



Working Paper 90

# Property Tax in African Secondary Cities: Insights from the Cases of Kisumu (Kenya) and M'Bour (Senegal)

Liza Rose Cirolia and James Christopher Mizes

January 2019

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Report Produced for the African Property Tax Initiative (APTII)

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# **Property Tax in African Secondary Cities: Insights from the Cases of Kisumu (Kenya) and M'Bour (Senegal)**

Liza Rose Cirolia and James Christopher Mizes

## **Summary**

This working paper adopts an urban lens on property tax. It focuses specifically on how property tax operates in two African secondary cities, Kisumu (Kenya) and M'Bour (Senegal). The paper identifies three factors shaping the low levels of property tax collection in the two case cities. These are the misalignment between the spatial scale of property tax collection and the utilisation of funds; constrained resources and capacity for collection; and tax administrators' own perceptions of the legitimacy of property taxation. These factors have tangible effects on the everyday workings of property taxation. The cases also demonstrate that tax administrators make sustained efforts to improve taxation. While the same types of challenges are evident in the cities of Kisumu and M'Bour, how administrators respond reflects the unique and particular context of each place and the perspective of the administrators who work there. This finding confirms that local tax administrators are not simply the recipients of tax policy, but are active agents in shaping how policies operate in practice. Overall, improving property taxation requires interventions to address alignment, capacity, and legitimacy. However, rather than attempting top-down reform, this research suggests that building on the perceptions and practices of tax administrators will offer a more effective pathway to incrementally improving property tax in Africa's smaller urban centres.

**Keywords:** African cities; urban governance; property taxation; secondary cities.

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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/](http://www.ictd.ac/network/apti/)

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# Acronyms

KES	Kenyan Shilling
SOE	State-owned enterprise
USD	United States Dollar
XOF	CFA Franc, used in Senegal

# Introduction: Africa's urban revolution

There is significant policy and scholarly interest in Africa's urbanisation (Parnell and Pieterse 2014). Over the past three decades, the rapid growth of urban areas has been coupled with the decentralisation of responsibilities to urban governments (Brosio 2000; Ribot 2002; Olowu 2004; Kauzya 2007). Decentralisation and urbanisation place increasing pressures on city authorities, large and small, expanding the scope and scale of their responsibilities (Farvacque-Vitkovic, Glasser, Mehta, Raghunath, Kilroy, Federico Barra and Salooja 2008; Briceño-Garmendia and Foster 2010). Despite this, cities and urban local governments have been poorly supported. Decentralisation and urbanisation remain deeply contested, with higher levels of government remaining ambiguous – if not hostile – to building urban autonomy and investing in urban areas (Bekker and Therborn 2012; McCluskey and Franzen 2013).

This report departs from the argument that African cities, despite their many and mounting challenges, are fertile ground for creative experimentation in finances and governance. From service provision models to financial payment methods, African cities are important sites for innovation and reform (Pieterse 2008, 2011; Simone 2011). The effective and creative use of fiscal tools and resources is key to ensuring that African urbanisation leads to more sustainable, just, and responsive cities and city governments (Paulais 2012; Berrisford, Cirolia and Palmer 2018). The limited resources and fiscal powers available to African urban authorities to grapple with the mounting challenges associated with urbanisation has had tangible urban effects, resulting in fragmented service delivery and uneven city development (Brosio 2000; Bardhan 2002; Ribot 2002; Bahl and Bird 2000). A stronger conversation between fiscal questions and urban development in Africa is imperative (McCluskey and Franzen 2013; Fjeldstad, Ali and Goodfellow 2017).

Notwithstanding major differences between Anglophone, Lusophone, and Francophone African countries, most African cities rely on property tax as a key source of revenue generation (Franzen and McCluskey 2017). However, there is widespread acknowledgement that property tax is not leading to the so called 'virtuous cycle' of urban investment and local government empowerment (Bahl and Bird 2000; Bahl, Martinez-Vazquez and Youngman 2008; Collier 2016).

This working paper focuses on property taxation in African secondary cities. Much of the country level research on property tax in Africa glosses over the unique challenges faced by secondary cities, aggregating national data and focussing on capital cities. Few policy accounts respond to the high levels of urban differentiation evident in Africa and the unique needs of secondary cities. Importantly, secondary cities are fundamentally urban, performing vital – even if seldom recognised – roles in the urban systems of countries and regions (Roberts 2014). They are home to more of Africa's population than their primate counterparts (Satterthwaite 2007). In comparison to capital cities, secondary cities tend to have lower levels of fiscal autonomy, weaker private sector investment, and lower levels of revenue collection (Rondinelli 1983; UN-Habitat 1991; Roberts 2014). This reality limits the potential of secondary cities to serve their urban citizenry.

Owing to the important role which secondary cities play in Africa's urbanisation trajectory, there is clearly a need for improved fiscal and institutional arrangements for Africa's smaller urban centres. To contribute to this important area of work, this working paper explores property taxation in two secondary cities in Africa: Kisumu (Kenya) and M'Bour (Senegal). The method used is a multi-case approach, selectively using comparison between the two

contexts where it is useful (Yin 2013).<sup>1</sup> Importantly, the work is explicitly interested in the interface between property tax and city building. At the same time, it is explicitly mixed method, drawing insights drawn from qualitative, ethnographic, and grounded research methods. The cases address the following questions: how do Kisumu city and M’Bour city fit into the fiscal architecture of their respective countries? How do property tax systems work in each of the urban agglomerations? And what conceptual and policy insights can be drawn from these very different cases?

The contribution of this research is twofold. First, these cases contribute to the large knowledge gap on Africa’s smaller urban centres, providing case material on relatively understudied places and issues. Currently, there is no publicly available information on M’Bour city’s urban property taxation or fiscal condition. For Kisumu city, some data exists, but it is largely out of date. Second, with an eye to reform, these cases contribute to efforts to improve the property tax and fiscal sustainability of the continent.

# 1 Cities in context

Our research is grounded in two African secondary cities, Kisumu (Kenya) and M’Bour (Senegal). In both cases, the focus is on the urban areas – what might be termed ‘the city’. Kisumu city and M’Bour city are explained in their national context below.

Figure 1 provides useful information for understanding the basic characteristics of these secondary cities. It shows that Kisumu and M’Bour are both good examples of secondary cities, both in terms of size and in proportion to their capital cities. However, it also shows that the two cities are very different types of secondary cities, M’Bour being a metropolitan satellite area and Kisumu being a regional hub. The table also indicates that Kisumu has a formal city status. In contrast, M’Bour has no city status.

**Figure 1 Basic characteristics of Kisumu city and M’Bour city**

Characteristics	Kisumu city	M’Bour city
Population	500,000 <sup>2</sup>	256,129 <sup>3</sup>
Capital city size (metro)	4,000,000 (Nairobi)	2,500,000 (Dakar)
Type of secondary city	Regional capital city	Satellite city of Dakar
Economic base	Agriculture and trade	Tourism and fishing
Urban classification	City status (Urban Areas and Cities Act)	None

<sup>1</sup> The method includes analysis of financial data, legislation, and interviews (see the appendix for more details on the method). Interviews were conducted in Kisumu throughout 2017 and in M’Bour in late 2017 and early 2018. In both cases, the researchers have a considerably longer engagement at county level in both Kenya and Senegal, which was drawn into the contextual and policy analysis.

<sup>2</sup> Total population is calculated using the Census 2009 figure of 398,000 persons. This number has been adjusted, assuming a 2.8 per cent urban growth rate, compounded over eight years (Wagah, Onyango and Kibwage 2010).

<sup>3</sup> Total population is calculated using data from L’Agence Nationale de la Statistique et de la Démographie for the year 2015. <http://senegal.opendataforafrica.org/SNVS2015/vital-statistics-of-senegal-2015?region=1006240-departement-mbour>. Total population presented here is a sum of the communes within M’Bour city for which data is available: M’Bour: 235,170. Ngaparou: 8,442. Saly Portudal: 9,887. Somone: 2,630.



## 1.1 Kisumu



Kisumu city forms part of a Western cluster of towns on the edge of Lake Victoria. Kenya's urban system is dominated by Nairobi and Mombasa (World Bank and The Republic of Kenya 2016). Nairobi is home to over four million people and is the apex of economic activity in the country; Mombasa is quite a bit smaller, but, like Nairobi, the city has the special designation of being a city-county.

Below Nairobi and Mombasa there is a grouping of towns which are Kenya's secondary cities. Kisumu is one of the largest in this cluster. Kisumu city is home to half a million people and growing at a rate of over 2.8 per cent (Wagah, Onyango and Kibwage 2010). Today Kisumu performs a key role as a regional city, attracting trade and movement from the wider region. After decades of underinvestment, the city is beginning to experience new infrastructure investments and a more dynamic property market.

