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# **Alcohol ambivalences and the law: Tax tendering and ‘native liquor’ in rural Uganda**

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# **Alcohol ambivalences and the law: Tax tendering and ‘native liquor’ in rural Uganda**

This article is an attempt to ethnographically represent some of the processes in which the meanings and practices of home brewed alcohol affect local legislative practices in Kisoro District, south-western Uganda, in particular taxation. Data from the field shows how home brewed alcohols are taxed differently throughout the district. Some drinks being taxed in one sub-county, but neglected in another and vice versa. The question that concerns this article is why. Building on the work of Sally Falk Moore (1973), this article analyses how alcohol producers, traders, private tax collectors and government officials navigate multiple semi-autonomous social fields that set overlapping and contradicting rules for alcohol trading practices in the area. Specifically, it argues that what qualifies as a taxable alcoholic product depends on local perceptions of alcohol as well as negotiations between tax collectors and the local population about the meaning of alcohol.

Keywords: Semi-autonomous social fields, taxation, traditional alcohol, Uganda

## **Introduction**

Uganda, like many other African countries, has a long tradition of producing alcohol in the form of beer and wine (Bryceson 2002; Karp 1980; Robbins and Pollnac 1969; Willis 2002). Prior to colonial times, homebrewed drinks occupied an important role in regulating everyday life of clan communities. Reciprocal exchanges of beer, in the form of gifts or beer parties, were essential in maintaining economic stability. Beer parties were a way to distribute labour input within the community, which created mutual labour obligations and in doing so established long-term relationships between families and clans (Edel 1957; Karp 1980; Shiraishi 2006). Beer further served as a medium for settling disputes within families and between clans, as a benchmark for issuing fines, and occupied a vital role during feasts and rituals, such as the start of the harvesting, the initiation of a child, marriage arrangements and the honouring of ancestors (Gwako 2017; Ambler 1991; Kafuko and Bukuluki 2008; de Smedt 2009; Ngologoza 1998). The relative scarcity of beer during that time period, due to the production time involved, further indicates the value of alcohol for such ceremonies within clan communities.

Colonial times brought considerable changes to the established role of alcohol in clan communities. The introduction of new technologies and products, such as rapid changes in transport networks, processed sugar and cane mills ensured that alcohol became easily accessible (Ambler 1991). This expanded the meaning and function that alcohol had from purely beer production in the home, with a more ceremonial role and importance for maintaining relationships, to production for the market. Different types of alcohol were further understood as markers of modernity and civilisation, especially by the European colonizers. Choice of consumption from local brewed beer, bottled beers or distilled spirits, highlighted the differences in race, class and education and distinguished European colonizers from the ‘native people’ (Willis 2001, 56). This was reflected in the alcohol legislation in Africa in the early 20<sup>th</sup> century, which prohibited the production and consumption of distilled spirits among the local population,<sup>1</sup> fearing drunkenness would give rise to idle behaviour, protest movements and rebellion (Ambler 1991, 170–73).

An exemption to this ban on the production and consumption of alcohol among native people, were the so-called ‘native liquors’, the locally produced beers and wine that had been customary within these communities. According to Justin Willis this suggests that the ban on alcohol was more of a cultural differentiation between the European colonizers and native people, as opposed to a fear of alcohol itself (Willis 2001, 60). Regardless, the differentiation between European alcohols and native liquor is the beginning of a classification of a ‘special’ kind of alcohol which continues to be distinct in Ugandan legislation today.<sup>2</sup> Alcohol laws in Uganda do not only emphasize the racial undertones of the colonial discourse about modernity and civilization, but have an effect on the way alcohol legislation and policy is given form in practice. In this article, I examine what the classification of native liquor<sup>3</sup> mean for everyday practice by looking into alcohol taxation in Kisoro District, south-western Uganda. I argue that the ambivalences within Uganda’s alcohol legislation give room to government officials, private tax collectors and taxpayers to define the meanings of native

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<sup>1</sup> The General Act of Brussels, *Slave Trade and Importation into Africa of Firearms, Ammunition, and Spirituous Liquors*, (Brussels, July 2, 1890).

<sup>2</sup> See the Liquor Act (1960).

<sup>3</sup> In this article I use the term ‘native liquor’ as described in the Liquor Act of 1960, to refer to those home brewed alcoholic drinks which people consider ‘local brew’. With these drinks I mean the alcoholic products that are produced ‘locally’ within people’s homes, sold on local markets, consumed in local bars or at home with friends and family. These drinks do not have the Uganda National Bureau of Standards (UNBS) certificate, guaranteeing the quality and safety of the product and do not need to pay tax to the Uganda Revenue Authority.

liquor and as such, negotiate which alcoholic drinks are taxable under which categorisation. These negotiations are important as they portray how alcohol laws and regulation do not solely play out in the domain of the Ugandan state, but how other everyday rules and norms also affect the way that alcohol is regulated.

On the topic of law and governance in Africa, two schools of thoughts structure the debate. From a legal perspective, discussions on the effectiveness of (state) legislation and the difference between ‘law in the books’ and ‘law in action’, have been widely acknowledged and discussed in socio-legal theory since the seventies. These scholars criticize the positivist perspective of state law and emphasize the working of different legal and normative orders that co-exist and compete in the same space and time (Griffiths 1979, 2003; Merry 1988; Moore 1978; Tamanaha 2008). Additionally, voices arose from law and development scholars, critically challenging the importance and central role of ‘modern state law’, based on Western legal ideas and institutions as building blocks for development, pointing to the existence of various non-state forms of governance.<sup>4</sup> Likewise, in social and political sciences the state apparatus and forms of (good) governance and development in Africa have been critically challenged for its dominant use of western based models for state legislation. Such scholars emphasize the existence of other governance mechanisms (Das and Poole 2004), hybrid forms of governance (Boege et al. 2008), twilight institutions (Lund 2006) and the importance of unofficial norms and rules, or ‘practical norms’, that offers an explanation to the gap between the official norms that civil servants adhere to and their everyday practices (de Herdt and Olivier de Sardan 2015, 3; Olivier de Sardan 2015). The latter work specifically criticizes the division between the *ideal* and *reality* of governance, by arguing how the hybridity of state and non-state institutions is the “normal state of affairs” (de Herdt and Olivier de Sardan 2015, 9).

