ROLES OF PUBLIC MANAGERS IN NETWORK GOVERNANCE: ADDRESSING LAND TENURE IN POST-DISASTER DEVELOPING WORLD COUNTRIES- AN INTERNATIONAL DEVELOPMENT SCENARIO

Introduction

This simulation is a negotiation among parties involved in redevelopment projects in Haiti. In this international development context, parties include international aid agencies, national level government agencies, and local government and non-profit organization representatives. Following the earthquake in 2010 that devastated the capital city of Port au Prince, as many as 200,000 died (more by some estimates) and hundreds of thousands more were injured and homeless. Refugees were housed in temporary camps in and around Port au Prince while others sought to escape the devastation of the city and loaded boats leaving the island nation, marched across the border to the Dominican Republic which shares the island of Hispaniola with Haiti, and spread to other cities on the island. Redevelopment agencies sought to assist the country in its recovery and address the humanitarian crisis. As they came up with a range of interventions and projects, agencies ran into numerous road blocks including unclear land tenure which hindered redevelopment. The purpose of the meeting of parties in this negotiation is to develop a new approach to land tenure that resolves inconsistencies in traditional informal systems as well as formal land tenure claims in a way that will allow redevelopment projects to proceed and set a foundation for future land ownership in the country. The negotiation centers on resolving issues of land tenure in two small cities, Les Cayes and Jérémie, the proposed location of redevelopment projects to be funded by an international aid foundation. Resolving land tenure in these cities would serve as a foundation for ongoing negotiations in the rest of the country.

International Development Project Planning

Post-disaster redevelopment project planning and implementation is a complex governance context, particularly when international aid agencies become involved. Project planning and implementation involves multiple actors and has long been a process of networked governance. In the context of developing countries, power and authority is distributed among these actors as international aid agencies can shape the characteristics of projects through conditions assigned to funding, national government agencies exercise regulatory authorities, and local governments and leaders draw on discursive legitimacy as well as some elements of formal authority and resources particularly related to land use decisions depending on the country (Purdy, 2012; Kothari, 2001). Moreover, these various actors draw on different professional cultures, epistemologies, norms and expectations as they seek to navigate the networked context (Sehested, 2009). According to Sehested (2009), public managers involved in project planning all rely on knowledge of communication as they engage in networked governance, but they also draw on differing values and knowledge domains as they seek to navigate the planning process and deliver a project that meets their respective goals. She argues that four hybrid models of public managers tend to operate in project planning contexts: 1) professional strategists who focus on a beautiful physical product; 2) managers who focus on politically appropriate products and efficient implementation; 3) market planners draw on knowledge of urban and economic development to yield the financially feasible product; and, 4) the process planner who focuses on designing a just democratic process to establish stronger communities and build consensus. Although she studied these roles in the context of Danish municipal project planning, these types of roles are equally applicable to international development projects.

In this negotiation between multiple actors in a post-disaster redevelopment effort in Haiti, parties are being brought together by a development corporation to try to address a key sticking point—land tenure. The parties align more or less with the roles of hybrid planner types developed by Sehested (2009) and they draw on multiple sources of power and influence in the process (Purdy, 2012). This overview provides a description of land tenure issues in a developing country context and a brief description of the development scenario that the parties will seek to address in their negotiations. Participant roles will be described in a separate document for each person individually.

