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Flaws in the Design of Crop Levies by the Local Government Authorities in Mainland Tanzania

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Abstract

The design of crop levies by Local Government Authorities (LGAs) in Mainland Tanzania is governed by the Local Government Finance Act, Cap. 290 [R.E. 2019]. The Act delineates the tax base, identifies the taxpaying unit, and empowers the LGAs to establish crop levy rates by bylaws within a range of 0–3% of the farm gate price for both food and cash crops. This paper examines flaws in the design of crop levies through bylaws enacted by LGAs in Mainland Tanzania. It reveals that the Local Government Finance Act does not define the term inhabitants or specify the categories of inhabitants liable to pay crop levies, which leads to flaws in the design of these levies by the LGAs. The paper recommends amending the Local Government Finance Act to define the term inhabitants and the relevant categories of inhabitants for the purpose of paying crop levies.

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1. INTRODUCTION

The Local Government Finance Act regulates the design of crop levies by the Local Government Authorities (LGAs) in Mainland Tanzania.[1] The Act delineates the tax base, identifies the taxpaying unit, and delegates authority to the LGAs to determine the rates of crop levies through bylaws pursuant to the authority granted under Section 16 of the Act. This section empowers LGAs to impose crop levies on the inhabitants or such categories of inhabitants, with levy rates stipulated in the Schedule to the Act, ranging from 0–3% of the farm-gate price for both food and cash crops, payable by buyers. Nevertheless, the Act does not define the term *inhabitant* or *inhabitants* concerning the imposition of crop levies. Additionally, Section 17 of the Act requires LGAs to evaluate crop levy rates according to the planned expenditures for a given fiscal year, resulting in variations in the rates of crop levies for similar crops across different LGAs.

This paper examines flaws in the design of crop levies by the LGAs in Mainland Tanzania, focusing on Mbinga District Council, Rungwe District Council, Momba District Council, and Mvomero District Council as a case study. The remainder of this paper is structured as follows: Part Two outlines the methodology employed to conduct the study. Part Three examines the legal framework governing the design of crop levies by the LGAs in Mainland Tanzania. Part Four presents the findings of the study. Part Five concludes and offers recommendations for reform of the law governing the design of crop levies by the LGAs in Mainland Tanzania.

2. METHODOLOGY

The research employed both doctrinal and socio-legal methodologies. Doctrinal research examines the existing legal principles pertaining to a specific issue. The research process involves identifying, analyzing and synthesizing the content of the law.[2] The researcher utilized principal and subsidiary legislation to elucidate the law. Both literal and purposive rules of statutory interpretation were applied in interpreting the provisions of legal texts. Conversely, socio-legal research utilizes methodologies from various social science disciplines to produce empirical data aimed at addressing specific research questions. The focus may be on a problem, its causes and consequences, a policy, a law or any other legal arrangement while institutions and organizations can also be studied.[3] The methods employed in this study were determined by the nature of the study and the type of data required.

The study employed documentary review and in-depth interviews to gather both qualitative and quantitative data. The documentary review encompassed an analysis of pieces of legislations, reports from the Controller and Auditor General (CAG), economic survey reports, budgets of LGAs and reports on own-source revenues from crop levies. In-depth interviews facilitated the collection of comprehensive information from respondents. The researcher conducted in-depth interviews with agricultural stakeholders, including peasants and crop buyers, who are the ratepayers and revenue accountants, agricultural officers, crop levy collection agents, solicitors in the LGAs and in the President's Office-Regional Administration and Local Government (PO-RALG), district treasurers, district planning officers, cooperative societies officers, Ward Executive Officers (WEO) and Village Executive

[1] Cap. 290 [R.E. 2019].

[2] LL France and S Hans, *Empirical Legal Research: A Guidance Book for Lawyers, Legislators and Regulators*, UK, Edward Elger Publishing Limited, 2016, p. 3.

[3] LL France and S Hans, *Empirical Legal Research: A Guidance Book for Lawyers, Legislators and Regulators* (n 2), p. 4.

Officers (VEO), who are government officials responsible for budget preparation for the LGAs, formulation of bylaws governing crop levies and collection of crop levy rates.

The in-depth interviews were conducted across four purposively selected district councils: Mbinga in the Ruvuma Region, Rungwe in the Mbeya Region, Momba in the Songwe Region and Mvomero in the Morogoro Region. The selection of the study area based on two considerations; the presence of households primarily dependent on maize and/or coffee crops for their livelihoods and the need to attain a thorough understanding of the phenomena under investigation across different localities. The study encompassed a duration of seven years, from the fiscal years 2017/18 to 2023/24. Two crops, coffee and maize, were selected for analysis. Maize serves as the main cereal in Tanzanian diets, with production levels surpassing those of all other cereal crops in the country.[4] Maize is recognized as an essential crop for enhancing food production, increasing income, alleviating poverty and ensuring food security; periods of food shortages are often linked to a shortage in maize supply.[5] Coffee, on the other hand, is a significant cash crop cultivated in Tanzania.[6] It accounts for 24% of the country's total foreign exchange earnings.[7] Tanzania is the third-largest coffee producer in Africa, after Ethiopia and Uganda, and ranks as the 15th largest coffee-growing country worldwide.[8]

Content analysis was employed to analyze qualitative data. The process involved organizing data into manageable units, which were subsequently coded, summarized, categorized, and arranged into key themes presented as statements. Quantitative data were edited, coded, and analyzed using Microsoft Excel to produce various descriptive statistics. The researcher adhered to ethical guidelines throughout the study. During the documentary review, all consulted documents were properly acknowledged to prevent plagiarism. Permission was obtained from all sampled public authorities, including district councils, PO-RALG, and the Tanzania Coffee Board (TCB), during the collection of primary and secondary data. Additionally, the consent of participants was obtained and measures were taken to ensure anonymity and confidentiality.

3. LEGAL FRAMEWORK GOVERNING THE DESIGN OF CROP LEVIES BY THE LGAs IN TANZANIA

The design of crop levies by the LGAs in Tanzania is governed by the Local Government Finance Act.[9] The Act provides for the tax base, the tax rate and the taxpaying unit as detailed below.

