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Puerto Rico's Largest Urban Regeneration Program Overview: Assessment of A Multidimensional Crisis for An Urban Governance Policy Reform

Alex G. Miranda-Poggys



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Publication Director | Prof. Matthias Finger

Publication Manager | Umut Alkim Tuncer

Editor of This Issue | Numan Yanar

Designer of This Issue | Ozan Barış Süt

Publishers | IGLUS EPFL Middle East, P. O. Box 35249, Ras Al Khaimah, U.A.E.

Phone: +971 7 2069666

Fax: +971 7 2434365

Email | igus@epfl.ch

Website | www.igus.org

Biography

Alex Giovanni Miranda-Poggys has a B.Sc. degree in Civil Engineering (2016) and a M.Eng. in Construction Engineering and Management (2019), both from the University of Puerto Rico at Mayagüez. His master's final project focused on delivering a proposal for the enhancement of the Puerto Rican legal framework regarding Public-Private Partnerships at the local level (i.e., municipalities, small cities) based on a comparative study of the Canadian, Chilean, Croatian, and Spanish experiences regarding these. In 2020 he worked as Project Coordinator of the Urbanism and Infrastructure Unit at the ENLACE Project Corporation in San Juan, Puerto Rico, a state-owned company created for the redevelopment and environmental restoration of the remaining slums of San Juan. Since late 2020, he is a Ph.D. student of the Architecture, Built Environment and Construction Engineering Department at the Politecnico di Milano in Milan, Italy.

Abstract

Since the 1980's, Puerto Rico has been trying to find a coherent answer to a decades-long issue of informal settlements right in the heart of its capital city, San Juan. At first, the approach was the traditional top-bottom authoritarian removal-relocation of slum dwellers to massive standard-typology public-housing developments. Subsequently, in the 1990's and early 2000's, empowered-residents' organizations pressed for a new agenda based on community participation, collective land ownership, and the in-situ refurbishment, resettlement, and restoration of the original environmental conditions. However, shortly afterwards, Puerto Rico fell into a series of crisis, including an economic depression that still persists today, that have turned stagnant the whole project according to the original timeline. This case-study presentation aims to outline a path for the overhauling of this major urban regeneration initiative by way of an innovative Public-Private-People Partnership approach.

Keywords: Puerto Rico, Urban Governance Policy Reform, Caño Martín Peña, ENLACE, Public-Private-People Partnership

Introduction

A Latin American country under US control since 1898, Puerto Rico lies in the narrow line dividing the Global North from the South. Within that line, a unique set of contradictions take place, for example, an ageing population in an essentially poor country—twice as poor as the poorest US state, West Virginia (Deloitte, 2020). One of the most dramatic showcases of the urban impact stemming from these contradictions is a group of eight communities bordering the Martín Peña channel at the heart of capital city San Juan. Though located at the geographical center, those eight fringe communities constitute the largest urban regeneration initiative launched by Puerto Rican authorities to date. Furthermore, apart from the physical and infrastructural overhaul, this initiative aims to be a major ecosystem restoration project. Not only the lands where most of these communities lie were previously wetlands, but also decades of informal settlement in the land-maritime zone have made channel's dredging one of the main restoration tasks. However, such a regeneration initiative has been hampered by what could be identified as a five-dimension crisis comprising aspects of economic, political, demographic, fiscal, and climate nature.

For reasons to be stated further ahead, the key for overcoming the state of stagnation in which the whole initiative have been put into may be, partly, embedded within itself: in its legal framework. At the same time, the other part of the solution might come from a shift of the current governance strategy, particularly the procurement strategy. To this day, the procurement strategy has consisted of the traditional public-type design-bid-build approach. This procurement method means, for example, (1) that projects' financing comes exclusively from the public sector, (2) risk allocation excludes the private sector except during the construction phase, and (3) little to none encouragement on bringing innovation into projects, neither during the design process, neither during the construction phase nor the rest of the life-cycle. For this reason, the precarious fiscal situation in which the Puerto Rican government, at all levels, is going through for quite some time now could be perceived as an open challenge to the prevailing common wisdom that public agencies should be the protagonists in the execution the whole plan.