Land Tenure: The key issue

Secure and predictable access to land as a productive resource is fundamental to the livelihoods of millions in the developing world (Hall, et. al., 2012). Land is a primary means for
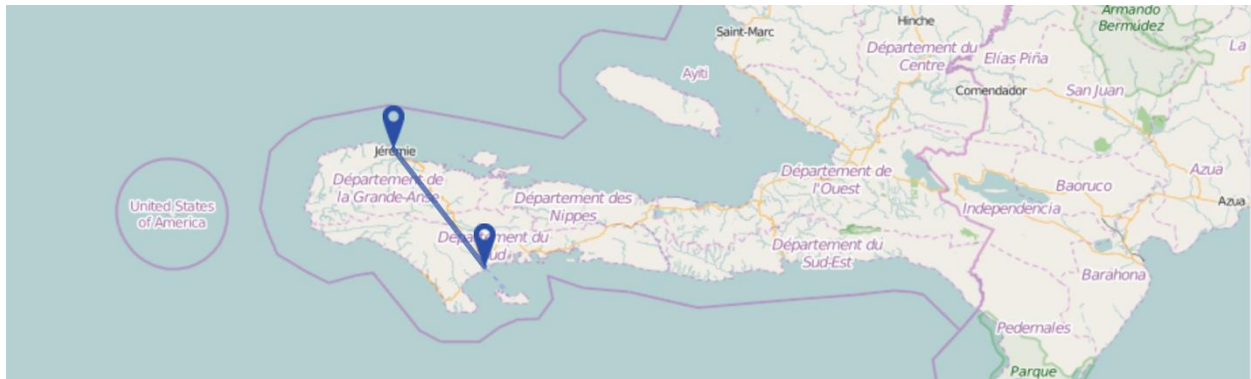
generating a livelihood, a main vehicle for investment, and a way to accumulate wealth and transfer it between generations. Land tenure systems are a legal construct – a bundle of rights designed and enforced by the societies which grant them (UNDP, 2003). Land tenure plays a role in poverty reduction as securing property rights to land can greatly increase the net wealth of the poor (World Bank, 2003). Impoverished households become less vulnerable to economic & natural shocks when land tenure is clarified and clarity of ownership also serves as a form of "savings" people can rely on in tough times (Katz, 2010). Leading multilateral and bilateral development agencies accord high priority to policy reforms that strengthen tenure security, especially as elements of strategies to reduce poverty among women and other traditionally disadvantaged members of society (Hall, et. al., 2012). Land is an important topic in local communities in developing countries because local policies greatly impact the household's ability to produce subsistence and marketable surplus, people's incentive to invest and to use land in a sustainable manner, and the ability to self-insure and access financial markets and social status and identity (World Bank, 2003). Land tenure security can be categorized into three types of ownership: Customary, State and Private.

	Definition	Pros	Cons
Customary Land	Where a group traditionally been on the land but there is no formal recognition in modern legal code	Can give legal acknowledgement to customary rights based on membership in group and establish formalized structure on existing land	Doesn't guarantee justice due to potential corruption within groups and can be difficult/ disruptive to establish a formal structure
State Land	Where the land people use is acknowledged to belong to the government	Seemingly simple solution, common way of conferring tenure	Politically and practically difficult. Encourages land grabs. Can be viewed as expropriated without compensation
Private Land	Where the land people possess is acknowledged to belong to a private entity (individual, corporation, etc.)	When institutions establishing and enforcing private property rights are in place, the system allows for	Institutions in developing world often lacking enforcement capacity, making secure property

		accumulation of wealth to individuals and high levels of security	rights difficult to establish and often excluding the poor

(World Bank, 2003)

Areas of importance: Les Cayes & Jérémie

(Geonames, n.d.)

Unstable land tenure policies in Haiti have had a significant effect on post-disaster recovery interventions. In 2008, the Canadian International Development Agency (CIDA) in conjunction with the Inter-American Development Bank (IADB) announced a $100-million-dollar investment to pave the country's National Road No. 7 (Ferreira, 2013). The 56-mile road expansion project was designed to connect the southern port city of Les Cayes with the northern city of Jérémie in order to provide the isolated northern commune with safer transport options and increased accessibility (Ferreira, 2013). Despite the capital investment, the project was abandoned and only 70% of the road was successfully paved due to complications stemming from the country's unstable land tenure laws. *OAS Construtora*, the Brazilian company hired to execute the project, abandoned construction in July of 2011 claiming that their work was obstructed when it ran into occupied parcels of land whose ownership was unclear and whose residents had not been paid to vacate (Ferreira, 2013).

Following the 2010 earthquake, Haiti experienced mass devastation. In the aftermath of the earthquake the country witnessed mass migration from the major city of Port Au Prince to smaller cities and villages throughout the country. Prior to natural disaster, these impoverished areas were experiencing heavy demands on limited resources and lacked basic services and infrastructure. The world quickly responded to the needs of the population with financial aid

and physical support. In the wake of the disaster the international media was used to successfully campaign on behalf of the affected population and ushered in millions of dollars dedicated to rebuilding Haiti's infrastructure. These recovery efforts were stifled due to the country's lack of organizational capacity, specifically in the context of land tenure and disorganized land ownership policies. Population pressures and an absence of land use planning have increasingly strained a poorly managed land tenure system (Colombia University, 2012).

Haiti's land tenure policy was largely influenced by the antiquated Napoleonic Code of their colonial past. Following independence in 1806, the country's new leaders distributed land among friends, relatives, nobility and military leaders (Colombia University, 2012). Although there have been attempts at reform, ongoing political instability, economic interests and corruption have derailed the process. Presently, 95 percent of land in Haiti is private or state private land, a category of land tenure in which the state owns the land but either rents to users or sells the land to a private owner (Colombia University, 2012). While much of Haitian land officially belongs to the state, there is no functioning national cadastral system (Gingembre, 2013). In rural Haiti, informal arrangements regarding land tenure are more important than formal titles, which are more expensive and less flexible. Land tenure ranges from direct access by virtue of ownership to indirect access through tenancy or usufruct (Gingembre, 2013). In rural areas, customary proceedings often supersede legal land registries which makes international intervention difficult since homes or other structures cannot be built or rebuilt "if land ownership is contested or unknown" (Colombia University, 2012 p. 2).