3.1 The tax base

The Schedule to the Local Government Finance Act[10] specifies the limited categories of taxes and rates that LGAs are authorized to impose for the purpose of generating revenue to fund public services within their jurisdictions. Crop levies are specified in the Schedule to the Local Government Finance Act as a tax that LGAs may impose through

[4] The 2018/19 Preliminary Food Crop Production Assessment Report for 2019/20 Food Security, available at:<www.agriculture.go.tz> (accessed on 27th February, 2022).

[5] FE Mmbando (et al.), "Determinants of Smallholder Peasants' Participation in Maize and Pigeonpea Markets in Tanzania" 54(1) *Agricultural Economics Research and Practice in Southern Africa*, 2015, p. 98.

[6] National Sample Census of Agriculture 2019/20, p. 86, available at:<https://www.nbs.go.tz> (accessed on 16th January, 2023).

[7] National Coffee Industry Development Strategy 2020/21-2024/25, p. 4, available at:<https://www.coffeeboard.or.tz> (accessed on 16th January, 2023).

[8] Ibid, p.1.

[9] Cap. 290 [R.E. 2019].

[10] Cap. 290 [R.E. 2019].

bylaws.[11] The assessment of crop levies is governed by Item 1 (a)(b) of the Schedule to the Act, which explicitly stipulates that crop levies are to be assessed based on the farm gate price.

Crop levies are assessed on gross turnover following the sale of crops at the farm gate price, without accounting for expenses or losses in the computation of tax payable. The tax aimed to streamline the legal framework governing taxation in the agricultural sector, which is a hard-to-tax, to enable the government to harness adequate revenue from the sector. Turnover taxes impose a fixed percentage tax on total sales, they do not assess the actual farm income.[12]Gross turnover refers to the aggregate sales generated by a taxpayer from business activities during a fiscal year. Numerous countries worldwide have utilized turnover as a tax base in the development of simplified tax systems. Turnover taxes are categorized as indirect taxes. One significant argument in favour of indirect taxes is their capacity to generate substantial government revenue, coupled with relatively low administrative costs.[13]

3.2 The rate of crop levies

In Tanzania, crop levies are imposed though the bylaw method by each LGA as authorized by Section 16 of the Local Government Finance Act.[14] Item I of the Schedule to the Act specifies that the levy rates shall be imposed within the range of 0-3% of the farm gate price. The Local Government Finance Act establishes a legal criterion for determining the rate of crop levies applicable for a specific period.[15] Section 17 of the Act mandates that LGAs evaluate levy rates according to the expected expenditures from a designated source during the applicable period for which the rate is set. In *SB Dayal v Uttar Pradesh*,[16]the Supreme Court articulated that the power to establish tax rates is inherently legislative. Nevertheless, if the legislature establishes the legislative policy and provides the necessary guidelines, this power may be delegated to the executive branch. Taxation primarily seeks to generate revenue; however, the choice of taxable entities and the establishment of tax rates must account for various economic and social factors, including the availability of goods, administrative efficiency, potential for evasion, and the effects of taxation on different societal segments.

3.3 The taxpaying unit

Crop levies are imposed on buyers in accordance with Item I of the Schedule to the Local Government Finance Act.[17] A buyer may be either a natural person or a legal person. Despite the fact that buyers are statutorily required to pay this tax, the tax incidence can be readily shifted forward or backward based on the elasticity of supply and demand.[18] These phenomena can be ascribed to the diminished elasticity of supply compared to demand in the post-harvest market, leading to enhanced bargaining power for buyers. When the elasticity of supply is high and the elasticity of demand is low, a trader may raise the selling price. In this case, the tax burden would be borne by the consumer. On the other hand, if the supply elasticity is low and the demand is high, the trader cannot raise the selling price. This puts

[11]Cap. 290 [R.E. 2019].
[12]JE Greene, *Public Finance: An International Perspective*, Singapore, World Scientific Publishing Co. Pte. Ltd, 2021, p. 212.
[13]MH Khan, "Agricultural Taxation in Developing Countries: A Survey of Issues and Policy", 24 *Agricultural Economics*, 2001, p. 316.
[14]Cap. 290 [R.E. 2019].
[15]Cap. 290 [R.E. 2019].
[16]AIR 1972 SC 1168, 1169.
[17]Cap. 290 [R.E. 2019].
[18]MH Khan, "Agricultural Taxation in Developing Countries: A Survey of Issues and Policy" (n 13), p. 317.

the burden of the levy on the trader.[19] In *Igunga District Council v Kahama Oil Mills Ltd,*[20] the court determined that Kahama Oil Mills Ltd, as a buyer of cotton from 28 Agricultural Marketing Cooperative Societies (AMCOS) in Igunga DC, was obligated to pay a cotton levy to the plaintiff at the rate of 3% of the farm gate price of 1,200 TZS as announced by the government to empower cotton peasants. In another case of *Uyui District Council and Attorney General v PACHTEC Company Limited,*[21] the court determined that PACHTEC Company Limited, as the buyer of Tabacco in Uyui DC during the 2020/21 tobacco season, is obligated to pay a tobacco levy of 100,173,499.93 TZS to the plaintiff.

However, in the case of *Furahini Zakayo v Attorney General and Mbarali District Council,*[22] the plaintiff, Furahini Zakayo, a peasant, challenged the Mbarali DC's imposition of a levy of 1,000 TZS on each bag of 100 kg of rice during its transportation from his farms to Lyambogo village for family use and storage. The plaintiff contended that the imposition of crop levies on him, as a peasant, contravenes Item 1 of the Schedule to the Local Government Finance Act, which imposes the obligation on buyers.[23] The court ruled in favour of Mbarali DC, citing Regulation 7 (2)(3) of Fees and Levies bylaws of Mbarali District Council, 2019, which imposes crop levies on buyers, businessmen or any other person who is not a buyer or businessman.[24] The Fees and Levies bylaws of Mbarali DC contravene Item 1 of the Schedule to the Local Government Finance Act which mandates that crop levies be paid by buyers.[25] The court incorrectly determined that peasants are required to pay crop levies in Tanzania.