Case Presentation – Caño Martín Peña Special Planning District

Since the mid-1980's Puerto Rico's government aimed to “clean” the last informal settlements left in the San Juan metropolitan area and to return their inhabitants “back to the society”. That meant the removal of about 30,000 citizens from communities like “El Fanguito” (The Mudhole) in the western part of the Martín Peña Channel and their relocation into public housing projects (Font, 2015). Needless to say, residents had no say on their fate, and many resented the loss of their connection to the land as well as the sudden breakup of long-time communal ties. Several years later, in 1992, and having gained insight of government's plans for their lands—hotels and yachting clubs—residents of “Cantera” (Quarry) in the eastern-end of the channel bordering the San José Lagoon got organized and formed a residents' association to lobby against such plans. This led to the adoption of Act 20 of 1992 creating the Cantera Peninsula Development Company, with public, private, and community participation within its governing body (Algoed, et al., 2018). The Cantera experience, could be said, set the premises for what would come next in the rest of the Martín Peña communities, which are here our main focus.

On 2004, after more than 700 citizen engagement meetings and two years of bottom-up urban design, two urban-policy instruments were enacted: the Integral Development and Land Use Plan¹, and its adoption as official public policy by way of Act 489-2004 (Legislative Branch of Puerto Rico, 2004) for the Martín Peña Channel Special Planning District's Integral Development². As a result, two entities were born: the ENLACE Project Corporation³, a public-owned enterprise as the implementing body of the aforementioned law, and the Land Trust of the Martín Peña Channel⁴, a private trust to be owned collectively by the residents of the communities. In principle, these entities' objectives are: the redevelopment of the communities, some lacking basic infrastructures⁵; the environmental restoration of the channel—which needs to be dredged; and to provide a barrier against gentrification by way of col-

1 *Plan de Desarrollo Integral y Usos de Terrenos*

2 *Ley 489 de 2004 para el Desarrollo Integral del Distrito de Planificación Especial del Caño Martín Peña*

3 *Corporación del Proyecto ENLACE del Caño Martín Peña*

4 *Fideicomiso de la Tierra del Caño Martín Peña*

5 *Some communities lack appropriate sanitary systems or connections*

lective ownership of the land. Act 489-2004 gave ENLACE 25 years to execute the Plan, after which it would be dissolved. Original schedule estimated that by 2012 the dredging would have been completed. As of summer of year 2021, the dredging still has not even started and critical path work progress for it to begin is nearly at 60%⁶.

Understandably, at the genesis of the planning process that led to the establishment of ENLACE and the Land Trust, private participation beyond design or construction phases was deemed mostly undesirable given the risk of gentrification or gradual removal of settlers like did happened in other urban redevelopment efforts (Lees, et al., 2016, pp. 130-132).

It's worth to say that, even though ENLACE was created as a public-owned enterprise, it does not function as one; it does not collect any fees or taxes, hence depending upon either government funding or US federal grants for capital investments. Meanwhile, US Federal Government grants are solely for certain activities, mostly those related to environmental restoration, making ENLACE dependent on local government funding for basic infrastructure construction, infrastructure retrofitting works⁷, and urban redevelopment tasks, many of which are in the critical path for the start of the dredging works.

Nevertheless, together with Puerto Rico's Government, ENLACE has been facing a precarious fiscal situation that has delayed the public investments needed to carry on with construction and restoration works. Additionally, the scope of the project itself pose a formidable complexity, since it means, first, a major redevelopment to be carried out within lowlands prone to often flooding, and second, little or no relocation of residents in order to preserve the existing social tissue while allowing for the channel's dredging.

Main Issues

Economy – Puerto Rico's economic depression since 2006 has caused significant fluctuations in government revenues (Puerto Rico Department of

Treasury, 2020). As mentioned before, ENLACE is de-facto another government agency entirely dependent on public funding coming from "Hacienda" (the Treasury). This could be highlighted as one of the main reasons ENLACE has not been so often on top of the Government's list of priorities (i.e.: unemployment, security, education, and healthcare).

