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Financing Sub-National Development in Kenya

Optimizing Own Source Revenue for Enhanced Service Delivery in Mombasa County

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1.1. Introduction and Context

Article 175 (2) of the Constitution of Kenya, 2010, under the principles of devolution, requires counties to have reliable sources of revenue that empower them to govern efficiently and provide essential services to their citizens. An equitable share of the nationally raised revenue (Kenya Law, 2010), conditional grants from the national governments and development partners, and Own source revenue are the key three sources through which the counties finance their operations and provide services.

Article 209(3) of the Constitution of Kenya mandates counties to generate revenue through various means, including property rates, entertainment taxes, and any other taxes authorised by an act of parliament. This constitutional provision grants counties the flexibility to explore a range of revenue sources, enhancing their financial autonomy and ability to meet the diverse needs of their communities. While exercising their powers to raise revenue, county governments should ensure they do not prejudice national economic policies, economic activities across county boundaries, and the national mobility of goods and services, capital, or labour.1

Own source revenue is still a critical source of financing the Mombasa County budget, accounting for an average of 30% of the total revenue from 2018-2022. Like other urban counties, Mombasa County has strived to collect more revenue through revenue automation and digital transformation. Despite these measures, the County has consistently missed its set /projected source revenue targets since devolution. Achieving a harmonious alignment between the actual local revenue and the projected estimates within the County has proven to be a persistent challenge. Unrealised revenue and other challenges, such as late disbursements of equitable share, low grant outturn, and other systemic issues, have affected the effective implementation of the Budget and, in turn, service delivery.

Considering the above background, this study explored the impediments that hinder Mombasa County's ability to realise its revenue projections accurately. The primary objective of this study was to understand the bottlenecks that hinder Mombasa County from aligning their revenue targets to actual collections, further unearthing gaps, and providing opportunities to urge government actors, oversight bodies, and other relevant development practitioners to address these bottlenecks and improve spending on the delivery of services.

Consequently, this study sought to contribute evidence-based strategies that will enhance revenue collection and management, helping a more profound comprehension of the dynamics involved in local revenue generation in Mombasa County.

2.0 Key summary findings

- There is a comprehensive legal and policy framework for own source revenue, which is changed through the annual finance acts. However, the study proved a need for a review and update of some of the policies, to ensure consistency, clarity and in line with the national government policies, such as the National Rating Bill, 2023.

- The county missed 30.52% of the projected own source revenue between 2018/19 and 2022/23- The total cumulative own source revenue (OSR) that was budgeted summed up to Kshs. 25,757.54 million. The actual realized revenue was much lower, amounting to Kshs. 17,897.12 million; this being only 69.48% of the budgeted amount, representing a deficit of 30.52%.

- Accurate revenue assessment and strategic focus on high-potential streams could enhance overall revenue performance - Business permits, other health sanitation, other property rates, administrative fees, and parking fees, were the top five revenue streams between 2018/19 – and 2022/23. Out of the total actual cumulative revenue collected, amounting to Kshs.17.87 billion, business permits contributed Kshs.7,366.93 billion (41.16%), other health sanitation contributed Kshs.4,446.84 billion (24.85%), other property rates contributed Kshs.4,035.66 billion (22.55%), administrative fees contributed Kshs.4,035.66 billion (17.50%) and parking fees contributed Kshs,2,482.40 billion (13.87%).

- Budget revision within the year did not lead to reached targets of own-source revenue: Evidence indicates revisions to own-source revenue over the five years, except for 2018/19. In 2019/20, revenue targets were revised upward from Kshs.3.45 billion to Kshs.4.73 billion, a 37% increase.

- Discrepancy between data provided in the County Budget Review Outlook Paper (CBROP) and County Budget Implementation Review Reports (CBIRR)- to prove the changes in budgets within the year, the analysis used both CBROPs and CBIRR. The Analysis revealed a discrepancy between final OSR information in the County Budget Implementation Review Reports (CBIRR) by OCOB and CBROPs, except for 2018/19. In 2020/21, OCOB's report showed a 23.05% increase, while CBROP 2021 recorded a 12.95% drop from Kshs 5.25 billion to Kshs.4.57 billion.

- The county government of Mombasa has automated revenue collection through the county e-system. Whereas there was significant growth in revenue from one financial year to the other between 2020/21 to 2022/23, the revenue growth could not be directly attributed to automation. According to the CBIRR report, while own source revenue increased by 1.66% in 2021/22 from 2020/21, the increase was not attributed to automation but to revenue arrears and penalties charged from 2020/21. The county treasury, however, notes significant improvement due to the automation. The automated revenue collection system can be fine-tuned to yield revenue growth through process improvement, error reduction, and increased efficiencies in the collection of revenue.

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- Revenue collection, use, and management- Revenue collection (including payment channels, and authorized channels of collections), utilization and management are guided by Finance Acts, which should modify existing legislation. Analysis of audit reports and CBIRR revealed revenue use at source, untransformed revenue to the County Revenue Fund account, defaulting of property rates, weak internal controls, and use of outdated valuation rolls, which affect optimal revenue collection. There is a need to update the valuation rolls guided by the national government policy and strengthen oversight in the collection, use, and management of own-source revenue.

- The Mombasa County Health Act, 2018 and the Facility Improvement Financing Bill 2023 are the key legal frameworks, which allow county health facilities to keep revenue collected to enable them to offset operational expenses and improve service delivery. Health revenues contributed 24 % of the total own-source revenue. Retention of the health revenue will have an impact on the overall collection; thus, the county may need to expand their revenue base in optimization of revenue collection while improving other poorly performing streams for best performance. Importantly, there is a need to provide quarterly reports on expenditure and management of health funds, as required by the PFM Act, 2012.