4. FINDINGS AND DISCUSSION

This part presents the findings and discussion of a study that examined flaws in the design of crop levies by the LGAs in Mainland Tanzania. The data obtained from the study indicates four major findings that reveal flaws in the design of crop levies by the LGAs: First, LGAs impose maize levy rates based on a fixed value per 100 kg bag, contrary to Item I(b) of the Schedule to the Local Government Finance Act, which stipulates that crop levies should range between 0–3% of the farm-gate price.[26] Second, LGAs impose coffee levies based on the market price instead of the farm gate price contrary to Item I (a) of the Schedule to the Local Government Finance Act.[27] This practice is prevalent in coffee sold at auctions and the Direct Export (DE) market. Third, the discretionary authority of the LGAs to set crop levy rates within a range of 0-3% based on the expenditure they want to make in a particular fiscal year has led to variations in levy rates for the same crop across the LGAs. The use of discretionary power has resulted in uncertainty regarding crop levy rates; fourth, the Local Government Finance Act does not define the term inhabitant or the categories of inhabitants to pay crop levies.[28] Consequently, LGAs impose crop levies through bylaws on any person transporting crops within their jurisdictions, including peasants, local crop buyers and external crop buyers. The findings are presented under two headings, namely, the rate of crop levies and the taxpaying unit.

[19] Ibid.
[20] Civil Case No. 05 of 2021, the High Court of the United Republic of Tanzania, Tabora District Registry at Tabora.
[21] Land Case No.05 of 2023, the High Court of the United Republic of Tanzania, Tabora Sub-Registry at Tabora.
[22] Civil Case No. 17 of 2022, the High Court of the United Republic of Tanzania, Mbeya Sub-Registry at Mbeya.
[23] Cap. 290 [R.E. 2019].
[24] G.N. No. 693 of 20/09/2019.
[25] Cap. 290 [R.E. 2019].
[26] Cap. 290 [R.E. 2019].
[27] Cap. 290 [R.E. 2019].
[28] Cap. 290 [R.E. 2019].

4.1 The rate of crop levies

The findings on the rate of crop levies are presented below in two headings, namely, taxation of maize in Momba DC and Mvomero DC and taxation of coffee in Rungwe DC and Mbinga DC.

4.1.1 Taxation of maize in Momba DC and Mvomero DC

Analysis of Item (a) of the fifth Schedule to the Fees and Levies bylaws of Momba District Council[29] and the first Schedule to the Fees and Levies bylaws of Mvomero District Council[30] indicates that the maize levy rates are 2% and 3% of the farm gate price in Momba DC and Mvomero DC, respectively. In-depth interviews conducted with peasants, crop buyers, revenue accountants, agricultural officers, crop levy collection agents, solicitors in the LGAs, district treasurers, district planning officers, WEO and VEO in Momba DC and Mvomero DC on maize levy rates revealed that the maize levy rate was 1,000 TZS per 100kg bag in Momba DC and 1,500 TZS per 100kg bag in Mvomero DC. All respondents provided similar response regarding maize levy rates, as these rates in the two district councils have remained consistent from the 2017/18 to the 2022/23 fiscal years. However, during the 2023/24 fiscal year, Momba DC raised the rate of maize levy by 500 TZS, resulting in a new rate of 1,500 TZS per 100kg sack of maize. The new maize levy rate was implemented from January 2024. The adjustment of the maize levy rate was linked to fluctuations in the farm gate prices of maize within the council and the need to achieve revenue collection targets for the 2023/24 fiscal year.[31]

The finding regarding maize levy rates indicates that levies on maize are typically calculated using a commonly used sales unit, which may fluctuate in both weight and price. Maize levies in Momba DC and Mvomero DC are set at a fixed rate per 100kg bag. The fixed value is determined at the beginning of the season as a specific percentage of the projected current price of a 100kg bag, then remain constant until the subsequent season. The consistency of maize levies over several years is not surprising due to the informal nature of maize markets, which complicates the verification of transaction prices. Additionally, many peasants and some buyers may struggle to accurately determine value based on a fixed percentage rate and a changing price. In the interest of simplicity and practicality, local officers set fixed rates of maize levies based on commonly used sales units.[32]

Nonetheless, maintaining consistent rates of maize levies over multiple years results in significant variations in effective crop levy rates (i.e. crop levies as a percentage of the product's value), and it generates effective rates that are, on average, likely below stipulated rates. Variation in effective rates occurs for two reasons. First, prices of a bag can double or even triple throughout a marketing season, with the result that the effective rate of levy can fall by half or even two-thirds. The seasonal increase in prices results in the average effective rate being lower than the stipulated rate.[33]

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[29] G.N. No. 287 of 2017.

[30] G.N. No. 567 of 16/9/2022.

[31] Interview with peasants, crop buyers, revenue accountants, agricultural officers, crop levy collection agents, solicitors, district treasurers, district planning officers, WEO and VEO in Momba DC and Mvomero DC (17th October, 2022 Momba, Songwe, 22nd December, 2022, 2nd June, 2023 Mvomero, Morogoro).

[32] D Nyange (et.al), Agricultural produce Cess in Tanzania: Policy Options for Fiscal Reforms, 2014, United Republic of Tanzania, the Prime Minister's office, and the Ministry of Agriculture, Food and Cooperatives, Dar es Salaam, Tanzania, p. 26.

[33] D Nyange (et.al), Agricultural Produce Cess in Tanzania: Policy Options for Fiscal Reforms (n 32) p, 26.

Despite the variations in effective rates, maize levies significantly contributed to the own-source revenue of Momba DC and Mvomero DC during the 2017/18 to 2023/24 fiscal years as illustrated in Figure 1.