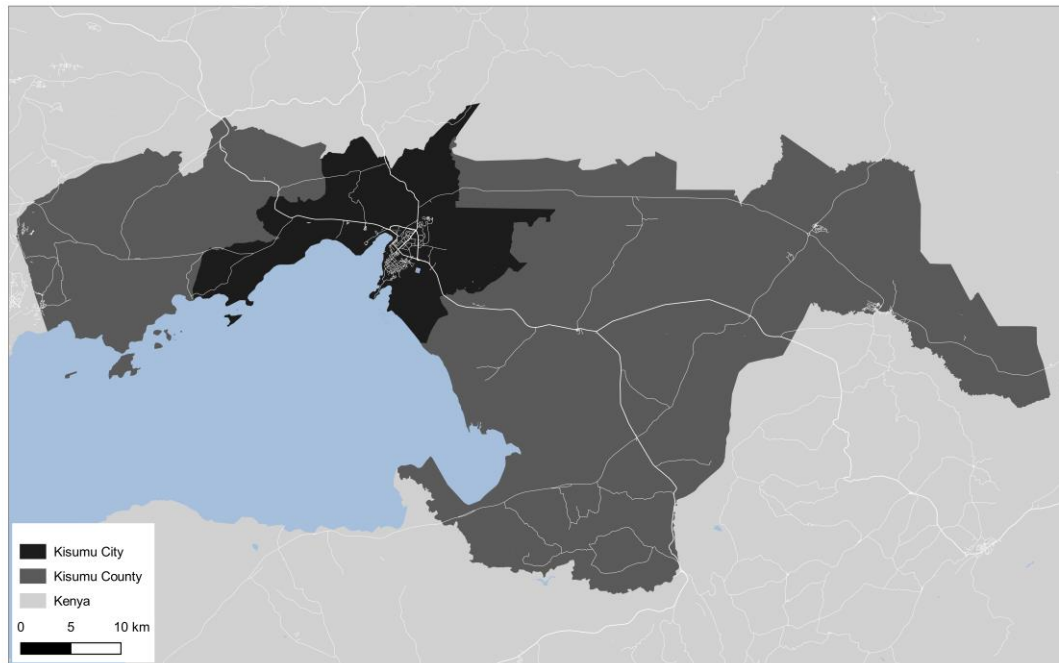
**Figure 2 Kisumu in national context <sup>4</sup>**



Kisumu city falls under the jurisdiction of Kisumu County Government. Within the county, there is a department tasked with the management of the city area. The Department of the City of Kisumu manages the city area. The city area has the same boundaries as the now defunct Municipal Council of Kisumu, which was dissolved following the 2013 decentralisation reforms.

<sup>4</sup> Cartographer: Miriam M. Maina. Maps prepared with data layers acquired from Open Street Map and Global Administrative Database, with additional layers generated in Google Earth. Data layers downloaded in July 2018. This citation applies to all of the maps in this document.

**Figure 3 Kisumu city and Kisumu County**



The spatial structure of Kisumu city includes the well-planned and serviced colonial core of the city, a belt of unplanned communities which surrounds the city, and the extended and rapidly developing peri-urban suburbs. The extended areas of the city were incorporated into the municipal boundaries of the city in 1972 (Syagga 1979).

The majority of economic opportunities, services, and infrastructures are concentrated in the colonial city centre. In recent years, national upgrades to the major highways (A1 and B1), and the development of a bypass road which connects the highways and circumvents the city centre, has pushed development away from the historic core and towards the peri-urban suburbs.

## 1.2 M'Bour



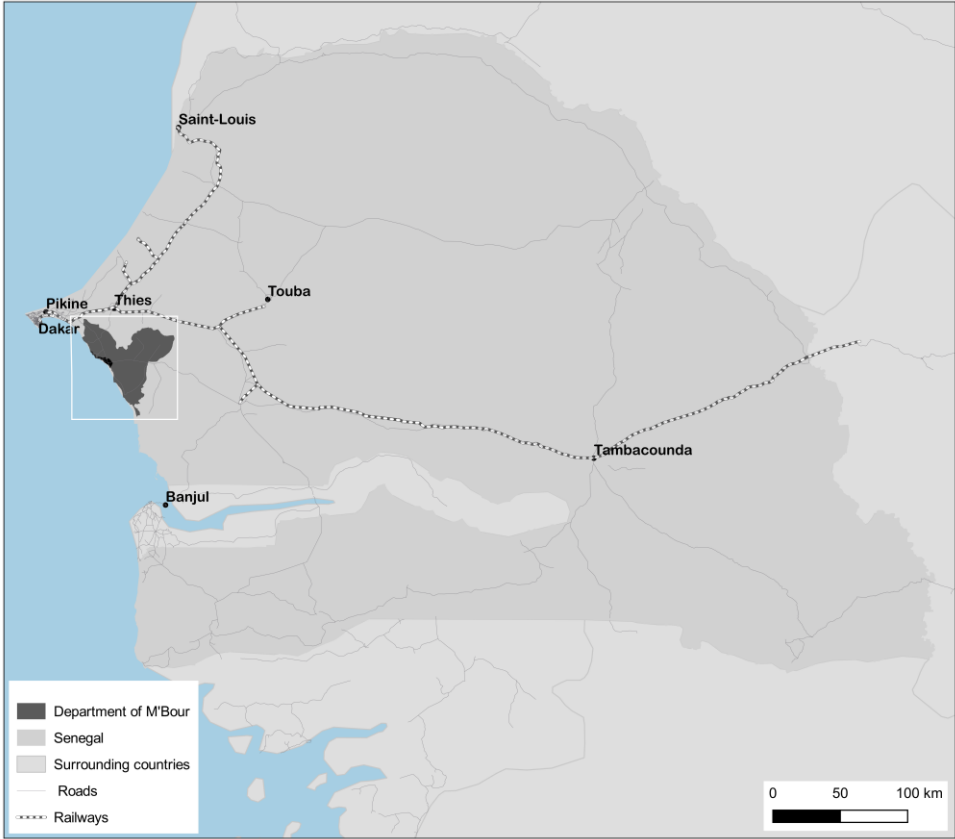
M'Bour city is located 80km south of the capital city of Dakar. M'Bour city is located on *la petite côte* (the little coast), which is bordered to the north by the town of Rufisque and by the Sine-Saloum delta to the south. Today, M'Bour is a focus of policy and investment for the Senegalese state. Two important investments are the new national toll highway which connects M'Bour to surrounding cities and the new international airport halfway between M'Bour and Dakar.<sup>5</sup>

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<sup>5</sup> The new Blaise Diagne International Airport is located midway between M'Bour and Dakar. The relocation of the airport is part of the state's spatial development strategy that aims to connect Senegal's cities via new and large-scale infrastructure projects.



**Figure 4 M’Bour in national context**



M’Bour city is an urban agglomeration of five communes which fall within the Department of M’Bour (which includes 16 communes in total). The five communes in the urban agglomeration include: M’Bour (the commune, not to be confused with the urban area or department), Saly, Malicounda, Ngaparou, and Somone. These communes run along two infrastructural axes: one is the national road that leads towards the new airport, and the other follows the coast northward towards Dakar. Among the five communes in the agglomeration, Saly is the most established centre of tourism: it hosts the largest and most luxurious hotels in the region, which has driven the commune’s expansion of land development. M’Bour (commune), on the other hand, has significantly less resources per capita, but it is also the urban centre of the agglomeration.

**Figure 5 M'Bour city**



## 2 Comparative data on the cities

In both cities, land is a contested and complex issue. Without the widespread use of formal land titles (in Senegal), and with ample confusion within the titling system and property roll (in Kenya), controversies often emerge in over legitimate rights to ownership. Some of these controversies revolve around inheritance and are disputes among siblings over priority of ownership. But in many places, such as M'Bour and Kisumu, disputes also arise due to the sale of land in a growing property market. In Senegal and Kenya, purchasing land is a means of saving money, and it is often local notables, religious leaders, and state authorities that control access to land in peri-urban areas. While many purchase land with the intention of building a residence, in both urban areas a new class of investors has also begun to purchase land for the sole purpose of speculation and land development (Sadio 2009; Casse 2011; Klopp 2000).

However, in Kisumu city and M'Bour city there are established property tax systems.

In Kisumu, there is a long tradition of property taxation (Anyumba 1995). Property tax was one of the first interventions of the British East African Protectorate, intent on developing a system of administration in the small colonial town in the early 1900s. In fact, the first boundaries of the township were demarcated based on tax collection (Home 2012).

In contrast, property tax is new in M'Bour. It has been collected by the commune of M'Bour since its establishment as a local government in 1996. However, property taxes have only recently begun to be collected in the remaining four communes in M'Bour city. These communes were established in 2009 as 'fully empowered communes' which legislated the right to collect property tax.

A review of fiscal documentation in both cities indicates that property tax is an important source of revenue. In Kisumu city, property tax accounts for 22 per cent of the revenue generation of the Department of the City of Kisumu. Parking fees and business permits are the next largest sources, collecting between 80 and 90 million Kenyan Shillings (KES) per year (around US\$ 778,210 to US\$ 875,486).<sup>6</sup> In M'Bour, the contribution of property tax to sub-national revenue varies across the communes. In Saly commune for example, property tax accounts for 23 per cent of the commune's operating revenue; however, it is notably lower for other communes.

