

Legal Framework of Micro and Small Businesses in Indonesia for Achieving Empowerment and Legal Protection

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Article Info

Received: 2023-01-12

Revised: 2024-02-21

Accepted: 2024-03-14

Keywords:

Legal Framework;

Micro and Small

Business;

Empowerment;

Legal Protection;

Abstract

This research aims to identify, analyze, and discover efforts to facilitate business ease, empowerment, and protection for micro and small business operators in the Maluku Province through effective local legal regulations. Micro and small businesses play a vital role in supporting national development and enhancing the country's economy. Therefore, micro and small businesses need to be continuously developed to remain viable and competitive in the global trade arena. These legal regulations encompass not only national legal aspects but also local legal frameworks, including those in the Maluku Province. This research constitutes sociolegal research using primary and secondary data obtained through literature review and interviews. Based on the research findings, it is evident that the legal regulations for micro and small businesses in Maluku, both at the provincial and municipal levels, are not sufficiently effective in realizing ease of doing business, empowerment, and protection for micro and small business operators. These issues include discrepancies in regulations compared to other legal provisions, overlapping jurisdiction between the provincial and municipal governments, and even the central government's authority in regulating medium-sized businesses. Furthermore, legal gaps and unclear content lead to normative ambiguity, ultimately affecting the implementation of micro-business development and empowerment, which does not proceed smoothly.

I. Introduction

In the pursuit of achieving Social Welfare for all the people of Indonesia, it is necessary to realize the National Development Goals, particularly in the Economic Sector (Fadhli dkk., 2023). Therefore, the National Planning, which is subsequently manifested through various programs aimed at national economic empowerment, continues to be improved. Concerning the enhancement of the Economic Sector in Indonesia, the National Medium-Term Development Plan for 2020-2024 includes one of the related policy directions, namely, the policy direction aimed at increasing economic added value during the years 2020-2024, which encompasses strengthening entrepreneurship and micro and small businesses (Bhegawati & Novarini, 2023). To achieve the target of the policy direction of strengthening entrepreneurship and micro and small businesses, one of the issues or challenges that need to be addressed is the limited capacity for utilizing opportunities for the empowerment and protection of micro and small businesses (Sitorus, 2018).

In accordance with Law Number 20 of 2008 on Micro, Small, and Medium Enterprises, it is defined that a Micro Business is a productive business owned by an individual and/or an individual business entity that meets the criteria of a Micro Business as stipulated in the SME Law. On the other hand, a Small Business is a productive economic venture that operates independently, conducted by an individual or a business entity that is not a subsidiary or branch of a company owned, controlled, or part of, either directly or indirectly, a Medium-sized or Large Business, which fulfills the criteria of a Small Business as defined in the SMEs Law.

In an effort to provide ease of doing business and empower micro, small, and medium-sized enterprises (MSMEs), the government subsequently introduced an omnibus law through Law Number 6 of 2023 concerning the Determination of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation (Omnibus Law on Job Creation) and Government Regulation Number 7 of 2021 on Facilitation, Protection, and Empowerment of Cooperatives and Micro, Small, and Medium Enterprises (Government Regulation on MSMEs) (Gobel dkk., 2023). These provisions alter the criteria for MSMEs as defined in Law Number 20 of 2008. The comparison of MSME criteria between Law Number 20 of 2008 and the Government Regulation on MSMEs is as follows:

Table 1. MSMEs Criteria Based on Law Number 20 of 2008 and Government Regulation Number 7 of 2021

No.	Indicator	Law Number 20 of 2008	Government Regulation Number 7 of 2021
1	Classification of MSMEs	MSMEs are classified based on net wealth or annual sales revenue. Net wealth is the total assets minus debts or liabilities.	MSMEs are categorized based on the criteria of business capital or annual sales revenue. Business capital includes both owner's capital and borrowed capital used to conduct business activities.
2	Net Wealth or Business Capital	1. Micro Business: up to a maximum of Rp 50 million.a 2. Small Business: more than Rp 50 million - up to a maximum of Rp 500 million. 3. Medium Business: more than Rp 500 million - up to a maximum of Rp 10 billion. 4. Excluding land and buildings used for business purposes..	1. Micro Business: up to a maximum of Rp 1 billion. 2. Small Business: more than Rp 1 billion - up to a maximum of Rp 5 billion. 3. Medium Business: more than Rp 5 billion - up to a maximum of Rp 10 billion. 4. Excluding land and buildings used for business purposes.
3	Annual Sales Revenue	1. Micro Business: up to a maximum of Rp 300 million. 2. Small Business: more than Rp 300 million - up to a maximum of Rp 2.5 billion. 3. Medium Business: more than Rp 2.5 billion - up to a maximum of Rp 50 billion.	1. Micro Business: up to a maximum of Rp 2 billion. 2. Small Business: more than Rp 2 billion - up to a maximum of Rp 15 billion. 3. Medium Business: more than Rp 15 billion - up to a maximum of Rp 50 billion.

