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PRODUCE CESS TAXATION IN TANZANIA MAINLAND: THE CASE OF COFFEE LEVIES IN RUNGWE DISTRICT COUNCIL

*Martha Masanda**

Abstract

In recent years, there has been substantial scholarly interest in the importance of local government authorities (LGAs) generating sufficient local revenues. It is crucial that LGAs generate sufficient local revenue, as decentralisation reforms have assigned these entities the responsibility of delivering public services, such as education, health and agricultural extension. This paper analyses the produce cess taxation regime in Mainland Tanzania, with a focus on coffee levies in the Rungwe District Council. Data, both qualitative and quantitative, were collected through a cross-sectional design. The paper employs content analysis and Microsoft Excel software to analyse both qualitative and quantitative data. The paper indicates that the obligation to pay coffee levies may be placed on farmers, despite the law clearly assigning this responsibility to buyers. The paper recommends that the Local Government Finance Act be amended to define the term inhabitants and categories of inhabitants who are required to pay crop levies.

Key Words: *Decentralisation, Local Government Authorities, Fiscal Autonomy, Produce Cess, Crop Levies*

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1. INTRODUCTION

Decentralisation is an administrative reform strategy designed to enhance the decision-making capacity and efficiency of local administrations for development by redistributing powers and resources across various administrative levels.¹ Decentralisation is significant due to the assumption that it enhances local autonomy, which is considered inherently beneficial to citizens.² Decentralisation enhances the state's presence and reach, allowing citizens throughout the state to have their interests reflected in policy and public services.³

Decentralisation in Tanzania is derived from Articles 145 and 146 of the Constitution of the United Republic of Tanzania of 1977.⁴ The Local Government Reform Programme (LGRP) was initiated in 1997 to enhance service delivery by decentralising administrative, political and fiscal autonomies to LGAs.⁵ The LGRP framework was established in the 1998 Policy Paper on Local Government Reform (PPLGR). The primary aim of the reform was to improve accountability, transparency and autonomy

¹ Ng'eni, F.B. and Chalam, G.V., "Fiscal Decentralisation and Fiscal Autonomy in Tanzanian Local Government Authorities: A Review of Existing Literature and Empirical Evidence", 8 (29), *European Journal of Business and Management*, 2016, 62, at p.63.

² Faguet, J.P. and Poschl, C., "Is Decentralisation Good for Development? Perspectives from Academics and Policy Makers", in Faguet, J.P. and Poschl, C.(eds.) *Is Decentralisation Good for Development? Perspectives from Academics and Policy Makers*, UK: Oxford University Press, 2015, p.1 at p. 4.

³ *Id.*, at p. 135.

⁴ Cap. 2 [R.E. 2002].

⁵ Ng'eni and Chalam, *Fiscal Decentralisation and Fiscal Autonomy in Tanzanian Local Government Authorities*, above note 1, at p. 62.

in local government operations, ultimately enhancing service delivery to the local community.⁶

Decentralisation allocated a substantial responsibility to LGAs in the provision of public services, including health, water, housing, education, local transportation services and other essential socio-economic development services.⁷ For the efficient execution of these functions, LGAs must possess sufficient resources to finance their public expenditure needs, hence ensuring effective fiscal autonomy.

The Parliament granted the LGAs the authority to levy taxes, fees and charges as stipulated in the Local Government Finance Act for fiscal autonomy.⁸ The Act authorises LGAs to make bylaws that levy local taxes on its inhabitants or categories of inhabitants to generate own-source revenue for the provision of public services in their jurisdictions. The Schedule to the Local Government Finance Act delineates a limited enumeration of taxes, fees and charges that LGAs may impose on their inhabitants or certain categories of inhabitants, including produce cess.⁹

⁶ Id, at p. 63.

⁷ Policy Paper on Local Government Reform 1998, p.4, available at: <www.tamisemi.go.tz> (accessed 26 February 2022). However, in 2017 Tanzania Rural and Urban Roads Agency (TARURA) was established by G.N. No. 211 of 2017 under the authority given under Section 3 of the Executive Agencies Act Cap. 245 [R.E. 2002] and took over the responsibility for the provision of road infrastructure from the LGAs. Also, in 2019, Rural Water Supply and Sanitation Agency (RUWASA) was established under Section 42 of the Water Supply and Sanitation Act, Act No.5 of 2019 and took over the responsibility for development and management of rural water supply and sanitation projects from the LGAs.

⁸ Act No. 9 of 1982.

⁹ Cap. 290 [R.E. 2019].

Produce cess is a tax levied on agricultural produce across all agricultural subsectors, including forestry, hunting, livestock, fisheries and crops. The maximum rates of produce cess that LGAs may impose are outlined in Item 1 of the Schedule to the Local Government Finance Act.¹⁰ This paper analyses produce cess taxation regime in the crop sub-sector. A crop levy is a turnover tax imposed on crops output, which does not measure the actual income of the farm. It is an indirect tax on agricultural products traded domestically. A primary argument for indirect taxes is their capacity to generate substantial government revenues while being simple and cost-effective to administer.¹¹

The study was guided by the theory of fiscal autonomy. Theory of fiscal autonomy pertains to the capacity of LGAs to independently acquire financial resources via their own taxation authority and to allocate these resources at their discretion in the provision of local government services.¹² Local governments have to depend more on their own resources and less on allocations from the central government.¹³ Granting autonomy to LGAs allows localities to make independent decisions without substantial oversight from the central government. Decentralisation and local autonomy are interdependent; a highly decentralised political system inherently

¹⁰ Cap. 290 [R.E. 2019].

