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Local Government Property Tax Administration and Collaboration with Central Government: Case Studies of Kiambu, Laikipia and Machakos Counties, Kenya

Rose Wanjiru, Anne Wanyagathi Maina and Eldah Onsomu with Graeme Stewart-Wilson

April 2019

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Summary

Property taxes are a major source of revenue at sub-national levels in most countries, but their administration is complex, and in most cases the process involves both national and sub-national governments. In Kenya, county governments have legislative authority to levy property taxes and the responsibility to finance some of the cost of the services they provide. This study examines existing and potential areas of collaboration between national and county governments in property tax administration using case studies of Kiambu, Laikipia and Machakos Counties. The identified challenges that counties face in property tax administration include weak collection systems, infrastructure, administrative and technical capacity, and weak links between taxes and service delivery. The counties in this study also did not obtain complete land registers from the defunct local authorities, and some did not have complete and updated property valuation registers. Further, some of the existing valuation rolls are outdated and weakly automated. This scenario contributes to poor tax administration, revenue leakage and inefficiencies. These challenges present potential areas for collaboration between national and county governments in property tax administration, including through information and data sharing, capacity building, automation, mapping, zoning and updating of valuation rolls and land registers.

Keywords: property tax; tax administration; tax collaboration; county government; national government; Kenya; sub-Saharan Africa

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The African Property Tax Initiative's main objective is to stimulate and encourage wider use of more effective property tax systems in Africa. It is working to build the critical mass needed to successfully support African governments that are considering or currently undertaking property tax reforms. www.ictd.ac/network/apti/

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Acronyms

APTI	African Property Tax Initiative
CEC	County Executive Committee
CEG	Centre for Economic Governance
CLMB	County Land Management Boards
CRA	Commission of Revenue Allocation
ICT	Information and Communications Technology
IFMIS	Integrated Financial Management Information System
KNBS	Kenya National Bureau of Statistics
KRA	Kenya Revenue Authority
KSh	Kenyan Shillings
LAIFOMS	Local Authorities Integrated Financial Operations Management System
MCA	Member of the County Assembly
MoDP	Ministry of Devolution and Planning
MoL	Ministry of Lands
MOU	Memorandum of Understanding
NCC	Nairobi City Council
NLC	National Land Commission
OCOB	Office of the Controller of Budget
PFMA	Public Finance Management Act
POS	Point of Sale
RRA	Rwanda Revenue Authority
SBP	Single Business Permit
SSD	Supplementary Service Data

Definitions

Ground rent is charged by county governments for the temporary use of ground, temporary kiosks or temporary allocation.

Land rate is a tax levied on land value that is payable to the county government. Land rates are usually calculated as a fraction of the unimproved site value. Land rates are the primary property tax instrument used at the county government level.

Land rent is charged by the national government on lease land belonging to the national government. The National Land Commission prescribes that land rent is payable at the time when the lease is reserved.

Plot rent is charged by county governments on lease land belonging to the county government (or former local authorities). Plot rent is levied primarily on market centres.

Introduction

Most countries, both developed and developing economies, rely on taxation as their main source of public revenue. Property taxes are typically part of this public revenue, with particular importance for local levels of government (Bird and Slack 2005). Consequently, most countries have invested in developing and sustaining strong property tax administration systems, which by necessity require some degree of collaboration between central and local governments (Goodfellow 2017).

Countries calculate their property tax base using a variety of methods. Typically, it can be calculated from the market value of land or property, land area or property size, or the income derived from the land or property (McCluskey, K'akumu and Olima 2005). A jurisdiction has to pick one or a combination of these methods to determine the property tax base. In theory, land valuations should be updated regularly when property values change. In many countries, however, rapid appreciation of land values has made valuation unpopular and a highly politicized issue (Konyimbih 2000).

Economists note that a tax on appreciating land value may be the least distortionary way for local governments to secure a stable revenue stream (Collier 2016). However, effectively levying such a tax on land value requires central and local levels of governments to work together in various configurations. Across sub-Saharan Africa the collection of property taxes is made up of several distinct processes, some of which are situated at the national level, and some at the local level (Goodfellow 2017). For instance, functions like establishing accepted valuation methods, setting tax rates, maintaining an up-to-date property registry, collection and enforcement, and overall administration and budgeting might be situated at either the national or local level depending on the context (Goodfellow 2017).

Despite the necessity for some degree of centre-local collaboration to implement property taxation, a substantial body of literature documents the persistent ambiguity—or outright hostility—of central governments to local-level fiscal autonomy (Bekker and Therborn 2011; Cirolia and Mizes 2019; McCluskey and Franzsen 2013; Olowu 2002). Since local governments are based on separate geographical entities with different priorities than national government agencies, tensions can arise when a political decision that has distributional consequences at the local level (such as setting the property tax rate) is taken at the national level (Fjeldstad, Ali, and Katera 2018; Lundin 2005). As a result, inter-organizational cooperation and institution-based trust are essential for the successful implementation of property taxation (Fjeldstad, Ali, and Katera 2018). In part because of these common centre-local tensions, there is now widespread acknowledgement that in sub-Saharan Africa property tax systems are not leading to the desired cycles of public investment and local government empowerment (Bahl and Bird 2013; Bahl, Martinez-Vazquez and Youngman 2008; Cirolia and Mizes 2019; Collier 2016).

This working paper takes an exploratory approach to the emerging issue of centre-local government cooperation around property taxation in the specific context of Kenya. Recent experiences in Kenya, including the adoption of a new constitution in 2010 that radically devolved responsibility to county governments, provides a novel opportunity to examine some of the challenges and opportunities facing property taxation in sub-Saharan Africa. In devolved governance structures, sub-national governments operate as semiautonomous units with the responsibility to generate resources to finance the provision of services. Management of the property system is one of their core functions, and a major supply of own-source revenue (Bahl 1999). Consequently, sub-national governments must put in place systems to enhance revenue collection, and to reduce revenue leakage and tax non-compliance.

In theory, the essential elements of a successful property tax administration include: explicit and sustained political commitment; a team of capable and skilled officials dedicated to full-time tax administration; well-defined and appropriate collection mechanisms; relevant training for staff; sufficient resources for property tax administration; and the introduction of appropriate incentives for both taxpayers and tax administrators (Tanzi and Pellechio 1995). Standard literature on property tax policy states that the entity responsible for policy and collection should be the same entity that is politically answerable to the community paying the tax (Fjeldstad, Ali, and Katera 2018; Oates 2005). How this norm is achieved, however, will differ between contexts. In general, the guiding principles for a successful property tax regime include: equity, fairness, efficiency, and effectiveness. On the other hand, tax-paying citizens expect tangible benefits in the form of improved services, and this provision is also part of a successful taxation regime.

Owing to the complexity of potential centre-local[1] collaboration to implement these principles, there is a clear need to document, at a practical level, how the national and county governments are currently working together. This study uses a multi-case approach to selectively compare three counties in Kenya: Kiambu, Laikipia, and Machakos. These counties were selected for comparison because they provide a diverse range of urban and rural scenarios, and because two of the county governments (Kiambu and Laikipia) have established formal memoranda of understanding (MOUs) with the central revenue agency to collaborate on property tax collection. The three selected counties thus provide a roughly representative range of property tax scenarios in Kenya, and potential for more formal collaboration with the central government.

The main objective of this research was to examine the existing and potential areas of collaboration between national and county governments in property tax administration, based on an examination of the policy frameworks and practices in three counties. The specific study objectives were to: (1) document current county property tax collection systems, infrastructure, and administrative and technical capacity; (2) examine the current linkages between national and county governments in the administration of property taxes; (3) identify challenges and potential areas of conflict that exist between the national and county governments in property tax administration; (4) analyse existing and potential areas for collaboration between the national and county governments in property tax administration; and, (5) outline policy implications of the research and make recommendations that will help ensure the efficiency and effectiveness of property tax administration and collection in Kenya.

Overall, we find major gaps in current property tax administration policy and practice in all three counties, particularly in the areas of data sharing and management, capacity, automation, enforcement, property tax legislation, and the identification and registration of properties and property owners. We also identify a number of important opportunities to improve centre-local collaboration, including through database sharing and management, capacity building and technical support, updating valuation rolls, more clearly linking property taxes to service delivery, the automation of tax administration, and creating a deeper culture of taxpaying in Kenya.

