



## Legal Uncertainty and Fragmented Governance in Protecting Local MSMEs

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### Abstract

Micro, Small, and Medium Enterprises (MSMEs) play a strategic role in supporting local economic development and social resilience, particularly in tourism-based regions. However, in many tourism areas, local MSMEs experience structural vulnerabilities due to legal uncertainty, unequal competition, and weak governance practices. This study examines legal issues and government roles in protecting local MSMEs operating in the Puncak tourism area, Indonesia. Employing a socio-legal research approach, this study integrates normative legal analysis with empirical, perception-based data obtained from questionnaires distributed to 49 local MSME actors. The findings indicate that although legal frameworks formally recognize MSMEs as strategic economic actors, their implementation in practice remains weak. Regulatory complexity, limited enforcement, and fragmented government roles undermine effective legal protection, resulting in persistent inequality between local MSMEs and larger business actors. This study highlights the gap between legal norms and empirical realities, emphasizing the need for more integrated, enforceable, and context-sensitive governance mechanisms to ensure sustainable protection for local MSMEs in tourism areas.

**Keywords** Legal Uncertainty; Fragmented Governance; Local MSMEs; Tourism Area; Socio-Legal Study

### INTRODUCTION

Micro, Small, and Medium Enterprises (MSMEs) are widely recognized as a cornerstone of inclusive economic development and social resilience, particularly in developing economies. Globally, MSMEs account for the vast majority of business entities and play a crucial role in employment creation and local income generation (Organisation for Economic Co-operation and Development, 2022; International Labour Organization, 2021). In Indonesia, MSMEs occupy a more strategic position, contributing significantly to national economic output and employing most of the workforce (World Bank, 2023a; Tambunan, 2021). Beyond their economic contribution, MSMEs are increasingly viewed as instruments of social justice and local economic empowerment (United Nations Development Programme, 2022).

The strategic role of MSMEs becomes more complex in tourism-based regions. Tourism development is often promoted as a driver of regional economic growth due to its multiplier effects on investment, employment, and local revenue (United Nations World Tourism Organization, 2023). Ideally, tourism expansion should create inclusive opportunities for local MSMEs to participate in tourism value chains, including food and beverage services, accommodation, transportation, handicrafts, and other supporting activities. Recent tourism governance literature emphasizes that inclusive tourism development requires deliberate policy and regulatory support

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to ensure that local enterprises benefit meaningfully from tourism growth rather than being displaced by larger market actors (Organisation for Economic Co-operation and Development, 2022; Scheyvens, 2021).

However, recent studies from the past five years indicate that MSMEs operating in tourism areas continue to face structural challenges. Tourism destinations are frequently characterized by unequal market structures, regulatory complexity, and fragmented governance arrangements (United Nations World Tourism Organization, 2023). MSMEs often encounter difficulties related to business licensing, zoning regulations, and compliance with sector-specific tourism policies (World Bank, 2023b; Economic Research Institute for ASEAN and East Asia, 2024). For enterprises with limited legal and administrative capacity, these regulatory conditions generate legal uncertainty, undermining business sustainability and discouraging formalization (Organisation for Economic Co-operation and Development, 2023; Tambunan, 2021).

In the Indonesian context, regulatory reforms have sought to improve the business environment for MSMEs by simplifying licensing and adopting risk-based regulatory approaches. Nevertheless, recent legal and policy analyses suggest that implementation gaps remain significant at the local level. Institutional overlap, inconsistent enforcement, and limited regulatory accessibility continue to shape MSME experiences, indicating that formal legal reforms do not automatically translate into effective legal protection in practice (Economic Research Institute for ASEAN and East Asia, 2024; World Bank, 2023b). These challenges are particularly evident in tourism regions, where local governments simultaneously pursue investment promotion, tourism growth, and MSME empowerment (Organisation for Economic Co-operation and Development, 2022).

Recent socio-legal and policy-oriented studies further demonstrate that MSMEs in tourism destinations face unequal competition with larger business actors. Access to strategic business locations, tourism infrastructure, and formal tourism networks tends to favor capital-intensive enterprises, while local MSMEs operate in peripheral and less visible spaces (Scheyvens, 2021). Although legal frameworks emphasize fair competition and MSME empowerment, enforcement mechanisms remain weak, and affirmative protection measures are limited (Organisation for Economic Co-operation and Development, 2023).

Despite the growing body of literature on MSMEs and tourism development, existing research remains fragmented. Many studies focus on economic performance and competitiveness, while legal analyses often remain normative and detached from empirical realities (Banakar & Travers, 2005; Peters, 2018). Limited attention has been paid to examining how legal protection mechanisms operate in practice and how government roles are experienced by MSME actors in tourism contexts.