3.0. Study Methodology

The study sought to answer the following questions:

1. What is the current legal and policy framework governing Own Source Revenue collection in Mombasa County, and to what extent is this framework being effectively implemented?
2. What are the top five revenue streams and bottom five revenue streams, and what proportion does that contribute to the total OSR? How are processes on OSR collections made? Who carries out revenue collection? How are payments made? How is reporting done? Is it monthly, quarterly, or annually?
3. Are there situations where Own Source Revenue shortfalls have led to the need for the Supplementary Budgets?
4. To what extent are revenue shortfalls in the Own Source Revenue in the County a problem for service delivery?
5. What strategies and approaches are Mombasa County employing to manage and allocate revenue from the Health Services Improvement Fund/Facility Improvement Fund, and what impact does this have on the delivery of healthcare services?

The study employed a mixed-method approach, incorporating desktop research and reviewing relevant legislation and reports, such as tax administration Acts, finance Acts from 2019 to 2023, Budget Implementation Reports, County Budget Review and Outlook Papers, and Approved Budget Estimates. The focus was establishing trends and correlations between Own Source Revenue (OSR) and budgetary performance.

Key informant interviews with departments, particularly the County Treasury and county Assembly provided additional insights. The collected information was analysed using thematic and content analysis logic, complemented by quantitative analysis for triangulation and consistency. Descriptive statistics were used, and the presentation featured computer-generated tables, pie charts, and bar charts to visualise revenue streams and expenditure performance between 2018/19 and 2022/23. The study's findings were interpreted, leading to recommendations based on the analysed data and insights gathered during the research process.

4.0. The detailed Study Findings

4.1. Legal and policy framework governing local revenue in Mombasa County and the extent of implementation.

Article 209 (3) of the Kenyan Constitution allows County governments to levy property rates, entertainment taxes, and other taxes as authorised by an Act of Parliament. Further, Article 209(4) of the Constitution of Kenya, 2010, mandates counties to impose Charges on the services they provide. An examination of the legal framework and policy regulations has revealed the presence of multiple Acts enacted by the County Assembly of Mombasa. These Acts grant the County the authority to collect, enforce, administer, and manage revenue collection by categorically enabling the collection of revenues, charges, fees, and levies.

The Mombasa County Revenue Administration Act, 2013

The Mombasa County Revenue Administration Act, 2013 was enacted to provide general administration of specific taxation and other revenue-raising laws for related purposes.

The Mombasa County Rating Act, 2014 (No.4 of 2014)

The act provides guidelines for imposing land and building rates in Mombasa County.4 A keen review of the Act found that it needed to be more effectively operationalised due to a lack of consultation with the relevant department during its development. Notably, a review of the Auditor General reports between 2016 and 2019 showed that the County needed an updated valuation roll. Hence, the Act must be amended to align with the updated valuation roll.

The Mombasa County Trade Licence Act, 2014 (No.5 of 2014), was enacted to grant trading licenses and related purposes.

The Act defines business as a profession, trade, commerce, manufacture, profession, or occupation and as any other activity carried out by a person continuously or regularly, whether for or not for profit. The Act does not clearly define a profession, as counties are not mandated to regulate professional bodies. In 2023, the county government of Mombasa was sued by the Kenya Association of Private Hospitals (KAPH) following the continuous imposing of single-business permits for private health facilities in Mombasa.

The Mombasa County Outdoor Advertising Act, 2016 (No. 3 of 2016)

provides for regulations and management of outdoor advertising and related purposes. The Act defines Advertisement devices, including boards, framework screens, signboards, flags, banners or lamps, neon signs, pamphlets, leaflets, flyers, bulletins, digital displays, murals, vehicles, or any other fixture or device used for advertisement purposes.

The Mombasa County Tax Waiver and Variations Act, 2017 (No. 2 of 2017)7

The Act regulates the waivers and variations of taxes according to Article 210 of the Constitution of Kenya, 2010, and Section 159 of the Public Finance Management Act (PFMA), 2012. A tax waiver is defined as the forbearance of tax collection, partial or full remission, spreading out a payment concerning tax already accrued, and any variation of the amount due to any amount owed to the county government. According to Article 10 of CoK, 2010, and

Section 159 of PFMA, 2012, in case legislation permits waiver of any tax or licensing fee, there ought to be a public record shall be maintained of each waiver, with the reason for the waiver. Furthermore, each waiver and the reason for the waiver shall be reported to the Auditor general.

The Mombasa County Local Tourism Act, 2017 (No.4 of 2017)
The act was enacted to promote local tourism as an engine of economic growth and cultural affirmation and to provide for developing, managing, marketing, and regulating sustainable tourism activities and related purposes.

The Mombasa County Solid Waste Management Act, 2021 (No. 4 of 2021)-
Part VII of the Act provides that the County may levy charges and that the fees collected could be utilised at sources to defray operational costs.

The Mombasa County Health Act 2018 (No. 6 0f 2018)-
AN ACT of the County Assembly of Mombasa to regulate and manage health care services and connected purposes. The Act mandates that the County Health Department levy fees for the services provided by the facilities. Section 40 (1) (2) indicates that the funds collected shall not be paid to the County Revenue Fund account but to a bank account operated by the health facility for that purpose. Further, the funds should be utilised solely to provide health services and develop health facilities.

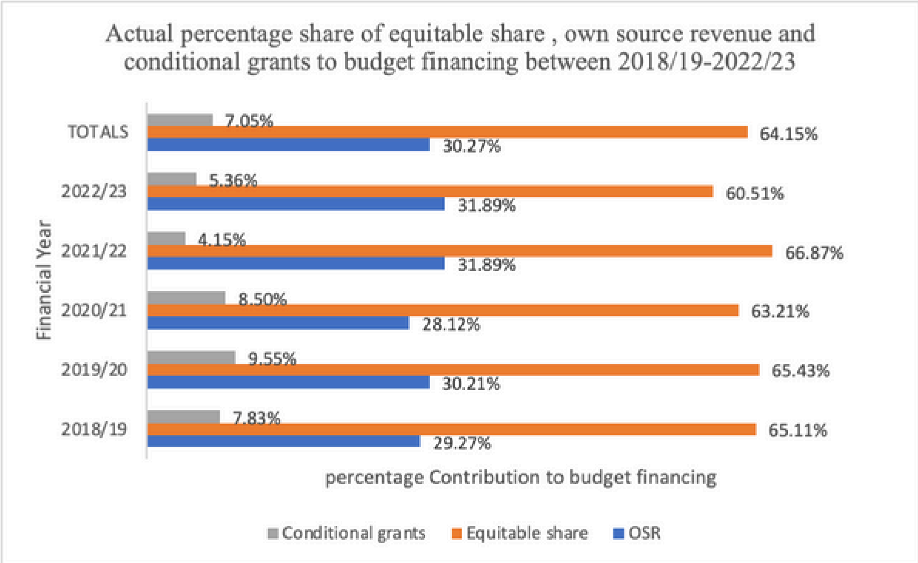
4.2 Budget expenditure and financing between 2018/19-2022/23