The contributions of this research are twofold. First, there is a large gap in the published literature on the practical implementation of property tax collection under Kenya’s devolved governance structure. Publicly available information on the day-to-day functioning of the property tax system in Kenya is virtually non-existent. The case material in this working paper therefore helps to fill this informational gap in the literature. Second, in a broader sense, this paper points to some of the strategies that could feasibly be used to improve centre-local collaboration on property taxation. While the details of these strategies are specific to Kenya,

[1] Central and local governments are also referred to as national and county governments, respectively, in this paper.

their broad thrust is likely to be of relevant interest to other sub-Saharan African countries facing similar challenges.

The rest of this paper is organized as follows: Section 1 presents some background information on Kenya's devolved governance structure and property tax legislative framework, as well outlining basic information on the selected case study counties. Section 2 focuses on methodological approaches. Section 3 presents our findings, along with a discussion of their significance. Policy implications and recommendations are presented in Section 4, and we conclude with some final remarks in Section 5.

1 Background and case selection

1.1 Property taxation under a devolved governance structure

In 2010, following the promulgation of a new constitution, Kenya implemented a major governance reform that decentralized powers and responsibilities from central government to 47 new county governments.[2] County governments took over the functions of the defunct local authorities, including the management of property taxation. The main source of funding for county governments under a devolved governance structure is fiscal transfers from the national government. These fiscal transfers compose a minimum 15 per cent of the most recently audited national revenues collected by the Kenya Revenue Authority (KRA), the national revenue agency. In addition to fiscal transfers, the constitution allows county governments to generate own-source revenue by imposing (i) property taxes, (ii) entertainment taxes, and (iii) any other tax authorized by parliament. Despite these allowances in the constitution, all 47 county governments rely predominantly on fiscal transfers to carry out their devolved responsibilities. For instance, fiscal transfers to county governments constituted 89 per cent of the total county budget resources of KSh314 billion (US$3.1 billion) in financial year 2014/15 (OCOB 2014). Although county governments have access to a large variety of own-source revenue streams—approximately 151 in total[3]—only about ten core streams consistently contribute about 90 per cent of total own-source revenue (OCOB 2015). Within this framework, property taxes constitute the dominant revenue stream for most counties; and especially in more urbanized counties. In more rural counties, single business permits (SBP) tend to dominate own-source revenue, as agricultural land is not typically included in property tax valuations.

Under the 2010 constitution, county governments have the authority to collect property taxes. County governments have the power to determine their own tax bases, property rates, and tax rates. Each county government is subsequently expected to enact rating and valuation acts that specify the details for administering property taxes in their own jurisdiction. Many counties have not taken this step. In the absence of their own county-level rating and valuation acts, counties continue to rely on rates that were set by the defunct local authorities, or to modify them through the annual finance bill. However, since annual finance bills are intended to introduce amendments to existing tax laws (or rates), this lack of proper legal framework for property taxation makes counties susceptible to lawsuits when they increase rates. Counties risk having their revenue raising measures that are included in annual finance bills declared illegal by a court of law.

Property taxation, especially with regard to land valuation and the increase of rates, has always been a contentious issue, even before devolution. Many county governments have

[2] These reforms eliminated the former eight provinces and created 47 new counties by amalgamating 175 defunct local authorities.

[3] Some of these own-source revenue streams include single business permits, land rates, parking fees, bus park fees, market fees, produce cess, public health and medical levies, building approval fees, sign board and advertisement fees, royalties and other user charges.

thus inherited lawsuits from the defunct local governments that they subsumed, which has further deterred them from raising property taxes until determination of the pending cases. These and other challenges likely prompted Kiambu and Laikipia county governments to consider collaboration mechanisms that would allow them to use KRA as their revenue collection agent. These collaborative mechanisms have been formalized in MOUs that both Kiambu and Laikipia have entered into with KRA. Both MOUs outline that KRA will lead own-source revenue collection at a cost of 2 per cent of total revenue collected. Implementation of the MOUs is expected to increase effectiveness and efficiency, reduce costs, increase compliance, and in turn increase the number of property owners in the tax net. However, neither of the two MOUs have yet entered into force, and Kiambu's MOU has been challenged in court. The root causes of the challenges associated with implementing the MOUs remain poorly understood, but their investigation forms a key aspect of this study.

1.2 Land legislative frameworks and property taxation

Under the 2010 constitution, the legislative framework governing land was consolidated into three laws: the *Land Act 2012*, the *Land Registration Act 2012*, and the *National Land Commission Act 2012*. The *Land Act 2012* consolidates and rationalises various land laws that existed before the 2010 constitution, and provides for the sustainable administration and management of land and land-based resources. The *Land Registration Act 2012* revises, consolidates, and rationalizes the registration of titles to land, regulates dealing in registered land, and gives effect to the principles and objects of devolved government in land registration. The *National Land Commission Act 2012* makes provisions for the functioning of the National Land Commission (NLC), and introduces necessary qualifications and procedures for appointment to the commission. The NLC's purpose is to give effect to the objects and principles of devolved governance in land management and administration. Some of the main functions of the NLC include management of public land on behalf of the national and county governments, the registration of rights and interests in land, and the investigation of historical land injustices. The *National Land Commission Act 2012* further establishes County Land Management Boards (CLMB) to manage public lands, and to bring their services closer to citizens.

Kenya recognizes two main types of land tenure: freehold and leasehold. Freehold tenure gives the owner absolute ownership of the land subject to the regulatory powers of the government. Leasehold tenure, by contrast, does not give absolute ownership and is subject to payment of rent to the lessor, in this case the government.

Common forms of property tax in Kenya are land rents and land rates. Land rent is charged by the national government on leasehold land that belongs to the national government (to the Ministry of Lands, specifically). Land rents are governed by the *Land Act 2012*. The NLC prescribes the rent payable at the time when the lease is reserved. KRA subsequently collects the designated rent payable on behalf of the government. Land rates, by contrast, are local taxes levied on the value of land, and are payable to the relevant county government. Land rates are usually calculated as a fraction of the unimproved site value.[4] Under the devolved governance structure, land rates are administered by county governments through their revenue departments, which are under county treasuries. In addition to land rates, counties also levy plot rents and ground rents. Plot rents are charged on lands rented out by the former local authority or the county government, and are levied mainly on market centres. Ground rents are charged for the temporary use of ground, temporary kiosks, or temporary allocations. [5] The major focus of this paper is on land rates, which constitute the primary land-based tax at the sub-national level.

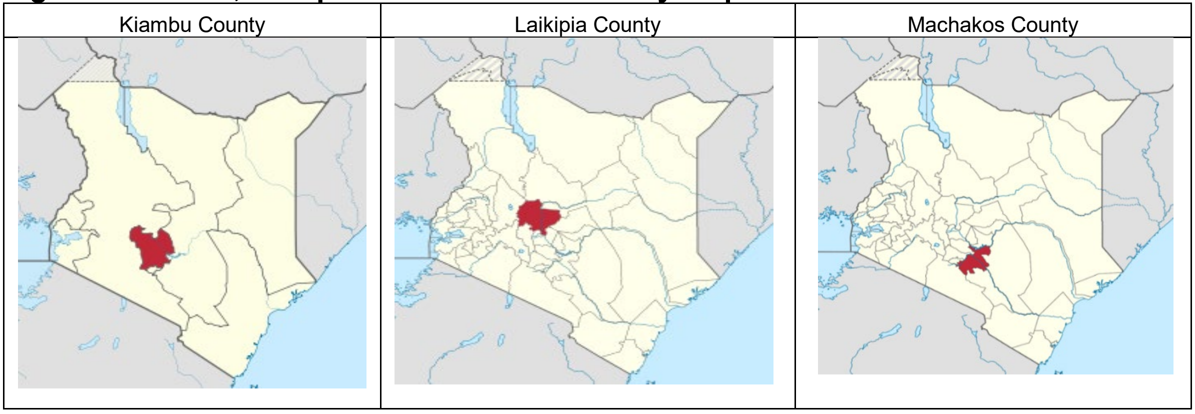
[4] Unimproved site value refers to the value of land disregarding any improvements thereon; as if it is vacant.