In both Kisumu city and M'Bour city, property tax collection is low in absolute terms. In Kisumu city, collections are around US\$3 per person per year and in M'Bour city they are around US\$2.2

**Figure 6 Basic property tax data on Kisumu city and M'Bour city**

<b>Tax information</b>	<b>Kisumu city</b>	<b>M'Bour city</b>
<b>Total annual collection</b>	KES 138,194,757 (US\$ 1.34 million)	XOF <sup>7</sup> 331,200,767 (US\$ 579,833)
<b>Per capita collection</b>	KES 300 (\$2.92)	XOF 1,249 (\$2.19)
<b>Tax basis and rate</b>	Combination of flat rate (KES 1,500) and unimproved site value (1.5%)	Estimated annual rental value (5%)
<b>Legislation for property taxation</b>	Valuation for Rating Act 2015 (266) The Rating Act of 2012 (267)	Code Général des Impôts (loi n° 2012-31 du 31 décembre 2012)

To better understand the patterns of collection in both cities, it is necessary to explore two important things:

- First, it is necessary to understand the fiscal architecture of sub-national urban government and the role which property tax plays within this. 'Fiscal architecture' refers to the institutional structure, rules, and laws which shape property tax collection, and is explored in Section 3 of this report.
- Second, it is important to understand the management and practice of property taxation. Property tax 'management and practice' refers to the operations of property taxation at sub-national level. Within the established fiscal architecture (and at times beyond it), the management and practice of property tax determines how much is actually collected in both cities. This is explored in Section 4 of this report.

<sup>6</sup> Using an exchange rate of US\$ 1 = KES 102.8 ([www.xe.com/currencyconverter/](http://www.xe.com/currencyconverter/) 20 November 2018). This rate is used for all conversions from Kenyan Shillings to US Dollars.

<sup>7</sup> Using an exchange rate of US\$ 1 = XOF 571.2 ([www.xe.com/currencyconverter/](http://www.xe.com/currencyconverter/) 20 November 2018). This rate is used for all conversions from CFA Francs (XOF) to US\$.

# 3 Fiscal architecture of property taxation

National public finance policy provides a framework for property tax collection and revenue utilisation. In both contexts, property taxation must be understood within the longer history of decentralisation reforms.

## 3.1 Kisumu

Kenya has a long history of attempted – and resisted – decentralisation reforms (Widner 1993, Bassett 2016). Kenya became independent in the early 1960s. At decolonisation, Kenya inherited a parallel system of decentralised and de-concentrated urban local government, established under British colonial rule. In the drafting of the post-independence constitution, there was much debate over the merits and practicalities of decentralisation. The concept of *majimbo*, a Swahili term to describe the ideal ‘ethno-regional devolution’, was extensively debated. However, after the temporary establishment of regional administrations in the 1960s, the national state quickly dissolved the decentralised units in favour of strengthening the provincial administration system. During the postcolonial period, Kisumu city was jointly controlled by the Municipal Council of Kisumu and the Nyanza Provincial Administration. It was also a key site of political opposition to the national ruling party (Anyumba 1995).

The 2007 election violence which swept across Kenya ushered in a new wave of decentralisation reforms (Cheeseman 2008). Between 2010 and 2013, decentralisation reforms were implemented in Kenya (Bassett 2016).<sup>8</sup> These reforms created a two-tier system of government: national government and county government. The constitution and supporting policies concentrated political, administrative, and fiscal power with the newly formed county governments. The central government lost many powers and the 175 local authorities were dissolved (Rocaboy, Vaillancourt and Hugounenq 2013; Pal-Ghai 2015). A third tier of local government was not created to replace local municipalities.

In this devolution process, the Municipal Council of Kisumu was dissolved, and Kisumu city was absorbed into the newly formed Kisumu County Government (see Figure 3 for the current boundaries of the city and county). The city came under the management of the Department of the City, a unit within the county (NB: departments within the county are administrative units. They are not to be confused with the departments in Senegal).

Kenya’s constitution allows counties to collect revenues from several sources, including property tax. This is a notable shift from the previous system, wherein property tax was collected by the Municipal Council of Kisumu and utilised within the city area. Currently, property tax is the largest contributor to Kisumu County’s own-source revenue collection. Over 90 per cent of Kisumu County’s property tax revenues comes from collections within Kisumu city, with the majority collected in the city centre and older suburbs.<sup>9</sup>

The Department of the City of Kisumu is responsible for revenue collection from the city area. Landowners pay their ‘rates’ at the Kenya Commercial Bank tellers located in the lobby of the City Hall. These payments are documented by the Department of the City.

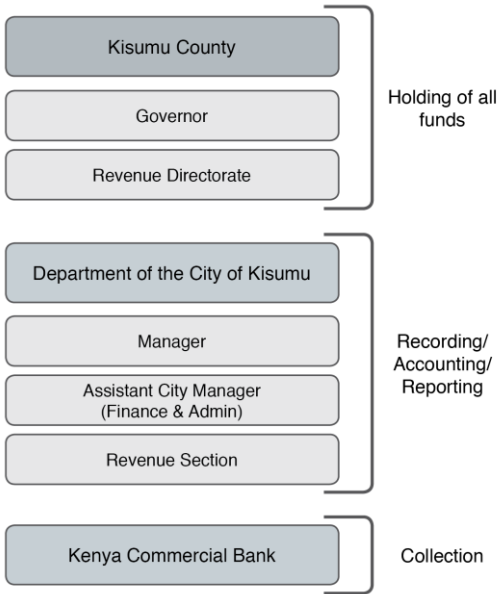
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<sup>8</sup> In Kenya, these reforms are referred to as ‘devolution’. Devolution, as a term, highlights the political nature of the reform process.

<sup>9</sup> This can be seen by comparing the property tax collected in the county as a whole and the property tax collected in the city. The county data can be found in the annual financial statements.



**Figure 7 Kisumu city organigram of property tax revenues<sup>10</sup>**



The revenue collected by the Department of the City flows to the County Revenue Fund and forms part of the total county income (including own-source revenue and grants from national government).<sup>11</sup> Within the fiscal architecture, there is a disjuncture between who collects rates and who spends these monies. While the Department of the City is tasked with collection, the county is responsible for expenditure. Countries are required by law to undertake arduous budgeting processes to allocate all of the money received (from own-source revenue and from grants) across the territory. In this process, the Department of the City of Kisumu is treated like the other departments in the county: it can request that the budget be allocated for development,<sup>12</sup> operating and maintenance, and personnel expenditure.

Notably, the Urban Areas and Cities Act of 2011, developed following the constitution, requires counties to develop city boards to manage smaller urban centres, such as Kisumu city (Bassett 2016). This would allow monies collected in these urban areas to be ringfenced for use within the urban area. As Nairobi and Mombasa are city-counties (meaning that the city stretches the full extent of the county), boards are not imperative.<sup>13</sup> Kisumu (like all of Kenya’s smaller towns), however, is not a city-county; there is a city area within a much larger rural and peri-urban county. Only very recently has a city board been established to manage Kisumu city. As Kisumu is the first smaller city to appoint a board, little procedural precedent has been set. It is unclear if the revenue collected in the city, such as property tax, will still be redistributed across the county, or if the newly established board has managed to negotiate to control this revenue.<sup>14</sup> According to many interviews, the redistribution has, since the establishment of the county, been heavily biased towards rural investment, and not city expenditure.<sup>15</sup>

<sup>10</sup> Interview with Assistant Manager: Finance and Admin (2 May 2017).  
<sup>11</sup> In 2017/18, Kisumu County received 2.17 per cent of the national allocation to the 47 counties, amounting to KES 6,553,400,000 (around US\$ 63,749,027) in unconditional transfers, and several smaller conditional grants. The allocation to Kisumu County is determined annually, legislated in the County Allocation of Revenue Act.  
<sup>12</sup> The ‘development’ category is similar to a capital budget in conventional public finance terminology. However, it includes costs associated with development spending which would generally be excluded from capital. It is thus a fuzzy term, without clear accounting boundaries.  
<sup>13</sup> Interview with World Bank municipal finance expert in Nairobi (20 May 2017).  
<sup>14</sup> Personal communication with appointed Board Member Sam Okello at the Mistra Urban Futures Conference, 8 November 2018.  
<sup>15</sup> Interview with VC of Jaramogi Oginga Odinga University of Science and Technology (24 April 2017); interview with previous Mayor of the Municipal Council of Kisumu (28 April 2017); interview with Director of Economic Planning, Kisumu County Government, Kisumu (24 November 2017).

### 3.2 M'Bour

M'Bour's contemporary fiscal architecture reflects Senegal's multiple rounds of decentralisation reforms. Senegal inherited a regional framework from the French colonial administration in which each region had a dominant city with its own mayor. Since independence, Senegal has undergone three rounds of decentralisation reforms (Loi No. 2013-10: 1).