Austerity Measures – The significant reduction in revenues mentioned previously made Puerto Rico dependent on debt to cover for public spending. This practice came to an end when in 2015 Governor Alejandro García Padilla declared a default on Puerto Rico's financial obligations. This, combined with the lack of access of Puerto Rico to US bankruptcy system as a legal entity, moved US Congress to approve on June 2016 a bill creating a unique framework for Puerto Rico's debt restructuring (PROMESA Act⁸). The bill included the establishment of a Fiscal Supervision Board to be appointed by US Congress and President (114th US Congress, 2016), hence stripping Puerto Rico's fiscal autonomy. Austerity measures have been put in place, resulting in further cuts to almost every government dependency, including ENLACE.

Political Instability

Political alternance in this context refers to a consistent change of administration every four years for the past two decades. Right after ENLACE was created, a different administration took power in January 2005. Afterwards, each of the following administrations has been either indifferent or in open disagreement with the land conveyance of Act 489-2004. The most remarkable conflict arose when, between 2009 and 2011, Governor Luis Fortuño Buset's administration stripped away the Land Trust of all its lands, transferring it to the Municipality of San Juan for different purposes than those stated in the Plan. However, Garcia Padilla's administration returned the lands back to the Land Trust in 2013 (Microjuris, 2013).

Demography

Population decrease has had multiple effects on Puerto Rico's economic and social landscape. According to the US Census Bureau, in 2004 Puerto

6 *Based on the critical tasks completed and the start of the construction works of the Linea Borinquen project in July 2020 (See Figures 4 and 5 of the Appendix)*

7 *Pluvial systems, parts of the electrical grid and many housing units need, at least, to be widely repaired*

8 *Puerto Rico Oversight, Management, and Economic Stability Act*

Rico’s population peaked at 3.83 million, down to 3.19 million in 2019 (US Census Bureau, 2019). Two main factors in this decrease are: migration (unrestricted PR-US free flow, open labor market), and population aging. It is possible that many of the residents who participated in the citizen engagement meetings (2002 – 2004) do not live any longer in the district or now belong to a different age group, proportionally larger and with needs different from those they had back then.

Natural Disasters

2017 Hurricanes changed the course of Puerto Rico’s history by causing wide devastation, the collapse of the electrical grid, and the sudden visibility of hidden or ignored vulnerabilities (CNN, 2017). A typical flood zone, Martín Peña communities witnessed the destruction of the hurricanes firsthand. Notwithstanding, although US Congress has approved billions of dollars for island-wide reconstruction works, it is still unknown if some of the funds will be assigned to ENLACE to advance the critical tasks needed for the dredging of the channel.

Analysis & Proposal

To assess and to quantify the real impact the aforementioned critical situations have had on the Martín Peña Communities’ redevelopment, it would be necessary to, at least: gather public information regarding fund transfers to ENLACE for the past 17 years in order to identify trends; make a comparative assessment on projected vs. actual projects’ schedule; and assess the current state of delivered projects and the corresponding figures of public funds invested in O&M⁹. This would led to a data-driven argument for making the case for a shift in the governance strategy. However, stemming from the Plan’s schedule, it is obvious that the whole initiative has become stagnant and that other alternatives, particularly regarding financing, should be considered as soon as possible.

For this, it is presented in Figure 1 an schematic proposal for the development of a procurement strategy in terms of a Public-Private-People Partnership, in which the residents’ Land Trust would become the “people component” within the partnership (Nesti, 2017).

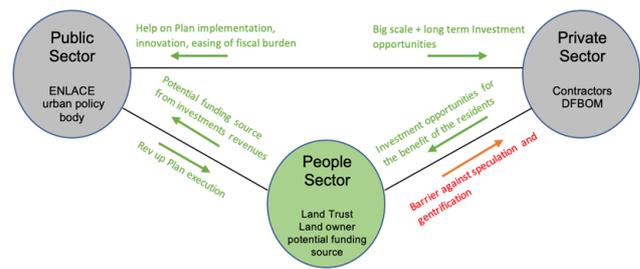


Figure 1. Conceptual Scheme of a Public-Private-People Partnership for the Martín Peña communities

Source: Author’s own resource

It would be expected that this approach would call for major changes on ENLACE’s structure and operations as an urban policy executive body. Furthermore, a set of preliminary tasks would be necessary in order to be able to map appropriately the current situation within the Special Planning District and ENLACE, including:

- (1) Review of economic, demographic and social statistical data provided by the different levels of government (Municipality of San Juan, PR Government & US Federal Government, i.e.: US Census Bureau);
- (2) Analysis, comparison and contextualization of ENLACE’s budgetary fluctuations during its existence;
- (3) Surveys and interviews with key stakeholders (ENLACE personnel, community leadership & residents) for feedback on ENLACE and Plan;
- (4) Key events analysis and contextualization (i.e.: 2002-2004 Planning process, 2009 and 2011 Act 489-2004 amendments and consequences);
- (5) Review and assessment of updated Urban Planning and Construction instruments to approximate a time and budget impact on Plan implementation, and consultations with experts of both areas to validate conclusions;
- (6) Legal mapping of Act 489-2004 to look for potential synergic links that would enhance ENLACE’s maneuverability both institutionally as well as financially (Act 29-2009 for Public-Private Partnerships).

Afterwards, having a clear image of what is going on nowadays within the Special Planning District and ENLACE, attention should be poured on other

9 *Operation and Maintenance*

contexts where similar solutions have been pursued in order to endow such a proposal with the adequate empirical footing. Besides, it would be expected that, stemming from point (6) above, there would be the need to adjust the proposed scheme to other legal statutes dealing with, for example, Public-Private Partnerships. Hence, next steps would include:

Thorough analysis of similar strategies in other contexts around the globe

Identify projects' scope of services upon project completion (i.e.; energy transmission, energy distribution, water treatment, flooding mitigation, housing projects, etc.)

Identify feasible business models that could be incorporated into planned projects

Identify bundling potential of minor- and mid-scale projects

Identify phasing potential of large-scale projects

Propose a preliminary risk allocation matrix for selected projects

Assess potential private participation beyond design and construction phases while avoiding altering Plan's spirit, opening the door to gentrification processes or disempowering the communities

As for the Land Trust, identify the feasibility of (re) developing greenfields or unoccupied lands for the benefit of both, the residents and the investors, in terms of current regulatory framework as well as from a cost-effective point of view

Assess the feasibility of separate Land Trust-private sector agreements on potential developments that could translate into revenue transfers to ENLACE in the form of grants in order to help with Plan implementation activities

Conclusions

Needless to say, such a partnership proposal would aim to be useful in delivering possible alternatives to urban regeneration initiatives in similar contexts within the EU, where free flow of citizens, semi-open labor markets, and risk of fiscal austerity measures are also a reality. However, the main focus of the type of partnership here proposed is to empower disenfranchised communities in need throughout the Global South by channeling private financial resources and know-how into public infra-

structure projects and urban regeneration activities.

Even though current governance of the Martín Peña communities and the ENLACE public corporation has been widely studied and praised, the time has come for a project-status examination in a more critical light based on two simple questions: what progress has been achieved so far? And, how could this initiative be overhauled? Of course, it is expected that after a thorough analysis of Puerto Rico's main issues as described above there would be found that externalities have played an important role on the project schedule. Nevertheless, it is important to find what internalities could then be optimized, e.g., ENLACE's public policy on procurement, in order to overcome current lack of funding and further delays.

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Supporting Information

You may visit following links for supplementary information:

Appendix

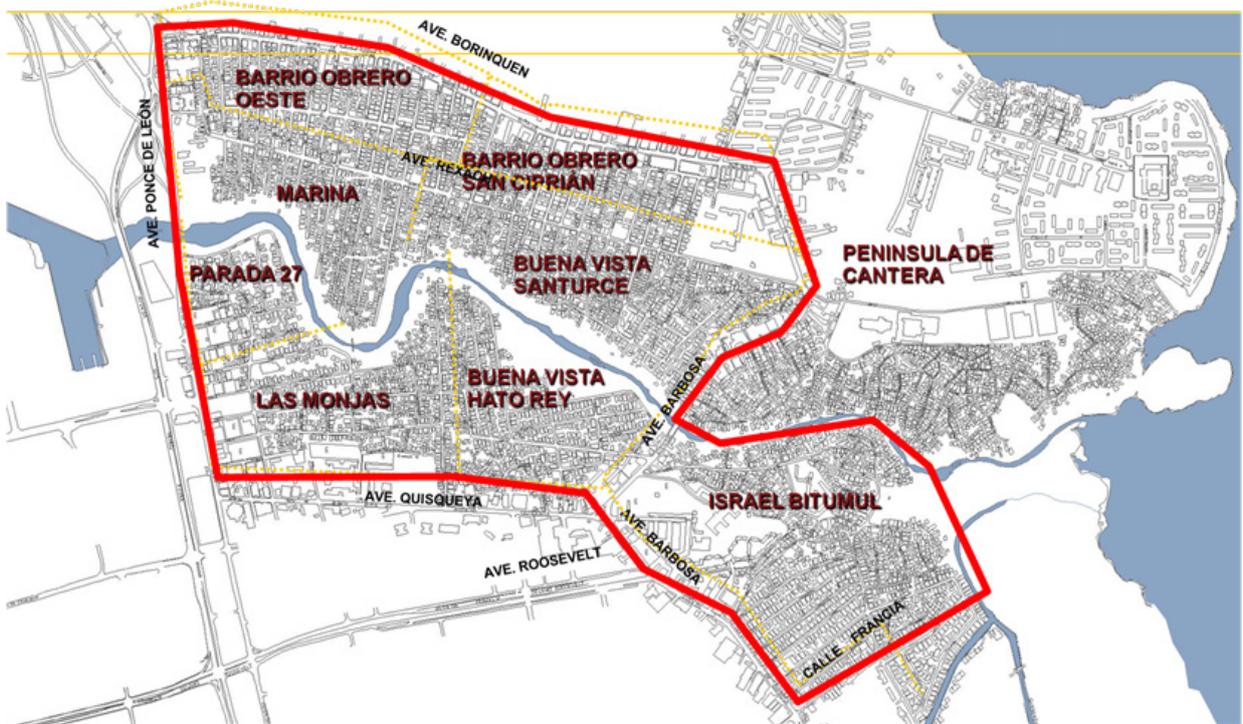


Figure S1. Special Planning District boundaries and Martín Peña communities. (ENLACE)