[5] For instance, ground rents might be charged on the temporary use of space that is usually used for a different purpose, such as roads that are temporarily allocated to hawkers to sell their wares.

1.3 Comparative data on case study counties

In Kenya, county administrations are subsequently composed of sub-counties, which are further divided into wards. County political representatives, the members of county assemblies, are elected at the ward level. Wards are therefore the smallest political administrative units in Kenya. Kiambu County is made up of 12 sub-counties and 58 Wards; Laikipia County is made up of three sub-counties and 15 Wards; and Machakos County is made up of eight sub-counties and 40 Wards.

Figure 1 Kiambu, Laikipia and Machakos county maps



1.3.1 Kiambu County

The total area of Kiambu County is 2,543.5 square kilometres, and it has a population of 1.6 million people according to the 2009 census. The Office of the Controller of Budget (OCOB), an independent office established by the new constitution with responsibility for authorizing all withdrawal of public funds at the national and county levels, released its *Report on Counties* for financial year 2015/16, which indicated that Kiambu County's budget was KSh11.48 billion (US$112.9 million). Expected own-source revenue for the same year was KSh3.3 billion (US$32 million), making up 28.8 per cent of the total budget. The actual own-source revenue collected was KSh2.5 billion (US$24.6million), representing about 75 per cent performance. The amount of own-source revenue expected from land rates was KSh646,692,961 (US$6.4 million), but only KSh219,948,910 (US$2.2million) was ultimately collected, representing only 34 per cent performance.

In 2014, Kiambu County made some important strides in laying the groundwork to improve its revenue collection, which increased from KSh800 million (US$7.9 million) to KSh2.11 billion (US$20.7 million), and to KSh2.5 billion (US$24.6 million), in financial years 2013/14, 2014/15, and 2015/16, respectively (OCOB 2016). Land rates comprised 9 and 11 per cent of own-source revenues in financial years 2015/16 and 2016/17, respectively, which is proportionally much lower than the other two other counties in this study.

Kiambu County enacted both its *Valuation and Rating Act* and *Finance Act* in 2015. The introduction of these laws was contested by county residents due to claims that the county government had introduced high rates that were not conducive for business without sufficient consultations with the people. The case against the *Valuation and Rating Act* was dismissed in October 2017. Kiambu County now applies both an area rating and site value rating.[6] At the time of this study, a new valuation process that was initiated in 2015 was underway, and is expected to significantly change the tax base and applicable rates once it is completed. Kiambu County signed an MOU with KRA appointing KRA as the revenue collector, but the

[6] Under area rating, land rates are calculated at a standard rate per unit area of land. Under site value rating, land rates are calculated as a percentage of the unimproved site value as per the valuation roll.

MOU was challenged in court and also challenged by members of the county assembly, and has therefore to date not been implemented.

1.3.2 Laikipia County

Laikipia County contains numerous conservation ranches, and is the county with the greatest number of ranches in Kenya. The county's total area is 9,544 square kilometres, with a population of 398,992 people according to the 2009 census. Laikipia's budget for financial year 2015/16 was KSh5.18 billion (US$50.9 million) (OCOB, 2016). According to projections, the county should have generated KSh500 million (US$49,000) in own-source revenue (9.7 per cent of the budget); actual revenue collected was KSh471,147,987 (US$4.6 million), a performance of 94.2 per cent (OCOB, 2016). Land rates contributed 18 per cent to own-source revenue in Laikipia, which is higher than both of the other counties in this study, although the actual amount of land rates collected was only KSh85 million (US$834,339), compared to the expected target of KS110 million (US$1.1million).

The Laikipia County *Finance Bill 2016* proposed to increase land rates, but residents sued the county as they were not consulted before imposition of the rate increase (Munyeki 2016). The case was subsequently settled out of court, and the county government negotiated with residents to reduce the land rate. Laikipia's own-source revenue performance improved from KSh400.8 million (US$3.9million) in financial year 2014/15 to KSh417.1 million (US$4.1million) in 2015/16. Revenue from land rates has been increasing marginally each year. Laikipia has signed an MOU with KRA for the agency to provide revenue collection services, but the agreement has not yet been implemented.

1.3.3 Machakos County

Machakos County covers an area of 6,208.2 square kilometres, and had a projected population of 1,179,214 people as of 2015. Its budget for financial year 2015/16 was KSh11.72 billion (US$117.2 million) (OCOB, 2016). County own-source revenue accounted for 9.6 per cent of the total county budget in 2015/16. The actual revenue collected was KSh1.12 billion (US$11.2 million), from a target of KSh2.37 billion (US$23.7 million), indicating a performance of 47 per cent (OCOB, 2016). Land rates constitute an important component of own-source revenue in Machakos, making up a total of 15.8 per cent in financial year 2015/16. Machakos has no formal arrangement with KRA regarding property tax collection, and has not signed an MOU.

Figure 2 Basic comparative data from Kiambu, Laikipia and Machakos counties

County	Population	Land area (sq. km)	Land rate revenue FY2015/16 (Ksh millions)	Total own-source revenue FY2015/16 (Ksh. Million)	% total revenue contributed by land rates
Kiambu	1,600,000	2543.5	233.2	2468.3	9.4%
Laikipia	398,992	9544.0	85.2	471.2	18.0%
Machakos	1,192,214	6208.2	176.9	1,121.7	15.8%

Source: Compiled by the authors from unpublished KNBS and OCOB data

Figure 2 presents comparative data on the three case study counties, including population, land area, and land rate revenue as a per cent of total own-source revenue generated in 2015/16. Although Kiambu has a larger population than the two other counties, it has considerably less land. The proportion of land rates to total own-source revenue in Kiambu is thus lower than in the other two counties, at 9.4 per cent compared to 15.8 per cent and 18 per cent for Machakos and Laikipia, respectively.[7]

[7] Kiambu is a primarily peri-urban county, and a lot of formerly agricultural land has been converted for residential use. This conversion has led to an increase in physical planning services, which are now the leading revenue stream in Kiambu at KSh442.1 million, which was 39.4 per cent of total own-source revenue in 2015/16 (OCOB, 2016). As a result of this growth in revenue from physical planning services, the contribution of land rates has shrunk.

2 Research method

This section briefly discusses the research design, sampling, instruments used, data collection and analysis methods, as well as the limitations of the study. Primary data was gathered through a survey conducted in three counties. Initially, only two counties, which had both signed MOUs with KRA, were targeted: Kiambu and Laikipia. Due to changes in political dynamics after the 2017 general election, the study was expanded to also include Machakos County. This addition was made to ensure that the study reached enough respondents in the case that one of the targeted counties was no longer receptive to participation in the study. Machakos County was selected due to on-going property developments in the county and its proximity to capital, Nairobi. Machakos was also an attractive case study, as county officials are currently engaged in discussions with KRA to develop an MOU for revenue collection. Surveys and key informant interviews (KIIs) in Machakos were therefore likely to give researchers further insight into the motivations and procedures behind potential centre-local collaborations.

The study involved the collection of primary data from taxpayers through face-to-face interviews using a structured survey, as well as administering tailor-made questionnaires to important stakeholders in KIIs. Data from the KIIs were crucial for triangulating the findings of the taxpayer survey, and were also instrumental in clarifying information on property tax systems, processes, and existing relationships between county governments and the national government in property tax administration.

The target population for the survey was property taxpayers in the counties of Kiambu, Machakos and Laikipia. A total of 203 taxpayer respondents were sampled from the three counties. Interviewers identified taxpayers within the various town centres and payment halls to administer the survey. Snowball sampling was also used in some instances, as respondents would refer interviewers to other property owners, or tenants would refer interviewers to property owners. The sample size of respondents among property taxpayers was 84, 57, and 62, from Kiambu, Machakos and Laikipia, respectively. The distribution of the 203 taxpayers interviewed is shown in Figure 3. Kiambu County has a larger population than the other two counties, hence the high number of respondents targeted in that area.