Both schools of thought study the working of different forms of governance mechanisms in everyday life in Africa and could be relevant for my inquiry. For instance, the concept of practical norms is particularly useful to study the ‘informal’ or ‘tacit’ norms that civil servants encounter in their work and regulate their everyday routines besides the official norms or social norms that are dominant in a particular area (2015, 26). However, this narrows the analysis down to the categorisation of state official norms, social norms and the

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<sup>4</sup> See for instance the work by David Trubek and Marc Galanter on reflections on the crisis in law and development studies in the United States (1974).

practical norms in a state-centred setting. This risks a dichotomy when thinking about rules and laws: between ‘state’ or ‘official’ rules and norms versus the ‘non-state’ or ‘unofficial’ rules and norms, and limits researchers to think outside the framework of the state. The practical norm approach is helpful to researchers when emphasizing the tacit or implicit rules and norms of a specific state setting, or to understanding why civil servants in a specific workspace act the way they do and how, in doing so, make and unmake the state (2015, 5).<sup>5</sup>

This in contrast to Sally Falk Moore’s concept of a semi-autonomous social-field (SASF). She suggests the existence of various social fields with various degrees of autonomy which means that it “can generate rules and customs and symbols internally, but that it is also vulnerable to rules and decisions and other forces emanating from the larger world by which it is surrounded” (Moore 1973, 720). Although initially her research aims to understand the mode of compliance to state-made legal rules, by studying the internal rules and norms of different SASF’s, the concept is not limited to the state, as it can be applied to *all* social fields that have rule making and governing abilities. While her work is often misunderstood to focus on state law and the existence of different legal orders, Moore does not explicitly refer to merely law. Rather, she emphasizes the existence of different rule making and rule enforcing mechanisms in society including norms, ideas, rules and practices (Tamanaha 2008, 394). In doing so she steers away from the philosophical question ‘What is law?’ which dominates discussions in legal pluralism. Instead she highlights the way that different SASF’s (be it state or non-state) are intermingled and places attention to the complex set of relationships that people feel part of, while trying to make decisions in daily life. In doing so, the concept of SASF transcends the state-non-state dichotomy.

The concept of the semi-autonomous social field is specifically helpful to me because of its relational approach: It looks at people, be they a civil servant or civilian, the power relationships they have, and the way they navigate around laws, non-legal rules and norms that form the operative “rules of the game” of a specific social setting (1973, 743). This allows me to grasp how the working of various rules, norms and interpretations of the trade in alcohol arise from different SASF’s which people feel part of. Making use of SASF helps me

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<sup>5</sup> See for instance the research of Kristof Titeca and Tom de Herdt on cross-border trade regulations in north-western Uganda. They reveal how informal trade is not chaotic or unsystematic as is often thought, but regulated by a combination of official and practical norms (Titeca and Herdt 2010).

to unravel the practical norms within the field of alcohol taxation practices in Kisoro District in a broader social matrix.

The article will specifically focus on private tax collectors. The private tax collectors are an interesting case study because their job provides them with an ambiguous status as ‘not quite bureaucrats’; they are hired by the government as subcontractors and therefore are both businessmen working for the government while also having the authority to enforce tax collection with the help of the local government officials and police. Moreover, these tax collectors are born in the area, raised with similar cultural norms and often embedded in the same hierarchies of village-level administrative and customary organisation as their neighbours, friends and relatives from whom they are expected to collect taxes. As such, they are part of – and encounter – several different SASF’s while doing their job. To give an example: tax collectors I worked with in Kisoro District need to follow the national guidelines for taxation on markets, encounter pressure from the local government on the district level as well as at the sub-county level where they work. Additionally, they are embedded in complex networks of personal, familial and clan ties which to a significant degree shape the way alcohol is perceived and how alcohol taxation is collected. For instance, one of the tax collectors I worked with is simultaneously a local government village chairperson, part of a trader’s association, as well as an active member of the Catholic church. These different fields of relationships uphold different internal rules and norms that partly overlap, but are partly in tension with one another which consequently affects the way these tax collectors navigate and negotiate the rules and norms of these different SASF’s.

In a broad sense, this article adds to the discussions on governance practices in Africa with the use of Moore’s concept of a SASF. To do this I consider the alcohol laws set by the Ugandan government and critically assess some of the challenges these laws meet in practice and the ambivalences that they produce. I will show that these ambivalences revolve around what constitutes a taxable product as opposed to a traditional practice. Thereafter, I will zoom in on taxation practices and address the ways private tax collectors navigate and negotiate the various rules and norms that exist on traditional alcohols. The research material is based on ethnographic fieldwork in Kisoro District, south-western Uganda, which was carried out between April 2018 and March 2019. The article is further informed by earlier ethnographic fieldwork on the same topic and in the same area conducted between August 2014 and

January 2015.<sup>6</sup> The research draws mainly on participant observation and interviews conducted with alcohol producers, traders and private tax collectors, as well as with relevant government officials<sup>7</sup> on a national, district, sub county and village level, and with important figures within clan councils and clan courts in rural villages in Kisoro District.

