



Enter the black middle class farmer

Aninka Claassens gives a second opinion on that 'comprehensive' Urban Foundation report, and concludes: It's well-researched, alright — but often way off target

The Urban Foundation's document on rural development has been long awaited. For over five years people working on land issues have heard of the many studies on rural demography, white farmer attitudes and agriculture commissioned by the foundation.

Some years ago we saw a draft policy document which was then put on ice. These documents constitute a unique resource base in the under-researched area of rural development and land issues.

Finally, the results of all this research are published and distributed as a major input to the land reform debate. The foundation calls for the repeal of the Land Act, the Development Trust & Land Act, and other pieces of racially discriminatory legislation.

Barely two weeks after the report is

published president FW de Klerk announces that the acts will be repealed and stresses the importance of a non-racial land market in a future South Africa.

There is common cause that these Acts must go; they make the right to property subservient to race; they have been used to evict black tenants from their homes and to create the terrible racial inequity in land ownership which exists in our country.

Where dissenting parties differ, is in the necessity and extent of mechanisms and processes to undo the legacy created by the Acts. In this regard it is interesting to look at the Farmer Settlement Programme with which the foundation concludes its rural development programme.

This is the most detailed proposal in the document, with a broken-down budget and a comparison of how existing state funding could be re-channelled to implement the scheme. It is proposed that the state acquire large farms and convert them into small farms for settlement by black tenants. The budget includes the costs of external planning and management. The scheme is expensive and 'would need to be aimed at a relatively small and sophisticated farming population ...'.

The scheme necessitates that the would-be tenant farmers move from where they lived before to the newly acquired land.

What we have here, essentially, is a centrally planned, externally managed, expensive model which requires the physical moving of people onto what is *de facto* nationalised land. This kind of approach to rural development has failed and is discredited all over the world. In South Africa, institutions such as the Development Bank have rejected it after burning their fingers and causing irrevocable damage to rural communities.

The scheme contradicts the Urban Foundation's stated principles of a bottom-up approach which relies on community participation and takes account of 'regional complexity, diversity and advantage'.

The Urban Foundation has posed the problems of rural South Africa accurately and well. It has set itself impressive guiding principles. Why then does it proceed to fall back on a discredited, outdated model of rural development which, at best, does not address the problems it has posed, and at worst, contradicts the principles it has set itself?

I believe the answer lies in the fact that the foundation has chosen to sidestep the burning issue of the illegitimacy of present property relations in South Africa. Instead of starting from the land claims of dispossessed South Africans, whether they be farmers who were never allowed to rent or buy land, farmers whose land was expropriated on the basis of race, labour tenants who work for no wages to maintain occupation of farms they inherited from their great-grandparents, or people removed from farming land and dumped in the Bantustans, the foundation chooses to start from the assumption, like De Klerk, that existing title deeds must be protected.

Existing white title deeds are the result of a system of property law which prohibited blacks from buying land, leasing land, or protecting what land they had. Our property law legalised forced removals, farm evictions, and the expropriation of black land 'in the public interest'. Political considerations of race have overridden the 'sanctity of private property' for decades.

Now, suddenly, within two weeks of each other, we have the state and capital both expressing deep concern about the unfairness of the Land Act. The timing is significant. The system whereby the whites own most of South Africa needs to be legitimised before a majority government comes to power. Laws which prohibit one section of the population from land ownership on the basis of race, do not bode well for the prospects of white landowners under a black government. Everyone is aware that few blacks have the money to buy land at current prices, and that whites will be reluctant to sell rich farming land. Something has to be seen to be done to alleviate rural poverty and to give black farmers a chance, but not anything which calls into question the validity of white title deeds.

The Urban Foundation has provided extremely valuable material which shows the disjuncture between patterns of land occupation and land ownership. They, more than any other group, have shown that blacks are in *de facto* occupation of land which is nominally owned by whites in the rural areas. In the urban areas they have documented how little effect white laws of property or eviction have had on the demand for, or expression of, rights to land and housing by African people. African people, having been excluded from the terms of apartheid land law, have claimed and expressed their rights to land by their physical presence and

their tenacity in staying put. They have developed systems of tenure and local 'laws' for transacting land which operate in the vacuum created by apartheid land law.

In many cases African people have real rights to land which, while they have been denied by apartheid law, can be upheld in terms of the general principles of property law. The basis of common African claims to land, whether these be birth, inheritance, occupancy, or contractual rights such as purchase or tenancy, are also the basis upon which the system of private property is upheld and defended.

We need to develop mechanisms and legal proposals which confirm existing rights of occupation and land ownership and so heal the disjuncture between the formal legacy of apartheid law and the reality on the ground, and confirm the beliefs and values of all South Africans.

We must consolidate the work already begun in the development of a new system of registering existing rights to land, whether these be by occupation or other forms of ownership. Furthermore, we need to develop processes to adjudicate conflicting claims to land. The registration and adjudication must be linked together so that land transactions cannot be registered until the process of confirming existing rights and solving disputes has been completed.

As long as the 'free market' reigns, land will be bought and sold according to who has money - notwithstanding historical and occupational claims. To say we must have a land claims court is mere rhetoric unless there is provision in the registration process that all contentious transactions be referred to the court.

The Urban Foundation has access to the best expertise in these matters, all of which need to be developed further. But it did not take advantage of the imminent repeal of the Land Act to pursue this direction. Instead, it builds a policy on the debased and racial legacy of existing title deeds. We need to undo the legacy of apartheid land law, not entrench it. To pretend that it can be de-racialised by merely extending it to cover wealthy blacks is cynical and dishonest. It leads to a denial of the very principles of free enterprise, secure ownership, and non-racialism which the Urban Foundation publicly upholds. This makes plain how it is that the foundation reaches the somewhat bizarre position of advocating perpetual tenancy and nationalised land for black farmers. •