Figure 3 Taxpayers interviewed

County	Sub-County	Frequency	%
Kiambu	Juja	8	3.9
	Thika Town	35	17.2
	Ruiru	21	10.3
	Kiambu	20	10.9
	Total for Kiambu	**84**	**41.3**
Laikipia	Laikipia East	40	19.7
	Laikipia West	22	10.8
	Total for Laikipia	**62**	**30.5**
Machakos	Machakos	25	12.3
	Matungulu	16	7.9
	Athi River	16	7.9
	Total for Machakos	**57**	**28.1**

The research team additionally interviewed 32 county and national government officials and representatives from other agencies as key informants using tailor-made questionnaires. From the three counties, officials interviewed included the heads of the county treasuries, chief officers from the finance and land departments, budget officers, revenues officers (receivers and collectors), physical planners, county surveyors, county GIS experts, economists, and other officials. Various national ministries, departments and agencies that are considered to be crucial linkages in the property tax system were also interviewed. They included officials from the national treasury, KRA, NLC, the Ministry of Lands (MoL), the Ministry of Devolution and Planning (MoDP), and the Ministry of ICT. KIIs were also conducted with officials from various independent offices and commissions namely the OCOB and the Commission on Revenue Allocation (CRA). Interviews with key informants from the ministries, departments, agencies, and independent offices were carried out after data collection from the taxpayer survey and KIIs with the county officials were completed.

Both qualitative and quantitative analysis techniques, including descriptive analysis, were used to interpret the data. Comparative analysis was undertaken focusing on the three counties; relevant software such as SPSS was used in data entry, processing, and analysis. Data on rural and urban distinctions were not collected. Most property taxpayers exist in urban areas and agricultural land (which composes the majority of rural areas) is not typically subject to property taxation, making this distinction unnecessary. Data were analysed according to the identified emerging themes, including tax administration processes, the use of technology, automation, staffing, information sharing, and linkages between county and national governments.

The major limitation to this study was researchers' lack of access to land registers in the counties. This lack of access hampered efforts to draw a random sample of property taxpayers, as originally intended. Land registers in Laikipia and Machakos were manual, which made access difficult. Even in Kiambu, which operates a digital land register, officials would not provide researchers access. In the absence of land registers, researchers relied on convenience sampling by visiting the payment halls at county offices to reach the target population. The snowball sampling technique allowed researchers to expand the sample size and reach taxpayers outside of the county office payment halls.

3 Findings and discussion

This section presents the study findings along with a discussion of their significance for the Kenyan context. Findings are organized by theme.

3.1 Property tax administrative structures

County government officials involved in property tax administration include the governor and deputy governor, the county executive committee (CEC), the county assembly, and the county public service board. County assemblies pass relevant legislation and play an oversight role to members of the CEC. Members of the county assembly (MCAs) are elected by the public in general elections. County public service boards develop and implement human resource policies that affect all staff, including those involved in tax administration. The powers of the executive lie with the CEC, which is the local equivalent of cabinet at the national level. CEC perform all administrative functions, and are composed of the governor, deputy governor, and regular members who are MCAs appointed to the CEC by the governor to coordinate the functions of the county government and to deliver services through the various departments.

Departments vary from county to county, but common ones include finance, lands, agriculture, infrastructure and public works, education and health. The CEC member in charge of the finance department (CEC member for finance) oversees all spending and revenue collection, including property taxes. The county department of lands (county land office) works together with the finance department to administer land rates and plot rents. In general, county land offices draft the relevant policies, and finance departments collect revenue.

The national MoL also has offices at the county level that are involved in collecting land rents, stamp duties and other land-based charges.[8] MoL county offices include finance officers, physical planners, valuation officers, surveyors and other technical officials. MoL offices at the county and sub-county level generally work independently from the county land offices. Taxpayer survey respondents felt that those most responsible for property tax administration were the governors (100 per cent), the CEC member for finance (100 per cent), the CEC member in charge of the land office (92 per cent), and the deputy governors (69 per cent). Based on these results, any collaborative effort between the county and national governments will likely need to be supported by the highest levels of the county authority for it to be accepted as legitimate by taxpayers.

The KIIs provided a slightly different answer, with ward administrators and mid-level county staff identified as those with the greatest potential to improve property tax administration. Respondents indicated that this should happen primarily through educating potential taxpayers on the importance of paying property taxes. KII respondents also identified other areas for potential intervention, including continuous sensitization and capacity improvement for staff involved in property tax collection, and a focus on updating property ownership records, especially following the death of documented property owners.

As outlined above, none of the counties included in this study have a specific department dedicated to property tax administration. Rather, property tax is administered as a joint effort, typically between the county land office and the CEC member for finance. In Machakos and Kiambu, the finance departments both have revenue units that carry out collections, maintain accounts and report on all collections. Staff members within the revenue units are then allocated to specific revenue streams, such as land rates, plot rents, SBPs, parking fees, and produce cess,[9] among others. Separate rating officers are responsible for calculating the rates payable, which are then collected by the revenue unit staff members.

However, not all counties have enough rating officers to calculate the land rates payable. In Machakos County, for instance, sub-county offices do not have rating officers to carry out the requisite duties. Sub-county offices are therefore only able to administer plot rent and ground rent. Since plot rent and ground rent are standardized, they do not require rating officers to compute a tax bill for each taxpayer. Sub-counties maintain information on payments in Excel spreadsheets, and report daily to the director in charge of revenue. Machakos does not have any valuation rolls at the sub-county level; there is only a land register for owners within the sub-county. Property owners who wish to pay plot rent visit the sub-county office, where they are billed by the rating clerk and then go to the cashier where they pay by *Mpesa*[10] and receive a receipt, which is then presented to the rating clerk to update the records. Property owners who are liable to pay land rates are required to visit the county offices in Machakos, regardless of which sub-county their property is located. The lack of rating officers at the sub-county level likely has a negative effect on compliance, as it is very inconvenient for property owners to travel long distance to pay land rates. Compliant land rate payers are issued with a compliance certificate signed by the internal auditor.

In an attempt to improve its administrative structure, in 2015 Laikipia County established a revenue board that is responsible for the administration and collection of all county revenues. The revenue board is composed of six members, one of whom is the county director of revenue. The revenue board reports directly to the CEC member for finance. The Laikipia County revenue board is currently in the process of developing a strategic plan, performance-based contracts and other revenue enhancement initiatives. At this early stage

[8] Stamp duty is a levy charged on legal documents for the transfer of property and leases and for the transfer of securities. Other land-based charges from the MoL county offices include approval fees for lease renewal or extension, and land registration fees.

[9] Produce cess is a tax on the movement of agricultural produce.

[10] Mpesa is a mobile money payment system commonly used in Kenya.

it is unclear what impact this governance structure will have on the county's revenue collection performance.

On top of these challenges, all of the case study counties experience serious issues in relation to enforcement. Enforcement is generally carried out by inspectorate teams, which are housed under different departments in all three counties. Enforcement officers do not report directly to the revenue units overseen by the CEC member for finance, and hence the revenue units lack direct control over enforcement officers. Furthermore, the objectives of the various departments controlling the enforcement officers were sometimes found to be different. [11] To help solve this problem, the revenue department in Machakos County directly employs ten enforcement officers—one in each sub-county—to enhance collections. These new enforcement officers report directly to the revenue department.

Enforcement challenges are often due to outdated information. In Laikipia County, for instance, information gathered from key informants suggests that arrears from plot rents and land rates stood at KSh2.5 billion (US$25 million) in 2018. Demand letters are supposed to be issued annually to taxpayers with outstanding bills, but their delivery is often ineffective. Of all taxpayers surveyed in Laikipia, only 6 per cent had received a demand note in the past year; this low percentage is likely due to the lack of updated addresses at the county land office. Enforcement through prosecution is generally understood to be a long process, and Laikipia County has not to date prosecuted any defaulters. Other enforcement measures include repossession (in the case of lands leased by the county), and the seizure and sale of property. None of these measures have so far been used to recover any arrears, as tax officials generally understand them to be time-consuming and complicated. At the time interviews were conducted, the Laikipia County revenue board was in the process of procuring the services of a debt collector to collect outstanding debts.