The first of these reforms was carried out in 1972 under the first president, Leopold Senghor, directly after independence. This law established 'rural communities' as an equivalent to their urban counterparts (communes) located in Senegal's major cities. The second reform in 1996, however, had much greater impact on local urban governments. This law expanded the number of communes in urban areas – 19 in Dakar and eight in the urban agglomeration of M'Bour – and also created an intercommunal government called the 'region'. But in 2013, these laws changed yet again. Act III of decentralisation erased both 'the region' and 'rural community' as local governments, and instead replaced them with the commune and a new intercommunal government called a 'department' (see Loi No. 2013-10). Today, the Department of M'Bour coordinates the communes within its territories, including those within M'Bour city.

Before 2009, M'Bour was the only local government within its urban agglomeration that was legally established as a commune. In 2009, a coastal section of the adjacent Malicounda (then a rural community) was legally established as a commune and given the name of Saly, through a contested political manoeuvre.<sup>16</sup> In the same year, the interior section of Malicounda was established as a commune. Similarly, Ngaparou and Somone – located further north up the coast – were also established as communes in 2009.

The establishment of the communes was a significant political and fiscal change. Rural communities did not collect their own taxes, and the central state only levied a head tax – the *minimum fiscal* – on rural populations. They did not hold elections, but instead named the de facto village leader (*chef du village*) as mayor. Establishing these rural communities as communes provided the political authority to hold elections and the fiscal authority to levy a new set of local taxes on the population.

Establishing local governments as communes is what permits them to receive the revenues from property tax collection. This means that M'Bour was the only local government receiving property tax prior to 2009. The remaining four communes only began receiving this tax once they were created in 2009. This recent history of territorial organisation has created budgetary and material inequalities among the communes in the agglomeration. For many communes, central state distributions have decreased after the recent decentralisation reforms. As rural communities were established as communes, there was an increase in the number of local governments requiring central state distributions. In terms of own-source revenues, property taxes and business taxes constitute the largest portion of revenues for the five communes in M'Bour. Yet the largest and greatest number of businesses and properties are located in Saly, which is an upscale tourist destination with an established market for secondary residences.

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<sup>16</sup> Prior to the establishment of the communes, Malicounda was a 'rural community' constituted of the 22 villages that encompassed the area north of M'Bour. In 2009, when Saly was established as a commune, the mayor of Malicounda was Ousmane Gueye. Gueye had recently broken ranks with the Socialist Party, which was the party in power during Abdoulaye Wade's presidency (2000-2012). The mayor's assistant in Saly noted that this break was unpopular with Wade, who responded by annexing the most valuable (in terms of tax resources) territory of Malicounda and establishing it as the commune of Saly. The commune then held its first election in 2009 in which Gueye ran against the nephew of Abdoulaye Wade, Ndouga Sakho. Despite this effort to weaken his political influence, Gueye won the election and has been the mayor of Saly ever since. From this perspective, the creation of Saly was a failed political sabotage, but has nevertheless had the lasting effect of deepening inequalities in the urban agglomeration of M'Bour.

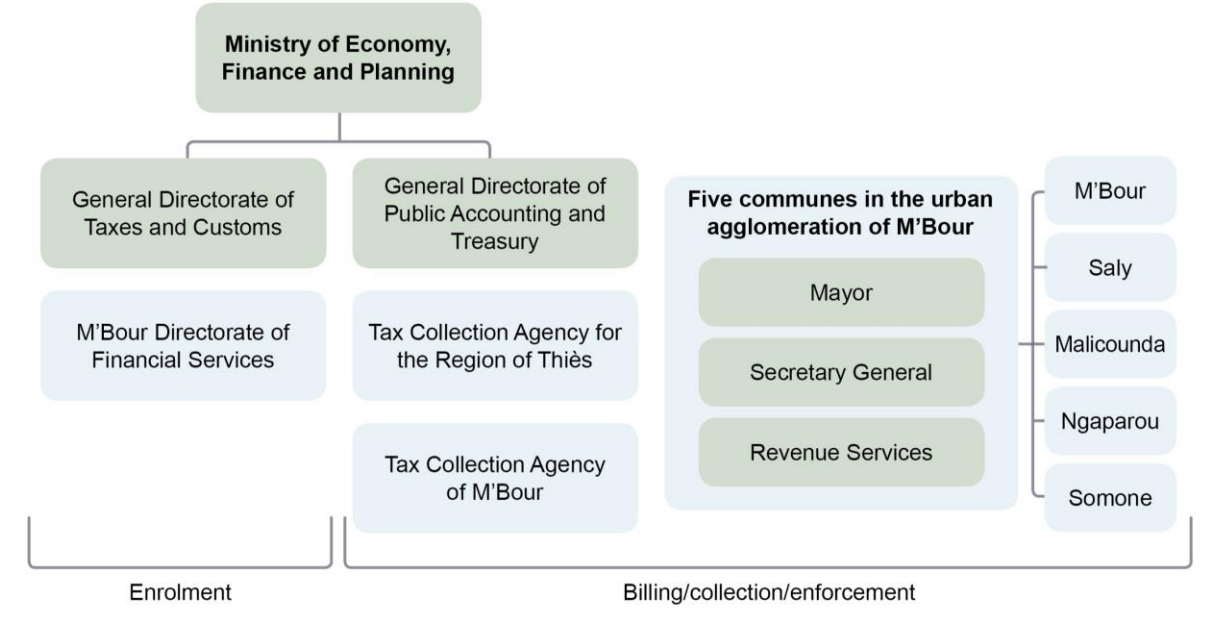
Today, the Department of M'Bour coordinates 16 communes, including the five communes that constitute the urban agglomeration of M'Bour. No formal institution coordinates among these five agglomerated 'urban' communes, and the partition of communes in the urban agglomeration has a political history that has resulted in vast inequalities in communal resources among these five communes.

All line items in the budget of M'Bour city's communes correspond to the legal nomenclature of the Senegal National Tax Code. Revenues are first divided into two large categories: operating revenues and investment revenues (this contrasts with Kisumu, which divides revenues into transfers and own-source revenue). The majority of communal revenues are in the operational revenues section, and it is common for investment revenues to be entirely constituted of central state transfers (*fonds de concours*). Also, any savings or surplus revenues from operating can be carried over into the next year's investment revenues. In this way, communal investments from own-source revenues almost exclusively come from annual budget surpluses.

Like all communes in Senegal, the M'Bour city communes' operating revenues are further divided up into the four following legal categories: products of exploitation (Chap 70), products of public domain (Chap 71), local taxes (*impôts locaux*), and municipal taxes (*taxes municipales*). Local taxes are administered by the Department of M'Bour, a deconcentrated agent of the central state, while municipal taxes are administered by the communes themselves.

Property tax forms part of the local taxes. There are two central state institutions who are responsible for property tax. The national tax office, the General Directorate of Taxes and Customs (Direction Générale des Impôts et Domaines – DGID) is responsible for the establishment of the property taxation rolls. The Tax Collection Agency (La Perception), within the General Directorate of Public Accounting and Treasury (Direction Générale de la Comptabilité Publique et du Trésor), is responsible for receiving payments for property tax, using the rolls developed by the General Directorate of Taxes and Customs. Both have regional offices in M'Bour city.

**Figure 8 M'Bour city organigram of property tax revenues**



All local taxes which are collected belong to the communes. Communes have a high level of autonomy in deciding how to use these (limited) funds. However, the communes have no legal right or obligation to carry out any of the administration for these taxes: this rests entirely with the General Directorate of Taxes and Customs and the Tax Collection Agency. The communes do not control the administration of their own revenues and expenditures. Local governments are subject to the principle of the single fund (*l'unité de caisse*), which requires that all governmental revenues are deposited in a single account managed by central government. This means that local governments do not have access to revenues, but instead have a legal right to request expenditures in accordance with their annual approved budgets and based on their collections and transfers. The Tax Collection Agency of M'Bour is the local institution of the national treasury which administers revenue collection and expenditures on behalf of the M'Bour communes.

## 4 The management and practice of property tax

The fiscal architecture provides a framework for property tax collection. However, within this framework, the amounts which are collected are a function of management and practice at the local level. This section looks at the management and practice of property tax collection, why it operates in this way, and how it shapes urban development processes in the two cities.

### 4.1 Kisumu

In Kisumu, property tax is colloquially called 'land rates' owing to the fact that the default tax basis is land value. As discussed in the above section, land rates are the largest collection stream of the Department of the City and, unlike other sources of revenue, are a steady and reliable stream.<sup>17</sup> This can be seen in Figure 9.

Figure 10 provides an indication of the rates collected in the city as a proportion of the city revenue collection, county revenue collection, and county total income. These proportions show that rates are an important source of revenue for the department. However, at the county scale, where all revenues are eventually consolidated, rates are less significant. The large grants received from the national government dwarf the city's rates contribution.