Source : Authors

Micro and small businesses are a vital pillar of the national economy (Lee, 2023). Micro and small businesses have been proven to play a strategic or essential role in addressing the consequences and impacts of the economic crisis that once hit Indonesia in 1997 (Munthe dkk., 2023a). On the other hand, micro and small businesses have also been able to contribute to driving Indonesia's economic growth all this time (Firdausya & Ompusunggu, 2023). The strategic position of the micro and small business and informal sectors is also due to several advantages they have over large enterprises (Adom dkk., 2023). These advantages include their ability to absorb labor and utilize local resources, as well as their relative flexibility (Messeni Petruzzelli & Murgia, 2023). Due to the significant role of Micro and Small Businesses in supporting development and the economy in Indonesia, effective legal regulations are necessary to provide ease of doing business, empowerment, and protection for these enterprises, enabling them to survive, grow, and

even compete with larger businesses. These legal regulations should not only be at the national level but also extend to local legal frameworks that support the development and empowerment of micro and small business operators to upgrade their status and compete effectively in the current global market.

Maluku is one of the provinces in Indonesia. It covers a land area of 54,185 square kilometers, and the population of Maluku has reached 1,881,727 million people. In 2022, the population growth rate was 1.83%, with a population density of 39 people per square kilometer. (Badan Pusat Statistik Maluku, 2023) The population density rate is significantly correlated with the economic growth in the region. The population in the area is closely related to the development of economic activities in that region. In this regard, they can be both business operators and consumers of the businesses established.

The economy of Maluku Province in the second quarter of 2023 recorded growth. The economy of Maluku Province grew by 5.18% (YoY), which is higher compared to the first quarter of 2023, where it grew by 5.14%. In nominal terms, for the second quarter of 2023, the Gross Regional Domestic Product (GRDP) at Current Market Prices in Maluku Province reached Rp 14.512 trillion, while the GRDP at Constant Prices was recorded at Rp 8.760 trillion. On a quarterly basis, the economy of Maluku Province grew by 4.99% (QtQ), which is significantly higher compared to the contraction of 3.16% (QtQ) in the previous quarter. The increased growth in the second quarter of 2023 was generally driven by a significant increase in government consumption (Kantor Bank Indonesia Perwakilan Provinsi Maluku, 2023).

Several efforts have been made to improve financial access and the competitiveness of MSMEs, including the formation of clusters, monitoring the MSMEs credit ratio, the promotion of entrepreneurship programs, the identification and development of potential flagship businesses, and the organization of discussions with relevant departments and community groups. In this regard, the Maluku Provincial Government should ideally formulate policies that align with the existing social and demographic conditions in the region to ensure rapid economic growth in Maluku. The goal is to achieve the well-being of the population, both quantitatively and qualitatively, by utilizing the region's resources, preserving them, and promoting their development. Therefore, MSMEs serve as a means to develop businesses managed by local human resources. Looking at the Maluku Economic Report for the Year 2022-2023, MSMEs are one of the sectors contributing to the region's economic growth. MSMEs can provide a significant opportunity to create business and employment opportunities for the unemployed.

The number of micro and small businesses in Maluku Province as of the end of October 2023 amounted to 48,161 companies, consisting of 47,508 micro businesses and 653 small businesses (Dinas Koperasi dan UKM Provinsi Maluku, 2023). Based on this data, the government can maximize every local policy to empower existing MSMEs. Protection and facilitation can be provided through local regulations. Considering the fact that micro and small businesses in Maluku are continuously growing and developing on one hand, but on the other hand, they face numerous challenges, it is only fitting that local government policies and local legal frameworks in Maluku can address these issues to provide ease of doing business, empowerment, and protection for micro and small business operators in Maluku.