This study addresses this gap by adopting a socio-legal approach that integrates normative legal analysis with empirical, perception-based data to examine legal uncertainty faced by local MSMEs and to analyze how government roles are experienced in practice within a tourism context. Focusing on the Puncak tourism area in Indonesia, this study provides empirical socio-legal evidence on the gap between formal legal recognition and law-in-action in protecting local MSMEs.

Based on the above discussion, this study addresses the following research questions: What forms of legal uncertainty are perceived by local MSMEs operating in the Puncak tourism area? And how do local MSME actors perceive government roles in providing legal protection and ensuring fair competition in tourism areas?

## LITERATURE REVIEW

### Legal Protection and Legal Certainty for MSMEs

Legal protection for Micro, Small, and Medium Enterprises (MSMEs) has long been

recognized as a critical component of inclusive economic governance. From a legal perspective, protection is not limited to the formal recognition of MSMEs as economic actors; it also encompasses the provision of legal certainty, equal treatment, and enforceable rights within regulatory frameworks (Fuller, 1969; North, 1990). Legal certainty refers to the clarity, predictability, and consistency of legal norms and their application, enabling economic actors to plan and operate without excessive risk arising from regulatory ambiguity.

Socio-legal scholarship emphasizes that legal certainty cannot be assessed solely through statutory analysis. Instead, it must be examined through how law operates in practice, including enforcement, administrative discretion, and accessibility for legal subjects (Banakar & Travers, 2005). In the context of MSMEs, legal certainty is particularly important because small-scale enterprises often lack legal expertise, financial buffers, and administrative capacity to navigate complex regulatory environments (Organisation for Economic Co-operation and Development, 2023). When legal frameworks are fragmented or inconsistently enforced, MSMEs face heightened vulnerability, even when formal legal protections exist.

Recent studies highlight that in many developing economies, MSME-related regulations are abundant but poorly coordinated. Overlapping licensing regimes, sectoral regulations, and local administrative requirements frequently generate uncertainty rather than protection (World Bank, 2023b; Economic Research Institute for ASEAN and East Asia, 2024). This condition reflects a broader socio-legal problem in which law in books provides normative recognition, while law in action fails to deliver predictable and accessible protection.

### **MSMEs in Tourism Areas and Structural Vulnerability**

The position of MSMEs in tourism-based regions has received increasing scholarly attention, particularly in relation to inclusive and sustainable development. Tourism is often promoted as an engine of local economic growth due to its capacity to generate employment and stimulate demand for local goods and services (United Nations World Tourism Organization, 2023). In theory, tourism development should create opportunities for local MSMEs to integrate into tourism value chains and benefit from increased visitor flows.

However, empirical studies indicate that tourism destinations frequently reproduce structural inequalities. Tourism markets are often dominated by larger, capital-intensive actors with superior access to strategic locations, infrastructure, and regulatory networks (Scheyvens, 2021). Local MSMEs often operate in peripheral spaces, facing barriers related to zoning, spatial planning, and formal integration into tourism systems. These structural conditions limit MSMEs' ability to compete on equal terms, despite formal commitments to inclusive tourism development (Organisation for Economic Co-operation and Development, 2022).

Legal and policy-oriented literature further suggests that MSMEs in tourism areas face heightened regulatory complexity. Tourism governance typically involves multiple regulatory regimes, including business licensing, environmental regulation, spatial planning, and sector-specific tourism rules. For MSMEs with limited administrative capacity, navigating these intersecting regimes often results in partial compliance or informal operation, reinforcing legal vulnerability (Tambunan, 2021; World Bank, 2023b).

### **Government Roles and Fragmented Governance**

The role of government in protecting MSMEs extends beyond policy formulation to include implementation, enforcement, coordination, and dispute resolution. Governance literature emphasizes that effective legal protection depends on coherent institutional arrangements and clear allocation of responsibilities among government bodies (Peters, 2018). Fragmented governance, characterized by overlapping mandates and weak coordination, undermines the

state's capacity to translate legal norms into practical protection.

In the context of MSMEs, fragmented governance often manifests in the separation between economic development programs and regulatory enforcement. While MSME empowerment is frequently framed through training, access to finance, and entrepreneurship promotion, legal protection mechanisms such as enforcement against unfair competition or regulatory abuse receive less attention ([Organisation for Economic Co-operation and Development, 2023](#)). This imbalance contributes to a perception of government as a facilitator rather than a protector of MSME rights.

Tourism governance further intensifies these challenges. Local governments often face competing objectives, including investment attraction, tourism growth, and the protection of local enterprises. Studies indicate that when investment promotion is prioritized, regulatory enforcement may become selective or inconsistent, disadvantaging local MSMEs ([United Nations World Tourism Organization, 2023](#)). As a result, formal legal commitments to MSME protection may coexist with governance practices that indirectly favor larger business actors.