¹¹ Khan, M.H., "Agricultural Taxation in Developing Countries: A Survey of Issues and Policy", 24 *Agricultural Economics*, 2001, 315, at p.316.

¹² Dardanelli, P., "Conceptualizing and Measuring Decentralization", in Lago, I. (ed.) *Handbook on Decentralization, Devolution and the State*, UK: Edward Elgar Publishing Limited, 2021, p. 9 at p. 17.

¹³ Madariaga, A.G., "Fiscal Decentralization", in Hakelberg, L. and Seelkopf, L.(eds.), *Handbook on the Politics of Taxation*, UK: Edward Elgar Publishing ,2021, p. 146 at p.149.

entails significant local autonomy, and vice versa. Granting fiscal autonomy to the LGAs was one of the objectives outlined in the LGRP, 1998.¹⁴

The study examined the produce cess taxation regime in Mainland Tanzania, using coffee levies in the Rungwe DC as a case study. The selection of Rungwe DC was predicated on two factors: the cultivation of high-quality coffee in the Southern Highlands and the existence of households that primarily rely on coffee as their principal source of income. Coffee is the export crop which substantially contributes to foreign exchange earnings.¹⁵ It is governed by the Coffee Industry Act¹⁶ and Coffee Industry Regulations of 2013.¹⁷ The cultivated coffee varietal in the Rungwe DC is Arabica.

Ikuti and Mpuguso wards were selected purposively. The selection of wards was determined by their production potential and the existence of Agricultural Cooperative Societies utilising Central Pulperies Units (CPU) for coffee processing. Subsequently, one village was purposively selected from each ward, Kyobo from Ikuti ward and Mibula from Mpuguso ward. KYOBO AMCOS from Kyobo village and MPUMISA AMCOS from Mibula village were purposively selected. The two AMCOS possess CPUs and collect over 40 tonnes of coffee during the coffee season, which begins in

¹⁴ Policy Paper on Local Government Reform 1998, p. 5, available at: <www.tamisemi.go.tz> (accessed 26 February 2022).

¹⁵ Bank of Tanzania, Statistical Bulletin for the Quarter Ending September, 2024, Vol. I, No.4, p.28, available at:< www.bot.go.tz > (accessed 17 February 2025).

¹⁶ Act No. 23 of 2001.

¹⁷ G.N. No. 385 of 2013.

June and ends in December. CPU-processed coffee exhibits superior quality compared to home-processed coffee. The study encompassed a seven-year period from 2017/18 to 2023/24.

The remainder of this paper is organised as follows: Part 2 provides the literature review. Part 3 outlines the legal framework that regulates crop levies within the LGAs. Part 4 presents the findings and discussion. Part 5 presents the conclusion and gives some recommendations for reforming the legal framework that governs crop levies in Tanzania.

2. LITERATURE REVIEW

A significant body of literature exists regarding the imposition of local taxes by LGAs for the purpose of achieving fiscal autonomy. The survey on local government autonomy in African States conducted by Fessha, Y. and Kirkby, C.¹⁸ indicated that financial control is essential for autonomous local government. The taxing powers of local authorities, as well as the magnitude and nature of financial transfers from the central government in relation to their spending responsibilities, determine their financial autonomy. Schakel, A.H.¹⁹ similarly posits that in a fiscally decentralised country, local authorities have the autonomy to establish their own tax base and rate, borrow without restrictions and make independent decisions regarding expenditures, regardless of

¹⁸ Fessha, Y. and Kirkby, C., “A Critical Survey of Subnational Autonomy in African States”, 38(2) *The Journal of Federalism*, 2008, 248, at pp. 248-71.

¹⁹ Schakel, A.H., “Exploring and Explaining Trends in Decentralization”, in Lago, I. (ed.) *Handbook on Decentralization, Devolution and the State*, UK: Edward Elgar Publishing Ltd, 2021, at pp. 27-51.

revenue sources. Boex, J. and Jorge, M.V.,²⁰ contended that for local governments to achieve fiscal autonomy in line with a fiscally decentralised government structure, they must have control over their own sources of revenue. Crop levies, which are imposed on the sale of important crops in the LGAs, are a source of own source revenue for many rural districts. The levy is collected indirectly from the buyer or wholesaler. The authors conclude that an effectively structured local government revenue system is a crucial component of any local government finance system. Moreover, Nyange, D. (et.al.),²¹ found that LGAs in Tanzania possess the discretionary authority to determine crop levy rates within the limits established by the Local Government Finance Act. According to them, the exercise of discretionary power has resulted to variations in crop levy rates across different LGAs. On the other hand, Semboja, J. and Fjeldstad, O.,²² indicated that the Local Government Finance Act lacks clarity regarding the criteria for proposing and approving new taxes and rate changes. According to them, the criterion of revenue generation is considered fundamental to local government taxation. The authors conclude that the absence of well-defined criteria for designing crop levies results in various decision-makers in local tax design adopting differing, often more rigorous, criteria. This divergence leads to inconsistent levy rates across LGAs. In Zambia, research

²⁰ Boex, J. and Jorge, M.V., *Local Government Finance Reform in Developing Countries: The Case of Tanzania*, New York: Palgrave Macmillan, 2006.