2. Research Method

This research employs a socio-legal research type, which is a combination of normative legal research and empirical legal research. The normative legal research type is used to analyze and examine concepts, theories, and legislation related to the issues under investigation. Meanwhile, the empirical legal research type is used to complement the literature data through field studies involving relevant stakeholders such as the Department of Cooperatives and Small and Medium Enterprises, the Legal and Human Rights Bureau, as well as the Regional Office of the Ministry of Law and Human Rights in the Maluku Province. The legal materials used in this research include primary, secondary, and tertiary legal sources, which are qualitatively analyzed to address the issues investigated in this study.

3. Results and Discussion

The Theory of Development Law as the Foundation of Micro and Small Business Legal Regulation

Development, in essence, is a systematic and planned effort by all components of the nation to transform a state into a better one by utilizing various resources optimally, efficiently, effectively, and accountably, with the ultimate goal of improving the quality of life for individuals and society sustainably (Maulida dkk., 2023); (Hazemba & Halog, 2021). Systematic and planned efforts naturally include strategic, tactical, and practical steps, as each country has different ages of sovereignty, key resources, and challenges (Darsana & Sudjana, 2022). For Indonesia, in particular, the objectives of national development have been outlined in the Preamble of the 1945 Constitution of the Republic of Indonesia (Annava dkk., 2023). Law Number 17 of 2007 concerning the Long-Term Development Plan 2005-2025 Chapter IV Article 6 regarding "Realizing a Democratic Indonesia Based on the Law," states that: "Legal development is directed towards the realization of a stable national legal system based on Pancasila and the 1945 Constitution of the Republic of Indonesia. This includes the development of legal material, legal structure, including legal apparatus, legal facilities and infrastructure, the realization of a

society with a high level of legal awareness and culture, in order to establish a state under the rule of law, and create a just and democratic society (Chetverikov, 2021).

Legal development is carried out through legal reforms while still considering the diversity of existing legal systems (Vallejo Piedrahíta dkk., 2023) and the influence of globalization as an effort to enhance legal certainty and protection, thus ensuring the smooth implementation of national development (Widiarty, 2023); (Ragani dkk., 2023). National development is not just about physical development but also about the ongoing changes in the people and the values they hold. Therefore, the essence of national development lies in the renewal of thinking and way of life. In the context of national development, law plays a crucial role in the success of implementing a community development plan, especially for micro-enterprises. Law should pave the way and channel the will and needs of the community toward the desired goals (Defourny & Nyssens, 2008). The explanation regarding the meaning and function of law can be stated as follows: law is a tool to maintain order in society (Muin, 2023). Given its function, the nature of law is fundamentally conservative (Surtoutomo & Masriani, 2023). It means that the law is preservative and maintains what has been achieved.

In understanding the arrangement of protection for micro and small businesses as an effort to facilitate business, empower and protect micro and small businesses in improving the country's economy, the author first describes the Theory of Development Law by Mochtar Kusumaatmadja. One form of legal development is the emergence of the theory of development law pioneered by Mochtar Kusumaatmadja in 1973 (Kurnia dkk., 2023). Initially, the theory of development law was not conceived to become a theory but merely as a concept for national legal development. However, due to the need for the birth of this theory, it quickly gained acceptance as a part of a new and more dynamic legal theory. Consequently, in its development, the concept of development law was eventually named the theory of development law. The background for the emergence of the concept of development law began with the concern of Mochtar Kusumaatmadja, who observed a state of lethargy and a lack of confidence in the role of law in society. This lethargy seemed paradoxical when confronted with the many cries of the people who were striving to proclaim "The Rule of Law" in the hope of restoring justice to its throne and realizing a peaceful and prosperous society (Curran, 2023).

Mochtar Kusumaatmadja also provided a more comprehensive definition that the law should not only be seen as a set of rules and principles governing human life in society but should also encompass the institutions and processes required to realize the law in practice (Amirulloh dkk., 2023). In relation to the theory of development law, Mochtar explained that the essence of development in its broadest sense covers all aspects of community life and is not limited to

one aspect of life. A developing society is characterized by change, and the role of law in development is to ensure that these changes occur in an orderly manner (Malkov dkk., 2023). Law as a means of development refers to law in the sense of rules or legal regulations that function as an instrument (regulator) or a means of development, directing human activities toward the desired development goals, in addition to the legal function of ensuring certainty and order. In the process of legal reform in Indonesia, the focus is more on legislation, although jurisprudence also plays a role, unlike the situation in America, where Roscoe Pound's theory is aimed at the reform of court decisions, especially those of the Supreme Court as the highest court.