4.2.1. Contribution of equitable share, conditional grants, and OSR to FY 2018-2022/23 budget financing.

The final budget allocations between 2018/19 and 2022/23 amounted to Kshs. 71.50 billion. The actual expenditure during the years under review amounted to Kshs. 59.03 billion. Out of the Kshs.59.03 billion spent between 2018/19 and 2022/23, 64.15 per cent was financed by equitable share, 30.27 per cent by own source revenue, and 7.05 per cent of the actual Budget was financed through conditional grants from the government and other development partners.

This points to the fact that the revenues sourced by the County are vital to the funding stream for the Mombasa County Budget. To maximize this source of funding, strategic attention must be paid to improving revenue collection. Equally important is the efficient and transparent use of the collected funds to attain the country's development objectives. It regularly reviews and adjusts the strategies used to collect revenue to support sustainable budget financing.

Figure 1: Equitable share, own source revenue, and conditional grants' share of budget financing between 2018/19-2022/23.



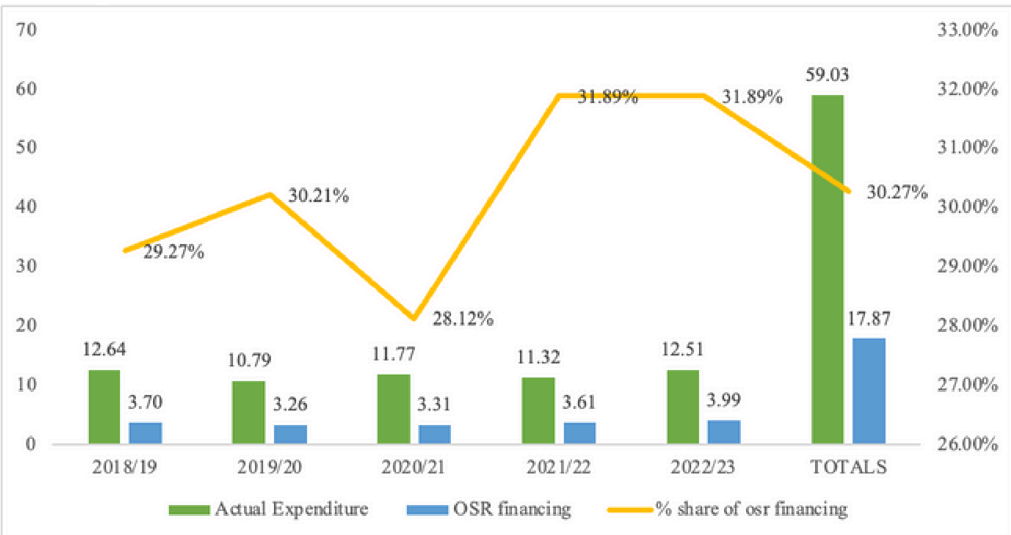
Source: CBROP and OCOB reports, 2018/19-2022/23

4.2.2. Contribution of OSR to Budget Financing between FY 2018/19-2022/23

As previously mentioned, OSR contributed an average of 30.27% to budget the funding from 2018/19 to 2022/23. The expected contribution percentages were 34.9% in 2018/19, 36.5% in 2019/20, 41.33% in 2020/21, 33.97% in 2021/22, and 38.45% in 2022/23.

Contrastingly, Figure 2 reveals that the actual OSR contributions were 29.27% in 2018/19, 30.21% in 2019/20, 28.12% in 2020/21, and 31.89% in both 2021/22 and 2022/23. The approach to addressing budget deficits caused by revenue shortfalls remains to be seen, impacting budget implementation.

Figure 2: Cumulative Own source revenue contribution to budget financing in Mombasa County 2018/19-2022/23.