²¹ Nyange, D.(et.al.), *Agricultural Produce Cess in Tanzania: Policy Options for Fiscal Reforms*, Tanzania: United Republic of Tanzania, the Prime Minister's Office and the Ministry for Agriculture, Food and Cooperatives, 2014.

²² Fjeldstad, O. and Semboja, J., "Dilemmas of Fiscal Decentralisation: A Study of Local Government Taxation in Tanzania, 27(1) *Forum for Development Studies*, 2000, 7, at pp. 7-41.

conducted by Kabwe, S. and Zulu, C.²³ revealed that the *Zambian Local Government Act, 1992* was enacted to enhance revenue collection sources in order to achieve fiscal autonomy. Crop levies constituted one of the revenue sources. According to them, initially there was no established guidance on the appropriate rates to charge, leading councils to impose varying rates of crops at their discretion. The significant variations in rates imposed prompted the *Zambian Ministry of Local Government* to issue *Statutory Instrument (SI) Number 37 of 2008*, which standardised these rates. Each council is mandated by the SI to impose a charge of 90 Ngwee for every 50 kg bag of grain or its equivalent per kilogramme.

The findings from the aforementioned studies highlight the significance of well-designed own-source revenues, specifically crop levies, for fiscal autonomy. However, none of the authors have addressed the impact of design flaws in crop levies on peasants, presenting a gap for further investigation.

3. THE LEGAL FRAMEWORK GOVERNING CROP LEVIES IN THE LOCAL GOVERNMENT AUTHORITIES

LGAs in Tanzania are constituted under Article 145(1) of the *Constitution of the United Republic of Tanzania*.²⁴ This Article states that LGAs are established in every region, district, urban area and village within the *United Republic of Tanzania*. Article 145(2)

²³ Kabwe, S. and Zulu, C., *Agricultural Trade: A Qualitative Analysis of Effects of Crop Levies on Grain Trade in Zambia*, Working Paper No. 127, Zambia, Lusaka: Indaba Agricultural Policy Research Institute, 2017, 1, at pp.1-18.

²⁴ Cap. 2 [R.E. 2002].

of the Constitution of the United Republic of Tanzania empowers Parliament to enact a law providing for the establishment, structure and composition, powers and functions, the procedure for the conduct of business and revenue sources of the LGAs.

The establishment, structure and composition, powers and functions and the procedure for the conduct of business of the LGAs are governed by two laws, the Local Government (Urban Authorities) Act of 1982²⁵ and the Local Government (District Authorities) Act of 1982.²⁶ On the other hand, the sources of revenue of the LGAs are governed by the Local Government Finance Act which grants LGAs their own financial resources.²⁷ The Act lists the types of taxes, fees and charges that LGAs can administer to raise own-source revenues.²⁸

Item 1 of the Schedule to the Act²⁹ grants LGAs the discretionary authority to impose crop levies between of 0-3% of the farm-gate price for both food and cash crops. Item 1 of the Schedule to the Act stipulates an exemption from crop levies for individuals transporting crops not exceeding 1 tonne within a district or between districts. This part examines the legal framework regulating crop levies within LGAs focusing on the autonomy of LGAs to establish crop levy rates and the liability to pay crop levy rates in the LGAs.

²⁵ Cap. 288 [R.E. 2002].

²⁶ Cap. 287 [R.E. 2002].

²⁷ Cap. 290 [R.E. 2019].

²⁸ The Local Government Finance Act, Cap. 290 [R.E. 2019], ss. 6 and 7.

²⁹ Cap. 290 [R.E. 2019].

3.1 Autonomy of the LGAs to Establish Crop Levy Rates

The authority to impose taxes constitutes a fundamental legislative function.³⁰ The legislature is tasked with determining the appropriate tax rates and identifying whom to tax. Nonetheless, the legislature cannot address all facets of taxation, necessitating some degree of delegation. LGAs impose crop levies through the bylaw method, as authorised by Section 16 of the Local Government Finance Act.³¹ The Act stipulates that the levy rates must adhere to the specified range in the Schedule, which is 0-3% of the farm-gate price for both food and cash crops.

Section 17 of the Act outlines the criterion for determining the rate of crop levies, mandating LGAs to assess levy rates based on the anticipated expenditures from a specific source during the relevant fiscal year.³² The necessity to ascertain the expenditure amount from a specific source as a basis for establishing the crop levy rate may adversely impact taxpayers, potentially resulting in high tax rates and variations in crop levy rates across LGAs. The expenditures of LGAs fluctuate annually, potentially influencing the rates of crop levies, which are subject to frequent review by the LGAs.