This Development Law Theory will be used to analyze topics related to the effectiveness of legal regulations for micro and small businesses, including legal regulations for micro and small businesses at the regional level, as an effort to facilitate business, empower, and protect micro and small businesses in order to achieve prosperity and improve the regional and national economy. According to the positive law paradigm, the protection of micro and small businesses is a driver of a highly flexible and non-rigid economic sector. With this theory, the author is introducing a new paradigm, which is more effective legal regulation for protecting micro and small businesses that can address various issues and challenges faced by micro and small businesses, especially in the evolving digital transformation era.

Based on the explanation above, regarding the function and development of law in enhancing the capacity of micro and small businesses, it is by improving the role of law as a means of renewal so that existing policies do not overlap. The hope for the future is that micro and small businesses can have better policies and regulations, especially at the regional level, along with government initiatives aimed at organizing micro and small businesses to facilitate business, empower, and protect micro and small business actors in the current digital transformation era.

Regional Legal Regulations Governing Micro and Small Business in Maluku

Every regional government has the right to regulate the interests of their local communities (Mononen dkk., 2023), through the administration of government affairs based on the principles of autonomy (Cazacu, 2023). Regional governments are expected to be responsible for managing and conducting government activities in accordance with the principles of sovereignty (Hao & Wan, 2023), and the assignments given by the central government to autonomous regions (Natassa & Setiyono, 2023). According to Law Number 23 of 2014 concerning Regional Government, regional autonomy is defined as the rights, authority, and obligations of autonomous regions to manage and conduct government affairs and the interests of the local community in

accordance with the legal regulations. Based on the autonomy authority granted to each region, both at the provincial and district/city levels, regional governments are granted autonomous power to plan and implement policies to ensure the fulfillment of regional autonomy needs (Rustam & Dwirianto, 2023), and promote the well-being of their residents through the administration of concurrent government affairs (De Matteis dkk., 2023). One of the sectors that is very important and vital in the administration of government affairs at the regional level to achieve the welfare of the community is the economic sector (Raihan, 2023), including cooperatives, micro, small, and medium-sized enterprises (MSMEs). Micro and small businesses are one of the economic sectors with the potential to drive Indonesia's economy (Saputra & Darmawan, 2023), as they can make a significant contribution to the National Gross Domestic Product (GDP) (Anggadini dkk., 2023).

The Maluku Provincial Government continues to make efforts through various programs and policies as a form of support to boost the local economy. The government of Maluku Province strives to provide guidance and development for micro and small businesses, especially in terms of organizing the institutional framework of micro and small businesses, with the aim of improving the well-being of the people in Maluku. Furthermore, in the era of the fourth industrial revolution and the current society 5.0 era, there are both opportunities and challenges faced by micro and small business owners (Raja Santhi & Muthuswamy, 2023). Therefore, micro and small businesses are expected to dynamically transform and adapt to ensure continuous growth (Skare dkk., 2023). The programs and policies initiated by the Maluku Provincial Government should be supported by legal regulations in the form of local legal products that can facilitate the development and empowerment of micro and small businesses in Maluku. The following, the author will present some of the impacts and the effectiveness of the implementation of local legal products in Maluku that regulate micro and small businesses, namely:

1) Regional Regulation of Maluku Province Number 09 of 2009 on the Establishment of the Regional Technical Implementation Unit for Managing Revolving Funds for Cooperatives, Micro, Small, and Medium Enterprises in the Region at the Department of Cooperatives, Micro, Small, and Medium Enterprises of Maluku Province.

The Regional Regulation of Maluku Province Number 09 of 2009 was established to optimize the services provided to cooperatives, micro, small, and medium enterprises in Maluku Province. Therefore, this Regional Regulation should contain content that is consistent with the regulations above it. The content within this Regional Regulation has not been effectively implemented due to various issues, namely:

- a. Overlapping of Authority Between the Provincial Government and District/City Governments.