Machakos County has tried to link SBPs to the payment of land rates to increase compliance. When businesses renew their licenses, they are required to have a compliance certificate from the internal auditor for the land on which the business is located. This intervention successfully increased compliance levels for land rates, since businesses were compelled to clear their outstanding land rates first before obtaining or renewing an operating license. A challenge with this method arose when business owners on rented property wanted to renew business license, but the property owner had not cleared their outstanding land rates. In some cases, county enforcement officers seized stock in an attempt to enforce compliance. When the seized stock belonged to tenants, however, it did not supply a sufficient incentive for property owners to pay.

In addition to weak enforcement mechanisms, weak record keeping and accounting were also observed in all three counties by the researchers. Laikipia county was rated as weak on logistics (at 17 per cent) and automation (at 33 per cent) by surveyed taxpayers. Kiambu County was rated below 25 per cent on logistics, collection, accounting and enforcement systems. Machakos County was perceived to have strong enforcement systems, with a rating of 75 per cent, and moderately strong logistics, with a rating of 50 per cent. However, Machakos was also perceived by taxpayers to have weak automation systems. Based on these results, there is considerable space to improve tax administration by focusing on strengthening collection systems, including transport, logistics and reporting. The perception that the county government was not adequately accounting and reporting for the revenue collected was emphasized by a majority of surveyed taxpayers.

[11] For instance, the fact that enforcement officers target arrests (i.e. performance evaluation is based on the number of defaulters arrested) was found to be contradictory and at times detrimental to revenue raising targets.

3.2 Trends in property tax collection at national and county levels

All surveyed property owners were registered with KRA, and only about 4 per cent had not updated their details, such as phone numbers, email and postal addresses in the iTax system.[12] The likely reason for this high proportion of registered and updated property owners is that a KRA personal identification number is one of the requirements for the official transfer of property to take place. Of taxpayers surveyed, 81 per cent owned property in urban areas, and 71 per cent were on leasehold tenure.

Revenue from property taxes is an important indicator of the efficiency of the tax administration system, and of the pressure it faces to increase collection efforts. At a national level, Kenya's performance on property taxation has been in the range of 0.01 to 0.02 per cent of all tax revenue, as indicated in Figure 4. This is a very low fraction, even in comparison to other African countries—some of which range from 1 to 2 per cent (Kelly, 2003). A low percentage of property tax revenue in total tax revenue generally means that property tax administration is facing considerable pressure to increase its collection performance.

Figure 4 Property tax performance nationally (KSh millions)[13]

Type of tax	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17
Immovable property	62.92	86.12	132.6	83.18	169.58	-	-	88.26	100
% contribution to total tax revenue	0.0134	0.0164	0.0212	0.0120	0.0222			0.0078	0.0075
Total tax revenue	468,151	523,633	626,668	695,887	763,828	911,803	1,021,597	1,136,563	1,338,284

Source: Economic Survey 2015; 2016; 2017

Figure 4 indicates that the collection of property taxes was disrupted from 2013/14, when county governments were established, until 2015/16. Since the establishment of county governments there have been general challenges in information sharing between counties and the national government, especially because national government economists were all seconded to county governments. Working relationships and reporting mechanisms between national government departments are also sometimes challenging, particularly between the MoDP and the national treasury. These challenges are on-going.

The relatively poor property tax performance in Kenya can be explained by a variety of factors. First, there is limited observance of statutory valuation cycles—most valuation rolls reviewed by the researchers were outdated. Outdated valuation rolls undermine the property tax base and the legitimacy of the rates levied. Second, most counties have limited technological support, including both computer hardware and software. Third, a number of officials noted the limited capacity to assess property as a major constraint in property tax administration. Limited capacity to assess property emerged as a problem in all three case study counties. Fourth, tax officials pointed to weak linkages between property tax and service delivery, especially the provision of utility services such as sewerage and water, and of environmental management services. Improvements to property tax administration should be accompanied by improvements to service delivery as evidence to citizens that their taxes are being used in a productive way.

Property taxes collected also vary significantly across counties, suggesting that different counties have the potential to raise different levels of revenue through property taxation. Disparities in property taxes between counties can be partly explained by the state of their respective land markets, by land use across the counties, and by levels of urbanization. Higher property taxes can also be attributed to varied efforts by county governments to

[12] iTax is an online system that provides a fully integrated and automated solution for the administration of domestic taxes.

[13] In this figure 'immovable property' refers to taxes on unimproved site value, i.e. land rates, however they may be calculated at the county level.

increase their own-source revenue collection capacity. Figure 5 shows the range of payments made by respondents in 2018. Laikipia County, for instance, received more payments from large ranches, which is why the maximum amount levied and the mean are both significantly higher than in other counties.

Figure 5 Payments, penalties and amnesties by property tax type 2018

Land rates[14]	Mean	Minimum	Maximum
Laikipia	28,240	100	900,000
Machakos	14,882	880	200,000
Plot rents	**Mean**	**Minimum**	**Maximum**
Kiambu	2,938	700	12,000
Laikipia	750	700	800
Machakos	2,025	700	5,500
Penalties and interest	**Mean**	**Minimum**	**Maximum**
Kiambu	15,944	108	132,120
Laikipia	25,450	17,800	34,000
Machakos	10,000	10,000	10,000
Amnesties	**Mean**	**Minimum**	**Maximum**
Kiambu	16,114	1,600	70,000
Laikipia	24,640	200	75,000
Machakos	745	200	1,800

Source: Property Survey, 2018

3.3 Fluctuations in property tax collection

Across all three counties, property tax revenue has been in the range of 9 per cent to 17.4 per cent of total own-source revenue. Kiambu County, despite raising more own-source revenue than both Laikipia and Machakos, still had a very low percentage of property tax revenue to total own-source revenue. As shown in Figure 6, however, all case study counties have experienced major instability in property tax collection rates, with property tax revenue fluctuating by as much as 30 per cent. Laikipia County showed the largest fluctuation, with property tax revenue declining from KSh84 million (US$832,000) to KSh45.3 million (US$450,000), a 46.1 per cent reduction, between financial years 2015/16 and 2017/18.

The primary cause of this fluctuation in property tax revenue is the regular use of tax amnesties by county governments, through which counties give taxpayers a limited time window to clear their debts at a significantly reduced rate. These amnesties are also commonly referred to as ‘tax waivers.’ Amnesties are typically used to attract a one-time boost in own-source revenue, and are often given during the political season. Although amnesties result in a boost to own-source revenue, there is widespread concern that their prevalent use discourages taxpayer compliance outside of the amnesty period.

Amnesties generally have a short-term revenue-generating effect; however, they also introduce a high risk that repeated amnesties will raise expectations regarding their regular use, and thus negatively affect voluntary compliance outside of the amnesty period. A total of 37 per cent of taxpayers surveyed had received a tax amnesty at some point. Some counties have experimented with incentives to encourage a culture of regular property taxpaying. Machakos County’s *Finance Act 2014,* for instance, permits a 2 per cent discount on property tax bills paid before the deadline. Despite this provision, researchers were informed that none of the compliant taxpayers have yet enjoyed this discount.

[14] Note: Land rate data for Kiambu County was not available

Figure 6 County-level analysis of property tax revenue (KSh millions)

County	Revenue	FY 2014/15	FY 2015/16	Change from previous year	FY 2016/17	Change from previous year	FY 2017/18	Change from previous year
Kiambu	Property tax revenue (land rates)	189.3	233.2	+23.2%	235.4	+0.9%	181.0	-23.1%
	Total own-source revenue	2,110.9	2,468.3	+16.9%	2,097.0	-15.0%	1,688.0	-19.5%
	% Property tax/own-source revenue	9.0%	9.4%	-	11.2%	-	10.7%	-
Laikipia	Property tax revenue (land rates)	59.9	84.0	+40.2%	65	-22.4%	45.3	-30.5%
	Total own-source revenue	347.1	483.5	+39.3%	469	-3.0%	608.5	+29.8%
	% Property tax/own-source revenue	17.3%	17.4%	-	13.9%	-	7.4%	-
Machakos	Property tax revenue (land rates)	183.8	176.9	-3.8%	160	-9.7%	188.2	+17.8%
	Total own-source revenue	1,356.6	1,121.7	-17.3	1,259	+12.3	1,083.1	-14.0
	% Property tax/own-source revenue	13.5%	15.8%	-	12.7%	-	17.4%	-

Source: compiled by authors from the Kiambu, Machakos and Laikipia County revenue records

In Machakos, land rate collection has not been stable. Land rates are payable once per year, but have been affected by amnesties. Researchers observed that, overall, revenue from land rates was larger in years when an amnesty had been given. Amnesties were typically provided for a period of 30 days, usually in September. Amnesties were also sometimes given during the political season. Land-based revenue collection in Machakos for the past five financial years is presented in Figure 7.