### **Alcohol legislation**

The legal status of home-produced alcohol depends on the kind of alcohol it is, and the licensing regime to which it belongs. The different policies regarding alcohol are stated in the Liquor Act from 1960 and the Enguli (Manufacture and Licensing) Act from 1966. These acts make a distinction between three forms of liquor: Firstly, there are the excisable liquors which are either manufactured domestically or imported. Secondly, there are the so-called ‘native liquors’ which are made at home and thirdly there is *waragi*, which is a traditional home-distilled ‘gin’. While both native liquor and *waragi* are produced in the home, a distinction is made between fermentation and distilling.

Let me elaborate shortly on both acts and the definitions of these different alcohols. The Enguli (Manufacture and Licensing) Act is specifically focussed on *waragi*. *Waragi* is either made from sugar, molasses or bananas and often referred to as ‘gin’. *Enguli* is the raw distilled form of *waragi* of which the alcohol percentage is between 38% and 70% and which is often sold illegally in yellow jerry cans across the country. For the production of legal *waragi* an exclusive license is needed that prescribes the maximum quantity of *waragi* per month that one may have in possession for a certain period of time prior offering it to a specific collecting centre for further distillation by one of the formally recognized brands to make it ‘safe’ for the general population to drink.<sup>8</sup> Besides the licenses that are needed, *waragi* also needs to have the Ugandan National Bureau of Standards (UNBS) certificate that guarantees the safety of the drink (‘Uganda National Bureau Of Standards’ n.d.). Any form of

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<sup>6</sup> To protect the confidentiality and identity of the research interlocutors, this article makes use of pseudonyms. The specific locations of villages have been generalized into *a* village in Kisoro District, south-western Uganda or *a* village in the border area with Congo. All interlocutors have provided consent for participating in the research.

<sup>7</sup> Including, but not limited to: The Magistrate court, the Kisoro police department, the Ugandan National Bureau of Standard, the Ugandan Revenue Authority, Kisoro district and municipal revenue officers and health officers, sub-county chiefs, tax collectors and chairpersons on various government levels.

<sup>8</sup> Enguli (Manufacture and Licensing) Act 1966 (Act) s 1 – 2, 7.



distillation without the UNBS certification and the right licenses is considered illegal by Ugandan law.

In contrast to waragi, whose production and consumption is widespread and mostly illegal (without the UNBS certification or licenses), the Ugandan government considers all home-brewed alcoholic drinks a ‘native custom’ and they are allowed to be legally produced, sold and consumed according to the Liquor Act from 1960.<sup>9</sup> Under this Act fall both ‘excisable liquor’, meaning the manufactured alcoholic drinks on which an excise duty is imposed,<sup>10</sup> as well as ‘non-excisable liquor’, meaning ‘native liquor’.<sup>11</sup> The latter is specifically defined as: “those intoxicating drinks which are prepared or manufactured in accordance with native custom otherwise than by distillation and are known as omwenge, pombe, kangara, muna, marissa, amarwa, kwete, дума and nule, or any other intoxicating drink so prepared or manufactured.”<sup>12</sup> In contrast to waragi or excisable liquor, native liquor does not need to uphold the same health requirements and does not require UNBS certification, as these drinks are not meant for the formal market or produced for manufacturing (‘Uganda Standards Catalogue As of 30 June 2015’). Every Ugandan citizen is allowed to brew native liquor. However, a license which falls under the responsibility of the Local Government is needed. While both the Liquor Act and the Local Government Act state that the Local Government is responsible for the regulation of traditional or native liquor, no further policy guidelines are made on paper with regards to the regulation of these alcohols. In practice this means that rules for native liquor differ per district.<sup>13</sup>

It is worthwhile to stop a moment here and emphasise the three classifications. On the one hand there is waragi, the home distilled gin which can be either legal or illegal, depending

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<sup>9</sup> Liquor Act 1960 (Act); Local Government Act 1997 (Act) ss 30 - 31, p. 4 (16).

<sup>10</sup> Liquor is defined in the Liquor Act 1960 (Act) s 1 (l)(m) to include: “any spirits (including refined spirits), wine, ale, beer, porter, cider, perry, hop beer or any drink containing more than 2 percent by weight of absolute alcohol, but does not include enguli or native liquor”.

<sup>11</sup> Liquor Act 1960 (Act) s 1.

<sup>12</sup> Liquor Act 1960 (Act) s 1 (p).

<sup>13</sup> The Liquor Act 1960, s32 states that native liquor: “shall be regulated in a district by such laws as may be made for the purpose by the administration under and in accordance with the Local Governments Act”. The Local Government Act 1997, s4 (7)16 thereupon states that the services and functions delegated by a district council (LC5) to lower local government councils include the provision of “the regulation of traditional liquor as defined in the Liquor Act.”.

on the right licenses under the Enguli (Manufacturing and Licensing) Act. Then there are the legal liquors or beers licensed and taxed under the Liquor Act and thirdly there are the native liquors, the home brewed alcohols that are in line with local customs and fall under the responsibility of the Local Government. Concerning native liquor and its definition; no further instruction exists regarding the way these drinks should be produced or what is meant by a 'native custom'. Rather, the definition of native liquor in the Liquor Act solely provides some examples of native alcohol. Therefore, it leaves the definition of native liquor open for interpretation, as who determines what a native custom is? This lack of clarity blurs the lines between legal and illegal alcohol production. The question when alcohol should fall under native liquor creates room for alcohol producers to manoeuvre. This makes the work of government officials involved with alcohol legislation challenging, as ideas about what alcohol is and what is considered a 'traditional drink' are open for interpretation and discussion. In turn, these different attitudes towards the meaning of alcohol and traditional practices affect the way tax is collected on these products at the local level.