Figure 1 illustrates that during the fiscal years 2017/18, 2018/19, and 2020/21, Momba District Council (DC) collected maize levies below the established targets, contributing 524,886,395.40 TZS, 392,000,000 TZS, and 137,206,384 TZS to own-source revenue, respectively. In the fiscal years 2019/20, 2021/22, 2022/23, and 2023/24, Momba DC exceeded the established collection targets by 261.4%, 218.7%, 130.3%, and 249.6%, contributing 622,158,536 TZS, 594,728,370.08 TZS, 484,744,424.75 TZS, and 728,673,800 TZS to own-source revenue, respectively.

Mvomero DC collected maize levies below the established target only during the 2017/18 fiscal year, contributing 39,329,577 TZS to own-source revenue. During the fiscal years 2018/19, 2019/20, 2020/21, 2021/22, 2022/23, and 2023/24, Mvomero DC exceeded its maize levy collection targets by 174%, 2,109.9%, 101.8%, 136.6%, 244.7%, and 122.8%, contributing 117,415,990 TZS, 158,244,317 TZS, 91,633,775 TZS, 122,935,700 TZS, 220,247,831 TZS, and 208,472,500 TZS to own-source revenue, respectively.

In-depth interviews conducted with a revenue accountant and a planning officer from Mvomero DC regarding the significant variance in maize levy contributions during the 2019/20 fiscal year revealed that a configuration issue with the Point of Sale (POS) machines resulted in maize levies being incorrectly billed under the category for other crops. The budget allocated for other crops was 53,000,000 TZS, whereas the actual collection reached 600,756,643 TZS, leading to an achievement rate of 1,134%.[34]

Despite the significant contribution of maize levies to the own-source revenue of Momba DC and Mvomero DC during the 2017/18 to 2023/24 fiscal years, as illustrated in Figure 1, the maize levy rates imposed as a fixed amount per 100 kg bag in both councils contravened Item I of the Schedule to the Local Government Finance Act, which requires crop levies to range between 0–3% of the farm-gate price.

The maize levy rates also contravene Item (a) of the fifth Schedule to Fees and Levies bylaws of Momba District Council[35] and the first schedule to the Fees and Levies bylaws of Mvomero District Council[36] which imposes the maize levy rates of 2% and 3% of the farm gate price respectively.

4.1.2 Taxation of coffee in Rungwe DC and Mbinga DC

The coffee levy rates in Rungwe DC and Mbinga DC exhibited variations throughout the study period depending on the market in which coffee was sold. During the study period, coffee produced in Rungwe DC and Mbinga DC was sold in three types of coffee markets, namely primary (farm gate) coffee markets, secondary coffee markets (auctions) and Direct Export (DE) coffee markets as detailed below.

[34] Interview with a revenue accountant and a planning officer at Mvomero DC (22nd December, 2022, Mvomero, Morogoro).
[35] G.N. No. 287 of 2017.
[36] G.N. No. 567 of 16/9/2022.

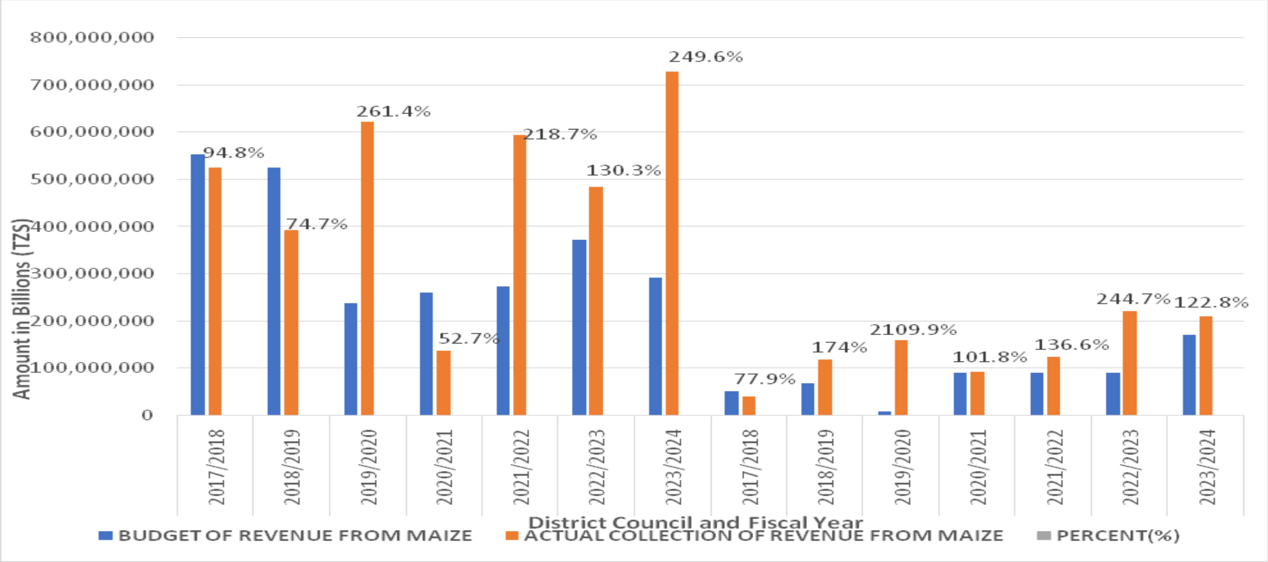

Figure 1: Contribution of Maize Levies to Own-Source Revenue of Momba DC and Mvomero DC During the 2017/18 to 2023/24 Fiscal Years (Source: Author, 2024)

4.1.3 Primary (farm-gate) coffee market

The primary (farm gate) coffee markets are the markets where coffee is sold to private buyers following the primary processing of the coffee. Primary processing involves hand-picking red cherries and drying them in order to get dry cherry (dry method). For parchment coffee, primary processing involves hand-picking of red cherries, pulping on the same day, washing, fermenting, drying and packaging (wet method). Regulation 3 of Coffee Regulations defines primary processing to mean processing of coffee by pulping or hulling to produce parchment or ungraded clean coffee.[37] Primary processing can either be done at home, home processing (HP) or in the processing equipment called the Central Pulpery Units (CPU) which are owned by the Agricultural Marketing Cooperative Societies (AMCOS).