3.2 Liability to Pay Crop Levies

A crop levy is legally imposed on the crop buyers/ traders.³³ A buyer can be a natural person (an individual) or a legal person (an artificial person). Although buyers are legally required to pay this

³⁰ The Constitution of the United Republic of Tanzania Cap. 2 [R.E. 2002], Article 138(1).

³¹ Cap. 290 [R.E. 2019].

³² Cap. 290 [R.E. 2019].

³³ See the Schedule to the Local Government Finance Act, Cap. 290 [R.E. 2019], Item 1.

tax, the incidence of the tax can be shifted forward or backward based on the elasticity of supply and demand, as noted by Khan, M.H.³⁴This phenomenon can be attributed to the reduced elasticity of supply in the market post-harvest compared to demand, resulting in increased bargaining power for buyers. If the elasticity of supply is high while the elasticity of demand is low, a trader may increase the selling price. The incidence of the tax would be borne by the consumer. If the elasticity of supply is low while the elasticity of demand is high, the trader is unable to increase the selling price. The levy is imposed on the trader.³⁵

In *Igunga District Council v. Kahama Oil Mills Ltd*³⁶ the court determined that Kahama Oil Mills Ltd, as the buyer of cotton from 28 AMCOS in Igunga District Council was obligated to pay a cotton levy to the plaintiff at a rate of 3% of the government-announced farm-gate price of 1,200 TZS, aimed at supporting cotton peasants. In the case of *Uyui District Council and Attorney General v. PACHTEC Company Limited*³⁷ the court determined that PACHTEC Company Limited, as the buyer of Tobacco in the Uyui District Council during the 2020/2021 tobacco season, is required to remit a tobacco levy to the plaintiff amounting to 100,173,499.93 TZS.

Section 16 of the Local Government Finance Act³⁸ grants LGAs the authority to impose crop levies on inhabitants or certain

³⁴ Khan, Agricultural Taxation in Developing Countries, above note 12, at p. 317.

³⁵ Ibid.

³⁶ Civil Case No. 05 of 2021, the High Court of the United Republic of Tanzania, Tabora District Registry at Tabora.

³⁷ Land Case No.05 of 2023, the High Court of the United Republic of Tanzania, Tabora Sub-Registry at Tabora.

³⁸ Cap. 290 [R.E. 2019].

categories of inhabitants. The term inhabitant lacks a definition in both the Local Government Finance Act³⁹ and the Interpretation of Laws Act.⁴⁰ According to a plain rule of statutory interpretation, LGAs possess the authority to levy a crop tax on inhabitants or certain categories of inhabitants who buy crops.

4. FINDINGS AND DISCUSSION

This part presents study findings and discussion. It presents findings and discussion regarding Rungwe DC's authority to impose coffee levy rates and the obligation to pay these levies within Rungwe DC.

4.1 Autonomy of Rungwe DC to Impose Crop Levy Rates

The Fees and Levies bylaw of Rungwe DC delineates the rates of levies, fees and charges to be imposed by the council.⁴¹ However, the bylaw does not specify the coffee levy rate to be imposed by the council. An interview with Revenue Accountants and District Solicitors at Rungwe DC revealed that the imposition of coffee levy rates by the council is regulated by Item 1 (b) of the Schedule to the Local Government Finance Act, which establishes a ceiling of 0-3% of the farm-gate price for both food and cash crops.⁴² Additionally, Section 17 of the Act empowers LGAs to determine levy rates based on the budgeted expenditure for a specific fiscal year and the indicative prices released by the Tanzania Coffee Board (TCB) at the beginning of each coffee season under

³⁹ Cap. 290 [R.E. 2019].

⁴⁰ Cap. 1 [R.E. 2019].

⁴¹ G.N. No. 675 of 2020.

⁴² Anonymous, Interview by author (5th and 6th June 2023, Tukuyu, Rungwe).

Regulation 69 of the Coffee Industry Regulations.⁴³ Indicative prices contribute to effective tax administration by enhancing the predictability of tax amounts paid by buyers and the revenue received by the government. An interview with the District Treasurer, Revenue Accountants and District Solicitors at Rungwe DC indicated that the indicative price estimated by the TCB for levying coffee is not binding on the council.⁴⁴ The council has the authority to adjust the price based on the revenue targets for a specified fiscal year, as stipulated in Section 17 of the Local Government Finance Act.⁴⁵

The coffee levy rates in Rungwe DC exhibited slight variations throughout the study period, contingent upon the market in which coffee was sold. Coffee from Rungwe DC was sold in three types of coffee markets, namely primary coffee markets (farm-gate markets), secondary coffee markets (auctions) and Direct Export (DE) coffee markets as discussed below.

4.1.1 Coffee Rates in the Primary Coffee Market (Farm-Gate Coffee Market)

Primary coffee markets, or farm-gate markets, refer to the markets where coffee is sold to the private buyers following its primary processing. Primary processing entails the hand-picking red cherries followed by drying to produce dry cherries. The primary processing of parchment coffee includes hand-picking red cherries, pulping on the same day, washing, fermenting, drying and packaging. Regulation 3 of the Coffee Regulations defines primary

⁴³ G.N. No. 385 of 2013.

⁴⁴ Anonymous, Interview by author (5th and 6th June 2023, Tukuyu, Rungwe).