Before delving into alcohol taxation practices in Kisoro District, let me shortly elaborate on alcohol taxation policies in Uganda in general. In Uganda alcohol taxation is regulated by the Ugandan Revenue Authority (URA) and the Local Government. To be able to produce or trade in alcohol, several steps have to be taken. First, for a producer starting a business, one needs to have a trading license. The trading license is a general business license provided by the Local Government which enables one to sell goods and services.<sup>14</sup> The license fee depends on the size of the shop for which guidelines are made by the district government. Secondly, a producer needs to pay income tax, collected by the URA. Thirdly, taxation exists on the alcohol itself. These are not charged to the manufacturers or producers, but they target the end consumer: the value added tax (VAT) and the Local Excise Duty. Both taxes are collected by the URA. The VAT is 18% and is charged on all manufactured drinks within Uganda as well as on all imported drinks. The Local Excise Duty, thereupon, is imposed on 'luxury' products such as tobacco, alcohol and social media, as a means for the government to earn income and to discourage people from using certain products which are considered harmful ('Executive Summary Uganda Issues Tax Amendment Bills for 2018' 2018; *Excise Duty (Amendment) Act 2017* 2017). The height of the Local Excise Duty depends on the materials used for production as well as on the type of product itself (for

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<sup>14</sup> Trading (Licencing) Act, 1969.

instance beers or spirits), ranging from 30% on domestic manufactured beers up to 60% for domestic manufactured spirits (KPMG 2018). Besides these taxes manufacturers also pay for the UNBS certificate which costs 350.000UGX a year, and another 100.000 up to 300.000 UGX for testing, depending on which alcoholic product one manufactures ('Uganda National Bureau Of Standards' n.d.).

Native liquors are excluded from these taxes and certifications. They do not need to pay the trading license, VAT or Local Excise Duty and do not require the UNBS certificate. Rather its regulation depends on the policies that are used and created by the local government in each district. The costs for producing for the formal market are high in comparison to the licenses or permits one needs to have for native liquor, making it attractive to producers to maintain a business in native liquor as opposed to excisable liquor. Subsequently, the ambivalence of alcohol legislation creates a grey area in which the taxation of alcohol becomes a topic for negotiation. One of the URA officer at the regional head office in Kabale District, specialized in tax sensitization and dispute settlement, explained to me the challenges government officials encounter when taxing alcoholic drinks:

“We have a body mandated to certify products which are for consumption purposes [the UNBS]. These local brews that are made locally, like that muramba [highly alcoholic sorghum beer] or bushera [low alcoholic sorghum beer]. We shall not tax those because they are not packed properly. We assume that it is consumed locally. We don't give it a certificate of compliance to trade on the market. You actually sell it to your friends.”<sup>15</sup>

He emphasised the difference between production for the market and production for home consumption, justifying why the URA did not tax these drinks. However, he is also aware of its large share on the market and the troubles this creates for the URA, as he further tells me:

“[...] We have not tackled those local drinks yet. Different regions have different kinds of brew, which are locally made. The processes they pass through, you can also call it actually manufacturing. [...] If he had developed such an industry, he has manufactured. However, this is done locally because he

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<sup>15</sup> URA domestic tax officer, Kabale District, interview with author, July 2018.

has not put any ingredients that prolongs its life or preserve it. This type of alcohol, especially these local brews, people are in small manufactories, which we don't call manufacturing, we call it locally made material. They actually compete against the manufacturing drinks. So probably there is a grey area.”<sup>16</sup>

He points at the fine line between small scale production of local drinks for home consumption, which is allowed under the Liquor Act, and the commodification of those products. The Liquor Act was written at a time when it was custom to brew alcohol at home to share with family and friends, which the URA officer emphasises in his initial explanation of what defines a ‘native liquor’. It was often given in gratitude to neighbours and friends for their aid during the harvest season. Businessmen strategically make use of the ‘grey area’ that the URA officer mentions, which allows them to compete with the formal market of manufactured bottled drinks and blurs the distinction between what is considered a product for home consumption and when something becomes a market good.

In the following section I will zoom in on the taxation of these home-made alcoholic drinks in Kisoro District to show how the fuzziness of alcohol legislation has its effect on tax collection policies. I will show how the lack of clarity of native liquor, as defined in the Liquor Act, translates in multiple ways to the local level as government officials, tax collectors and tax payers have various (conflicting) understandings of what native liquor means and how tax should be collected.

### **Alcohol taxation in Kisoro District**

In Kisoro District, the taxation of native liquor led to the so-called Beer Brewing Permit (BBP). This permit is unique to Kisoro District and is understood as a ‘tax’ which needs to be paid on local beers. However, among the local government officials in Kisoro District different understandings of the BBP are at play. The Chief Administrative Officer (CAO), the highest official at the district government, told me that the BBP is for people *selling* local drinks on markets or in local pubs and specifically targets people who wish to earn some income with it.<sup>17</sup> The treasurer of the central division in

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<sup>16</sup> URA domestic tax officer, Kabale District, interview with author, July 2018.

<sup>17</sup> Chief Administrative Officer, Kisoro District, interview with author, January 2019.

the municipality on the other hand, explained how the permit is not supposed to be like a license but “like a tax they pay every time they brew.”<sup>18</sup> This is agreed upon by the senior accountant in charge of domestic revenue in Kisoro municipality, who explained that the tax is collected during the production process, targeting the *brewers* with a *fixed* tax of 2000 UGX (approximately 0,54 US dollar) for every brewing session.<sup>19</sup>

Among the local government employees there are not only inconsistencies around *who* should pay the tax, but also on *the amount* of tax that should be paid. For instance, the health inspector of Kisoro Municipality explained that all alcoholic drinks that are traditional from the area fall under the category of ‘local brew’ and are taxed by the Local Government via the BBP. He explained there are no health risks for drinking these beverages, because of the natural ingredients used. Therefore, the UNBS certificate is not necessary. This includes according to him the locally distilled banana waragi. He does not see any health risks for drinking this ‘local’ waragi, because, he argues, no preservatives or additives are added to it, as opposed to waragi which is packed in plastic sachets or bottled.<sup>20</sup>