**Figure 9 Department of the City of Kisumu collection (in KES)**

Revenue streams	2014/15	2015/16	2016/17
Land rates	120,002,382	129,635,191	138,194,757
Single business permits	84,382,849	88,748,755	81,022,720
Rents	30,181,713	35,604,969	40,955,012
Bus park fees	78,489,050	84,756,350	76,284,500
Market fees	63,856,275	61,723,245	52,459,370
Building plans	19,077,867	17,897,651	42,630,357
Sign board promotion	55,683,113	56,610,761	59,986,988
Sundry revenue	42,837,886	47,632,441	12,376,746
Public health and others	3,049,000	2,427,644	9,501,800
Parking fees	75,839,331	81,305,291	89,815,950
<b>Total</b>	<b>573,399,466</b>	<b>606,342,298</b>	<b>603,228,200</b>

Source: compiled by authors based on data given by the Department of the City of Kisumu

<sup>17</sup> The dips which can be seen in 2016/17 for a number of other revenue sources are likely linked to the election and post-election violence which took place in that year. This made particular types of collection more difficult, for example, collections for markets or bus parks.

**Figure 10 Property tax relative to city and county income 2016/17 (in KES)**

2016/17 City rates collection	
Kisumu city property tax % of city own-source revenue	23%
Kisumu city property tax % of county own-source revenue	14%
Kisumu city property tax as % of county income (own-source and grants)	2%
Total property tax collected in Kisumu city	138,194,757

Source: County data<sup>18</sup>

The Department of the City uses the 2007 valuation roll as the basic instrument for property taxation. It is used by the Department of the City to ascertain the landowners and the amount they should pay. The current roll was developed by the now defunct Municipal Council of Kisumu and adopted in the 2008/2009 fiscal year. The valuation roll only covers the 16 'blocks' which formed the colonial city of Kisumu, and three areas which are tangential to the old city centre, Migosi, Kanyakwar and Manyatta A.<sup>19</sup> These areas all use leasehold tenure. In these areas, a rate of 1.5 per cent of the land value is used for rating purposes. The blocks, which cover the CBD and Milimani areas, pay the highest average rates.<sup>20</sup>

Most areas outside of the colonial core of the city are not included in the 2007 valuation roll. However, in 2008, all areas which fell within the 1972 city boundary and which were not included in the 2007 roll were gazetted to be included in the rating.<sup>21</sup> This land is largely freehold tenure as it was converted from 'native land' to trust land, and finally to registered and titled private land through the Land Consolidation Act and the Land Adjudication Act. In contrast with the areas covered by the valuation roll, to pay property tax in any of these areas, a title is not necessary, but some sort of legal documentation is required.<sup>22</sup> These areas currently pay a flat rate of 1,500 KES. In contrast to the high-yielding zones like the CBD and Milimani, the freehold areas contribute very little to Kisumu's rates collections. The 2007 roll is now grossly out of date. The Kisumu County Government is interested in developing a new roll which reflects contemporary land prices, subdivisions, and the properties which were excluded from the 2007 valuation roll.<sup>23</sup> There is the widespread belief among officials and land experts that there is great potential for income generation which can be addressed by updating the valuation roll and expanding the areas which are covered by the roll. As one expert noted, only around 30 per cent of properties are covered by the current valuation roll.<sup>24</sup>

While the dated roll is a challenge, the limited collection and enforcement capacity of tax administrators is a more pressing issue. Given the limited capacity of the county and the Department of the City, property tax collection is a passive exercise. The department does not send property tax bills to landowners nor does it actively go out to collect monies.<sup>25</sup> Landowners must come to the City Hall to find out how much they need to pay and to make their payments.<sup>26</sup> In general, there is weak enforcement. While there is a penalty for non-payment, it is generally not enforced by the department. Kisumu's tax administrators contend that there is widespread underpayment in the city centre and in the extended areas of the city. However, they argue that this underpayment is for very different reasons.

<sup>18</sup> Based on email correspondence and data sent by Kisumu City Department of Finance, CFO, Chief Accountant (November 2017).

<sup>19</sup> Interview with Head of Rates (15 November 2017).

<sup>20</sup> Interview with city surveyor (17 November 2017).

<sup>21</sup> The following areas are listed in the 2008 gazette: Pandpieri, Nyalenda A, Nyalenda B, Kanyakwar A, Kanyakwar B, Kisule, Manyatta B, Konya, Mkendwa, Kogony, Dago, Nyahera, Korando, Ojolla, Marera, Wathorego, Buoye, Nyalunya, and Bar.

<sup>22</sup> Interview with Head of Rates (15 November 2017).

<sup>23</sup> Interviews with the Kisumu County Head Accountant (11 April 2017); the Kisumu County Chief Officer of Lands, Housing, Physical Planning and Urban Development (7 April 2017) and Roack Consult (10 November 2017).

<sup>24</sup> Interview with Roack Consult (10 November 2017).

<sup>25</sup> Interview with Head of Rates (15 November 2017); interview with the Director of City Finance (27 April 2017).

<sup>26</sup> Interview with Head of Revenue (2 May 2017). These payments are made to the Kenya Commercial Bank tellers in the City Hall lobby. Kenya Central Bank takes a substantial percentage as a fee for administration.

In the city centre, non-payment is most prevalent among the elites and the state-owned enterprises (SOEs).<sup>27</sup> These actors recognise that there is limited enforcement and feel 'above the law'. In addition, they have access to lawyers which the Department of the City cannot afford.<sup>28</sup> Local elites and national entities feel unthreatened by low level administrators.

In the extended areas, on the other hand, non-payment is linked to poor service delivery. Officials argue that people do not pay rates because they have received little from the state. This perception is not uncommon in Kenya. It is widely believed that taxation without infrastructure and service delivery is illegitimate (Ali, Fjeldstad and Sjørnsen 2014). In this case, officials condone non-payment, and its corollary, their own non-collection. The Head of Rates said she would not collect rates in areas where infrastructure, in particular public markets and access roads, are not provided by the state. These two services, she argued, were the most basic which needed to be provided to legitimise rates collection. She said: 'I would be embarrassed to collect rates if we have not provided.' Similarly, a minister emphatically argued: 'Here in Kenya we believe unless we get services we are not going to pay rates!'<sup>29</sup>

While the importance of services as a source of rating legitimacy is well noted, the Department of the City has little control over the provision of most urban services. It therefore has little power to improve the legitimacy of rating. In 2016/17, only 3 per cent of the County 'Development Budget'<sup>30</sup> was allocated to the Department of the City. Responsibility for investment in Kisumu city is split between the county (line departments), the central government, and SOEs, which are owned by the two tiers of the state. Neither Kisumu County nor the national state have a huge incentive to improve property tax management in the city. The impact of rating on county budgets is very small.

## 4.2 M'Bour

The Department of M'Bour collects property tax on behalf of the communes in M'Bour city. In M'Bour city, a total of XOF 179,266,700 (around US\$ 313,842) was collected in 2016. This works out to an average of XOF 35,853,340 (around US\$ 62,768) per commune within the urban area. However, there are huge variations in collections between the communes. The commune of M'Bour collects by far the largest absolute amount, followed by Saly (which collects less than half of what M'Bour does). This is not surprising as M'Bour is the most well established and Saly has high property values along the coast. This can be seen in Figure 11.

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<sup>27</sup> Interview with Head of Rates (15 November 2017).

<sup>28</sup> Interview with Director of the City (27 April 2017).

<sup>29</sup> Interview with Minister of Roads, Transport and Public Works (15 April 2017).

<sup>30</sup> In Kenya, expenditure is classified into development, operations and maintenance, and personnel. 'Development' loosely aligns with the idea of a capital budget; however, it also includes recurrent expenditure linked to development projects. It is therefore a somewhat blurry category.



**Figure 11 Commune-level collections (2016) (in XOF)**

Selected revenue streams	Somone	Ngaparou	Saly	M'Bour	Malicounda
<b>Municipal tax (taxes municipales and exploitation products)</b>	51,380,480	49,105,680	92,323,000	439,500,000	196,646,503
<b>Local tax (impôts locaux)</b>	38,099,751	46,448,142	251,007,000	784,760,455	50,969,620
Business taxes	4,297,943	24,578,777	142,758,000	331,600,455	22,026,871
Property taxes (built and unbuilt land)	27,106,700	14,742,318	108,249,000	152,160,000	28,942,749
<b>Products of the public domain</b>	28,302,517	25,487,815	29,728,000	471,100,000	27,600,000
<b>Central state transfers</b>	32,000,000	47,000	106,000,000	100,000	74,000,000
<b>Total revenue</b>	<b>149,782,748</b>	<b>296,068,367</b>	<b>480,175,000</b>	<b>2,562,559,620</b>	<b>411,152,086</b>

The selected revenues shown are not the only revenues received by the communes but are those that are most relevant to this paper. The total revenue is therefore not a sum of the selected revenues but is included to give an idea of the relative importance of different revenues.