Item 8 of the third Schedule to the Draft Fees and Levies bylaws of Mbinga District Council imposes coffee levy at the rate of 3% of the farm gate price. The Fees and Levies bylaws of Rungwe District Council is silent on the assessment of coffee levies by the council.[38] In-depth interviews conducted with peasants, buyers, solicitors, revenue accountants, district treasurers, agricultural officers and cooperative societies officers in Rungwe DC and Mbinga DC on the assessment of coffee levies by the council in the primary (farm-gate) coffee market revealed a common practice that when coffee is sold in the primary coffee market, coffee levies are charged at the maximum rate of 3% of the agreed selling price between the AMCOS and the buyer. The TCB usually gives an indicative price to the LGAs to charge coffee levies in the primary market, depending on the performance of markets.[39]

In-depth interviews conducted with two agricultural officers at TCB on the significance of indicative prices revealed that indicative prices are instrumental in the effective

[37] G.N. No. 385 of 2013.

[38] G.N. No. 675 of 2020.

[39] Interview with peasants, buyers, solicitors, revenue accountants, district treasures, agricultural officers and cooperative societies officers in Rungwe DC and Mbinga DC (4th July, 2023, Tukuyu, Rungwe, 8th November, 2022, Mbinga, Ruvuma).

administration of taxes, as they enhance the predictability of the amount of taxes buyers pay and the revenue accruing to the government.[40] One of the challenges however, is the rigidity of the indicative prices, which makes them fail to reflect price trends in the world markets. Regulation 69 of the Coffee Industry Regulations gives the duty to the TCB to inform the general public from time to time by publishing prices prevailing in the world market in respect of various types and grades of coffee sold at the auction.[41] The price of coffee published by TCB shall be an indicative price to guide stakeholders. The indicative price which is approximated by the TCB to levy coffee is not binding on the LGAs. The LGAs may vary the price depending on their revenue targets in a specific fiscal year.[42]

In-depth interviews conducted with peasants, buyers, solicitors, revenue accountants, district treasurers, agricultural officers and cooperative societies officers in Rungwe DC and Mbinga DC on the rates of coffee levies revealed variations in the rates of coffee levies in the primary coffee markets. The coffee levies in Mbinga DC were set at a fixed rate for each kilogramme of coffee sold in the primary market. The trend was consistent throughout the study period. The coffee levies in Rungwe DC varied from year to year depending on the performance of the coffee market. If the market price was high, coffee levies were also high and the vice versa. In Rungwe DC and Mbinga DC coffee peasants and traders were informed of the coffee levies at the beginning of each coffee season.[43]

The finding on coffee levy rates in the primary coffee market indicates variations between Rungwe DC and Mbinga DC, attributed to the LGAs discretionary authority to set crop levy rates within a 0-3% range, depending on their anticipated expenditures for a given fiscal year. The rates of coffee levy were also uncertain as a result of the exercise of the discretionary power, as peasants and traders were informed of the rates of coffee levy at the beginning of each coffee season.

4.1.4 Secondary coffee market (auctions)

The markets in which coffee is sold after secondary processing are known as secondary coffee markets (auctions). Secondary processing is defined in Regulation 3 of the Coffee Industry Regulations as processing of coffee by curing or hulling to produce graded beans.[44]The Southern Highlands zone is home to several coffee curing or hulling companies, including City Coffee Company in Mbeya, GDM Company, CMS Company and MCCCo, all of which are situated in the Songwe Region. After quality assessment, samples are transported to the auctions. Regulation 42 of the Coffee Industry Regulations gives power to TCB to conduct coffee auctions.[45]

In-depth interviews conducted with peasants, buyers, solicitors, revenue accountants, district treasurers, agricultural officers and cooperative societies officers in Rungwe DC and Mbinga DC regarding the coffee levy rate in auctions indicated that the levy rate in this market was set at 3% of the indicative price provided by the TCB or the revenue collection targets established by the council.[46]The review of

[40] Interview with two agricultural officers at TCB Offices in Mbeya (13th June, 2023, TCB Offices, Mbeya).
[41] G.N. No. 385 of 2013.
[42]S. 17 of the Local Government Finance Act, Cap. 290 [R.E. 2019].
[43]Interview with peasants, buyers, solicitors, revenue accountants, district treasurers, agricultural officers and cooperative Societies Officers in Rungwe DC and Mbinga DC (4th July, 2023, Tukuyu, Rungwe, 8th November, 2022, Mbinga, Ruvuma).
[44] G.N. No. 385 of 2013.
[45] G.N. No. 385 of 2013.
[46] Interview with peasants, buyers, solicitors, revenue accountants, district treasurers, agricultural officers and cooperative Societies Officers in Rungwe DC and Mbinga DC (4th July, 2023, Tukuyu, Rungwe, 8th November, 2022, Mbinga, Ruvuma).

economic survey reports and documents related to own-source revenues derived from coffee levies in Rungwe DC and Mbinga DC indicated variations in the rates of coffee levies in auctions as indicated in Table 1.

Table 1 shows the prices at which coffee was sold and the rates of coffee levies that were imposed in Rungwe DC and Mbinga DC on Home Processed (HP) coffee and CPU processed coffee. CPU processed coffee was sold at higher prices than HP coffee from both councils. The rate of crop levies varied in the two districts. On average, coffee in Mbinga DC was sold at a higher price than coffee in Rungwe DC from the 2018/19 to 2023/24 fiscal years. However, the rate of coffee levies was higher in Rungwe DC and lower in Mbinga DC throughout the study period. In Mbinga DC, there was a minimal reduction in the rate of coffee levy by 10 TZS in the 2020/21 fiscal year. In the same fiscal year, the rate of the coffee levy was increased in Rungwe DC by 2 TZS.