The Kisoro District LC5 Chairperson, on the other hand, disagrees arguing that it was only when ‘modernity’ came that banana beer was taken into factories and further distilled into waragi. He understands the distillation of this ‘local’ waragi not as a traditional practice, but as a modern trade which has been introduced and became popular with the arrival of factories and machines. He further sees it as a danger for one’s health and states that the District Government in Kisoro does not tolerate the production of local or crude waragi. At the same time, he acknowledges the difficulties in stopping people from producing it, since the drink has become popular among youth and difficult to monitor in rural areas.<sup>21</sup>

Whereas the LC5 Chairperson states there is a ‘zero tolerance’ policy with regards to the production of local waragi in the area, the CAO simply notes that all local

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<sup>18</sup> Treasurer Central Division, Kisoro Municipality, participant observation, July 2018.

<sup>19</sup> Senior Accountant, Kisoro Municipality, interview with author, June 2018.

<sup>20</sup> Health Inspector, Kisoro municipality, interview with author, June 2018.

<sup>21</sup> Kisoro District LC5 Chairperson, Kisoro district, interview with author, July 2018.

produced drinks which are sold are taxed via the BBP including the local waragi.<sup>22</sup> His answer is in contrast to his assistant, who told me that they, as District Government, can license “those local beers that are produced around here [...] but for us as district, we are not supposed to issue somebody a license for that crude waragi”. However, he is also aware of the ambiguity in which the trade and taxation of these drinks operate as he further mentions: “You know that crude waragi, it has a special position, I think because of its nature. The nature of that thing.”<sup>23</sup>

As the LC5 Chairperson neatly summarised earlier; there are drinks which are ‘modern’ which he defined as produced in factories and meant for the market, and drinks which are ‘traditional’ which are associated with health and hygiene. Whereas most waragi is understood to come from other districts, either being illegally distilled sugarcane waragi or manufactured and bottled waragi, the nature of this ‘crude waragi’, the assistant CAO mentions, is ambiguous. It is made from banana beer (tonto), which does not only have connotations with traditions in some of the sub-counties, but the drink is also understood to be healthy because of the natural ingredients and the fact that no preservatives or chemicals are added. When tonto is further distilled into waragi, many people still understand this version of waragi to be better and healthier than the manufactured spirits or waragi, and – perhaps even more important – locally made. While we should be careful to buy into the traditional-modern dichotomy sketched above, it is worthwhile to note the distinction as it gives meaning to the way alcohol is understood and subsequently, as the case of waragi demonstrates, how it is taxed.

To summarize, the inconsistencies in the explanations of various local government officials in charge of the BBP show how there are no clear guidelines regarding the implementation of tax collection. They express the lack of a clear definition of ‘native liquor’ in the Liquor Act and the lack of tools both the Liquor Act and Local Government Act provide for regulating these particular drinks. For some the BBP is meant for *locally produced* drinks, be it bushera, musururu, tonto or waragi while for others it is specifically locally produced drinks that are in line with traditional customs, therefore *excluding waragi*. Others still emphasise how waragi is part and

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<sup>22</sup> Chief Administrative Officer, Kisoro District, interview with author, January 2019.

<sup>23</sup> Assistant Chief Administrative Officer, Kisoro District, interview with author, July 2018

parcel of traditional culture and therefore *should* be included in the BBP. The different reasons they give is a consideration of what native liquor is, how it is classified and taxed. It shows how they interpret the Liquor Act, the space that this Act gives them to make sense of the definition of native liquor as it fits in their preconceived ideas, as well as how they can strategically employ these classifications to their benefit.

The tension between enforcing alcohol legislation and collecting revenue is something which is agreed upon by the Resident State Attorney, who explained to me the difficulties in prohibiting the illegal waragi, since its production and trade provides people a business:

“Uganda has encouraged people to do business, for generating money for taxes. So, it is always difficult for the government to telling those villagers to get back in line with the law, where they are basically stopping someone who is giving them the local revenue.”<sup>24</sup>

This is also reflected in the way private tax collectors are monitored, as they are mostly left alone while doing their work. The District Council Accountant, working below the CAO and overseeing revenue collection in the district, told me that ‘prompt visits’ are carried out to monitor and assess tax collection. However, these visits are not fixed, but rather depend on the time and willingness of the district revenue officers to go into the field. He further explained that he would compare the reports on revenue from each sub-county and visit the ones performing badly. As long as the tax collector is bringing in the required percentage of revenue every three months, no visits are made. His reasoning was as follows:

“if I am compiling my report and I see this is a poor performing revenue source, then I have to go there and check and ask why they are performing badly in a certain area. Because I cannot go into a sub-county where I find they are supposed to be at 50% [quarterly revenue], why should I go there when I know that other people are lacking behind like 35%? So, I don’t go to the area at 50%, but I go to the area who is at 35%.”<sup>25</sup>

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<sup>24</sup> Resident State Attorney, Kisoro District, interview with author, July 2018.

<sup>25</sup> District council accountant, Kisoro District, interview with author, January 2019.

Therefore, the performance of tax collectors is mainly assessed on the revenue they collect, whereas the ways they collect tax are often unclear. While local government officials are certainly interested in the revenue that is collected, both the inconsistencies about what the BBP is as well as the relative lack of monitoring show a kind of disinterest in the collection process. Specifically, it shows a disinterestedness in one of the broader ‘moral’ aims of taxation policy: fairness of taxation. This disinterestedness results in various strategies which tax collectors use to collect revenue. For instance, they are able to negotiate what products are being taxed and employ people to help them, without further notice to the District Government. As a consequence, the BBP meets some practical challenges as *who* is collecting taxes, *what* is being taxed, *how* often and *who* is being targeted (producer, traders, shop/bar owners or buyers), becomes less transparent. This discredits the underlying idea of tax collection, as day-to-day taxation practices lead to concerns among people about the use of tax money, fair taxation and corruption. The following sections deal with these questions and examines the gap between taxation policy and practice by looking into the situations of tax collectors, their strategies and the challenges they face.