With the presence of this Regional Regulation that regulates the existence of the Regional Technical Implementation Unit (UPTD) for Managing

Revolving Funds for Cooperatives, Micro, Small, and Medium Enterprises in Maluku Province, it is expected to help optimize the financing aspect. However, the reality of inconsistent content where Micro Businesses, which are under the jurisdiction of District/City Governments, are also controlled by the Provincial Government, which should only be responsible for Small Businesses, will have a significant impact on the practical management of financing for MSMEs in the region. This affects the accurate targeting of business operators who face limitations in obtaining business capital, improving production capacity, acquiring modern equipment to support production processes, and increasing the number of employees. Empowering MSMEs in the region becomes suboptimal because business operators in the Provincial and District/City areas are not directed to the appropriate realm in accordance with the mandate of Law Number 23 of 2014 concerning Regional Government. The overlapping of authority between the Provincial Government and District/City Governments will result in a lack of synergy among government institutions, which reflects poor governance. The coordination aspect affected by the issue of overlapping authority will impact the creation of mechanisms that ensure policymakers with common interests do not have the same perspective in integrating their visions and missions within their respective institutions. The resulting impact is coordination chaos, which hinders the efficiency and effectiveness of MSME empowerment in the region.

b. Lack of Monitoring and Evaluation Instruments.

Article 13 of this Regional Regulation stipulates that the evaluation aspect should be carried out at least 2 (two) years after the Regional Regulation is issued. However, to date, the monitoring and evaluation instruments are not available, making it impossible to implement the monitoring and evaluation processes as mandated by this Regional Regulation. The lack of clear regulations in this regard also has an impact on addressing issues related to MSMEs in the region, which cannot be properly analyzed and evaluated, especially concerning the management of revolving funds for cooperatives and MSMEs. In the end, Micro and Small Business operators continue to face various challenges and difficulties, such as accessing capital and funding to help them develop their businesses, forcing them to use the services of other financial institutions with burdensome costs and risks, limited business facilities and infrastructure, traditional market appearances that are far from modern markets, and the lack of integration in the mentoring and empowerment process for Micro and Small Businesses by government agencies responsible.

2) Regional Regulation of Maluku Province Number 10 of 2009 concerning the Management of Revolving Funds for Cooperatives, Micro, Small, and Medium Enterprises.

When examining Regional Regulation of Maluku Province Number 10 of 2009, in broad terms, this regulation has effectively outlined the mechanism

for managing revolving funds for cooperatives, micro, small, and medium enterprises. This regulation is crucial in enhancing the ability of cooperatives and MSMEs in Maluku to access sources of funding outside the banking sector. However, one of the weaknesses of this regulation is that its scope of authority still encompasses medium-sized enterprises and micro-enterprises. For instance, in Section Five, Article 11 of this regulation, it specifies the requirements for small and medium enterprises, while Article 13 addresses micro and small enterprises explicitly.

The regulation on Micro and Medium-sized Enterprises that directly contradicts the authority granted by Law Number 23 of 2014 on Regional Governments will result in the failure to meet the Standards of Policy and Regulatory Objectives of the local Regional Government (Naqiyyah & Sujatnika, 2023). As stipulated in the Minister of Finance Regulation Number 99/PMK.05/2008 regarding the Guidelines for the Management of Revolving Funds in Ministries/Agencies, the purpose of providing revolving funds is to strengthen capital for the development of cooperatives, micro, small, medium enterprises, and other businesses aimed at poverty alleviation, unemployment reduction, and regional and national economic development (Robuwan, 2019). Additionally, it is intended to expand and enhance business capacity. However, the allocation of revolving funds will miss the target because the wide-ranging authority of the Provincial Government overlaps with that of the Central Government and District/City Governments. Another impact is that the budget allocation from the Regional Budget becomes inefficient because the budget allocation is not targeted correctly. This is because the budget is not only intended for small businesses but also for micro-businesses.

Another issue arising from this regulation is the incomplete monitoring and evaluation framework. In this case, it is not specified which official is responsible for conducting monitoring, evaluation, and control. This situation will affect the oversight of the management of revolving funds for MSMEs. MSMEs will be disadvantaged because their situation in the field is not tracked. Whether they have been provided with information or training related to the revolving funds from relevant government agencies, whether the selection of funding proposals submitted by MSMEs has been properly considered - all of these are essential aspects of empowering MSMEs in the region. Oversight is an integral part of empowering MSMEs that should be addressed by this regulation. Therefore, it is important to designate which official is tasked with carrying out this oversight. Additionally, the weak regulation of legal enforcement, such as the lack of clarity regarding sanctions in Maluku Provincial Regulation Number 10 of 2009, has an impact on the effective control of the Regional Government's policies in ensuring the sustainability of businesses run by MSMEs in the region.