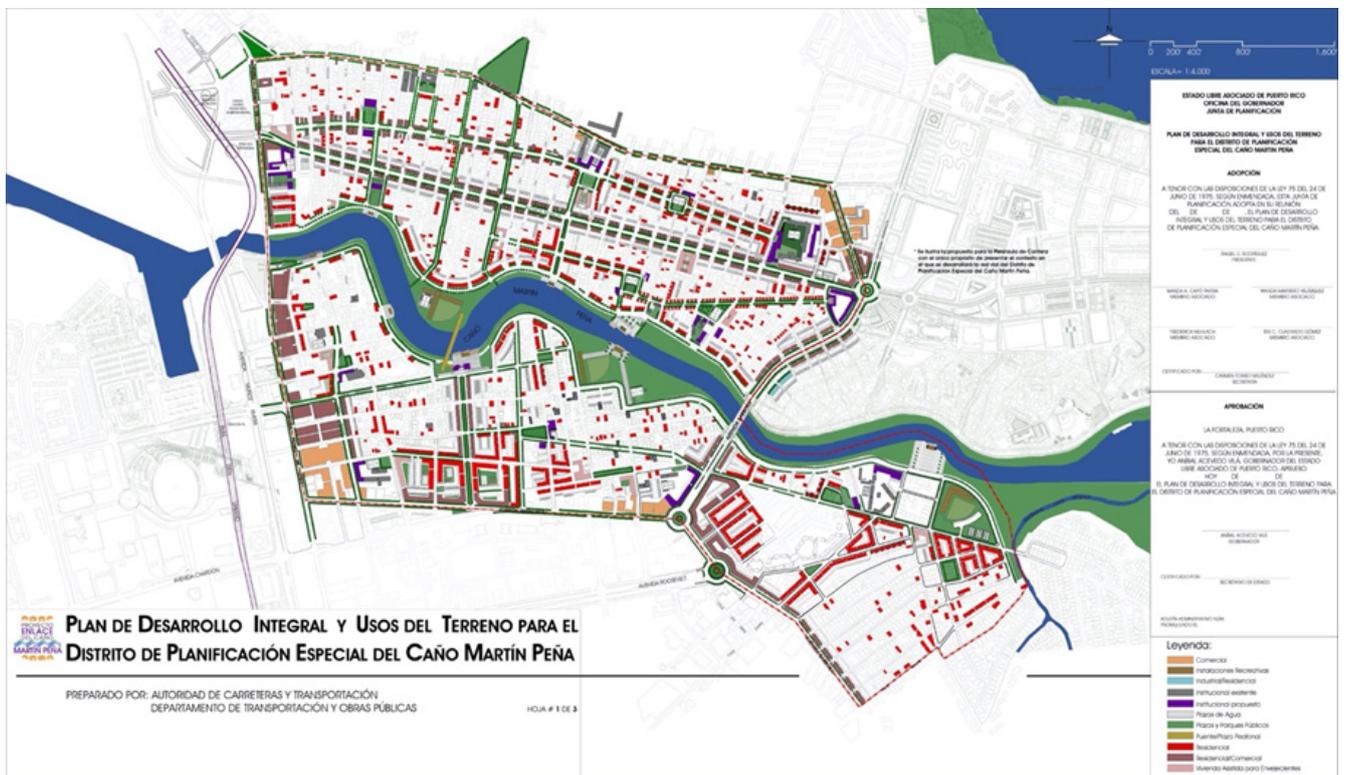


Figure S2. Integral Development and Land Use Plan. (ENLACE)

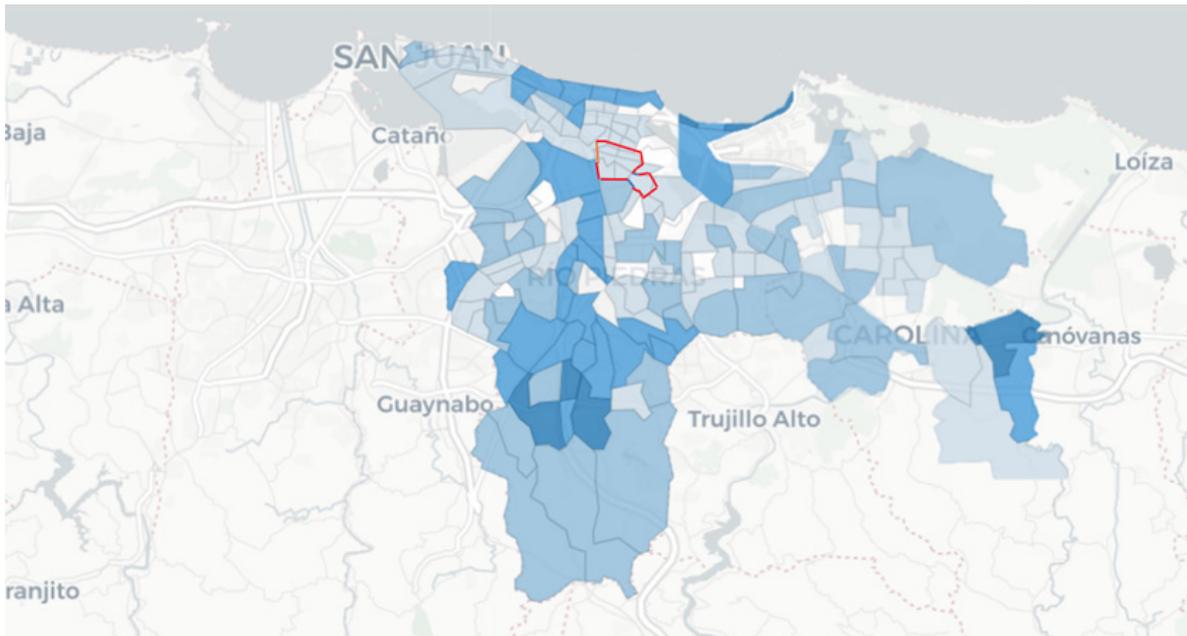


Figure S3. In shades of blue, San Juan-Carolina Municipalities. Within the red line, Martín Peña Special Planning District. In dark blue, high-income quarters. (Deloitte)