### **Tax tendering**

So how does tendering work? Every financial year vacancies are opened for the position of private tax collector for one of the daily fees available in various sub-counties of the district. Different people can compete for the same vacancy and usually the person with the highest bid gets the job. Tendering is a highly competitive business. It is normally practiced by wealthy and established men<sup>26</sup> who are able to pay the fixed amount that is agreed upon by the district government. One of the tax collectors, Emmanuel, who holds a tendering contract for the Market fees and the Beer Brewing Permit (BBP), explains he has been working together with a friend in the business for 15 years. Both of them would have a different tendering job in their name or the name of their children and they would share the work and profits. Each quarterly the agreed amount of money has to be paid to the government in advance. He tells me they pay 9 million UGX per quarterly for the market fees and 6 million UGX for the BBP in their subcounty. “You

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<sup>26</sup> Although the position is open for everyone, I have only encountered more established and wealthy males in the position.



have to pay that money. Whether you earn or not. If you decide to tender you have to pay.”<sup>27</sup>

He stresses the importance of paying this money to the district government several times. It is a tense issue for him, since he recently encountered problems with the people at the market who were not willing to pay the market fees and he fears he and his business partner will not be able to gather sufficient money to pay the agreed amount of revenue to the district government next quarterly. This is the downside of the work, as failure to achieve the intended amounts risks losing credibility of the district government to do the work and prevent them from getting the contract the following year.

The financial stress makes the job of tax collector less attractive, especially in areas where little of the products are being produced or sold. The local council chief of one of the sub-counties near Kisoro town told me they have not had a BBP tax collector for several years now because there is no one willing to do the job. Every year they have the vacancy, but less and less people are brewing in that subcounty making the profits of that particular area low. Since the work is difficult and affects your relationship with the people from the area, no one seems to think it’s worth it.<sup>28</sup> This is something which Bosco, a tax collector working in one of the eastern sub-counties in the district also emphasizes. As opposed to Emmanuel, Bosco is less well established. Bosco is a man at the end of his thirties. Besides his work as a tax collector, he owns a small local bar, selling soda’s, bottled beers and tonto. He lives with his family in the back of his bar. The income is low and he has trouble providing for the basic services for his family. Bosco has been the BBP tax collector for several years now, though he complained that less and less people are brewing nowadays due to high sorghum prices and popularity of cheap available waragi.

The work as tax collector is often considered a hassle. This mostly has to do with the position of these collectors within the community. On the one hand they must be strict, demand from people that they pay tax and threaten with enforcement by the

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<sup>27</sup> Emmanuel, tax collector BBP, village in Kisoro District, interview with author, January 2019.

<sup>28</sup> Interview with LC3 chief, subcounty in Kisoro District, January 2019.

government when necessary. On the other hand, they must maintain a good working relationship with them to ensure that tax collection runs smoothly. This is not only to the benefit of receiving revenue and earning an income, but also because they need to maintain their own relationships with people in the area as they are part of the same community.

Their embeddedness within the community is one of the reasons why they are able to levy taxes on products that are otherwise difficult to collect tax on by an outsider. Their unique knowledge of the setting, the people in the area and the everyday events enables them to decide when someone can pay taxes, where to find them and how to approach them. For instance, Bosco works specifically on Sundays, because that is “when people are always saying they are a bit financial stable”. Most people spend their Sunday’s drinking in local bars, which for Bosco is reason to pass by these bars on Sunday late afternoon, when bar owners have earned sufficient money to pay the tax. He collects the BBP from specifically the *brewers* of sorghum beers, and since often the brewers are the same persons who sell it in their bars, he can easily identify them.<sup>29</sup>

David, a tax collector in a western sub-county, has a different strategy. He mainly collects money from the *buyers* of banana beer and local waragi. In his sub-county jerrycans of banana beer are a popular market good which are sold on Saturday mornings around 7 am. David does not see the relevance of spending the whole day at the market, since most of the people selling tonto would have sold their beer in the early morning, therefore, often around noon he would leave the market to spend time with friends or go back home.<sup>30</sup>

Both Bosco and David have specific and strategic times when they collect the BBP, however, in doing so they neglect those persons who sell, brew or buy these local alcohols at different times or on different days. This in turn provides for a situation where people can easily avoid paying the BBP when bypassing the working hours of the tax collector. As a consequence, no strict enforcement of revenue collection is in place meaning that paying tax is not an established fact but depends on the time and place. This type of irregularity creates an extra layer of confusion to tax collection and leads

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<sup>29</sup> Bosco, tax collector BBP, Kisoro District, interview with author, September 2018.

<sup>30</sup> David, tax collector BBP, Kisoro District, participant observation, January 2019.

people to wonder about the necessity of paying the BBP. This becomes clear in one of the encounters Bosco had with a young bar owner who refused to pay the BBP:

- Bosco: Fine. Give me a date so I can come pick up the money by then.
- Woman: But I don't have it.
- Bosco: I will come back on Monday.
- Woman: But I cannot give you money.
- Bosco: If it is hard for you to pay, I can tell the [sub-county] chief it is difficult to pay for you.
- Woman: Please, I don't have it, things are complicated. Why do you want me to pay this tax? Please.
- Bosco: These are things put in place by the government, they are not by my own making.
- Woman: Why are you collecting these taxes?
- Bosco: I am just working for the government. I am not the one deciding.<sup>31</sup>

This interaction shows several things. For one, it displays how Bosco shows leniency by giving her extra time to gather the money. It further shows the use of a veiled threat, as he proposes to 'tell the chief' she is not paying. Here Bosco strategically makes use of the authorities and their legal framework as a means to coerce compliance. At the same time, this affects the way people see him, not necessarily as a business man, but as an authority who decides who needs to pay. This is especially visible in his answer as he tries to frame his position as merely an executive role, not the one in charge. By distinguishing himself from the government he tries to distance himself and his role as tax collector from the general feeling of unfairness and injustice that is associated with paying this tax by the young bar owner.