⁴⁵ Cap. 290 [R.E. 2019].

processing as the processing of coffee through pulping or hulling to produce parchment or ungraded clean coffee.⁴⁶ Primary processing can either be done at home, referred to as home processing (HP), or within processing equipment known as Central Pulperies Units (CPU), which are operated by Agricultural Marketing Cooperative Societies (AMCOS).

An interview with peasants at MPUMISA AMCOS and KYOBO AMCOS indicated that the coffee levy rates in the primary coffee market have consistently been 3% of the price of coffee sold to buyers throughout the study period.⁴⁷ A similar finding was made during an interview with the District Treasurer, Revenue Accountants, District Solicitors and Cooperative Societies Officers at Rungwe DC.⁴⁸ An analysis of coffee production statistics from the agriculture, livestock and fisheries department at Rungwe DC indicated that the coffee levy rate in the primary coffee market has consistently been 3% of the selling price to buyers throughout the study period.

4.1.2 Coffee Rates in the Secondary Coffee Market (Auctions)

Secondary coffee markets, or auctions, refer to the markets where coffee is traded following secondary processing. Regulation 3 of the Coffee Industry Regulations defines secondary processing as the curing or hulling of coffee to produce graded beans.⁴⁹ The Southern Highlands zone is home to several coffee curing or hulling companies, including City Coffee Company in Mbeya, as

⁴⁶ G.N. No. 385 of 2013.

⁴⁷ Anonymous, Interview by author (MPUMISA AMCOS, KYOBO AMCOS, 7th and 8th June 2023, Tukuyu, Rungwe).

⁴⁸ Anonymous, Interview by author (5th and 6th June 2023, Tukuyu, Rungwe).

⁴⁹ G.N. No. 385 of 2013.

well as GDM Company, CMS Company and MCCC Co Company, all situated in the Songwe Region. Following quality assessment, samples are transported to the auctions. Regulation 42 of the Coffee Industry Regulations empowers the TCB to conduct coffee auctions.⁵⁰

An interview with the District Treasurer, Revenue Accountants, District Solicitors and Cooperative Societies Officers indicated that the coffee levy rate in the secondary market is set at 3% of the indicative price established by the TCB or the council’s revenue collection targets.⁵¹ An analysis of the coffee marketing guides from the agriculture, livestock and fisheries department, along with the minutes from the finance and planning committee and the council’s budget from the finance department, indicated a 3% coffee levy rate in the secondary market, as shown in Table 1 below.

Table 1: The Coffee Levy Rates in the Secondary Coffee Market (Auctions) from 2018/19 to 2023/24

Fiscal year	Indicative Price (TCB) per Kg (TZS)	Agreed Price (Rungwe DC) per Kg (TZS)	Rate of Coffee Levy by %	Actual Rate of Coffee Levy paid per Kg (TZS)	Estimated Budget on Coffee Levies (in Million TZS)
2018/19	3,000	3,000	3	90	73,500,000
2019/20	3,000	3,000	3	90	73,500,000
2020/21	3,000	3,500	3	105	63,000,000

⁵⁰ G.N. No. 385 of 2013.

⁵¹ Anonymous, Interview by author (5th and 6th June 2023, Tukuyu, Rungwe).

2021/22	4,000	4,000	3	120	63,000,000
2022/23	4,000	4,000	3	120	70,000,000
2023/24	4,000	4,000	3	120	90,000,000

Source: Compilation by the Author (2024)

Table 1 presents the variations in coffee levy rates imposed to meet revenue collection targets. During the fiscal years 2018/19, 2019/20, 2021/22, 2022/23 and 2023/24, coffee levy rates were imposed based on the indicative prices provided by the TCB. During the 2020/21 fiscal year, the indicative price for coffee produced in Rungwe DC was set at 3,000 TZS per kilogramme sold at auction. To achieve the council's revenue collection target, the price was adjusted to 3,500 TZS per kilogramme sold, incorporating an additional 500 TZS on each kilogramme of coffee sold. The rise in the coffee prices resulted in an adjustment of the coffee levy rate to 105 TZS per kilogramme sold, up from 90 TZS in the preceding fiscal year.

4.1.3 Coffee Rates in the Direct Export Market

Direct Export (DE) markets refer to secondary markets where high-quality or certified organic coffee is sold directly to buyers. In 2003, TCB officially recognised the specific requirements for high-quality coffee and established guidelines and licensing procedures for direct export. Producer organisations that offer high-quality or certified organic coffee and comply with the 2013 coffee regulations are permitted to engage in direct exports, bypassing the auction process for their coffee.⁵² If a producer organisation's

⁵² R. 42 (5) and Item 2 of the fifth Schedule to the Coffee Regulations, 2013, G.N. No. 385 of 2013.

coffee fails to meet regulatory requirements, it must undergo the auction system for grading and sale based on its assigned grade.

An interview with the District Treasurer, Revenue Accountants, District Solicitors and Cooperative Societies Officers at Rungwe DC indicated that the coffee levy rate in the direct export market has consistently been 3% of the price of coffee sold to buyers throughout the study period.⁵³ A comparable response was given by the peasants at MPUMISA AMCOS and KYOBO AMCOS.⁵⁴ An analysis of the coffee marketing guides from the agriculture, livestock and fisheries department, along with the minutes from the finance and planning committee and the council's budget from the finance department, revealed that the coffee levy rate in the direct export market has consistently been set at 3% of the price of coffee sold to buyers throughout the study period.