The finding on the rates of coffee levy sold in auction indicates that LGAs impose rates of coffee levy on the market price rather than the farm gate price contrary to Item I of the Schedule to the Local Government Finance Act[47] and Item 8 of the third Schedule to the Draft Fees and Levies bylaws of Mbinga District Council. Additionally, the discretionary power of the LGAs to set crop levy rates between 0-3% based on their fiscal expenditure needs for a given year has resulted in variations in coffee levy rates in Rungwe DC and Mbinga DC. The exercise of the discretionary power has also resulted in uncertainty regarding crop levy rates, as peasants and buyers were informed about coffee levy rates at the beginning of each coffee season.

[47]Cap. 290 [R.E. 2019].

4.1.5 Direct Export (DE) coffee market

Direct Export (DE) coffee markets refer to secondary markets where high-quality or certified organic coffee is sold directly to buyers. In 2003, TCB formally recognized the special needs of high-quality coffee and implemented guidelines and licensing procedures for direct export. Producer organizations providing high-quality or certified organic coffee that comply with the 2013 coffee regulations qualify for direct exports, and their coffee does not have to pass through the auction.[48] If a producer organization’s coffee does not meet the regulations’ requirements, it has to pass through the auction system for grading and sale according to its established grade.

In-depth interview conducted with coffee peasants who sell their coffee in the DE market in Rungwe DC and Mbinga DC on coffee levy rates revealed that when coffee is sold through the DE market, coffee levies are charged at the maximum rate of 3% of the selling price between the AMCOS or private estates and the buyers.[49]This finding implies that the imposition of crop levies in the DE market contravenes Item 1 of the Schedule to the Local Government Finance Act which gives authority to the LGAs to impose coffee levies within the range of 0-3% of the farm-gate price, not the market price.[50]

Despite the design flaws in coffee levies through bylaws in Rungwe DC and Mbinga DC, these levies significantly contributed to the councils' own-source revenue during the 2017/18 to 2023/24 fiscal years, as illustrated in Figure 2.

[48] R. 42 (5) and Item 2 of the fifth Schedule to the Coffee Regulations, 2013, G.N. No. 385 of 2013.

[49] Interview with peasants in Rungwe DC and Mbinga DC (MPUMISA AMCOS 4th July, 2023, Tukuyu, Rungwe, LIYOMBO AMCOS 8th November, 2022, Mbinga, Ruvuma).

[50] Cap. 290 [R.E. 2019].

	Rungwe DC		Mbinga DC		Average Coffee Prices per Kg from the Economic Survey Reports
Fiscal year	Coffee Price per Kg	Coffee Levies per Kg	Coffee Price per Kg	Coffee Levies per Kg	
2018/19	3,500 (HP)	120	3800(HP)	110	4,500
2019/20	4,900(HP)	120	5,000(HP)	110	5,100
2020/21	5,100(HP)	122	5,200(HP)	100	5,200
2021/22	5,500(HP)	120	7,300(HP)	110	6,600
2022/23	6,040(HP) 6,330 (CPU)	120	6,700(HP) 7,000(CPU)	110	8,428
2023/24	5,114(HP) 5180(CPU)	120	4,600 (HP) 5,200(CPU)	110	5,978

Table 1: Variations in the Rates of Coffee Levies in the Auctions in Rungwe DC and Mbinga DC During the 2018/19 to 2023/24 Fiscal Years (Source: Compilation by the Author 2024).