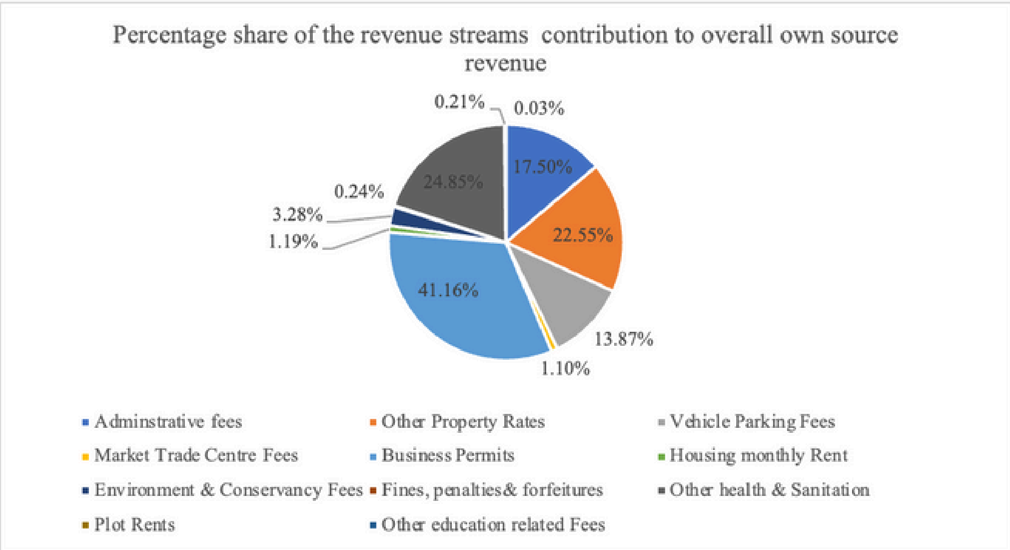


Source: Mombasa CBROB,2023

4.2.3 Contribution of Individual revenue Streams to budget financing, 2018/19-2022/23 - Top 5 and bottom five streams.

Understanding the contribution of each revenue stream is crucial for targeted strategies to optimise collection and address potential areas for improvement. Figure 3 outlines the distribution of the actual Kshs. 17.89 billion collected between 2018/19 and 2022/23. Business permits contributed 41.16%, other health sanitation contributed 24.85%, other property rates contributed 22.55%, administrative fees contributed 17.50%, and vehicle parking fees contributed 13.87% to the overall revenue.

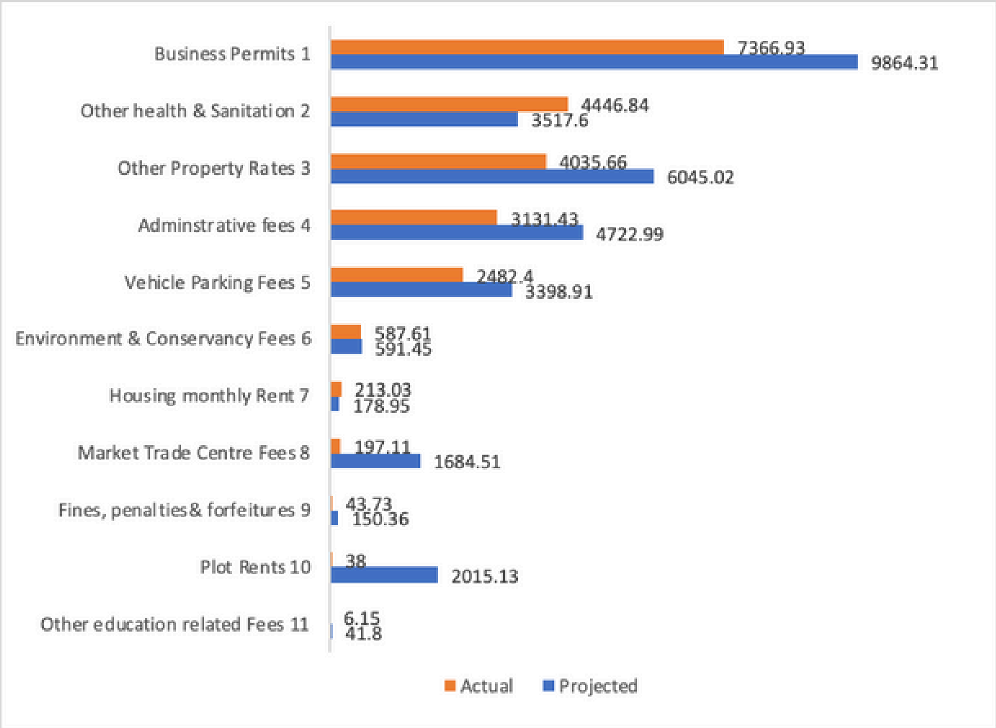
Figure 3: Percentage share of actual revenue streams contribution to the overall own source revenue 2018/19-2022/23



Moreover, in Figure 4, the absolute performance figures of each revenue stream and their contribution to actual revenue collected from 2018/19 to 2022/23 are depicted. Business permits, other health sanitation, other property rates, administrative fees, and vehicle parking fees emerged as the primary revenue sources, contributing Kshs 7,366.93 million, Kshs 4,446.84 million, Kshs 4,035.66 million, Kshs 3,131.43 million, and Kshs 2,482.40 million, respectively. Conversely, plot rents and other education-related fees displayed deficient performance, realising only 1.89% and 14.71% of the actual revenue realised between 2018/19 and 2022/23.

With the ongoing reforms in the health sector, effected in November 2023, such as the Facility Improvement Financing Act, 202311, which mandates counties, through public health facilities, to retain revenue collected; this might impact Mombasa County's share collected from other health sanitation charges.

Figure 4: Cumulative OSR stream trends from 2018/19-2022/23- Projected versus Actual in million shillings.



The analysis identifies instances of the County's both underestimating and overestimating projections. Monthly rent consistently exceeded the 2018/19, 2019/20, and 2020/21 targets. Likewise, other health and sanitation surpassed set targets in 2019/20, 2021/22, and 2022/23.

Although a direct link to underestimation has yet to be established, these examples underscore the potential for enhanced collection from these revenue streams. A strategic focus on accurately assessing the revenue potential of such streams could contribute to improved overall revenue performance.

4.2.4. Detailed breakdown of the own source revenue projections and actual between 2018/19 and 2022/23

The Mombasa County government faced a significant shortfall of 30.52% in its source revenue during the period under review. The total cumulative own-source revenue budgeted from 2018/19 to 2022/23 was Kshs. 25,757.54 million, but the actual realised revenue was Kshs. 17,897.12 million, representing 69.48%.

The analysis shows that the Mombasa County government consistently fell short of its source revenue targets. Figure 6 illustrates the variances recorded by each revenue stream concerning the targets during the reviewed period. Notably, only two streams, other health and sanitation and housing monthly rent, surpassed the targets by 26.4% and 19.0%, respectively. On the contrary, the remaining OSR streams exhibited variances from the projected targets, with plot rents, Market Trade Centre fees, other educational-related fees, fines, and forfeitures recording the highest disparities.

The budget documents need to provide justifications or explanations for these variances, which raises the possibility of overestimating or underestimating revenue targets. To address this, the county government should ensure that its projections are informed by data, whether from historical performance or other evidence when setting targets.