The study indicated that throughout the study period, Rungwe DC adhered to the legal requirement of imposing coffee levies at rates not exceeding the 3% ceiling.⁵⁵ It is a clear rule that delegation of legislative power is valid only when the delegating statute explicitly outlines the policy to be executed by the delegate by formulating appropriate rules.⁵⁶ In the case of *Devi Das v. Punjab*⁵⁷ the law granting the executive authority to impose a sales tax at a rate not exceeding 2% was deemed valid. The court maintained that it is

⁵³ Anonymous, Interview by author (5th and 6th June 2023, Tukuyu, Rungwe).

⁵⁴ Anonymous, Interview by author (MPUMISA AMCOS, KYOBO AMCOS, 7th and 8th June 2023, Tukuyu, Rungwe).

⁵⁵ Item 1(b) of the Schedule to the Local Government Finance Act, Cap. 290 [R.E. 2019].

⁵⁶ Jain, M.P. and Jain, S.N., *Principles of Administrative Law*, (7th Edn.), New Delhi: Wadhwa and Company Nagpur, 2005, at p. 55.

⁵⁷ A.I.R. 1967 S.C. 1895.

permissible to grant the government a reasonable degree of discretion through a fiscal statute; however, extensive statutory discretion that allows the government to establish an arbitrary rate may not be upheld. In *Sitaram Bishamber Dayal v. Uttar Pradesh*⁵⁸ the supreme court deemed the authority to impose a sales tax at a rate not exceeding 5% was acceptable, considering the prescribed rate to be a reasonable upper limit.

Furthermore, the study indicated that Rungwe DC possesses the discretionary authority to set crop levy rates between 0-3% of the farm gate price. Therefore, the council possesses a limited autonomy to impose crop levies, which contradicts the fiscal autonomy theory. The Parliament has restricted the use of discretionary fiscal powers by the LGAs to mitigate potential abuse in establishing arbitrary rates. Jain, M.P. and Jain, S.N. observed that broader terms of delegation increase the difficulty of controlling the exercise of power.⁵⁹

Additionally, an interview with peasants at MPUMISA AMCOS and KYOBO AMCOS indicated that they were informed about the applicable coffee levy rates in the coffee markets by their leaders, having received this information from the district council at the onset of each coffee season in June or July.⁶⁰ An interview with the authorised coffee buyers in Rungwe DC, Lima Kwanza Company and Nanine Company, revealed that they were informed by the council about the coffee levy rates each year at the beginning of the coffee season. Additionally, coffee buyers revealed that they

⁵⁸ (1972) 29 S.T.C. 206 (S.C.).

⁵⁹ Jain and Jain, *Principles of Administrative Law*, above note 53, at p. 58.

⁶⁰ Anonymous, Interview by author (MPUMISA AMCOS, KYOBO AMCOS, 7th and 8th June 2023, Tukuyu, Rungwe).

also got information about the coffee levy rates in the coffee marketing guides issued by the TCB each year.⁶¹

4.2 Who Pays Coffee Levy Rates in Rungwe DC?

An interview with the District Treasurer, Revenue Accountants, District Solicitors, Cooperative Societies Officers,⁶² peasants at MPUMISA AMCOS and KYOBO AMCOS⁶³ and authorised coffee buyers⁶⁴ revealed that coffee levy rates in Rungwe DC are paid by buyers and peasants through their AMCOS, contingent upon the market in which the coffee is sold, as detailed below.

Coffee levy rates are paid by buyers in the primary coffee market (farm-gate market). Buyers possessing a permit to purchase coffee in Rungwe DC are required to remit coffee levies to the council prior to the transportation of the consignment to curing or hulling companies. In the 2022/23 coffee season, the buyers authorised to purchase coffee in the primary coffee market (farm-gate coffee market) in Rungwe DC includes Lima Kwanza Company, GDM Company, Nanine Company, Cotta Coffee Company and Suscatability Company.

When coffee is sold in auctions, coffee levy rates are paid by peasants through their AMCOS. Upon the conclusion of the auction, the coffee buyer must remit the purchase price to the bank account of the AMCOS. The district council closely monitors the bank accounts of the AMCOS to ensure that coffee levy rates are

⁶¹ Anonymous, Interview by author (7th and 8th June 2023, Tukuyu, Rungwe).

⁶² Anonymous, Interview by author (5th and 6th June 2023, Tukuyu, Rungwe).

⁶³ Anonymous, Interview by author (MPUMISA AMCOS, KYOBO AMCOS, 7th and 8th June 2023, Tukuyu, Rungwe).

⁶⁴ Anonymous, Interview by author (7th and 8th June 2023, Tukuyu, Rungwe).

remitted to the council, as well as to safeguard the interests of the peasants. The Cooperative Societies Officers in the LGAs, along with the council treasurer's office, ensure that coffee levies are paid by the AMCOS prior to permitting AMCOS leaders access to the funds deposited in the account.⁶⁵ The Cooperative Societies Officers in the LGA, along with the council treasurer's office are directed by the TCB to closely monitor the accounts of the AMCOS, as outlined in the coffee marketing guides issued at the start of each coffee season.