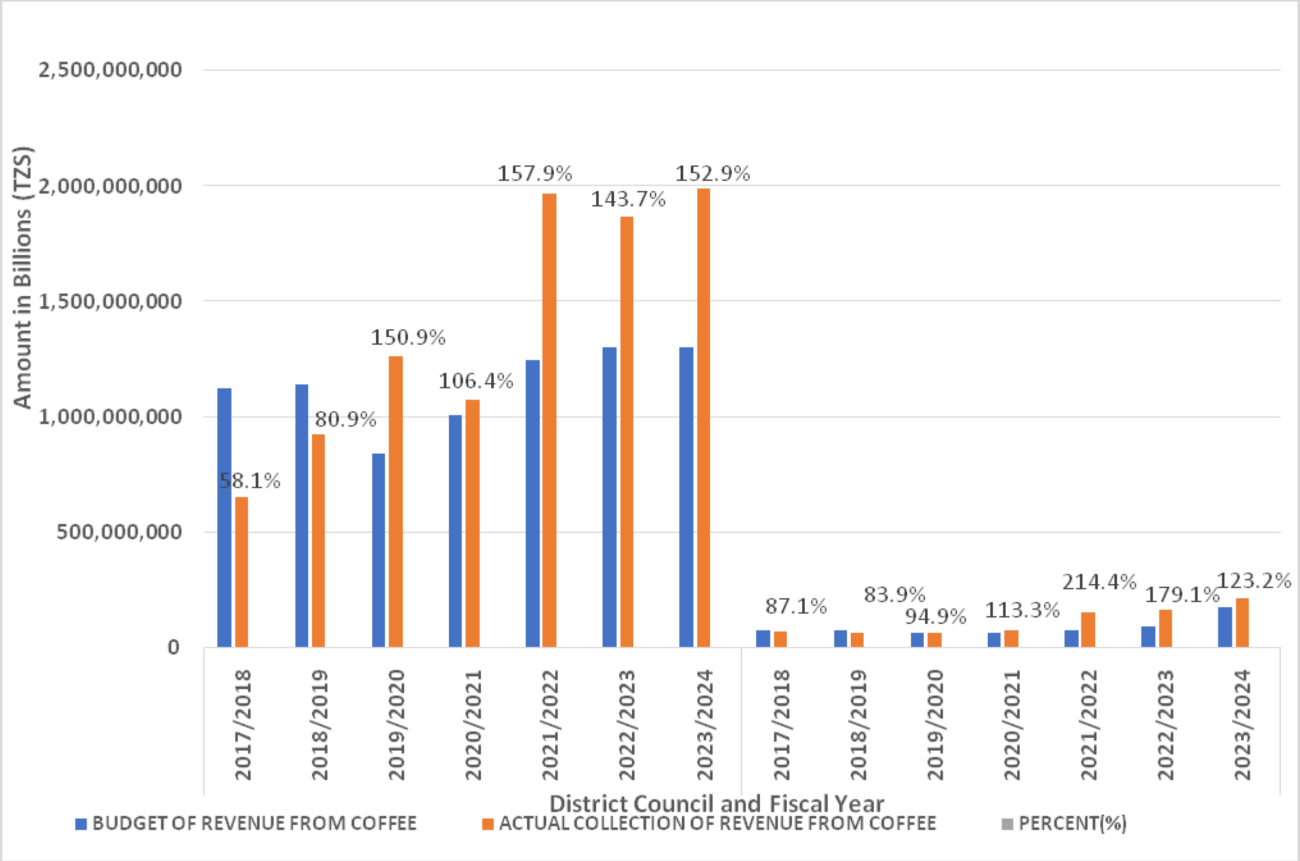

Figure 2: Contribution of Coffee Levies to Own-Source Revenue of Mbinga DC and Rungwe DC During the 2017/18 to 2023/24 Fiscal Years (Source: Analysis by the Author, 2024)

Figure 2 indicates that during the 2017/18 fiscal year, Mbinga DC collected coffee levies amounting to 650,786,445 TZS, which is 58.1% below the set target of 1,120,350,000 TZS. The collection of coffee levies increased during the 2018/19 fiscal year by 22.9% where the council collected 920,172,899.61 TZS. During the 2019/20 fiscal year, Mbinga DC collected crop levies above the set target of collection by 50.9%. In 2020/21 there was a drop in coffee revenue collection by 44.5% compared with the collection in the 2019/20 fiscal year. This was mainly associated with the separation of Mbinga DC and Mbinga Town Council.

In the fiscal year 2021/22 there was an increase of 51.5% in the collection of coffee levies. This was attributed to the installation of the Closed-Circuit Television (CCTV Camera) at Kitai to control the collection of revenue. In-depth interviews conducted with revenue accountants, district treasurers, agricultural officers and cooperative societies officers in Mbinga DC on the reasons for installing CCTV camera at Kitai revealed that the decision was reached by the council after noticing revenue leakages at various collection points within the jurisdiction of the council.[51] The CAG report for the year ending on 30th July, 2022 indicates that Mbinga DC did not collect coffee levies amounting to 1,467,596,146 TZS.[52] Despite the installation of CCTV cameras at Kitai, The CAG report for the year ending on 30th July, 2023 indicates that Mbinga DC did not collect coffee levies amounting to 29,007,301TZS.[53] In 2022/23 and 2023/24 fiscal years Mbinga DC collected coffee levies above the set targets by 143.7% and 152.9% respectively.

Rungwe DC collected coffee levies below the set target of 73,500,000 TZS, 73,700,000TZS and 63,000,000TZS during the 2017/18, 2018/19 and 2019/20 fiscal years. In the 2020/21, 2021/2022, 2022/23 and 2023/24 fiscal years the council collected coffee levies above the set targets by 113.3%, 214.4%, 179.1% and 123.2% to the tune of 71,380,466 TZS, 150,071,890TZS, 161,139,288 TZS and 209,434,200 TZS respectively.

4.2 The taxpaying unit

Section 16 of the Local Government Finance Act grants the LGAs the authority to impose crop levies on the inhabitants or such categories of inhabitants.[54] Item 1 of the Schedule to the Act imposes the liability to pay crop levies on buyers.[55] The term inhabitant is neither defined under the Local Government Finance Act[56] nor the Interpretation of Laws Act.[57] The bylaws of the studied LGAs do not define the term inhabitant/ inhabitants in relation to the imposition of crop levies. They only provide for the application of the bylaws to be within the whole area of jurisdiction of the respective LGA.[58]

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[51] Interview with a revenue accountant, district treasurer, agricultural officers and cooperative societies officers in Mbinga DC (7th November, Mbinga, Ruvuma).

[52] National Audit Office, Annual General Report of the Controller and Auditor General of the Financial Statements of Local Government Authorities for the Fiscal Year Ending on 30th June, 2022, p.60, available at:<www.nao.go.tz> (accessed on 10th April, 2023).

[53] National Audit Office, Annual General Report of the Controller and Auditor General of the Financial Statements of Local Government Authorities for the Fiscal Year Ending on 30th June, 2023, p.66, available at:<www.nao.go.tz> (accessed on 10th April, 2023).

[54] Cap. 290 [R.E. 2019].

[55] Cap. 290 [R.E. 2019].

[56] Cap. 290 [R.E. 2019].

[57] Cap. 1 [R.E. 2019].

[58] R.2 of Fees and Levies Bylaws of Momba District Council, 2017 (G.N. No.287 of 2017), R.2 of Fees and Levies Bylaws of Mvomero District Council, 2022 (G.N. No. 567 of 16/9/2022), R.2 of Draft Fees and Levies Bylaws of Mbinga District Council, 2021.

In-depth interviews conducted with maize peasants, buyers, crop levy collection agents, WEO and VEO, revenue accountants, council treasurers and agricultural officers in Momba DC and Mvomero DC on the liability to pay maize levies revealed that maize levies are imposed on any individual transporting maize within the councils. This occurs primarily because certain maize buyers pretend to be peasants to avoid paying the levy. The councils lack a mechanism to differentiate between peasants and buyers, as well as between inhabitants and non-inhabitants when imposing crop levies.[59] The finding on the liability to pay maize levies indicates that maize levies in the maize markets are paid by any individual transporting maize across the LGAs, be it a peasant, a local buyer or an external buyer. This is attributed to the lacuna in the Local Government Finance Act regarding the definition of an inhabitant to impose the liability to pay the levy, as well as the informality of maize markets.

In-depth interviews conducted with coffee peasants, buyers, revenue accountants, council treasurers and solicitors in Rungwe DC and Mbinga DC on the liability to pay coffee levies indicated that coffee levies are paid by buyers and peasants through their AMCOS, depending on the market in which the coffee is sold. Buyers are obligated to pay coffee levies upon purchasing coffee in the primary (farm-gate) coffee market. When coffee is sold by peasants through their AMCOS in auctions or DE market, coffee levies are paid by peasants through their AMCOS.[60]

[59] Interview with peasants, buyers, crop levy collection agents, WEO and VEO, revenue accountants, council treasurers and agricultural officers in Momba DC and Mvomero DC (17th October, 2022, Momba, Songwe, 22nd December, 2022, 2nd June, 2023, Mvomero, Morogoro).