While being part of the same community has some advantages for tax collectors, they also need to uphold to the same social rules and norms that exist within the community as their relationships with the people also makes them dependent on the same 'system'. Therefore, maintaining these relationships is of importance. This can take many forms, like closing an eye for someone's tax evasion or extending deadlines.

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<sup>31</sup> Bosco, tax collector BBP, Kisoro District, participant observation, September 2018.

It also means being ‘practical’, as local government officials call it. One cannot demand money, if people simply do not have money to give. Therefore, tax collectors need to adapt and understand the everyday struggles that people encounter. As Bosco explains to me:

“When you find that he is in demand for money, and he is financially unstable, you let him be and proceed with the ones from only that week.”<sup>32</sup>

Bosco is not only aware when people have or do not have money, but he also knows to balance asking for tax when it is rainy season, when school fees need to be paid as well as who has children and who does not. Because he is a member of the community, not to mention a father himself, he is aware of the struggles people have in getting together the school fees. Also, as a bar owner, he knows the struggles that people deal with, feeling compassion towards their situation and acknowledging the importance of maintaining social relationships. He also knows when people are lying about having kids, needing to pay school fees or when people do or do not struggle after illness or a death in the family. In such cases he assesses the situation and “spares” them. As he explains:

“At times, when you approach someone and you find that their business is not going smoothly, and that person explains to you the situation, so what do you do? You try to take that person slowly. Even we ourselves don’t earn much you see.”<sup>33</sup>

The above-mentioned complexity of informal rules for deciding when people should or should not pay taxes, shows how the field of tax tendering has its own rules and norms that interfere with the rules of the state, but it also shows how tax collectors can make use of the rules of the state. It means they need to balance between keeping their relationships intact and collecting taxes. This balance between following the official rules and procedures of tax collection and bending these rules for ethical, moral and practical reasons, is what Olivier de Sardan and De Herdt refer to as practical

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<sup>32</sup> Bosco, tax collector BBP, Kisoro District, interview with author, September 2018.

<sup>33</sup> Bosco, tax collector BBP, Kisoro District, interview with author, September 2018.

norms; as alternative rules and norms are made to make things work in practice (2015, 10).

Borrowing from Moore (1973) I see these practical norms of alcohol taxation practices in Kisoro District as a small SASF. In doing so I place these practical norms in a more complex setting where the social and the official comprise several sub-fields with their own internal rules and norms to which members feel bound. Alcohol taxation practices do not only come in contact with the state as an external SASF, but are set in a larger social setting where different SASF's interfere and affect the way that alcohol taxation practices work out. This last point demands some explanation.

The alcohol taxation practices can be understood as a SASF for several reasons. Firstly, they have rule-making capacities and means to induce or coerce compliance (1973, 719). The alcohol brewers, traders and tax collectors have their own internal rules, customs and norms regarding how, when and where taxation of local brews is done. These rules are visible when looking for instance at the informal rules to either extend the tax, decrease the amount of tax or to look the other way. For the alcohol brewers or traders, having a good relationship with the collectors is important to make sure that favours can be made in time of need. In return for looking the other way, tax collectors make sure a smooth cooperation is established and people are more open to pay them when they are able to. It also enables them to lean on them in case they find themselves in a difficult position. Moore calls these relationships 'fictive friendships' with which she refers to the voluntary or moral obligations which take on the form of voluntary acts of friendship, while the maintenance of these relationships is a necessary means for both actors involved to stay in the game (1973, 727). Hence these internal rules and norms of these social field of alcohol practices are not explicit or easily visible to the eye of an observer nor legally enforceable but "depend for their enforcement on the values of the relationship itself" (1973, 727). While these rules seem invisible to an outsider, they are not tacit for the members that are part of this group, who are aware of them and understand the consequences of not conforming to these rules.

I further understand how this field is vulnerable to external rules from other SASF's as this social field of alcohol taxation practices has to be understood in a larger social matrix (1973, 721). This means that alcohol brewers, traders and tax collectors must take into account the different SASF's they belong to and make well-considered

choices which rules or norms are most important. Such other SASF's could be their neighbourhood, their clan, but one could also think of the church community, the burial society they are member of or the business association in case they own a bar or shop, like Bosco does.

The larger social matrix surrounding alcohol taxation in Kisoro District is noticeable when looking into the differences of types of alcohol that are taxed. For instance, the different connotations that the government officials in the district have regarding which alcoholic drinks fall under the BBP, do not necessarily come from a lack of care, interest or strategic use of gaps in legislation, but they also originate from local notions of tradition and alcohol that exist in different sub-counties in the district. This is further visible in the way that tax collectors collect. Bosco, for instance, explained how the BBP is aimed at the *brewers* of sorghum beer (bushera and muramba) and banana beer (tonto). When asked about the locally made waragi (distilled gin), he specifically told me that this did not fall under the BBP:

“No, waragi they don't include. You see, every person operating a business must have a license. But these three [bushera, musururu, tonto], they made an exception at the sub-county level. They are not included in the trading license.”<sup>34</sup>

According to him, the trading licence targets specific products including waragi, whereas home brewed beers are left out. Thereupon, David told me the BBP solely collects the BBP on alcoholic drinks made from bananas, such as tonto and banana waragi, while leaving the locally brewed beers made from sorghum or millet like bushera or muramba. He explained to me that drinks such as tonto and waragi are market goods, destined to be sold for consumption either to consumers directly or to bar owners who would sell it in neighbouring villages or towns. This in contrast to sorghum beers, which were drunk by people themselves and therefore were exempted from paying tax.