Figure 7 Land-based revenue collection in Machakos (KSh millions)

Revenue stream	FY 2013/14	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Land rates and debt clearance	177.8	183.8	176.9	159.8	188.2
Plot/stall rent	64.9	19.7	17.4	12.9	10
Total own source revenue	1,382.3	1,356.6	1,121.7	1,259.3	1,083.1
% contribution of property tax to own-source revenue	**18%**	**15%**	**16%**	**14%**	**18%**

Source: compiled by authors from the Machakos County revenue records

The trend in Laikipia appears similar to that observed in Machakos. Revenue collection in Laikipia West Sub-County, for instance, was also impacted by amnesties, with overall collection increasing in the years that amnesties were given.[15] At the same time, researchers observed a general decline in collections from the sub-county, as shown in Figure 8.

In Laikipia County, amnesties of penalties and interest were given in September 2016 and also between January and March 2017. The first amnesty led to a tremendous increase in revenue. The subsequent amnesty also produced an increase in revenue, but with a lesser margin compared to the first. Researchers noted that land rate payments are typically made close to the deadline, which is in March of each year, to avoid penalties and interest. Payment of plot rent, on the other hand, is not as consistent, since there is no penalty on late payments. Researchers observed that some taxpayers only paid land rent to the national government when they wished to transfer ownership or when they needed some official approval from the sub-county office. In such cases, taxpayers often had huge arrears and penalties due to delays.

[15] Comparable data for all of Laikipia County were not available.

Figure 8 Land-based revenue collection in Laikipia-West Sub-County (KSh millions)

Revenue item – Laikipia-West	2015-16	2016-17	Growth rate (%)
Land rate	16.3	10	-38.5
Land rate penalties	3	2.4	-18
Land rate arrears	15.8	8.8	-44.2
Ground rent	8.5	8.4	-1.1
Ground rent arrears	1.3	1.7	+30.2
Total	**44.8**	**31.3**	**-30.1**

Source: compiled by authors from the Laikipia-West Sub-County revenue records

3.4 Citizen knowledge and staff capacity

The results of the taxpayer survey show that knowledge regarding property taxation is relatively high in all of the case study counties. Of all forms of property tax knowledge, taxpayers seem to know the most about rates charged at the local level. However, 66.7 per cent of respondents were still not able to accurately calculate their actual amount payable. This seemingly high percentage could indicate a lack of capacity in county tax administrations to deliver effective taxpayer education. About half of surveyed taxpayers were fully aware of all the different taxes administered by their relevant county government. Machakos County had the highest taxpayer awareness, with 52.6 per cent of respondents showing they were familiar with all relevant local taxes, followed by Laikipia with 47.5 per cent and Kiambu with 30.9 per cent.

In general, taxpayers seemed to have mixed feeling about property taxes, with only 42 percent of survey respondents indicating that they perceive land rates as fair. However, the majority of respondents strongly agreed that they would be willing to pay land rates promptly if the county governments provided more public services. This result is in line with the fact that most taxpayers indicated that their county has weak accountability systems to monitor the use of collected tax resources. Of all taxpayers surveyed, 69 per cent agreed that their county already has sufficient tools to collect property taxes.

Adequate staffing is an important requirement for effective property tax administration, and both over-staffing and under-staffing should be avoided. Researchers observed a general problem in all three counties of a higher proportion of staff carrying out administrative duties rather than core operational functions. The result of this staff allocation was a generally low capacity to carry out core property tax functions like valuation, collections, and enforcement. Among revenue collectors, in general staff are rotated out to field officers where they approach taxpayers regarding payment on a three- to six-month basis. Most KII respondents indicated that this system of staff rotation has led to improvements in revenue collection. However, researchers also found that there were no scheduled trainings for revenue officers working on property taxation, except for the senior revenue officer who periodically attended trainings. In general, researchers found that lower level employees were demotivated, were trained on the job, and consequently had limited knowledge about property tax administration.

3.5 Automation infrastructure

Machakos and Laikipia both use a Local Authorities Integrated Financial Operations Management System (LAIFOMS) for billing and for generating some reports. LAIFOMS was also the system used by the previous local authorities for the same purpose. LAIFOMS operate on a local area network, and is therefore unable to support more modern technologies such as electronic payments. As such, these counties (and the majority of counties in Kenya) employ multiple revenue systems that run in parallel, leading to many inconsistencies across systems and inaccurate reports due to manual entry by staff during reconciliation (CEG 2018). Rating officers still rely on manual registers that are maintained at the county land office. In the sub-counties, all processes are primarily manual, even for billing and reporting. A system called BCX was adopted by Machakos County at the beginning of devolution in 2014, but was subsequently abandoned because of system downtime, and because its use did not noticeably improve revenue collection. Payments can be made via *Mpesa* or through the bank; in all three counties cash payments are not accepted. All three counties are currently in on-going discussions to consider the development of new systems to automate the process of revenue collection and reporting.

Kiambu County is the only studied county that is currently fully automated. Kiambu uses a system called *County Pro* for billing, reconciliation and reporting of revenue. Tax officials update the *County Pro* system with taxpayer information and relevant rates, and it generates invoices and reports. Making a payment updates the system automatically. Payments can be made via *Mpesa* or through the bank—cash payments are not accepted. Through the implementation of this automated system, Kiambu County recorded an improvement in revenue collection from KSh800 million (US$8 million) in 2013 to KSh2.5 billion (US$250 million) in 2016. The automated *County Pro* system played an important role in this improvement by reducing leakage through digitization and through its cashless payment options. Kiambu County is also in the process of establishing a mobile phone supplementary service data (SSD) code through which rate payers will be able to check the rates payable.

Despite the successes recorded in Kiambu, most counties have found that the costs associated with automation—particularly on-going maintenance costs—are simply untenable. Standard contractual arrangements with most information and communication technology (ICT) service providers have led a number of counties to incur huge expenses with minimum noticeable changes in reducing leakage, increasing revenue, and improving reporting and accountability. Key to this challenge is the lack of requisite capacities within counties to effectively manage procurement and implementation of the automation process. A lack of clear guidelines from the national agencies has left the counties vulnerable to unscrupulous peddlers of underdeveloped and ineffective revenue management automation systems. As a case in point, Machakos County was forced to discontinue its procured automation system (BCX) when it did not lead to any changes in revenue collection.

In all three counties, key informants reported that developing appropriate automated systems is extremely costly, and is usually outsourced to external firms. Challenges associated with automation are exacerbated by the fact that coordination and information sharing between counties is very poor. Similar errors and mistakes have been replicated by different counties, especially in the procurement and implementation phases of automating revenue systems. This lack of internal capacity implies that even in cases where the ICT service provider has the requisite capacity to develop an effective system, the lack of effective oversight in the implementation phase can lead to dysfunctional systems.

Many interviewees further noted that the Integrated Financial Management Information System (IFMIS) that is used as the main financial and reporting system at the national level lacks a revenue module. A revenue module would improve the accounting and reporting of revenue collected which is a major challenge for the counties. The IFMIS department under the national treasury could, for example, fast track the development a revenue module to help address the counties current challenges; to date, however, this development has not been initiated.