[60] Interview with peasants, buyers, revenue accountants, council treasures and solicitors in Rungwe DC and Mbinga DC (3rd July, 2023, Tukuyu, Rungwe, 8th November, 2022, Mbinga, Ruvuma).

In-depth interviews conducted with two cooperative societies officers in Rungwe DC and Mbinga DC indicated that the liability to pay coffee levies rests with the individual transporting coffee across the council, whether they are peasants or buyers. When AMCOS decides to sell its coffee in auction, it is responsible for transporting the coffee to the curing or hulling companies and is liable to pay coffee levies.[61] In the case of *Alpha Namata Company Limited v Mtwara-Mikindani Municipal Council and the Attorney general*[62] the court observed that the act of the buyer paying purchase price of the produce to the cooperative union is equal to paying the farmers who came together under those union umbrellas. Crop cess deductions remitted to the council by the cooperative union means that the cess was paid by the farmers who were crop producers, not the petitioner who was a mere purchaser.

The finding on the liability to pay crop levies indicates that levies on maize are imposed on all individuals transporting maize within the councils, including peasants, local buyers and external buyers. The rates of coffee levy when coffee is sold in auctions and through the DE market are paid by peasants through their AMCOS. The imposition of rates of crop levies on peasants contravenes Item I of the Schedule to the Local Government Finance Act which imposes the liability to pay crop levies on buyers.[63] The imposition of rates of crop levies on peasants is also attributed to the lacuna in the Local Government Finance Act[64] regarding the definition of inhabitants or categories of inhabitants for the purpose of paying coffee levies.

[61] Interview with cooperative societies officers in Rungwe DC and Mbinga DC (3rd July, 2023, Tukuyu, Rungwe, 8th November, 2022, Mbinga, Ruvuma).

[62] Miscellaneous Civil Cause No.11649 of 2024, the High Court of the United Republic of Tanzania at Dodoma.

[63] Cap. 290 [R.E. 2019].

[64] Cap. 290 [R.E. 2019].

5. CONCLUSION AND RECOMMENDATIONS

The paper concludes that LGAs impose rates of maize levies on a fixed value per 100kg bag, contrary to Item I of the Schedule to the Local Government Finance Act which requires crop levies to range between 0-3% of the farm-gate price.[65] Furthermore, LGAs impose coffee levies based on the market price rather than the farm gate price when coffee is sold in auctions and the DE market contrary to Item I of the Schedule to the Local Government Finance Act.[66]

The paper also concludes that the discretionary power of the LGAs to impose the rates of crop levies within a range of 0-3% depending on the expenditure they want to make in a particular fiscal year has resulted to variations in the rates of levies on the same crop across the LGAs. The exercise of discretionary power has also resulted in uncertainty regarding crop levy rates. In Rungwe DC and Mbinga DC the peasants were unaware of the rates of coffee levies until they were informed by the district councils every year at the beginning of the coffee season. In Momba DC, the new rate of maize levy was imposed in January 2024, at the mid of the fiscal year, to enable the council to achieve its revenue collection targets.

Further, the paper concludes that the Local Government Finance Act lacks the definition for the term inhabitant or the categories of inhabitants responsible for paying crop levies.[67]The law lacks clarity on whether buyers external to the LGAs qualify as inhabitants or a category of inhabitants for the purpose of paying crop levies. As a result, the LGAs impose crop levies through bylaws on any individual transporting crops across their jurisdictions, including peasants, local buyers and external buyers. Since buyers who are not inhibiting in studied district council are having the liability to pay crop levies, they are likely to shift the liability to the peasants when bargaining on the price of crops.

In order to do away with flaws in the design of crop levies by the LGAs, this paper recommends that LGAs impose maize levies as a percentage of the price of a 100kg sack of maize instead of a fixed amount of money in order to enhance revenue where there is effective collection of the levy. Furthermore, levies on coffee should be imposed on the farm gate price as required by the law.

The paper also recommends harmonizing the rate of crop levies in the LGAs by amending section 16 of the Local Government Finance Act and the Schedule thereto by deleting crop levies (crop cess) from the list of services, matters or acts in respect of which a local government authority may impose rates, charges, levies, fees and dues. Instead, the uniform *ad valorem* rates of crop levies for each crop should be imposed by the Minister for local government by making uniform bylaws after consultation with all stakeholders. The paper recommends the imposition of crop levies at a rate of 3% of the farm gate price for maize and coffee. The Minister should be granted limited discretionary power to vary the rates of crop levies from time to time depending on changes in the prices of crops and revenue collection targets of the LGAs.

In addition to that the paper recommends that education be provided to peasants through their AMCOS emphasizing that the obligation to pay coffee levies rests with the buyers as stipulated by law. Coffee levies should be included into the coffee prices during negotiations in the primary (farm gate) coffee markets and in the DE markets under the supervision of cooperative societies officers in the LGAs and the TCB. Further to that, the paper recommends that buyers in the coffee auctions should be reminded of their

[65] Cap. 290 [R.E. 2019].
[66] Cap. 290 [R.E. 2019].
[67] Cap. 290 [R.E. 2019].

obligation to pay coffee levies by the TCB which regulates the auctions. Upon the conclusion of the auction, buyers should pay the purchase price together with coffee levies to the AMCOS which shall remit the levy to the councils. Finally, the paper recommends amending the Local Government Finance Act[68] to include the definition of the term inhabitants and categories of inhabitants to pay crop levies and establish the criteria for a buyer visiting a specific LGA to purchase crops during the harvest season, in order to determine their status as an inhabitant or their eligibility to fall within the defined categories of inhabitants for the purpose of paying crop levies.

[68] Cap. 290 [R.E. 2019].