The complications associated with land tenure are limiting post-disaster recovery efforts and have been identified as primary concerns amongst local stakeholders and development professionals. In a Post Disaster Needs Assessment meeting held in March 2010, a group of 21 mayors from diverse regions indicated land ownership as a primary barrier to reconstruction (Colombia University, 2013). The types of projects affected include new water treatment facilities, public hospitals, new housing and transportation infrastructure.

In order to respond to the immediate needs of the population, a team of development experts have argued in favor of a more formal land tenure system. Concurrent with the findings from the Post Disaster Needs Assessment, the creation of a functioning tenure system has been identified as a top priority. In the current context of post-disaster redevelopment, unclear, contested, or unknown ownership status hinders redevelopment and reconstruction projects. Thus, it is crucial that a new policy is relevant, feasible and reflects the values and perspectives of the affected parties, including locals and NGOs currently on the ground.

Due to the severity of the situation, the Butler Development Foundation (BDF), an international funding agency, is hosting an emergency conference that will bring together necessary stakeholders to aid in the creation of a comprehensive solution for formal tenure policy. Since this problem is not just associated with technical challenges, but institutional challenges, a collaborative approach to decision making is essential. The BDF expects groups to come to a conclusion regarding the formation of a new tenure policy that can be universally applied. In this context, it is not necessary that this agreement be formalized today, but the groups must find a way to establish <u>workable property rights</u>. The challenge is that all parties involved need to be able to function within the context of the new land tenure policy. The BDF has invited international journalists to cover the summit in order to recognize the vital role of media in the overall promotion of a better disaster management regime within a state (Daily Times, n.d.).

Participants

The BDF has invited 6 stakeholders to attend the emergency conference taking place in Port-au-Prince. International developers, NGO staff, local leaders, Haitian officials and international journalists will be in attendance. The conference is aimed at bringing together a wide range of stakeholders who will accurately represent the country's socio-political structure. In order to develop a land tenure policy that will function across jurisdictional boundaries and lead to the implementation of the housing project, it is important that all parties support the final result.

The roles described below provide general information and some criteria for success to be used in guiding how you engage in the negotiation. Note that creativity is not only allowed but encouraged. See if you can engage in the exercise by adopting characteristics, perspectives, and stories associated with your role that makes sense given the information you have but that takes some liberties in terms of how you engage in the negotiation. Participants are encouraged to use real world examples to strengthen their arguments. Also, most of the roles are aligned with Sehested's (2009) hybrid planner roles in network governance so you can draw on insights from that article to help deepen your understanding of how you might engage in the negotiation, what you value, what knowledge traditions you draw upon and what kinds of networks you see as legitimate.

The following roles should be kept confidential.

Development Agency (Professional Strategist)

You are the head of an international development agency that wants to bring new housing and infrastructure to two cities, Les Cayes and Jérémie. Your aim is to plan and implement a housing redevelopment program. You are aware that previous housing projects have lost funding because of issues with land tenure uncertainty. In order to move forward with the housing development project, it is necessary to develop an agreement that can be acted on to provide a clear understanding of property rights to developers. Your agency is funded by BDF, and, without a clearly defined land tenure policy, your project will lose funding. Your team has spent a great amount of time on this project and you would hate to see it go to waste. You realize that you will have to work with other stakeholders in order to create a proposal for BDF, but you believe in combining professionalism with communication skills in order to convince others of your expert knowledge of the planning process. You will do anything to get your project funded and are less concerned with the citizen's opinions on tenure. You feel that a formalized process can work and think that the state Judicial in Haiti is capable of managing legally binding contracts if they are provided additional resources.

Criteria for success:

- The housing development project is your number 1 priority. At the end of the conference you need to be able to start this project in at least one of the two cities. You will lose funding from BDF if the project does not happen.
- Your job is on the line. You do not want to leave the conference without an agreement.
- You are in favor of a formalized land tenure system.
- You rely on your professional expertise in post-disaster redevelopment to convince others of the value of your contributions to the negotiations. You are comfortable clarifying that you bring a lot of resources (funding and expertise) to bear on addressing an acute problem in this context.
- Citizen participation is not key in your decision. You need to earn the support of the Ministry of Planning and Foreign Aid Representative.
- You are willing to play nice with the NGO, but do not consider them to be very powerful and do not value their expertise.
- You are frustrated that BDF has invited members of the media, you feel that this policy is best determined behind closed doors. You have been instructed to avoid direct communication with the media.