3) Regional Regulation of Maluku Province Number 11 Year 2014 on Empowerment of Micro, Small, and Medium Enterprises.

The Regional Regulation of Maluku Province Number 11 Year 2014 on the Empowerment of Micro, Small, and Medium Enterprises is intended to provide hope and policy solutions from the local government to address various issues and challenges faced by MSMEs in Maluku, especially micro and small businesses, which are confronted with various problems. Based on the research findings, it was found that micro and small business actors in Maluku are confronted with various problems, namely:

- a. Lack of Legal Entity/Business Permit: Clear legal entities are only held by some MSME actors. The majority of MSMEs also face challenges in terms of knowledge about legal aspects and permits, including requirements and how to go through the application process.
- b. Agreements between MSMEs and Modern Retailers with demanding requirements for MSME actors.
- c. High shipping costs (Online Shopping System) and expensive raw materials.
- d. Limited government capacity to reach the capacity and resources of young people to address technology and innovation gaps with MSME actors (Kementerian Hukum dan HAM Republik Indonesia Kantor Wilayah Maluku, 2021).

In connection with this, Regional Regulation Number 11 Year 2014 of Maluku Province is expected to provide a solution as a forward-thinking government policy framework for addressing the issues of MSMEs in the region. The impact is that MSME actors are still unable to innovate effectively and compete with existing modern stores. In practical terms, government policies, as active measures resulting from this regulation, have not been effectively implemented, such as providing technical guidance to MSME actors on how to enhance their innovation and creativity in the face of increasing business competition. Active measures that the Regional Government can take, for example, include establishing its own online platform to boost the marketing of MSME products or collaborating with established e-commerce platforms that are recognized by the general public. On the other hand, innovations from the younger generation in the field of science and technology can also be engaged by the Regional Government. Typically, young individuals who are part of MSME-focused communities or specific social movements can contribute their resources by offering creative ideas to empower MSMEs in the region.

Furthermore, there are 9 (nine) Implementing Regulations of Maluku Province Regional Regulation Number 11 Year 2014 that are mandated to be established. The absence of these Implementing Regulations in the form of Regional Government Regulations (Governor's Regulation) resulting from this Regional Regulation will impact the availability of clear standard operating procedures for each government policy in the region, especially in

the licensing aspect. Article 15 of this Regional Regulation mandates the establishment of Regional Government Regulations concerning the procedures for MSMEs licensing. A thorough assessment of this matter should be carried out, considering the contextual situation, which involves the presence of modern stores. This has an impact on the business competition between MSMEs and modern stores. The Regional Government needs to act based on fairness to regulate the licensing mechanism, taking into account the sustainability of business for MSME actors alongside modern stores.

4) Regional Regulation of Ambon City Number 16 Year 2015 on the Implementation of Revolving Funds and Investments by the Ambon City Government

In relation to the Operational Aspect of Regulations, which is a part of the Effectiveness of Implementing a legal product, there are several aspects that need to be specifically addressed by the Ambon City Government, including the following:

- a. In the Regional Regulation of Ambon City Number 16 Year 2015, there is no specific regulation formulated as the reference basis for the Revolving Fund Source. The provision in Article 16, paragraph (2), which only states that the provisions of the Revolving Fund Source as referred to in paragraph (1) are in accordance with the provisions of the legislation, will give rise to various interpretations regarding which legal regulations can be used as a reference basis for this article.
- b. The closing provisions of this Regional Regulation should specify a time limit for the implementation of this Regional Regulation because there are several delegated matters. This will ensure the effectiveness of the implementation of this Regional Regulation.

In terms of relevance, this Regional Regulation is no longer relevant to Law Number 23 of 2014 regarding Regional Governance within the scope it regulates, which is micro and small enterprises. As a result, in practice, there will be an overlapping of authority between the Maluku Provincial Government and the Ambon City Government, which will subsequently affect the less effective implementation of this Regional Regulation.