Source: *Rapport d'Audit Organisationnel et Financier de la Commune de Saly Portudal*: L'Agence de Développement Municipale. Administrative Account (*compte administratif*) for 2015 for the Commune of Ngaparou and Commune of Malicounda. The majority of data provided by communes was revenues from the fiscal year 2015, and the Tax Collection Agency provided data from the valuation rolls of 2016.

As can be seen in Figure 12, the proportion of total commune revenue which property tax represents differs between the communes. In M'Bour city, property tax on built land constitutes nearly 60 per cent of M'Bour's revenue, a quarter of Saly's annual revenues, and a fifth of Somone's revenue. In contrast, in Ngaparou Malicounda, it is 5 per cent and 7 per cent respectively. This observation confirms that property taxes are significantly more important in dense urban areas than they are in rural ones. This difference is not surprising, given the relatively higher collection rates and land values in urban areas.<sup>31</sup> Further, tax administrators in M'Bour explain this difference in terms of the difficulty of collecting taxes on unbuilt land, and the majority of land in rural areas is unbuilt. Tax collectors locate property tax payers through field surveys, and it is significantly more difficult to find owners of land that do not reside on the property to be taxed.

**Figure 12 Property tax on built land as a % of total commune revenue (2015)**

Property tax on built land collection	
Somone property tax as % of revenue	18%
Ngaparou property tax as % of revenue	5%
Saly property tax as % of revenue	23%
M'Bour property tax as % of revenue	59%
Malicounda property tax as % of revenue	7%

Source: *Rapport d'Audit Organisationnel et Financier de la Commune de Saly Portudal*: L'Agence de Développement Municipale. *Compte Administratif* de 2015 for the Commune of Ngaparou and the Commune of Malicounda.

The available data shows a significant gap between the tax base that appears on the valuation rolls and the revenue that communes receive for taxes on built land. In Saly, for example, revenues for 2015 are less than half (43 per cent) of the recorded tax base from 2016. These discrepancies reflect the difficulties with collection. This was certainly the case in Malicounda. In Malicounda, the revenue from taxes on built land in 2016 was XOF

<sup>31</sup> The revenue data also reveals the importance of the boundary fees in equalising the differences in property tax collection. Malicounda's total revenues for 2015 are 85 per cent of Saly's, whereas Ngaparou's revenues are 62 per cent. And we see that the category in which boundary fees are included, 'Taxes municipales and exploitation products', has the largest revenue difference between Ngaparou and Malicounda. Ngaparou's revenue here is 25 per cent of Malicounda's, a difference attributable to its significant collection of boundary fees. Ngaparou has a low percentage of property tax as a portion of total revenues (5 per cent) and low collections of boundary fees.

34,758,600 (around US\$ 60,851), or 57 per cent of the XOF 60,485,139 (around US\$ 105,891) recorded as the tax base for this same year.

Historical data on Saly commune shows a significant drop in property tax revenues between 2012 and 2013, and an overall decline in revenues to 2015.<sup>32</sup> However, since 2013, property taxes have remained around one quarter of total operating revenues. Despite the constant relative percentage of property tax revenues, this data shows both wide variation in absolute revenues from year to year, as well as an overall reduction in the past four years. Saly today is likely collecting only half of what it was five years ago, despite the reported increase in land speculation and investment during this time.

**Figure 13 Saly property tax**

Commune of Saly	2012	2013	2014	2015
Property taxes	213,405,000	142,915,000	169,980,000	108,249,000
% of operating revenue	49%	28%	22%	23%

Source: *Rapport d'Audit Organisationnel et Financier de la Commune de Saly Portudal*: L'Agence de Développement Municipale.

In Senegal generally, and in M'Bour city specifically, the tax basis used is the annual rental value. The annual rental value of the building is determined by the cadastral method.<sup>33</sup> Field surveys are the primary way in which the tax base is established and taxes are collected. There is an active updating of the roll by the General Directorate of Taxes and Customs using the annual census.<sup>34</sup> This census is not an annual overhaul of the entire tax base, but the ad hoc addition of properties missed in previous rolls.

For the M'Bour city communes, the rolls were developed in 2009 and only small additions have been made year on year. The cadastral method requires that the field surveyors fill out a form (described above in the property identification section), with the property owners' contact information and the annual rental value. But surveyors do not always make every required update to the existing tax rolls. For example, a tax collector at the Tax Collection Agency noted that the taxes due for a large compound in Saly were about a quarter of what they should be for a building of its size and location.<sup>35</sup> It is unclear how often there is an audit or update of existing rolls, but tax administrators noted that such discrepancies were common.<sup>36</sup>

**Figure 14 Number of property taxpayers as per 2016 roll**

2016 valuation rolls	Somone	Ngaparou	Saly	M'Bour	Malicounda
No. of properties (taxable build land)	408	206	1,617	8,426	313
Total amount	87,183,462	22,872,321	250,760,367	304,143,528	60,485,139

Source: Data provided by the M'Bour Tax Collection Agency.

In cases of buildings with multiple apartments, enumerators used the rental value reported by renters in the building. The value is not based on actual rental payments, but on the

<sup>32</sup> Saly is the only commune which provided the research team with historical data which could be analysed.

<sup>33</sup> The cadastral method is a field survey in which a technician establishes land value based on elements like area, number of rooms, existing installations, and construction material used. In Senegal, this often means surveying available residents on monthly rent and then counting the number of rental units in a building.

<sup>34</sup> Some new additions are from what are called anticipated payments (*paiements par anticipation* (PPA)) and are due to self-reporting. Tax administrators noted that the majority of people who declare a PPA are European foreigners (*toubabs*), and it was highly unlikely that a Senegalese citizen would pay taxes in advance without being notified.

<sup>35</sup> Interview with Tax Inspector (8 January 2018). Interviewer noted that he knows this taxpayer well, and said that the rolls had been done before she had made significant additions to the structure by adding two more levels.

<sup>36</sup> Interview with Tax Inspector in the Tax Base department at the General Directorate of Taxes and Customs (9 January 2018).



estimated annual value. This allows enumerators to collect information from the renters present and estimate the total rental value of the building based on the number of apartments. Enumerators often find this number by using the number of water or electricity meters as a proxy.<sup>37</sup> For buildings that are not rented but occupied by owners, tax administrators use an estimate based on similar properties in the immediate area that are rented. These estimated values are negotiated by field staff with taxpayers at the time of the census. One tax administrator noted that the General Directorate of Taxes and Customs does not have enough personnel to do a full analysis of each property. Instead, they use a general rental value that they estimate for different zones of the communes, based on their own knowledge of the market.

Although the property tax is legally imposed on the owners of buildings and the land on which they are located, 'ownership' is not as clear in practice, nor is it necessary for property taxation. The majority of residents do not have property titles, and instead hold a different set of documents that administrators refer to as contracts or deeds (*actes*). The most commonly held deed is a surface right (*droit de superficie*), that has been issued to many residents as part of a central state effort to increase the usage of land titles. These leases give residents a right to occupy land for 50 years and were intended as a stepping stone into individual leasehold with formal property titles. Tax administrators, however, do not necessarily need these documents to include a property on the rolls. Tax administrators can record heads of households during tax enrolment surveys even without documentary proof of ownership or right to occupation. Tenure issues are thus not relevant in M'Bour's property taxation management.

To collect taxes, tax collectors at the Tax Collection Agency receive copies of the annual tax rolls created by the General Directorate of Taxes and Customs and use this information to locate taxpayers themselves. However, Senegal does not have a formal addressing system, and the General Directorate of Taxes and Customs' census only includes information for villa number, neighbourhood, and city. Although some entries on the roll have phone numbers, many do not. This does not provide enough information for exact location and requires a field survey in order to request payment in person. Therefore, the Tax Collection Agency is required to conduct its own field surveys to locate taxpayers and enforce payment.<sup>38</sup> Collection by the agency is organised by sector, which corresponds to neighbourhoods within the communes, and there are three or four agents who conduct field surveys. This work, however, is not always successful. Tax administrators at the agency argued that finding the 'owner' is one of the key obstacles to enforcing property taxes.<sup>39</sup> As one administrator pointed out, they have spent up to five years looking for a single taxpayer without ever finding them. This is the primary reason why taxes are overwhelmingly not collected on vacant land and often also not collected on built land.

While the challenge of finding taxpayers is a major issue, administrators in the Tax Collection Agency and customs also noted that they were reluctant to collect taxes from people who they believed to be poor.<sup>40</sup> Administrators argued that people often do not have the means to pay; they have other familial obligations that limit their liquidity – such as weddings, funerals, and baptisms. Although a property tax is a tax on wealth, administrators do not view it as a tax on the wealthy (i.e. as a progressive tax) in its legal application. Many landowners have inherited their land from family, and other familial situations mean that the property owner does not have the immediate access to the monetary wealth needed to make cash payments. One administrator brought up the example of widows who are largely dependent

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<sup>37</sup> Interview with Collection Coordinator of the Tax Collection Agency of M'Bour (6 December 2017).