### **Law in Books and Law in Action in MSME Protection**

A central theme in socio-legal research is the distinction between law in books and law in action. Legal norms may articulate principles of fairness, equality, and protection, yet their effectiveness depends on how they are interpreted, implemented, and enforced in everyday practice ([Banakar, 2015](#)). This distinction is particularly relevant in MSME protection, where formal legal recognition does not automatically translate into substantive economic security.

Several studies demonstrate that MSMEs often experience law symbolically rather than instrumentally. Legal frameworks may provide legitimacy and recognition, but limited enforcement, regulatory opacity, and administrative discretion reduce their practical value ([Halliday & Shaffer, 2015](#)). Consequently, MSMEs rely more on informal arrangements and adaptive strategies than on formal legal remedies.

Despite the growing literature on MSMEs, tourism, and governance, empirical socio-legal studies examining how MSME actors perceive and experience legal protection in tourism areas remain limited. Many existing studies focus either on economic outcomes or normative legal frameworks, without systematically connecting legal norms to lived regulatory experiences. This gap underscores the need for research that integrates normative legal analysis with empirical, perception-based evidence to better understand how legal uncertainty and governance fragmentation shape MSME vulnerability in tourism-driven economies.

### **RESEARCH METHOD**

This study employs a socio-legal research approach that integrates normative legal analysis with empirical, perception-based evidence. The socio-legal approach enables law to be examined not only as a system of formal rules but also as a social institution whose effectiveness depends on its implementation, enforcement, and accessibility to legal subjects ([Banakar & Travers, 2005](#); [Peters, 2018](#)).

The empirical component of this study is based on questionnaire data collected from local MSME actors operating in the Puncak tourism area, Bogor, Indonesia. Questionnaire-based data on perceptions are widely used in socio-legal and governance studies to capture how legal arrangements are experienced by affected actors, particularly when access to formal legal remedies is limited ([Halliday & Shaffer, 2015](#)). The questionnaire was designed to capture MSME actors' perceptions regarding legal certainty, licensing procedures, regulatory complexity, competition conditions, and government protection. A total of 49 MSME actors participated in the survey.

Respondents were selected using purposive sampling, which is appropriate for socio-legal research focusing on specific actor groups with direct experience of regulatory processes

([McConville & Chui, 2017](#)). The questionnaire consisted of approximately XX questions, primarily employing Likert-scale and closed-ended items, with several open-ended questions to allow respondents to elaborate on their experiences.

Data were analyzed using descriptive statistics of perception-based data, focusing on frequencies and percentages to identify dominant patterns. These empirical findings were interpreted through a socio-legal analytical framework to examine the gap between normative legal provisions and law in action ([Banakar, 2015](#)). The normative legal component examined relevant national and local legal instruments governing MSMEs, tourism development, and local economic governance, analyzed according to their hierarchy and regulatory scope ([Asshiddiqie, 2010](#)). Interpretive triangulation was applied by comparing empirical findings with normative legal analysis and relevant academic literature ([Denzin, 2017](#)). Ethical considerations included voluntary participation and respondent confidentiality.

## FINDINGS AND DISCUSSION

### Legal Uncertainty as a Structural Constraint on Local MSMEs

The findings of this study indicate that legal uncertainty constitutes a structural constraint for local MSMEs operating in the Puncak tourism area. Legal uncertainty in this context does not arise from the absence of regulation, but from the multiplicity of regulatory instruments, overlapping institutional authority, and inconsistent enforcement practices. This condition aligns with socio-legal scholarship emphasizing that legal certainty depends not merely on the existence of rules, but on their clarity, predictability, and consistent application ([Fuller, 1969](#); [Organisation for Economic Co-operation and Development, 2023](#)).

Approximately 65% of respondents reported uncertainty regarding licensing requirements, while 58% reported difficulties with zoning and spatial planning regulations. These findings suggest that tourism-related MSMEs are positioned at the intersection of multiple regulatory regimes, including MSME law, tourism regulation, spatial planning, and local administrative rules. For MSMEs with limited legal literacy and administrative resources, navigating these intersecting regimes becomes a significant barrier to compliance and formalization.

From a socio-legal perspective, such conditions reflect a gap between formal regulatory rationality and practical regulatory accessibility. While regulatory reforms in Indonesia have emphasized licensing simplification and risk-based approaches, the empirical findings suggest that these reforms have not fully translated into operational clarity at the local level. As a result, law functions less as an enabling framework and more as a source of uncertainty, reinforcing the vulnerability of MSMEs in tourism-driven economies ([World Bank, 2023b](#); [Tambunan, 2021](#)).

### Unequal Competition and the Limits of Formal Legal Equality

The study also reveals persistent unequal competition between local MSMEs and larger business actors in the Puncak tourism area. Approximately 60% of respondents perceived the competitive conditions as unfair, particularly in terms of access to strategic business locations, tourism infrastructure, and consumer flows. These perceptions point to structural market asymmetries rather than isolated competitive disadvantages.