3.6 Perceptions of KRA involvement in property tax administration

Most respondents to the taxpayer survey believed that the involvement of KRA in own-source revenue collection would improve processes. More than 60 per cent of respondents replied in the affirmative that KRA involvement in property tax administration would increase the amount of own-source revenue leveraged each year. In general, citizens perceive KRA and the national government to be more accountable than county-level governments, and their involvement in property taxation would therefore help make the system as a whole more accountable. Popular perceptions regarding this accountability gap were largely supported by the KIIs. Most interviewed county administrators agreed that major gaps exist in accountability frameworks at the county level, and 100 per cent of tax official respondents indicated that current accounting practices are insufficient. Despite such positive perceptions about the potential role of KRA in property tax administration, more than 90 per cent of taxpayer respondents in Kiambu and Laikipia Counties indicated they were unaware of the MOUs between their county governments and the national revenue agency. Such poor levels of awareness about the MOUs reflects the limited scope that public consultation and participation played in development of the MOUs.

Surveyed taxpayers also expressed enthusiasm regarding the role that KRA could play in helping to automate property tax administration. For instance, 46 per cent of surveyed taxpayers agreed that their counties should work with KRA to adapt the existing iTax system to enhance property tax collection and compliance. Among tax official key informants, however, there was less enthusiasm for the idea of collaborating with KRA. The fact that the central agency would charge a fee of at least 2 per cent of all revenue collected was considered a major disincentive to collaboration. In addition, tax officials noted that while KRA’s established systems may work well for administering building permits and licenses, they are not currently well developed for property taxation. Most county-level tax officials acknowledged that collaboration with KRA would help to strengthen county capacity, but emphasized that such collaboration would need to be accompanied by a systematic landscape review of what capacities exist, and a needs assessment to identify specific areas where KRA assistance would be most impactful.

As part of the *Public Finance Management Act 2012* county governments were empowered by law to be able to appoint KRA as their collection agent for county revenues. While some county tax administrators expressed support for this idea, many others felt that there is significant room for improvement with regards to collaboration with KRA and the MoL. None of the study counties have committees with the specific mandate to develop strategic partnerships and MOUs for inter-governmental tax collaboration. However, the revenue units overseen by the CEC member for finance have generally been perceived to play this role in an ad hoc manner across all three counties.

3.7 Centre-local government cooperation on property tax administration

Cooperation and information exchange, both vertically (between national and county governments) and horizontally (between county governments), are important to improving property tax administration and promoting compliance. Best practice calls for the use of a single taxpayer identification number to exchange compliance information between agencies to the greatest extent as permitted by law. However, tax administrators who were interviewed during this study indicated that the counties do not currently have the necessary information and records to properly implement property taxes. Tax administrators noted that current cadastre data does not contain descriptions of land parcels, define boundaries, provide zoning information, include accurate ownership data, or contain up-to-date valuations. As a result of these informational shortcomings, many interviewed tax officials suggested that support from KRA could allow them to invest in gathering and managing the requisite data.

3.7.1 Sharing valuation data and information

Valuation rolls are prepared and amended by county governments on new or existing rateable properties. Only Kiambu County, out of the three case studies, has successfully advanced the valuation process. To do so, Kiambu County procured valuation services from the national government when updating its valuation roll. MoL technical officials thus stepped in to backstop the procurement of private valuation experts and to oversee the process in general, as the capacity of the county land office was low.[16] Despite this support from the national level, several KII respondents estimated that the process only captured roughly 40 per cent of the total rateable properties in the county. During the study period, Kiambu County was in the process of making the new valuation roll official through legislation.

3.7.2 Memoranda of Understanding

In 2017, Laikipia and Kiambu both signed MOUs with KRA to collect specific revenue streams on behalf of the county governments. Signing the MOUs was motivated by the fact that KRA is generally perceived to have the required professional skills, personnel and technical resources to undertake revenue collection for the county governments. For both counties, the revenue streams to be collected by KRA included land rates and SBPs. The county governments were responsible for determining the collectable revenue, and KRA was responsible for delivering bills and collecting payments. As part of the agreements, KRA was also responsible for training county revenue unit staff on the features and operation of the iTax revenue collection system. The county governments and KRA were to operate a joint enforcement team. A property tax module was to be developed for the iTax platform, and integrated with the 37 banks that KRA works with to ensure that revenue is collected in a transparent and accountable manner (Wainaina 2017). Despite these seemingly beneficial agreements, neither MOU has been implemented and no property tax revenue has been collected by KRA on behalf of the counties.

In both counties, the MOUs have been challenged in court on the basis that they did not involve sufficient public participation. Some county residents felt that they would lose control of part of their own-source revenue, and thus rejected the MOUs. These court challenges have likely resulted in delays to implementation of the MOUs. In Laikipia, the existence of the revenue board, which has also been tasked with the collection of property tax revenue, may have resulted in conflicts of interest within the revenue unit that blocked implementation of the MOU.

Machakos County has not signed an MOU with KRA, but during the study period discussions on the matter were on-going in the county administration. Interviewed tax officials stated that although an internal revenue collector would be preferred, a number of persistent issues

[16] Nation-wide, there are very few surveyors, valuers and other experts in land matters. The effects of this limited technical capacity are felt most by the county governments.

remain for even relatively simpler revenue collection processes, such as for parking fees. Many Machakos tax officials expressed suspicion that their revenue would be taken away from them if they contracted with KRA, and although collaboration might increase collection rates they were still hesitant to support such a strategy. During the KIIs, researchers also observed that property owners were not included in discussions regarding a potential MOU with KRA, as well as lower level revenue unit staff. Machakos County thus appeared to be falling into similar mistakes as the other two counties regarding the lack of stakeholder buy-in that ultimately hindered implementation of the MOUs in Kiambu and Laikipia.

3.7.3 Property tax legislation, data management and reporting

Data on sub-national revenue collection has not been properly consolidated and reported since at least 2015/16 in all three counties. At the time of this study, the OCOB had budget implementation reports up to financial year 2015/16, including a detailed and comprehensive component on county revenue performance by different revenue sources. However, the equivalent 2016/17 and 2017/18 reports provided only global figures. At the time of this study, the Kenya National Bureau of Statistics (KNBS) had also not yet fully reported on sub-national revenues (they only had published reports on national collections at the county level, e.g. land rents). Officially, it is the CRA that has a mandate to facilitate revenue data sharing. At the time of this study, CRA had implemented some programmes to support counties in improving forecasting and revenue collection reporting. However, CRA has not been a reliable source of comprehensive reporting on county tax collection performance. The lack of available detailed and comprehensive information on county own-source revenue contributes to the general lack of clear trend analysis. The lack of data and analysis is a major challenge in the development of policy and for effective management decision making.

KII participants identified multiple possible ways that national and county governments could work together to improve property tax administration. For instance, more effective reporting and data sharing would help with tax administration at both levels of government. Appropriate legislation, such as county rating and valuation acts, was also identified as an important area for potential collaboration. County governments often have limited experience and capacity in developing new legislation, and the national government could thus play a crucial role in supporting this process. For instance, the national government has provided many draft laws for adoption by the counties, but most counties have not yet adopted them. According to KII respondents, the national government could also play a key leadership role in developing appropriate digital systems for the payment of property taxes and simplified accounting of revenues collected. A number of respondents indicated that the IFMIS system, which is currently used for procurement and tracking payments to suppliers, could be enhanced to also provide a platform for revenue collection by the counties. If the national government were to spearhead this effort, it would prevent the current duplication of effort in which each county is trying to develop its own system for revenue collection.

4 Policy implications and recommendations

From the preceding analysis, major areas were identified for potential collaboration between the national and county governments in property tax administration. These areas include data sharing and management, capacity building, automation, enforcement, property tax legislation, and the identification and registration of properties and property owners. Collaboration between the national and county governments presents great opportunities for the counties to exploit to increase their efficiency and effectiveness in property tax administration. These opportunities are discussed further in the paragraphs that follow.

4.1 Share an integrated and automated property database

Unlike the national government, counties have no integrated system for managing property ownership. While counties will continue to leverage the necessary information from existing systems, both national and county government should work to design and institutionalize the use of a standard property database that is easily accessible to both of them. The database currently maintained by the national government is comprehensive and captures all documented property owners. County governments, however, rarely have access to this database and must rely on their own incomplete, outdated and manual databases. Ideally, the harmonization of property tax databases will help to promote efficiency, effectiveness, accountability and predictability in property tax administration.