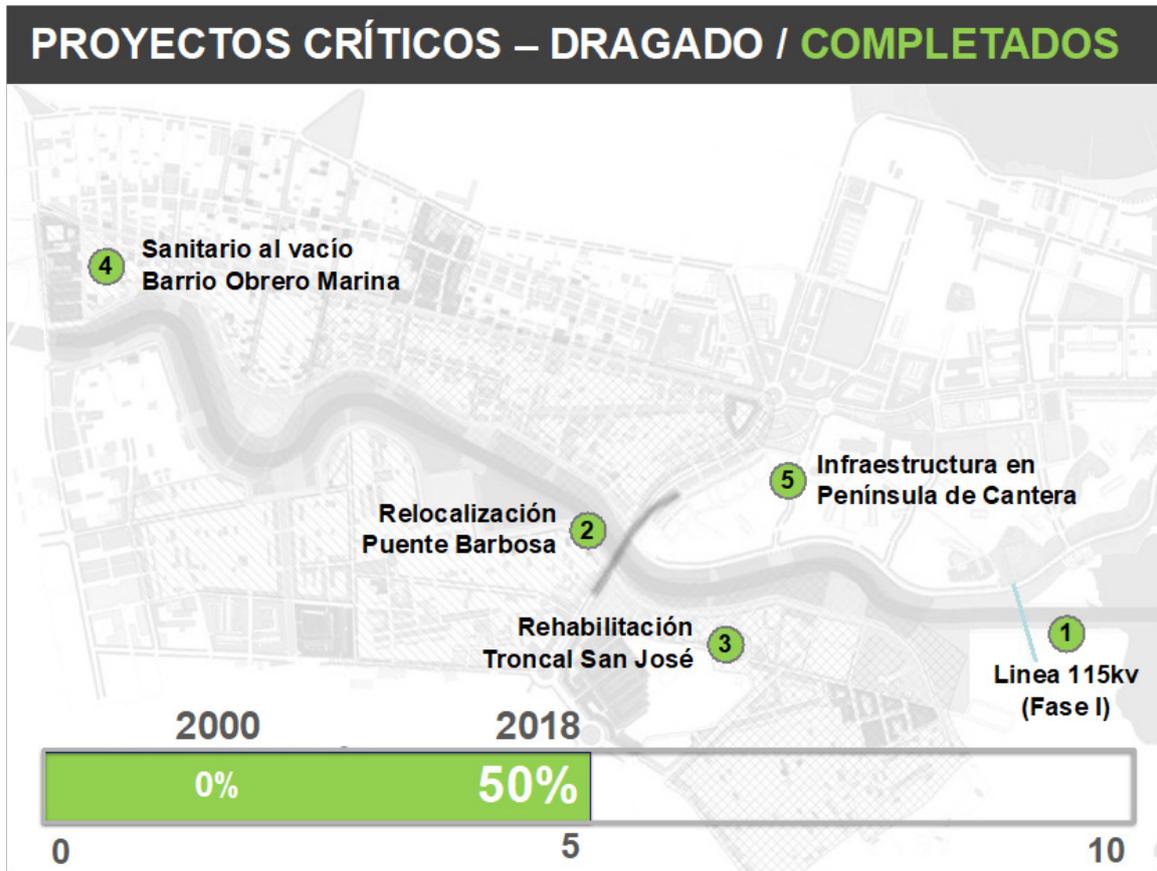


Figure S4. Critical tasks completed for dredging to start. (ENLACE)