<sup>38</sup> A minority of taxpayers pay voluntarily at La Perception after having received billing from the General Directorate of Taxes and Customs. Tax administrators suggested that it is predominantly foreigners who pay on time or in advance (as mentioned previously).

<sup>39</sup> Interview with Collection Coordinator of the Tax Collection Agency of M'Bour (6 December 2017).

<sup>40</sup> Interview with Collection Coordinator of the Tax Collection Agency of M'Bour (6 December 2017).

on their children's income, but are nevertheless the owners and primary residents of the building. Another administrator recognised that the spirit of the property tax law was not to tax the primary residence of families, but instead to tax speculation. He made a distinction between land that is used as a primary residence and land that is purely for speculation, suggesting it is only the latter that should be subject to tax. Such primary residences, then, should be omitted from the tax rolls by tax enumerators.

## 5 Micro-efforts to improve the property tax system

Despite the many challenges, administrators make significant efforts to improve property taxation within their jurisdictions. The following section unpacks these various efforts. They are grouped into three categories including efforts to address: fiscal policy issues, collection practices, and the legitimacy of the tax. These efforts confirm that local tax administrators are not simply the recipients of tax policy, but are active agents in shaping how policy operates in practice.

### 5.1 Efforts to address fiscal property issues

In Kisumu city and M'Bour city, the mismatch between who is responsible for collections and who has the right to utilise the funds collected is apparent to tax administrators. Clear incentive problems arise from this mismatch. In neither Kisumu or M'Bour is the collector incentivised to increase collections, as they do not see any of the benefits (in terms of revenue). In both cases, officials have sought to rectify this mismatch.

In Kisumu, city officials have been agitating the county government for the creation of a city board which would have the right to control the revenues collected in the urban areas. The recent successful establishment of a city board in Kisumu allows for the revenues collected within the city area to be utilised by the city board. The creation of the board has the potential to tighten the relationship between rising land values, collection, and investment. Importantly, however, the board is appointed by the Governor (with approval from the County Assembly). While a useful step in addressing the rural bias of the county, there remain questions as to the board's ability to be accountable to the people of Kisumu city, given that it is not democratically elected (Bassett 2016).

In M'Bour, the incentive mismatch is dealt with through the (informal) allocation of commune staff to the General Directorate of Taxes and Customs. Although the Tax Collection Agency is legally responsible for tax collection, the communes have also established a tradition of informal support as a way of compensating for the lack of personnel available for field administration. Communes donate personnel, vehicles, and fuel to the Tax Collection Agency in an effort to increase the amount of revenue collected in their commune. Some communes have even approved this support as a line item in their annual budgets. The Tax Collection Agency therefore relies on this informal support. It also relies on the communes' personnel to locate taxpayers, an informal process that requires a local knowledge of communes that the agency does not have. The communes of Saly and M'Bour both contribute dedicated personnel who are at the disposal of the agency. Although these administrators are provided by specific communes, they work across all communes in the M'Bour department for which

the agency is responsible. The communes have each negotiated an informal repartition of responsibilities between themselves and the agency.<sup>41</sup>

## 5.2 Efforts to improve collections

In Kisumu city and M'Bour city there are limited resources for collection and the enforcement of payments. Like in many African contexts, tax enrolment and collection units are understaffed and underfunded. However, in Kisumu and M'Bour, officials make efforts to deploy resources in a manner which they deem to be efficient and effective. In both cases, administrators focus on areas and property owners whom they can compel to pay.

In Kisumu, tax collectors focus on land developers, both small and large. The main lever used by tax administrators to compel rates payments is the building plan approval process. Officials use the planning approval process as a passive coercive measure to force rates payment. As Kisumu's lead City Planner points out: 'We can only get you into paying when you want our service. Like, for example, plan approval.'<sup>42</sup> Notably, people cannot build without a permit. Building without a permit will attract the attention of local police (called *askaris*) who extract bribes from people who are building on property without the correct planning permits.<sup>43</sup> This process makes non-compliance expensive and forces many people into compliance with planning rules and, by extension, rates payments. While dubious, the approach of linking tax payment to planning approval has been successful; nearly 25 per cent of rates collected annually come from 'back paid' rates. The Department of the City collects a decent amount of revenue through this channel.

In M'Bour, administrators focus their efforts on the wealthy 'planned areas' where it is easier to identify property owners. Administrators work to improve collections by making it easier to find property owners. To solve the problem of the lack of addresses, the General Directorate of Taxes and Customs created a system of plot addressing, working along two axes. Moving away from the ocean, lots are labelled in ascending order from A-J, all the way to the main road. In a perpendicular direction, moving from north to south along the beach, lots are labelled from 1-8. This means that all lots are labelled with a two-digit code. This system is only effective, however, in neighbourhoods that are laid out in a grid, which includes the wealthier planned areas. These areas thus become the focus of tax collection.

## 5.3 Efforts to address legitimacy

Tax administrators argue that collecting property tax, even when it is legally owed, is not always socially legitimate. There are very different arguments for non-payment and non-collection made by administrators in Kisumu and in M'Bour. In both contexts, tax administrators' collections are shaped by these perceptions of legitimacy and micro-efforts are made to improve the legitimacy of the tax.

In Kisumu, a blind eye is turned to those who do not have services and refuse to pay. This is seen by officials to be legitimate. As the Head of Rates noted: 'You cannot go to an area to collect rates when you know you have given them nothing.'<sup>44</sup> However, the Department of the City works to improve the legitimacy of property taxation by allocating their (very small)

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<sup>41</sup> In the case of Saly's property tax collection, they have instituted this repartition by building type. The Revenue Services Office at Saly conducts a census and collection for *résidences*, and enclosed vacation resorts with multiple villas. The Municipal Secretary at Saly noted that the Tax Collection Agency does not keep up-to-date rolls without the support of the commune. He provided an old census from 2012-2013 which shows a large gap between the actual number of villas and the number that are registered on the official tax rolls. The census conducted by SAPCO (Agency for the Planning and Promotion of Coasts and Tourist Zones of Senegal) in January 2013 showed 1,727 existing villas, whereas the Tax Collection Agency had enrolled only 642 villas by December of 2012. This means that 1,051 villas were left off the rolls for the 2012 fiscal year. This is an ongoing challenge where the rolls remain constantly out of step with reality.

<sup>42</sup> Interview with lead City Planner for Kisumu (27 April 2017).

<sup>43</sup> Interview with small-scale developer (15 November 2017).

<sup>44</sup> Interview with Head of Rates (15 November 2017).

capital budget to the services seen as most essential for increasing tax collection. The 2016/17 development budget for the Department of the City includes a large market project of KES 13 million (approximately US\$ 126,459), and a number of road projects ranging between KES 5 and 10 million (around US\$ 48,638 to US\$ 97,276). While these projects are small (as the total city budget is only KES 120 million – around US\$ 1,167,315), they represent a commitment to enhancing the legitimacy of rates collection.

In M'Bour, there is a sense that people are poor and cannot pay. To remedy this challenge of poverty and make collection more 'fair', officials noted that nearly all Senegalese people pay taxes in smaller increments throughout the year.<sup>45</sup> Recognising that people are poor, they allow them to pay in small amounts, and are lenient with the amount and timing of payments. In addition, M'Bour's administrators focus on the wealthy/foreign areas of the city. When going to the field, tax administrators place the greatest emphasis on collection in wealthy neighbourhoods organised along grids (which thus also have addresses which are easy to find).

## 6 Implications for property tax reform in African secondary cities

The lessons from Kisumu and M'Bour provide insights with wider relevance and application. In this section, we draw out three important recommendations for reforming property taxation in secondary cities. Notably, these recommendations should not be read as policy *prescriptions*, but as useful *considerations*.

### 6.1 Alignment

In Kisumu city and M'Bour city, there is a misalignment between the agent responsible for the collection of tax and the sphere of government with the right to utilise the collected revenues. In Kisumu, collection is at a smaller scale than utilisation. The Department of the City collects, and the county utilises the funds. In M'Bour it is at a larger spatial scale. The central state collects and the communes utilise the funds.

Tax experts would not see the difference between Kisumu and M'Bour as a novel insight. It is well recognised within the African property tax literature that Francophone and Anglophone countries have different systems of decentralisation, with consequent implications for tax collection. However, this misalignment between collection and utilisation raises two issues which are particularly important for smaller urban centres.

First is the issue of incentives. With a mismatch between revenue collection and utilisation, there is limited incentive for administrators to increase collections. Administrators who are tasked with collection do not get to enjoy the benefits of their efforts. This is more extreme in M'Bour than in Kisumu, given the recent establishment of the board. They do not see the fruits of their labour reflected in higher revenues. Neither are they able to shape the investments which are made to increase land value and thus strengthen taxation. Reflecting on her incentive to increase collections, the Head of Revenue in Kisumu said: 'Nothing [incentivises me]; we just care because now in my case like they in charge I'll compare what my predecessors collected, so I would expect mine to go up with time. Just that.'