When I asked him about the bars selling sorghum beers in the village we were in, he got confused. He thought for a second and replied that only the drinks going out

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<sup>34</sup> Bosco, tax collector BBP, Kisoro District, interview with author, September 2018.

of town were the ones they should tax. Targeting the buyers who came from other places, as opposed to the local consumers and producers.<sup>35</sup> Simon, a tax collector of the sub-county neighbouring David's, noted that he targets the *producers* of all home-brewed and distilled alcoholic drinks in the sub-county. He referred to the Local Government Act and explained this Act dictates to tax both bushera, tonto and waragi.<sup>36</sup>

The different approaches towards tax collection these collectors use, do not arise from differences in official legislation in Uganda, instead they come from different overlapping normative systems which leads to different ways of interpreting alcohol legislation. These normative systems have different interpretations of what alcohol constitutes and therefore affects which drinks are being targeted. The different views of traditional alcohol within these sub-counties are reflected in the way the BBP is working out in practice. For instance, in the sub-county where David is collecting taxes, only the alcohol made of bananas have been understood as traditional practice, leaving out other brews such as the bushera or muramba. For this reason, people living in David's sub-county do not understand bushera and muramba to be 'inzoga', the Rufumbira word referencing traditional alcohol. Whereas, in the in the sub-county where Bosco collects taxes sorghum beers have been understood as traditional drinks. Here when people speak of inzoga, they refer to muramba or bushera, as opposed to drinks made from bananas. More so, waragi is understood as a foreign drink introduced in the last 40 years or so. This creates a reality where in some sub-counties certain drinks fall under the BBP, while in other sub-counties the type of drinks differs. Consequently, confusion exists around the tax as it is not clear which products are being taxed and who needs to pay. Bosco for instance, often finds himself in discussion with bar owners who do not want to pay the BBP on bushera (low alcoholic sorghum beer), as many people do not consider the drink alcoholic. On the other hand, people can also make use of this 'grey area'. The BBP collector Simon for example, complained to me how most of the producers of tonto leave his sub-county very early on Saturday morning to sell their drinks in the neighbouring subcounty where David targets the buyers of alcohol as opposed to the brewers.<sup>37</sup>

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<sup>35</sup> David, tax collector BBP, Kisoro District, participant observation, January 2019.

<sup>36</sup> Simon, tax collector BBP, Kisoro District, interview with author, January 2019.

<sup>37</sup> Simon, tax collector BBP, Kisoro District, informal conversation with author, February 2019.

What becomes evident is that there are gaps in the alcohol laws. The vagueness of definitions within the alcohol legislation of Uganda blur the clear guidelines that these laws were supposed to provide. The use of terminology and the way of defining alcohol, either as ‘native’ or ‘traditional’ versus ‘all other alcohols’, affects how alcohol is seen and categorized by the Liquor Act, and as such influences to which form of tax it is subjected. This creates a grey area of which people can make use, grasping the opportunity to pursue their own goals. Hence, what is considered a taxable product is not a direct decision by the state, rather it is the outcome of the different actors that are involved in the brewing, trading and taxation business of alcohol in Kisoro District.

## **Conclusion**

Alcohol in Uganda, as in many other African countries, is an important part of people’s everyday life. However, the central role of alcohol in maintaining and regulating social relationships contrasts with the alcohol legislations upheld by the Ugandan state. In this article, I have examined the alcohol legislation of Uganda and specifically zoomed in on the differentiation between home brewed beers, home distilled waragi and manufactured liquors and beer. I have shown how the vagueness of the definition of native liquor within the Liquor Act translates to the local level where government officials, tax collectors and tax payers have to deal with its ambivalences. I argue that tensions arise between different rules, norms and customs regarding the classification of native liquor as different actors give substance to the meaning of native liquor and as such negotiate which alcoholic drinks are taxable under which categorisation. Consequently, this shows how the social arrangements of everyday life affect the way alcohol legislation takes form and how, to put it in Moore’s words: “The law [...] is only one of a number of factors that affects the decisions people make, the actions they take and the relationships they have.” (Moore 1973, 743). By taking taxation of alcohol in Uganda as point of departure, I have shown how alcohol regulations are intrinsically connected to – and affected by – various rules, norms and customs that emerge from the different social fields to which people feel part.

The gap between state legislation on paper and in practice has been a focus of attention for many scholars studying law, governance and the state. Therefore, my observations are not new as the different governance mechanisms working outside the framework of the state have been widely acknowledged in the African context. This article contributes to these discussions by focussing on tax collectors and the way they navigate and negotiate different rules, norms



and values that exist within the same space. Building on Moore's concept of the semi-autonomous social field I understand alcohol tax practices in Kisoro District as a small social field whose internal rules and norms interact – and sometimes conflict – with other fields. Examining the different social relationships as different SASF's, allows me to unravel the ways in which government officials, tax collectors and tax payers are not only confronted with different norms and rules that stem from official (state) rules and the rules and norms from their social surroundings, but how these rules and norms are subdivided in smaller social fields. The tax collectors are an interesting case study in this regard, because they occupy an ambiguous and multidimensional position in local level administrative organisations. They are what I call 'not-quite bureaucrats' as they are simultaneously businessmen buying tenderer contracts, working for the government, making discretionary decisions about who is to be taxed and on what, as well as being able to call upon police when people refuse. Their embeddedness within the community and their membership in the various local SASF's in the area, constrains them in their actions as they have to carefully manoeuvre the different rules and norms as to not damage their social capital with friends, family and colleagues.

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