Interviews conducted with peasants from MPUMISA AMCOS and KYOBO AMCOS revealed that the responsibility for paying coffee levies upon auction sale lies with the peasants through the AMCOS.⁶⁶ The interview with two Cooperative Societies Officers in Rungwe DC revealed that coffee levies are typically paid by peasants through their AMCOS when payment is made by the buyers. According to them, the responsibility to pay coffee levy rates is assigned to the individual transporting coffee across the council. When AMCOS decides to sell its coffee at auction, it is responsible for transporting the coffee to the curing or hulling companies.⁶⁷ In *Alpha Namata Company Limited v. Mtwara-Mikindani Municipal Council and the Attorney general*,⁶⁸ the court noted that the buyer's payment of the purchase price to the AMCOS is equivalent to compensating the farmers organised under that union. The remittance of crop cess deductions to the council by the AMCOS

⁶⁵ Anonymous, Interview by author (5th and 6th June 2023, Tukuyu, Rungwe).

⁶⁶ Anonymous, Interview by author (MPUMISA AMCOS, KYOBO AMCOS, 7th and 8th June 2023, Tukuyu, Rungwe).

⁶⁷ Anonymous, Interview by author (5th and 6th June 2023, Tukuyu, Rungwe).

⁶⁸ Miscellaneous Civil Cause No. 11649 of 2024, the High Court of the United Republic of Tanzania at Dodoma.

indicates that the cess was paid by the farmers, who were the crop producers, rather than by the petitioner, who was a purchaser.

In the DE market, the responsibility for coffee levies falls on the peasants through the AMCOS. Like in the auction markets, in the DE market coffee levies are paid by peasants through the AMCOS at the rate of 3% of selling price before the AMCOS can conduct any transactions in their bank account. The amount of coffee levies is contingent upon the selling prices in the direct export market. The study also revealed that MPUMISA AMCOS possesses experience in selling its coffee through the direct export market. Peasants in MPUMISA AMCOS indicated that they are responsible for paying coffee levies to the council upon receipt of the purchase price to their bank accounts.⁶⁹

The study found that the imposition of coffee levy rates in Rungwe DC is contrary to Section 16 of the Local Government Finance Act⁷⁰ and the Schedule thereto, as elaborated below;

First, coffee levy rates on coffee sold at auctions and through direct export market are paid by peasants through their AMCOS. This practice contradicts Item I of the Schedule to the Local Government Finance Act,⁷¹ which assigns the responsibility for paying crop levies on buyers. This position of the law has received court's approval in the case of *Igunga District Council v. Kabama Oil*

⁶⁹ Anonymous, Interview by author (MPUMISA AMCOS 7th June 2023, Tukuyu, Rungwe).

⁷⁰ Cap. 290 [R.E. 2019].

⁷¹ Cap. 290 [R.E. 2019].

*Mills Ltd*⁷²(supra) and *Uyui District Council and Attorney General v. PACHTEC Company Limited*⁷³(supra).

Secondly, LGAs have been granted the authority to impose crop levies on the inhabitants or such categories of inhabitants, for services, matters, things or acts outlined in the Schedule, as defined in the relevant bylaws. The Local Government Finance Act⁷⁴ and the Interpretation of Laws Act⁷⁵ do not define the terms inhabitants or categories of inhabitants concerning the payment of coffee levies. All the licensed buyers that bought coffee in the primary coffee market in Rungwe DC had to pay coffee levy rates to the council.

Despite the challenges associated with the design of coffee levies in Rungwe DC, compliance in the payment of these levies was notably high. This can be attributed to the robust regulation of coffee markets in Tanzania by the TCB and Rungwe DC, as illustrated in Table 2 and its corresponding graphic representation in Figure 1.

⁷² Civil Case No. 05 of 2021, the High Court of the United Republic of Tanzania, Tabora District Registry at Tabora.

⁷³ Land Case No.05 of 2023, the High Court of the United Republic of Tanzania, Tabora Sub-Registry at Tabora.

⁷⁴ Cap. 290 [R.E. 2019].

⁷⁵ Cap. 1 [R.E. 2019].

Table 2: Performance of Rungwe DC in the Collection of Coffee Levy Rates

Fiscal Year	Budget	Actual collections	% actual collected
2017/ 18	73 500 000	64 011 504	87.09048163
2018/ 19	73 500 000	61 690 392	83.93250612
2019/ 20	63 000 000	59 791 915	94.90780159
2020/ 21	63 000 000	71 380 466	113.302327
2021/ 22	70 000 000	150 071 890	214.3884143
2022/23	90 000 000	161 139 288	179.0436533