Figure 5: Percentage share of own-source revenue streams variance from the targets

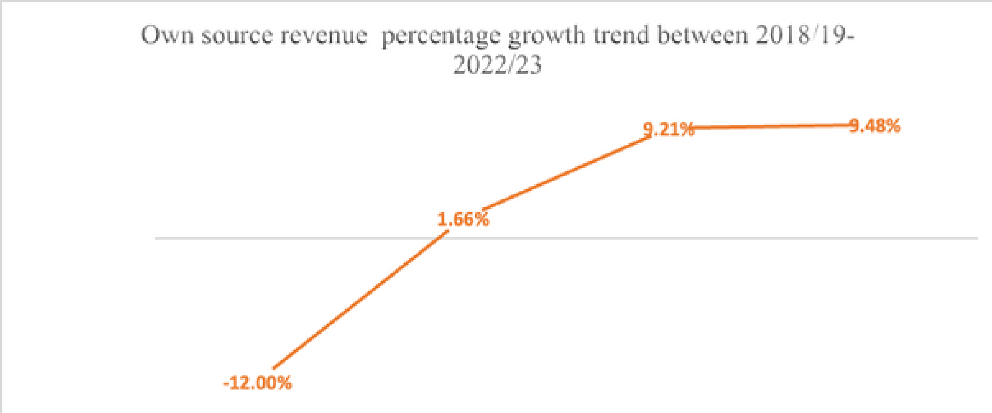
Source: Mombasa CBROPs

4.3. Own source Revenue growth trend between 2018/19-2022/23- pre-covid and post -covid period

The own source revenue collection dropped by 12 per cent between 2018/19 and 2019/20. According to the macroeconomic and outlook information presented by CBROP, 2020, the COVID-19 pandemic led to reduced revenue following slowed economic activities and closure for containment of the pandemic.

According to Figure 7 below, revenue performance improved and gradually increased by 1.66 per cent, 9.21 per cent, and 9.48 per cent in 2020/21, 2021/22, and 2022/23, respectively. Despite this growth, between 2020/21 and 2022/23, Mombasa County still needs to match the revenue potential with the actual collections, as demonstrated in the Commission on Revenue Allocation (CRA) report.

Figure 6: Own source percentage Revenue Growth trend 2018/19 -2022/23



	2019/20	2020/21	2021/22	2022/23
TOTALS	-12.00%	1.66%	9.21%	9.48%

4.4. What informs the projections from one fiscal year to the next, and can that be traced in the Finance Acts?

According to the analysis, there were changes in the OSR stream projections from one fiscal year to the next, as indicated in Figure 7. The study notes unclear factors influencing changes in OSR stream projections, highlighting a significant 9,899.28% increase in plot rent despite prior underperformance. Total projections exhibit minor variance between 2021/22 and 2022/23. The total forecast was estimated at Kshs.4.94 billion and Kshs.4.84 billion in 2021/22 and 2022/23, respectively. Looking at the individual streams, the only changes were made to other property rates, which increased by 2.88%, and other health and sanitation, whose projections were revised downwards by 19.46 %.

Analysis of Finance Acts revealed an inconsistent correlation between revenue streams between the projections and what is provided in the revenue streams in the Finance Acts. Yet, they are supposed to help the County improve its revenue-raising measures.

Figure 7: Percentage Changes in Revenue Stream Projections 2018/19-2022/23

Revenue Streams	Percentage Changes in Projection between 2018/19 and 2019/20	Percentage Changes in Projection between 2019/20 & and 2020/21	Percentage Changes in Projection between 2020/21 and 2021/22	Percentage Changes in Projection between 2021/22 and 2022/23
Administrative fees	-31.72%	20.60%	68.99%	0.00%
Other Property Rates	-12.35%	1.30%	-29.68%	2.88%
Vehicle Parking Fees	78.00%	-50.51%	45.51%	0.00%
Market Trade Centre Fees	365.91%	-10.07%	52.05%	0.00%
Business Permits	-91.17%	38.22%	-32.32%	0.00%
Housing Monthly Rent	-52.97%	0.00%	0.00%	0.00%
Environment & Conservancy Fees	-23.51%	-19.94%	41.07%	0.00%
Fines, penalties& forfeitures	20.87%	15.47%	-13.40%	0.00%
Other health and sanitation	-9.37%	-2.48%	16.81%	-19.46%
Plot Rents	-8.64%	9899.28%	-99.00%	0.00%
Other education-related Fees	168.54%	0.00%	0.00%	0.00%

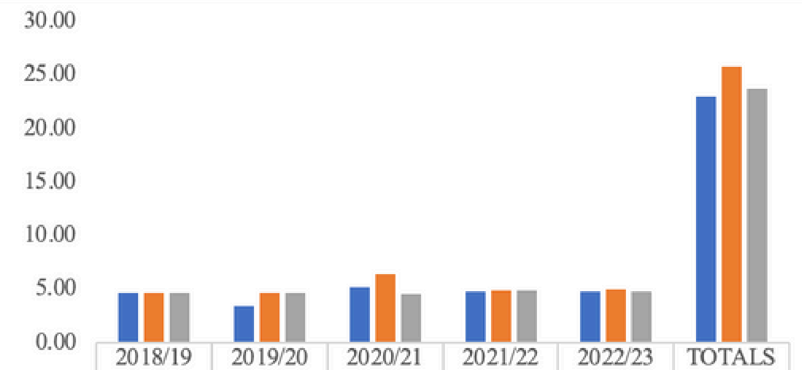
4.5. How do Budget changes within the year affect own source revenue projections?

A study conducted by International Budget Partnership Kenya revealed that supplementary budgets have become standard practice during the Budget's implementation stage.13 To comprehend budget changes, the study compared initial revenue estimates in approved budgets with final approved estimates in the Controller of Budget reports (Annual) and the County Budget Review and Outlook Papers over the reviewed years.