NGO Representative (*Process Planner*)

You are an elected representative of an NGO that has been working on the ground in Haiti since 2011. You have seen the issues that land tenure has created and have watched countless development efforts fall through because of informal land ownership. You have a close relationship with both of the communities being considered for development and are aware of their needs. You believe that this land tenure crisis can only be solved if there is active dialogue between all parties involved, and this includes the citizens. You prioritize "establishing a large variety of governance networks with not only professional interests and interest groups but also ordinary citizens and other affected actors in the city" (Sehested, 2009). You are very knowledgeable of the conditions needed for successful infrastructure development in both Les Cayes and Jérémie. Through your work on the ground you have become fully versed in the cultural and social norms that exist in the communities and understand the patriarchal hierarchy that dictates land tenure. Your local network is made up of citizens and local political actors, but you are also part of a larger network (Habitat for Humanity International) that gives you access to technical expertise and administrative management capabilities. You are concerned that the development agency you will be meeting with will be hesitant to adapt their traditional structure to this post-disaster context. You want to account for the concerns of citizens in making proposals and will not allow local populations to be overlooked. You support new housing redevelopment projects and would be in favor of a proposal that is based on shared information and knowledge. You will not be silenced in the meeting and seek to make sure power is equally distributed.

Criteria for success:
- Community participation is key. You believe land tenure policy needs to be based on lived experiences and local knowledge.
- In some ways, you are a neutral party and play a facilitating role. Since you will not lose funding either way, it is important for you to build consensus among other stakeholders to develop a well-designed and inclusive land tenure system.
- Your NGO is willing to assist in the housing development project if an agreeable tenure policy is established. You can use this fact as a negotiation tool.
- You will not support a top-down land tenure policy, but you believe that the government should be involved in some capacity.
- You strongly support the media presence and want Haitian personal stories to be shared with the world, especially those who have worked with your NGO. You want to keep the journalist engaged in dialogue.
- You have been advised to promote past and present projects and get your NGO's name in the press to increase private funding. You can be creative in describing some of those projects in affordable housing and redevelopment.

Ministry of Planning and Foreign Aid Representative (*The Manager*)

You are representing the Haitian Ministry of Planning and Foreign Aid. You are concerned that if you don't make the most widely acceptable decision, you will suffer the consequences with the government and lose out on future aid investors. If this meeting does not go well, you may face a reprimand from your supervisor or even a demotion. You have a strong grasp of land tenure issues, but know that the government wants a stronger hand in controlling the land. You are motivated to push for a tenure system that allows the government to have some form of control. You also understand the need of improved housing and are motivated to make sure everyone is participating in the dialogue. Input from other members is important when you report to your higher authority, but not necessary in the final decision of what is best for land tenure. Trying to appease donor agencies is probably your best bet in making a decision because you need to maintain ties with these organizations for future endeavors.

Criteria for success:

- You want to try and stay neutral, but are likely to lean towards government controlled land tenure policy.
- The meeting needs to stay on task because it could be representative of you doing a bad job if the group strays from the focus of developing a land tenure policy.
- While you want a government influenced tenure system, you are open to the involvement of multiple levels of government.
- From the outside, you seem to care about adequate input from all stakeholders, but only for political purposes to be able to point to a democratic process. Their voices aren't always taken into account and you know this.
- You want to support the donor agency's agenda as much as possible!

Elected Representative from Les Cayes (*Market Planner*)

You have recently been elected to your position, but have lived in Les Cayes your whole life. As a powerful community member you are not concerned with your own property rights (you know no one would question your land ownership), but you realize that the rest of the community is not the same. You have a strong following and your support for tenure policies will heavily influence the citizens in Les Cayes. The effects of the mass migration to your area have hit housing infrastructure hard and there is an immediate need for intervention. Many people living in Les Cayes do not have adequate housing or access to clean water and have seen their quality of life significantly decrease. The people in your city do not want to make personal investments in their homes because they don't know when someone will come in and take their land. An agreeable land tenure policy is the most important thing to you. You know that without it any housing projects will fail. You want long lasting intervention in your city and believe that local participation is crucial.

Your ideal tenure policy would have limited government control and give more power to the citizens. You have met with Habitat for Humanity International and feel that they support your community interests. You are concerned about the involvement of other stakeholders because you have seen other development agencies ignore citizen's best interests in favor of technical expertise and political deal making. You realize this project will require outside funding, so you will have to balance your priorities and make sure to focus on economic development as well. You need to create close relationships between all the parties at the conference to mobilize resources and build agreement.