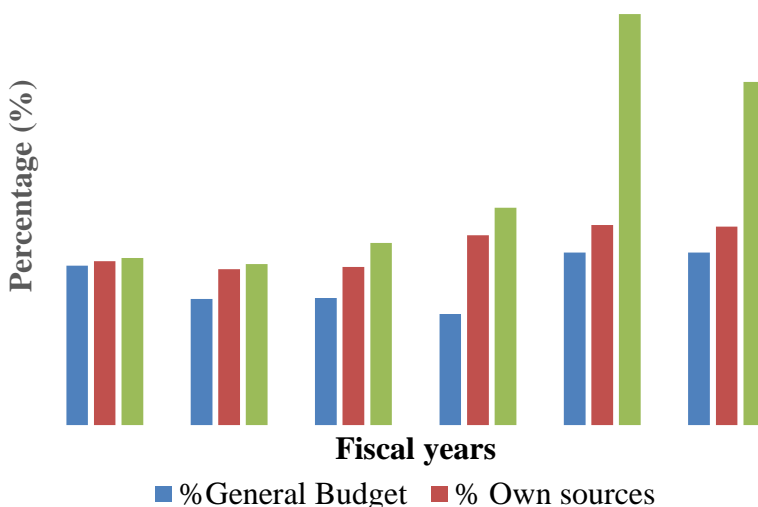


Figure 1: Performance of Rungwe DC in the Collection of Coffee Levy Rates during the 2017/18 to 2022/23 Fiscal Years

Table 2 and its graphical representation in Figure 1 illustrate the performance of Rungwe DC in collecting coffee levies during the study period. Table 2 and Figure 1 indicate that in the 2021/22 fiscal year, Rungwe DC achieved a maximum collection of coffee levies, demonstrating a performance rate of 214.388%. During the 2018/19 fiscal year, the council recorded the lowest collection of coffee levies in the study period, achieving a performance rate of 83.932%.

An interview with agricultural extension officers, Cooperative Societies Officers, revenue accountants and peasants in MPUMISA and KYOBO AMCOSs indicated that there was an increase in coffee production in the council during the 2021/22 fiscal year.⁷⁶ An analysis of coffee production statistics from the agriculture, livestock and fisheries department at Rungwe DC indicates that coffee production reached 1302.4 tonnes in 2021/22 fiscal year, an increase from 685.3 tonnes in the 2020/21 coffee season. The rise in coffee production was linked to the planting of new coffee trees, the provision of extension services to farmers and the availability of agricultural inputs for these farmers.⁷⁷ The coffee levy rate was Tsh 120 per Kg, an increase from Tsh 102 per Kg in 2020/21 and Tsh 90 per Kg in previous years, as indicated in Table 1 above.

The study revealed that the quantity of coffee produced in a specific season, the selling price of coffee, the rates of coffee levies imposed and the strict regulation of coffee markets by the TCB and Rungwe DC were the primary factors influencing the revenue

⁷⁶ Anonymous, Interview by author (6th and 7th June 2023, Tukuyu, Rungwe).

⁷⁷ Anonymous, Interview by author (6th and 7th June 2023, Tukuyu, Rungwe).

generated by the council from coffee levies. Furthermore, the study revealed that coffee levy rates in Rungwe DC are paid by buyers in the primary coffee markets only. In the secondary coffee markets, including auctions and direct export markets, the responsibility for paying coffee levy rates rests with the peasants.

5. CONCLUSION AND RECOMMENDATIONS

The study concludes that Rungwe DC has the discretionary authority to set crop levy rates ranging from 0% to 3% of the farm-gate price. Therefore, the council has a limited autonomy to impose crop levies, which contradicts the fiscal autonomy theory. The central government has limited the use of discretionary fiscal powers by the LGAs to mitigate potential abuse in setting arbitrary rates. Central government controls are crucial for ensuring effective coordination between central and local government policies and services.

Furthermore, when coffee is sold at auctions or through the direct export market, levies are imposed on peasants through their AMCOS, which contradicts Item I of the Schedule to the Local Government Finance Act.⁷⁸ The Local Government Finance Act⁷⁹ lacks the definition of the term inhabitants or categories of inhabitants in relation to the payment of crop levies. The lacuna has resulted in buyers not ordinarily residing in Rungwe DC incurring coffee levy rates payable to the council.

To enhance the legal framework regulating coffee levies in the LGAs, this paper recommends amending the Local Government

⁷⁸ Cap. 290 [R.E. 2019].

⁷⁹ Cap. 290 [R.E. 2019].

Finance Act by clearly defining the term inhabitants and categorising them for the purpose of crop levy payment.⁸⁰ The law must explicitly define the qualifications for a buyer travelling to a specific LGA to purchase crops, determining their status as an inhabitant or categorising them as such for the purpose of crop levy payments.

Finally, the paper recommends that education should be delivered to peasants through their AMCOS, emphasising that the legal responsibility for paying coffee levies rests with the buyers. Coffee levies should be incorporated into the prices during negotiations in the direct export coffee markets, supervised by Cooperative Societies Officials in the LGAs and the TCB. Additionally, buyers in the coffee auctions must be reminded of their responsibility to remit coffee levies by the TCB which oversees the auctions. Upon the conclusion of the auction, buyers should remit the purchase price along with coffee levies to peasants through the AMCOS. Peasants should not be responsible for paying coffee levies through the AMCOS; rather, they should act as agents for the collection of these levies from buyers.

⁸⁰ Cap. 290 [R.E. 2019].