Evidence indicates revisions to own-source revenue over the five years, except for 2018/19. In 2019/20, revenue targets were revised upward from Kshs.3.45 billion to Kshs.4.73 billion, a 37% increase. Analysis revealed a discrepancy between final OSR information in the County Budget Implementation Review Reports (CBIRR) by OCOB and CBROPs, except for 2018/19. In 2020/21, OCOB's report indicated a 23.05% increase, while CBROP 2021 recorded a 12.95% drop from Kshs 5.25 billion to Kshs.4.57 billion, as shown in figure 8. In-depth interviews revealed that the variance was a result of differing timelines in reporting.

It took time to pinpoint where changes had occurred from original to final estimates, as Approved Programme Budgets need more detailed revenue stream information, unlike CBROPs. Additionally, budget implementation reports, mandated by the PFM Act, have been available for Mombasa for the 2022/23 fiscal year. Furthermore, revision of Own source revenue projections does not necessarily lead to higher revenue collection, as Mombasa County still missed projections despite intra-year revisions.

Figure 8: Own source Revenue Changes from the original approved estimates to the final estimates as presented in the CBROP and Controller of Budgets Implementation Review Reports (CBIRR) in billion



	2018/19	2019/20	2020/21	2021/22	2022/23	TOTALS
Original projected OSR	4.74	3.45	5.25	4.77	4.82	23.03
OCOB projection	4.74	4.73	6.46	4.96	5.00	25.89
CBROP projection	4.74	4.73	4.57	4.97	4.81	23.82

4.6. How are Own source revenue decisions undertaken?

Revenue collection, utilisation, and management decisions must adhere to the established legal framework, including the Constitution of Kenya 2010, the Mombasa County Revenue Administration Act of 2013, and the Mombasa County Tax Waiver Administration Act of 2014, along with other relevant provisions.

Sections 132 and 133 of the Public Finance Management Act (PFMA), 2013 outline the significance of finance bills/Acts as mechanisms for generating revenue. These measures aim to enhance revenue collection for counties by identifying new streams and fortifying existing revenue laws. Finance Acts must modify pre-existing financial laws, and these amendments should be readily accessible on official government websites to facilitate reference.

The Finance Acts cover the period from 2018 to 2023 and address aspects such as tax compliance, payment defaults, penalties, delegation of responsibilities, and information on payment channels. Emphasising accountability, these Acts stipulate that all payments must be conducted through authorised channels, involving deposits into the county bank account, and using the designated electronic pay bill channel.

However, reports by the Office of the Auditor General have raised queries related to revenue collection, management, and utilisation, specifically on parking fees, property rates, and other health and sanitation as follows:

Parking fees

During the fiscal year 2019/20, a total of Kshs. 493.17 million was collected, with Kshs. 212.33 million attributed to direct parking transactions through a mobile financial platform. However, an audit review of the financial statements revealed that only Kshs. 222.49 million was shown through the system, creating an unexplained variance of Kshs. 10.16 million.

Moving to the fiscal year 2020/21, vehicle parking fees amounted to Kshs. 436.07 million, with Kshs. 205.99 million collected via a payment platform administered by a local bank. Notably, the financial statement showed this figure. However, the related bank statements and cashbooks needed to be provided, hindering the confirmation of actual receipts and next transfers to the County Revenue Fund Account. This lack of documentation raises concerns about the accuracy and transparency of the revenue collection process during that period. In 2021/22, the audit report raised concerns over an unexplained variance in the parking fees collection account and the e-parking module, resulting in a variance of Kshs. 73.17 million.

Other Property income rates

In the fiscal year 2019/20, the Mombasa County Government generated Kshs. 3.14 billion, with Kshs. 505.28 million attributed to other property rates. However, an audit review highlighted concerns about the outdated valuation roll used for billing. This roll included new subdivisions of 4,000 plots registered in the names of unidentified owners, showing a need for an updated and correct assessment.

In 2021/22, an audit query surfaced, highlighting a Kshs. 33.29 million variances between the LAIFOM (Local Authorities Integrated Financial Operations Management) and the Annual Collection report for property rates. Additionally, detailed LAIFOM reports for land rates in August, September, and November were not provided for audit review. 14The audit report further showed a default amount of Kshs. 7.7 billion on land rates, despite provisions in next finance Acts, the Mombasa County Revenue Administration Act of 2013, the Mombasa County Waiver Act of 2016, and the PFM Act of 2012 addressing defaults. Implementing these provisions appears lacking, contributing to the challenge of unaddressed defaults in land rate payments.

4.7. Revenue Automation

In its effort to enhance service delivery, the Mombasa County Government has put in place the Electronic Services (e-Services) system. Streamlining processes and digitizing workflows have been the strategic focus of implementing e-services in areas such as revenue collection and convenient access for residents and businesses in Mombasa County to numerous services of the government. The key existing portals in the e-system include E-Public Service Vehicles (PSV), e-lands, e-cess, e-parking system, e-market system, and e-house rents.

The County has actively implemented revenue automation to enhance collection and minimize leakages. According to the Commission on Revenue Allocation report (CRA, 2018), at the onset of devolution, counties that had started revenue automation showed some improvement in own-source revenue, with Mombasa County being one of the counties with notable improvements. However, challenges persist in revenue management, as highlighted by the Auditor General's reports from 2018/19 to 2021/22. These issues encompass violations of the Public Finance Management Act, unexplained variances, reliance on outdated valuation rolls, and revenue expenditure at its source, by the Department of Health Services.

However, it was clarified during interviews, with relevant officials that, the health department had been implementing the County Health Act, of 2018, which allows for the retention of revenues collected.