Criteria for success:

- You are very supportive of establishing an enforceable land tenure policy that can help the people in your city. As such, you are willing to think outside the box of an either-or system of land tenure and think a hybrid approach might be needed.
- You support a tenure policy that gives citizens and government control, but you are not supportive of a top down policy.
- It is crucial that the housing redevelopment project takes place, and you are strongly in favor of it.
- It is your job to represent the needs of the people in Les Cayes and make sure the experts understand what they need. You need to be an active participant in the discussion. And, you need to articulate that the needs of the people in Les Cayes include giving some level of local voice and input into determining tenure rights while providing an equitable framework for those decisions.

Elected Representative from Jérémie (*Corrupt public official*)

This problem is just another opportunity for you to seize control of power and personally benefit from the complex system of land tenure in Haiti. You are focused on trying to steer the conversation to allow the people of Jérémie to have control of their own land tenure. You are going to use the need for housing as your tactic to end negotiations quickly and allow Jérémie citizens to allocate and control their land. You already have a measure of control of land ownership in your community and like the arrangement as it is a source of income for you as well as for local government officers. You will make the claim that you know what is best for the area because you have lived in Jérémie your whole life. You will also argue that what is best for the community should be decided "by the people". Regardless, you don't want to see outsiders making decisions about your land and are hesitant to talk with the development agency. You know if this project fails, another will come in shortly after. You support a land tenure policy that gives elected representatives control of land and would prefer to keep these decisions in the hands of your staff. You have many stories, personal stories of loss as well as triumph related to land tenure. You are not afraid to tell these stories or embellish them with emotion. While many are fictional accounts, there is some level of truth in your experience that local control of land tenure has been navigated effectively in your town and protected some people from being kicked out of their homes while a top down legal approach has at times led to the loss of use of properties when higher level government officials have come in to try to clean up the tenure issue to create space for new development projects. You want to frame these stories in a way that conveys that top down control has led to misery and local control has led to safe, reliable housing and livelihoods for community members.

Criteria for success:

- You are definitely corrupt, but you aim to frame your arguments in values of democracy, empowerment, and local control. Don't reveal personal gains you might get from a local control deal. You want people to see you as a "leader of the people".
- You want a land tenure system that puts power in the hands of local leaders. Control over land use decisions will allow you to better govern the area as well as to profit on lands for which you have a clear title.
- Your own personal interests outweigh those of the citizens of Jérémie. You see this project as a way to help yourself.
- You see the journalist as a means to more money. You want to sell the journalist on the story of your community, and bring attention to your community. You believe communication with the media is the key to funding and feel that personal stories but an important spin on how an article would be framed.

International Journalist (neutral member of the media)

Over the course of your career you have covered multiple post-disaster, post-conflict zones and you are committed to disseminating information to the public. You are conscious that sensational and hyped news can lead to another crisis in the form of chaos and fear, causing more losses (Daily Times, n.d.). Over the course of your career, you have seen what can happen when power falls into the wrong hands and, while you are not actively involved in the negotiation, you do have the ability to ask thought provoking, investigative questions that can show where people's true interests lie. The BDF invited you to cover the meeting because they recognize your commitment to professionalism and expect swift and accurate coverage of the policy alternatives and final outcomes of the negotiations. Your editor is expecting a presentation of hard data and is not interested in stories of suffering or personal tragedy except insofar as they lend a personal touch to the story. Still, you have seen how sensationalized accounts of post-disaster development has fostered corruption and led to improper resource allocation and do not want to further the cycle by indulging in stories of personal hardship.

Criteria for success:
- Your goal is to leave the meeting with answers. You have done your research and prepared a proposed list of questions for each of the stakeholders. You have seen how the weak land tenure system in Haiti has led to a lack of sustainable development and know that government controlled land may not be respected in the rural communities.
    - Development Agency: How will the development agency encourage citizen participation and involve multiple stakeholders? What kind of formal commitment can the Agency make to follow through with the final outcome?
    - NGO representative: What is the NGO's end goal? What projects has the NGO successfully completed in the country? How will they accommodate the needs of local leaders and government actors in their future work?
        - *You recently discovered that they are not financing the housing development project.*
    - Ministry of Planning and Foreign Aid Representative: How will the office work with grassroots agendas? Does the agency have the capacity to manage a formal tenure system?
    - Les Cayes Representative: How can you implement land tenure policies without national government involvement? What capacity do you have to manage locally determined tenure disputes?
    - Jérémie Representative: How can you implement land tenure policies without national government involvement? What capacity do you have to manage locally determined tenure disputes?