Ward Anseeuw
2 Approaches

Normative approach

Procedural approach
Normative approach

Setting and imposing of thresholds (ceilings) or moratoriums (ex-ante criteria)
Normative approach

- Land ceilings: India, Brazil, Mexico, Philippines, Nepal, Egypt, ...
  - Avoiding concentration / fragmentation

- Moratoria: Many Eastern European countries, Niger, ...
  - Blocking certain transactions (foreign ownership)
Normative approach

• Centralised / decentralised (India – State)

• Processes
  – Expropriation (Mexico) / during transactions (Eastern Europe)
  – Compensation (market value/ non market value) (Taiwan) / no compensation

• Enforcement
  – Authorities (State / court)
  – Capacities
Procedural Approach
Supporting a process that is more inclusive
(no ex-ante criteria)
SAFER – Organization of spatial planning and rural establishment (France)

• 29 non-profit organisations
  – Advisory board – Equivalent of the Agricultural Bank, farmers union, farmers, municipality, broader sector, as well as Ministry of Agriculture and Ministry of Finance (veto right)

• Right to acquire, sell and exchange land (buildings)
  – Obligation to resell within 5 years (without profit/loss)

• Principles:
  – Motivation
  – Publicity
  – Right to transform
  – Priority – First right = The right of the SAFER to substitute itself to the buyer

• How? Each sale has to be informed/communicated to the local SAFER by the deeds attorney
  – Notification is an act of sale to the SAFER
  – Criteria not predefined / guidelines

• Privileged Observatory/tool for monitoring
Land Observatory (Madagascar)

• Centralised office, hosted by Department of Lands, independent functioning and funds stream

• Primary objective: Produce knowledge and data in the framework of Magasy LR and land dynamics

• Multistakeholder platform
  – Central government, local government, civil society, farmers organisations, academics, international observers/technical assistants, journalists

• No executive power – debating continuously land issues
  – Lately, sale/lease of large-scale land properties to foreign investors
  – Certain issues have been made compulsory to tabled
Quick comparison & Lessons for South Africa
## Pros-Cons

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<th>Normative</th>
<th>Pro:</th>
<th>Con:</th>
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<tr>
<td></td>
<td>- Equity principle</td>
<td>- Very little successes/effectiveness</td>
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<td>- Principles easily to conceptualize</td>
<td>- Reduced tenure security</td>
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<td>- Questionable one-size fits all criteria</td>
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<td>- Uneconomical fragmentation – drop in productivity and competitiveness (India)</td>
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<td>- Laxity of enforcement / Corruption</td>
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<td>- Can be expensive</td>
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<tr>
<td>Procedural</td>
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<td>Con:</td>
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<td></td>
<td>- Consensual/inclusive</td>
<td>- Long process</td>
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<td>- Legitimize action</td>
<td>- Unresolved situations</td>
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<td>- Locally anchored</td>
<td>- Biased power balances at different levels</td>
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<td>- Capacity at different levels</td>
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<td>- No thresholds – inconsistencies</td>
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<td>- “soft power” Often remains informative and difficult to implement</td>
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Procedural approaches prioritized
- Voluntary guidelines on the responsible governance of tenure (VGs - FAO)
- Framework and guidelines on land policy in Africa (F&G – AU)
- Benchmarks for land governance in Africa (ILC)
Lessons for South Africa

• Effectiveness?
  – Need of a combination of measures (sibblings, corporate ownership, ...)
  – Consistency with certain present dynamics/reforms? Need of a holistic reflection/approach to rural development

• Combination of approaches
  – Thresholds can set guidelines
  – ....but not normative, engaging a more inclusive approach

• Complimented / alternatives
  – Taxation – land tax (unused, increasing according to size, multiple ownership, ...)
  – Well-defined, security of tenure
  – Well coordinated agricultural and rural support programmes

• Data and transparency
Thank you!

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