Second is the issue around the urban scale. City development requires coherent investments which stretch across the urban fabric, cross-subsidise between areas, create balanced and

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<sup>45</sup> Interview with Collection Coordinator of the M'Bour Tax Collection Agency (6 December 2017).

integrated development, and produce urban value which can in turn be captured through rising land values. Urban planning, and the investment in infrastructure and services which support these plans, is best done at the scale of urban agglomeration. However, in both cases, planning and investment does not take place at the urban scale. There is, in this sense, little possibility of linking urban investment with urban value creation and capture. This plays out in different ways in the two cities under study. In Kisumu, the outcome is a rural bias. Revenue collected in the city is spread thinly across the much larger county. In contrast, in M'Bour, we see fragmented investment. A good example is the secondary road which runs parallel to the existing national highway connecting Malicounda, Saly, and M'Bour. This secondary road begins in Saly and stops abruptly at the border with M'Bour.

In terms of recommendations, property tax can be improved with the development of urban-scale institutions which are responsible for revenue and expenditure. This is particularly important for smaller urban centres. Secondary cities have been of little concern in the design and implementation of decentralisation processes on the continent. While larger urban centres occupy 'special' positions within the fiscal architectures (in the case of Nairobi, it is a city-county, and in Dakar there is a metropolitan government), secondary cities' urban structures have remained under-supported. If property taxation is to be reformed, there is a need for a clearer alignment between the agencies responsible for collection and utilisation and the urban scale in smaller urban centres.

## 6.2 Capacity

Another important consideration is the issue of capacity. The literature on secondary cities in Africa highlights the capacity constraints which many secondary cities face and with which property tax administrators across Africa must grapple (Bahl *et al.* 2008; Franzsen and McCluskey 2017). The cases of Kisumu and M'Bour corroborate this. In M'Bour, staff at the Tax Collection Agency suggest that there are not enough resources from the central state to support the work necessary to expand the tax base. In Kisumu, there is also a very small and under-skilled team. In both cases, administrators have to focus their efforts on the areas which are most likely to yield revenue. They are unable to apply a uniform collection and enforcement method within their jurisdictions.

In terms of recommendations, reform processes should put more emphasis on building the capacity of property tax administrators and supporting efficient collection processes. This sort of focus will likely increase revenue more than investing in fancy and hi-tech instruments (such as digitised valuation rolls) which increase the number of plots which could be collected from, but do not increase the capacity to collect. Key to this is producing low-tech instruments which reflect the ways in which collection actually takes place in these cities. For example, if payments are made in intervals (rather than lump sums), the payment book needs to have space to document these (see the case of M'Bour in 5.3 above). If rates can be linked to the provision of another service, which people are more likely to pay for (such as planning approvals), this can also make collections more efficient (see the case of Kisumu in 5.2 above).

## 6.3 Perceptions

Another important issue is the legitimacy of property tax, particularly from the perspective of the administrators who are tasked with collection. In both cases, the perceptions of property tax administrators fundamentally shape how they go about collecting the tax.

Underpinning the question of legitimacy are the assumptions about what property taxation is meant to fund. Tax administrators across the two cities have very different ideas about why people are meant to pay tax. The Kisumu case reflects a perception that property tax is paid for particular services. Other research suggests that this view may be common across other

parts of Kenya (Ali *et al.* 2014). In contrast, in M'Bour, property tax is understood to be paid for the general operations of the commune. If you are poor, it is considered unfair to be expected to pay in a lump sum (or in certain cases, to be expected to make any payment whatsoever).

While the literature on public finance varies, most Anglophone literature sees property taxation as a progressive wealth tax, paid by all property owners for the provision of non-divisible services (Bahl, Linn and Wetzel 2013). However, as we have shown above, property tax administrators clearly do not see the tax in this way. There are many possible reasons for this, the most likely being the fact that many poor people in both Kisumu and M'Bour do, in fact, own land. Since they have no intention of selling this land and have few options for 'leveraging it', it is not seen to be a financial asset and thus taxation does not reflect progressive taxation on wealth. Imposing the perspective that universal property taxation is a progressive 'wealth tax' does not resonate with the perspectives of those tasked with implementation. Without the *de facto* support of administrators, change is unlikely, if not impossible. These two cases show that administrators – through the creation of new instruments, exceptions, and informal activities – implement ways of collecting property taxes which they deem to be fairer, but which ultimately limit collections. It is apparent that they adapt taxation laws to reflect their own perceptions.

In relationship to the question of legitimacy, reform processes should work *with*, rather than *against*, administrators' perceptions of legitimacy. A strong reform process should engage with those responsible for implementation, seeking to understand and incorporate the perceptions of what might be termed 'street-level bureaucrats'.

## 7 Conclusions

This paper provides a multi-case and comparative analysis of property taxation in Kisumu, Kenya and M'Bour, Senegal. The study is primarily interested in how secondary cities – Africa's smaller urban centres – operate. This work is uniquely focused on the urban operations of property taxation and the practices and perceptions of tax administrators.

The findings support and extend the existing literature on public finance in African cities. Despite the many differences between the cases, there are shared challenges related to alignment between institutions, capacity to collect taxes, and the legitimacy of property tax.

The cases show that tax administrators are working to address these challenges in incremental and small-scale ways. In this sense, local tax administrators are not simply the recipients of tax policy or law, but are active actors who shape property tax practice.

In terms of policy, there is a clear need to improve urban-scale institutions in smaller African cities. In addition, building on the existing practices and perceptions of tax administrators provides an important avenue for tax reform. This is likely to be more fruitful and effective than top-down, standardised, legalistic, and hi-tech reforms.

# Appendix

## Primary data collection

	Kisumu	M'Bour
<b>Financial data</b>	<ul style="list-style-type: none"> <li>- Financial statements of the Kisumu County Government (2013/14-2016/17)</li> <li>- Financial statements for Kisumu Municipal Council (2007/8-2011/12)</li> <li>- Monthly and annual income from Kisumu city</li> </ul>	<ul style="list-style-type: none"> <li>- Communal budgets</li> <li>- Communal administrative account (<i>compte administratif</i>) reports</li> <li>- <i>Rapport d'Audit Organisationnel et Financier de la Commune de Saly Portudal: L'Agence de Développement Municipale</i></li> </ul>
<b>Legislation and policies</b>	<p>National legislation</p> <ul style="list-style-type: none"> <li>- Rating Act (2012)</li> <li>- Valuation for Rating Act (2015)</li> <li>- Urban Areas and Cities Act (2012)</li> <li>- The Constitution of the Republic of Kenya (2010)</li> <li>- Public Finance Management Act (2012)</li> </ul> <p>Kisumu legislation and policies</p> <ul style="list-style-type: none"> <li>- Kisumu Integrated Strategic Urban Development Plan (ISUD) (2013)</li> <li>- Kisumu County Finance Act</li> <li>- Kisumu County Allocation of Revenue Act/Bill</li> <li>- Kisumu County Integrated Development Plan</li> </ul>	<p>National legislation</p> <ul style="list-style-type: none"> <li>- République du Sénégal (2013) Loi No. 2013-10 du 28 décembre 2013 portant Code général des Collectivités locales</li> <li>- Direction Générale des Impôts et des Domaines (2013) Code Générale des Impôts</li> </ul>
<b>Field work</b>	<ul style="list-style-type: none"> <li>- April/May 2017 (six weeks)</li> <li>- November 2017 (four weeks)</li> </ul>	<ul style="list-style-type: none"> <li>- November 2017 (two weeks)</li> <li>- January 2018 (one week)</li> </ul>
<b>Interviews</b>	<ul style="list-style-type: none"> <li>- Sectional Head of Rates Unit (Department of the City of Kisumu)</li> <li>- Head of Finance (Department of the City of Kisumu)</li> <li>- Chief Revenue Officer (Department of the City of Kisumu) [over the course of this research there were two: both were interviewed]</li> <li>- Consultants responsible for the production of the new valuation roll</li> <li>- Kenya Commercial Bank representative responsible for large-scale land development projects</li> <li>- Expert/academic in the field of land tax and property development</li> <li>- Assistant City Manager (responsible for the financial units within the Department of the City of Kisumu)</li> <li>- Head of City Planning (Department of the City of Kisumu)</li> <li>- Head of City Planning (Kisumu County)</li> <li>- Accountant for the Kisumu Urban Project</li> <li>- Head of Treasury (Kisumu County)</li> </ul>	<ul style="list-style-type: none"> <li>- Director of Office of Local Governments, General Directorate of Taxes and Customs</li> <li>- Director of Department of Financial Services (DSF) for M'Bour, Direction Générale des Impôts et Domaines (National Tax Office)</li> <li>- Tax Controller, DSF M'Bour</li> <li>- Director, M'Bour Tax Collection Agency</li> <li>- Head of Recovery, M'Bour Tax Collection Agency</li> <li>- Recovery Agent, M'Bour Tax Collection Agency</li> <li>- Municipal secretaries at five communes in M'Bour agglomeration</li> <li>- First Deputy Mayor of the Commune of Saly</li> </ul>

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