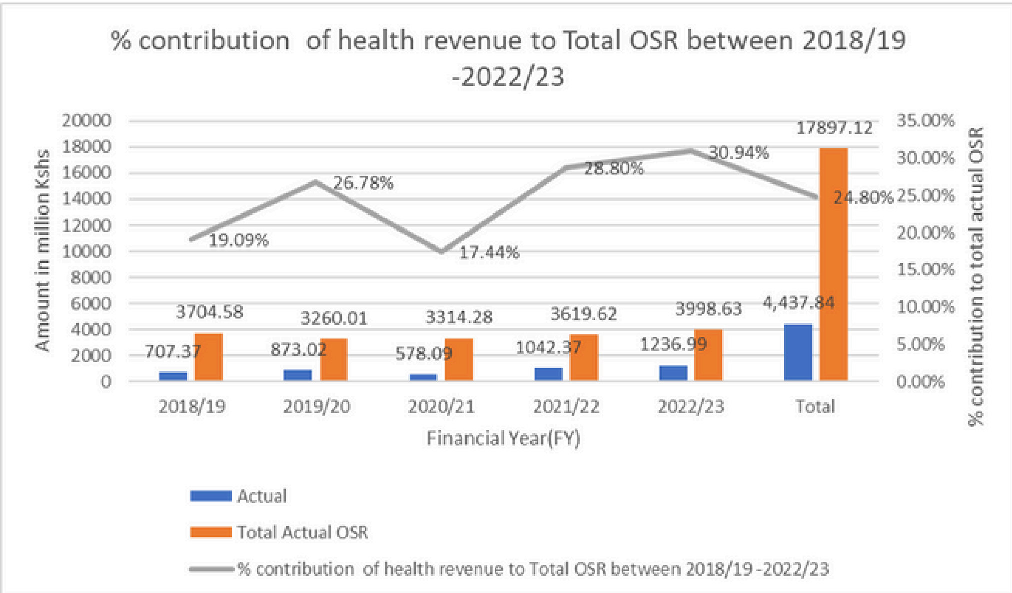
Further analysis of County Budget Implementation Review Reports (CBIRR) by the Office of Controller of Budgets showed that as of 2021/22, the County had automated revenue collection through the county e-service system, with some notable improvements. Whereas revenue increased by 1.66% in 2021/22 from 2020/21, the increase was not attributed to automation but to revenue arrears and penalties charged from 2020/21.

4.8. Strategies for managing revenue from health services towards enhancing health service delivery.

4.8.1. Contribution of health revenue to own source revenue.

The study noted that other health and sanitation revenue was among the top five revenue streams in Mombasa County. In 2018/19, the health and sanitation stream contributed 19.09%, 26.78% in 2019/20, 17.44% in 2020/21, 28.80% in 2021/22 and 30.94% in 2022/23, averaging 24.80 %, see figure 9.

Figure 9: Percentage contribution of health revenue to total actual Own Source Revenue (OSR) between 2018/19 and 2022/23.



Source: Author's analysis of Mombasa CBROPs, 2018-2023.

4.8.2. Provisions on the management of health revenue.

Section 109 of the Public Finance Management Act, 2012 mandates counties to deposit all collected revenues into the County Revenue Fund Account (CRF). However, in Section 109(2)(b), counties can keep revenues if sanctioned by either an Act of Parliament or county legislation, primarily to offset expenses in sectors like health. The Facilities Improvement Financing Act of 2023, a significant piece of legislation, specifically Section 5, grants public health entities the authority to keep all funds acquired on their behalf. The enactment of the FIF legislation marks a substantial step in reestablishing public health's financial independence, which ensures that health facilities are adequately funded, given that health services are entirely devolved.

The study proved that Mombasa County had put in place legislation to enable health facilities to retain some of the monies collected in the form of charges, levies, and fees by health facilities. This was made possible by the Mombasa County Health Act, 2018 and the Mombasa County FIF Bill, 2023, which had been tabled before the county assembly of Mombasa by the time of this study was conducted.

4.8.3. The Mombasa County Health Act, 2018

The Mombasa County Health Act, 2018 is an ACT of the County Assembly of Mombasa to regulate and manage healthcare services and connected purposes. The Act sets up various committees for the management of health services and resources. These committees, which play a crucial role in the health service delivery, include the County Health Board, the County Health Board sub-committees (including the Finance and General Purpose sub-committee), the Hospital Management Board(HMB), and the County Health Facility Committee (CHFC), as per sections 6, 9, 13 and 15 respectively.

The Act further, in section 38(1), mandates the County Department of Health Services to ensure progressive financial access to universal health coverage by taking measures such as developing mechanisms for economic and risk pooling to reduce out-of-pocket expenditures progressively.

Section 39 of the Act requires the county treasury of Mombasa to help the opening and maintenance of bank accounts for operationalising conditional grants and any other monies for every health unit and facility in the County in line with PFM laws. Notably, section 40 of the Act establishes a fund for financing the implementation of the Acts, whose sources include Such grants and transfers as may be received from the national government, monies as may be appropriated by the county assembly of Mombasa, grants, and donations from any lawful source, charges payable or insurance payments payable by the Act, and any income generated by the health facility from any project initiated by the health facility.

4.8.4. The Mombasa County Facility Improvement Financing Bill, 2024

The County Assembly of Mombasa is enacting the Mombasa County Health Improvement Financing (HIF) Bill 2024, which saw its initial readings on February 21st and 27th, 2024. The Mombasa County Health Improvement Financing Bill, 2024 is an Act of Mombasa County to provide for the collection, retention, management, and use of County health improvement financing and connected purposes. The objective of the Mombasa County Health Improvement Financing, 2024, is to give effect to Section 5(1) of PFMA, 2012, by declaring that health facilities, as entities, provide the framework with Section 109 (2) (b), that allows county health facilities to retain revenue collected for defraying its expenses and provide appropriate structures and accountability measures to support the County HIF as provided by PFMA, 2012.

Expenditure/ usage at source

The audit report, 2019/20, flagged a violation of Section 109(2) of the Public Finance Management Act of 2012, which mandates that all money raised, or revenue received on behalf of the county government should be deposited into the County Revenue Fund (CRF) Account. 16 a total of Kshs. 568.7 million in revenue was not transferred to the CRF during the fiscal year 2019/20.