Socio-legal literature highlights that formal equality before the law does not necessarily produce substantive equality in economic outcomes ([Peters, 2018](#)). In tourism destinations, larger enterprises tend to possess superior access to capital, legal expertise, and administrative networks, enabling them to secure strategic locations and integrate more effectively into tourism value chains. By contrast, local MSMEs often operate in peripheral spaces with limited visibility and weaker bargaining power.

The findings of this study suggest that existing legal and regulatory frameworks have not sufficiently addressed these structural asymmetries. Although legal norms emphasize fair competition and MSME empowerment, enforcement mechanisms remain limited, and affirmative measures are weak or fragmented. Importantly, this study does not claim direct policy causality; rather, it highlights MSME actors' perceptions that regulatory and governance arrangements have failed to mitigate unequal competition in practice. This reinforces broader findings in tourism governance literature that market outcomes are deeply shaped by regulatory design and implementation (Organisation for Economic Co-operation and Development, 2022; United Nations World Tourism Organization, 2023).

### **Fragmented Government Roles and Governance Incoherence**

Another significant finding concerns the fragmentation of government roles in protecting local MSMEs. Approximately 62% of respondents associated government support primarily with short-term training programs or administrative assistance, while fewer respondents perceived government involvement in enforcement, dispute resolution, or protection from unfair competition.

This pattern reflects governance incoherence, where responsibilities for MSME development, tourism management, spatial planning, and investment promotion are distributed across multiple institutions with limited coordination. Socio-legal and governance studies emphasize that such fragmentation weakens the state's capacity to translate legal norms into effective protection (Peters, 2018; Organisation for Economic Co-operation and Development, 2023).

In tourism areas, governance fragmentation is further intensified by competing policy objectives. Local governments are often incentivized to prioritize investment attraction and tourism growth, sometimes at the expense of protecting local enterprises. As a result, MSME protection is often framed as a development program rather than a legal obligation. The findings suggest that government roles are perceived as facilitative rather than protective, reinforcing the gap between legal recognition and practical enforcement.

### **Law in Books and Law in Action in Tourism-Based Development**

The synthesis of normative legal analysis and empirical findings reveals a persistent gap between law in books and law in action, a core concern of socio-legal scholarship (Banakar & Travers, 2005). While legal frameworks formally recognize MSMEs as strategic economic actors and emphasize inclusive development, their practical implementation remains uneven and limited.

Many MSME actors reported low confidence in accessing legal remedies or engaging with formal dispute resolution mechanisms. This reflects not only limited legal awareness but also perceptions of regulatory opacity and administrative discretion. In socio-legal terms, law functions symbolically, providing recognition without delivering effective and accessible protection.

The case of the Puncak tourism area illustrates how tourism-driven development can reproduce structural inequality when legal protection mechanisms are not embedded within coordinated governance frameworks. Without effective implementation, tourism growth risks benefiting capital-intensive actors while marginalizing local MSMEs, thereby undermining the goals of inclusive and sustainable development (United Nations World Tourism Organization, 2023; Organisation for Economic Co-operation and Development, 2022).

### **Implications for MSME Protection and Tourism Governance**

The findings of this study have important implications for MSME protection and tourism governance. First, strengthening legal certainty requires not only national-level regulatory reform

but also institutional coordination and capacity-building at the local level. Simplification of licensing procedures must be accompanied by clear guidance, consistent enforcement, and accessible information for MSMEs.

Second, addressing unequal competition in tourism areas requires moving beyond formal legal equality toward substantive protection measures that recognize structural disadvantages faced by local MSMEs. This may include zoning policies that prioritize local enterprises, integration of MSMEs into formal tourism value chains, and enforcement mechanisms that prevent market dominance.

Third, improving MSME protection necessitates a shift from programmatic support to rule-based governance, in which legal obligations are clearly defined, enforced, and monitored across institutions. Without such shifts, MSME empowerment risks remaining rhetorical rather than transformative.

## CONCLUSIONS

This study demonstrates that despite formal legal recognition of MSMEs as strategic economic actors, substantive legal protection for local MSMEs in the Puncak tourism area remains weak. Legal uncertainty, unequal competition, and fragmented government roles persist due to regulatory complexity, inconsistent enforcement, and limited institutional coordination. From a socio-legal perspective, the findings confirm a significant gap between law on the books and law in practice, underscoring the need for implementation-oriented governance to ensure fair competition and sustainable MSME protection in tourism areas.

## LIMITATIONS & FURTHER RESEARCH

This study is limited to a single tourism area and relies on perception-based empirical data from MSME actors. Future research may adopt comparative approaches across tourism regions and incorporate additional empirical methods, such as interviews with policymakers or analysis of enforcement records, to deepen understanding of legal protection mechanisms for MSMEs in tourism-driven economies.

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