Among issues raised by the KII respondents was the fact that data on land transactions processed at the national level is rarely made available to the counties. Counties thus do not have access to updated information on new land owners, land divisions, or any other changes that have been reported at the national level but not the local level. One informant noted that the defunct Nairobi City Council (NCC) had a loose arrangement with the MoL whereby the NCC would be furnished with information on all the changes to land ownership and land divisions at the national level. This collaboration between the NCC lands office and the MoL was based on an MOU that was largely an operational arrangement as opposed to formal policy or legislation.

There is an urgent need to establish some form of information sharing collaboration between the national and county governments in the area of property ownership and divisions. If such a collaboration is not possible, then all land administrative functions should be devolved to the county level. Devolving the assessment, billing and collection processes related to land transaction taxes that are currently carried out by the national government would ensure that the counties have the required information to implement a more efficient and effective property tax system. If done responsibly, this devolution of functions could also enhance the capacity of the county land offices. The personnel devolved to county offices, for instance, could serve both levels of government and encourage informal coordination.

Both the national and county governments should ensure that property tax data is accompanied by maps for all land parcels and associated title numbers. Counties should ensure that they have updated information on all property owners in their jurisdiction. Such data on property owners should be reconciled with the provisions of Section 5(2) (d) of the *National Lands Commission Act* that requires the NLC to develop and maintain an effective land information management system at the national and county levels. Counties should deploy technologies of mass assessment to update their valuation rolls, which are central to the administration of property taxes.

4.2 Build capacity and provide technical support

The national MoL has the relevant technical capacity to support counties with valuation, surveys and digital mapping, amongst other practices. The constitutional provision that the two levels of government operate distinctly and with mutual respect has been associated with a less top-down approach from the national government. Yet due to the low capacity of personnel at the county level and the lack of access to information, this lack of top-down direction has made systems less effective and efficient. The county governments have also not taken full advantage of the information and capacity that is currently made available from the national level. At the same time, the various national government ministries and agencies have not been proactive in collaborating with the counties and in building county government capacity. National ministries, departments and agencies should seek to better communicate and to share key information with relevant counties. In particular, most counties have less than five technical personnel in their land offices (including surveyors, valuers, physical planners, and others). There is currently a great deal of expertise in the Capacity Building Department of the State Department for Devolution in the MoDP that could be more effectively used to improve property tax administration at the county level. Many technical officers in this department previously worked to build capacity in the defunct local administrations, and they should support the counties in a similar manner.

County governments, with support from KRA, should invest in structured capacity development programmes for revenue (including property tax) collectors and their supervisors. These structured programmes should indicate a minimum level for qualification, and should enforce penalties in the event of corruption. Counties should also invest in effective revenue collection operations, including field transport, logistics and security, and ensure the cost effectiveness of deploying revenue collectors and supervisors.

4.3 Update valuation rolls

Updating valuation rolls is an expensive process that requires the commitment of significant human and material resources. Engaging the ministries in charge of land and devolution to play a technical support role could help reduce costs for the counties and ensure that the process produces the expected results. The researchers note that the State Department for Devolution has a large reservoir of digital maps of the former 18 municipalities that could, in theory, be updated for use by the counties. The creation of updated valuation rolls at the county level should become a priority of the ministries in charge of land and devolution, as such valuation rolls are the foundation of an effective property tax system. Making the creation of valuation rolls a priority would entail providing the necessary support from technical personnel, as well as assisting with the development and implementation of relevant policy and legislation. In the long-term, counties should seek to develop their own comprehensive registers containing all land parcels.

4.4 Prioritize comprehensive and integrated automation

Kenya is widely recognized as one of the most advanced countries in Africa when it comes to ICT integration in service delivery. Various government agencies are quickly embracing technology for their business processes, dissemination of information, enhancement of service delivery and to reach their customers more effectively and efficiently. KRA has been particularly successful in automating its processes with adoption of the iTax system. It is in this context that most counties were aggressive in attempting to automate various components of their revenue system. In most cases, the collection component has been the main focus with the introduction of point of sale (POS) gadgets to remove cash from the system and in turn to reduce leakage. However, most automation efforts have been piecemeal. Without clear links to accounting and reporting systems, piecemeal automation has either had little effect on revenue collection targets, and at worst has in some cases even led to a reduction in revenue collected.

The deployment of automated systems faces many challenges in Kenya, including inadequate infrastructure and high costs, lack of skills, insufficient financing, and IT security problems. Kiambu County, which had the best results in its automation initiative, successfully automated its structured revenue streams (land rates and SBPs) using a system known as *County Pro*. In addition, the introduction of payment processes that ensure less human contact, with payments made directly into bank accounts or through mobile transfers, have resulted in a reduction in leakage. All counties should make efforts to learn from each other's successes and failures, and prioritize the comprehensive and integrated automation of their revenue collection systems.

4.5 Link county property taxation to service delivery

County governments should re-evaluate their property tax revenue generation potential, transparently cost the services to be offered and their expected standards, and design effective mechanisms to more clearly link property tax revenue to service delivery and value for money. County governments should also adopt optimal practices for creating effective partnerships with citizens, taxpayers and other stakeholders to improve service delivery and socio-economic wellbeing in communities. As an example, county governments should liaise with communities to design service delivery monitoring frameworks with pertinent indicators covering major functions—the provision of amenities such as water and sanitation, lighting, health, education, infrastructure, improving road networks, and addressing youth employment—which can form the basis for setting property tax targets while providing adequate social accountability mechanisms.

The ministries and agencies that should spearhead coordination efforts—MoL, State Department for Devolution and NLC—should provide counties with the requisite technical support to connect property taxes more explicitly to service delivery. The national treasury and KRA should, in turn, support the counties in the development of policy and legislative frameworks and assist with capacity building activities.

4.6 Entrench a tax ethos and tax culture

Tax payer education programmes and the continuous training of county government staff are critical to the further development of an effective property tax system. Whereas most taxpayers in Kenya view their tax burden as unfairly high, the national and county governments can collaborate to help deepen tax education and strengthen structures that promote transparency and accountability in the use of public finances. Tax officials should strive to see taxpayers as partners in the operation of the tax regime. The rights of taxpayers, such as the right to privacy, should be strictly observed by tax officials to maintain the legitimacy and credibility of the system.

5 Conclusions

In all countries, property tax administration is a complex process requiring collaboration between different agencies and levels of government. In Kenya, the relatively recent devolution of power to the county level provides a unique opportunity to examine some of the challenges and opportunities associated with property tax administration in the sub-Saharan context. A well-established body of literature points to the ambiguous, and often hostile, attitude of central governments to the fiscal autonomy of local-level governments. Despite this tension, some degree of collaboration between central and local governments is necessary to effectively and efficiently levy a tax on property values. Grounded in this literature, this study took a descriptive and exploratory approach to understand the practical tensions and opportunities in the practice of property tax administration in Kenya. Based on case studies of three counties—Kiambu, Laikipia and Machakos—we highlight a number of important findings. First, major weaknesses in property tax administration were uncovered in all three counties. Particularly in the areas of data sharing and management, cooperation between levels of government is very limited. Counties do not have access to national-level property registers, and their own registers are kept manually and are many years out-of-date. Counties in this study have also faced significant challenges with automation, and limited coordination between counties has led to unnecessarily repeated mistakes. In counties that have implemented some form of automation, systems have generally only been focused on POS technology solutions. Without a cohesive and integrated approach, the implementation of such technological solutions has, in general, not had the desired effect. Key stakeholder interviews with tax officials in the three case study counties identified a number of potential areas for future collaboration, most especially in the areas of capacity building and technical support to update valuation rolls, information and technology sharing, and more clearly linking property tax payments to service delivery in order to build a stronger taxpaying culture at the county level in Kenya. The findings and case material in this study will be useful both to tax researchers and to policymakers. Specifically, this study helps to fill a gap in the literature regarding implementation challenges at a practical level. Policymakers at both the national and county levels have a great deal to gain from strengthening property tax administration systems, but doing so will require greater transparency and a more pronounced willingness to collaborate than currently exists.

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