A review of the Mombasa County Health Act of 2018 (Kenya Law, 2018), section 40 (c) (d) (e) and (f) establishes a fund financed from these sources. Further, section 40(2) shows that funds in the section above shall not be paid to the County Revenue Fund but shall be paid to the bank account operated by the health facility for that purpose. This shows that by the time of the audit, the Mombasa County Health Act 2018 had yet to be operationalised.

In fiscal year 2021/22, Kshs. 1.03 billion was collected from other health and sanitation sources. However, supporting documentation, such as Mpesa Paybill or bank collection accounts, was needed for this collection. This lack of documentation posed a challenge in setting up the accuracy of the reported amount, raising concerns about the transparency and accountability of the financial transactions related to health and sanitation revenue during that period.

Inadequate Budget and weak internal controls

According to the county Budget Implementation Review Reports (CBIRR) 2019/20, 2020/21 and 2021/22, the Department of Health Services had higher absorption rates compared to the approved Budget, indicating incidences of expenditure of revenue at source or implying the use of unauthorised funds for purposes not intended for. (OCOB, 2023). In 2022/23, the controller of Budgets acknowledges the health department's revenue as a Facility Improvement fund. However, evidence needed to be provided that the fund report had been given for review as required by the PFM Act.

In-depth interviews revealed that the Department of Health Services, through the Mombasa County Health Act, of 2018, was keeping the revenue collected from the services and charges offered. The retention of the health revenue is further given effect by the FIF bill, 2023, which is in enactment.

5.0. Key Recommendations

1. Legal framework and policy recommendations

The County should ensure that it puts in place a systemic and periodic review process for all acts related to revenue. The systemic review ensures that the legal framework is still responsive to the economic, social, and regulatory surroundings' changes. Further, it must handle inconsistency identity and correct any inconsistencies or ambiguities in existing acts to be clearer and more effective. Systemic legal reviews can be guaranteed through the close cooperation of legal experts, policymakers, and relevant stakeholders, where the county legal department should take the lead. Specifically, the county legal department needs to:

- Operationalise the Mombasa County Rating Act, 2014- Consultation and Collaboration Ensure effective collaboration with relevant departments during the development and implementation of the Mombasa County Rating Act. This includes involving key stakeholders to address potential challenges and garner support.
- Conduct a thorough review and update of the valuation roll. A correct and up-to-date valuation roll is essential for fair and consistent property assessments, optimizing revenue collection from property rates. The county department of Finance and economic planning and the department of housing should do this in line with the National Rating Bill 2023.
- Review and clarify the Mombasa County Trade License Act, 2014, definition of "Profession" is ambiguous. There is need to revisit the definition of "profession" in the Mombasa County Trade License Act to provide clarity and avoid legal disputes. Collaborate with relevant professional bodies to ensure a comprehensive and mutually agreed-upon definition.

2. Advanced Revenue Forecasting and Management- Accurate revenue projections based on historical performance or performance indicators would help to avoid substantial revenue shortfalls, thus enabling proper planning and management of financial resources.

3. Revenue stream optimization to reach revenue potential - enhancing the performance of the best-performing revenue streams and keen attention should be given to the causes of low performance in revenue streams such as plot rents and Market Trade Centre fees to ensure minimized variances of revenue from set targets for more predictable revenue streams.

4. Optimization of the Benefits of Revenue Automation- The automated revenue collection system can be customized to yield revenue growth through process improvement, error reduction, and increased efficiencies in the collection of revenue. However, the county treasury ought to be keen not to spend much on automation than the revenue collected.

5. Strengthening Revenue Collection and Management Controls: There is a need for internal control and oversight mechanisms to be strengthened, the valuation rolls to be updated, and proper transfer of revenues collected to the respective County Revenue Fund account. For the special fund account, such as Elimu Fund, effective reporting should be encouraged, as per the PFM Act, 2012 and next subsequent legislations.

6. The national assembly needs to Accelerate the National Rating and Valuation Bill to streamline property rating and valuation processes, enabling counties to perfect revenue collection efficiently. Importantly, the Constitution of Kenya, Article 209, leaves only two main sources of revenue to counties, and yet most resources are still at the national level. Counties need to lobby for constitutional amendments that will diversify revenue sources available to the county, and increase the equitable share to counties, to support service delivery.

7. Diversifying and Growing the Revenue Base- the county through the directorate of revenue may want to diversify and explore other areas to expand its revenue base. This is imperative to shield the gap left by health revenue, which is now kept by health facilities.

6.0. Conclusion

The role of OSR in budget financing in Mombasa County is of utmost importance. However, despite the presence of a robust legal and policy framework that governs revenue matters, some significant gaps, and challenges demand immediate attention. This study underscores the urgency of reviewing and updating the policies to align with the national government's policy directives.

Secondly, the significant gap between the projected and the actual OSR, with a 30.52% gap over the five years, calls for using data-driven approaches, including relying on historical performance trends to improve revenue forecasting and projections. Although a few revenue streams are doing well in revenue performance, there is a need to improve this potential through strategic focus and general improvement on the underperforming areas, such as other education and plot rents. Importantly, strengthening oversight and internal control for revenue collection, use, and management, coupled with automation will go a long way towards optimizing revenue collections.

The national assembly must Expedite the National Rating and Valuation Bill to streamline property rating and valuation processes, thereby enabling counties to improve revenue collection effectively. It is crucial to note that the Constitution of Kenya, Article 209, restricts counties to only two main sources of revenue, while most resources remain at the national level. Therefore, it is imperative for counties, through the Council of Governors and the Senate, to advocate for constitutional amendments that will diversify revenue sources available to the county and increase the fair share to counties to bolster service delivery.

As for further areas of study, there is a pressing need to explore the impact of revenue challenges on specific service delivery sectors within Mombasa County and to conduct an in-depth assessment of the effectiveness of implemented revenue management strategies. Further, there is an opportunity to explore how much FIF is likely to improve on health financing, hence service delivery, while upholding the PFM laws. Finally, there is an opportunity to examine how budget deficits and pending bills are addressed and their impact on service delivery.

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