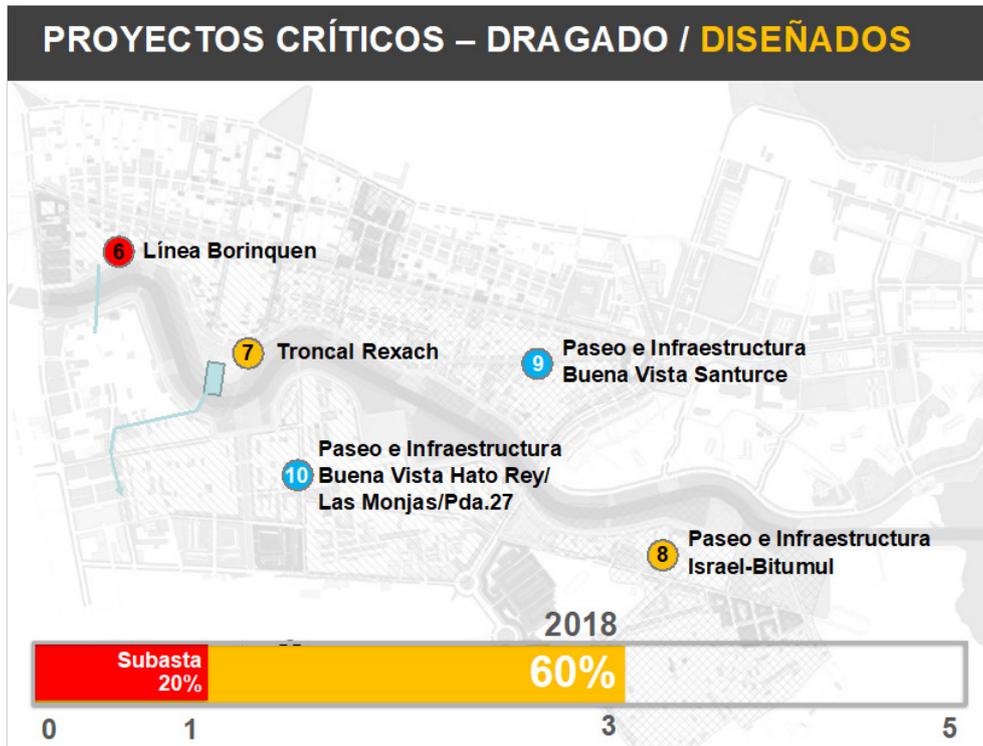


Figure S5. Critical tasks pending for dredging to start. (ENLACE)

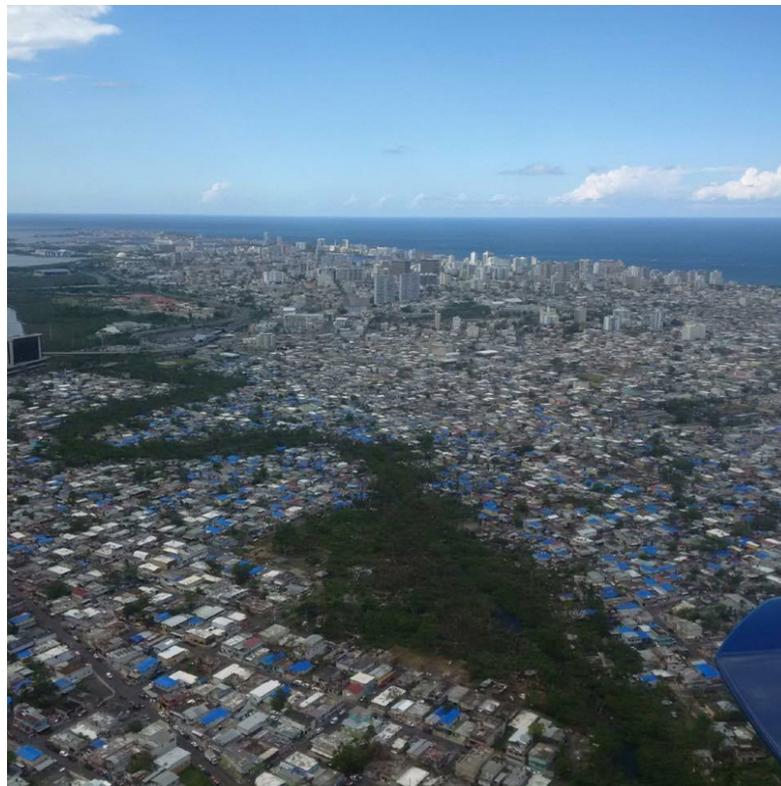


Figure S6. Aerial view of Martín Peña channel and communities. (ENLACE)

Announcements

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Address: EPFL Middle East, P. O. Box
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