5) Regional Regulation of Ambon City Number 2 Year 2019 on Ambon Creative City Based on Music

This Regional Regulation cannot be effectively implemented yet because there are several issues that need to be addressed, especially regarding the procedure for the formation of legislation, which in this case includes:

- a. The absence of administrative sanctions and civil sanctions formulated in accordance with legal provisions, namely Law Number 12 of 2011 on the Formation of Legislation, is one of the issues that need to be addressed.
- b. The failure to formulate appropriate sanctions will affect law enforcement in the field and lead to multiple interpretations from various stakeholders.

Furthermore, in this Regional Regulation, there is a legal vacuum due to the absence of regulations regarding the substance of guidance and supervision of music industry players. This leads to ambiguity and the potential for misuse by the local government.

6) Regulation of the Regent of East Seram Number 15.a of 2018 on the Development of Local Economy and Superior Products of East Seram District.

In the East Seram Regent Regulation Number 15.a of 2018, there is no depiction of institutional/organizational aspects because the division of authority is unclear. Medium-scale enterprises, which fall under the authority of the Central Government, should not be formulated in this Regent Regulation. According to Appendix letter Q of Law Number 23 of 2014 on Regional Governance, Regencies/Cities should only have authority over Micro Enterprises (Hetharie & Tulia, 2021). Furthermore, there is no clear division of tasks and authority for the development of the local economy and regional flagship products by institutions. With this lack of clarity in division, the implementation in the field will lead to ambiguity and overlapping in the enforcement of this regulation. Apart from the lack of clarity in the division of authority, in this Regent Regulation, there is also a legal vacuum concerning the absence of designated areas such as small-scale industries, tourism, fisheries, and others. Consequently, it is not clear how the detailed regulations and implementation of this article will be carried out. Therefore, it is necessary to add zoning based on spatial and regional planning to ensure the effectiveness of the implementation of this Regent Regulation. Another legal gap in this Regent Regulation is the lack of explicit explanation regarding the planning for the implementation of local economic development and flagship product development.

The regulatory gaps also encompass the clear subjects of this provision. This Regent Regulation mentions that the institution for the development of the local economy and regional flagship products utilizes existing technical institutions. However, it does not specifically refer to who these institutional subjects are. This will lead to multiple interpretations regarding who the subjects will be in terms of local economic development and the development of regional flagship products. Another aspect that is not clearly regulated in this Regent Regulation pertains to Control and Evaluation, Funding, Guidance and Supervision, Reporting, as stipulated in Articles 13 to 19 of the Ministry of Home Affairs Regulation Number 9 of 2014 on Guidelines for the Development of Regional Flagship Products.

7) Regulation of the Regent of Buru Number 12 Year 2019 on Empowering Micro Businesses in Buru Regency.

Observing the Regulation of the Regent of Buru Number 12 Year 2019 on Empowering Micro Businesses in Buru Regency, several issues have been identified, which subsequently lead to the ineffectiveness of the

implementation of this Regent's Regulation, namely:

- a. The lack of a specific formulation of regulations as the basis for determining the nominal criteria for Micro Businesses is a significant issue. The provision in Article 5, paragraph (3), which only states that the criteria for the nominal value of micro businesses can be adjusted in line with economic developments, guided by legal regulations, will result in various interpretations regarding which legal regulations can be used as a reference for this article.
- b. There is a lack of normative clarity because this Regent's Regulation does not clearly and explicitly formulate the legal basis that serves as a reference for the development of alternative sources of financing for micro businesses, the strengthening of capital for micro businesses through Regional Public Service Agencies, the implementation of micro business partnership patterns, and the procedures for micro business permits.

There is a legal vacuum that renders this Regent's Regulation ineffective for implementation. In this regard, concerning the content in Paragraph 3 of Article 16 of this Regent's Regulation that deals with Financing Phases, there is no substantive regulation regarding the requirements for micro business financing. Therefore, it is necessary to formulate these requirements briefly based on Articles 21 to 23 of Law No. 20 of 2008 on MSMEs, which can then be delegated in detail in this Regent's Regulation as the implementer of this regulation.

Efforts to Achieve Business Ease, Empowerment, and Protection for Micro and Small Business in Maluku Through the Establishment of Local Legal Products: between Hope and Reality

As a country based on the rule of law, it is only fitting for the government to establish a fundamental concept that contains legal guidelines for the direction of national legal development during a specific government period (Sunde, 2023). The lack of protection has caused Indonesian micro, small, and medium-sized enterprises (MSMEs) to face difficulties in their growth (Loo dkk., 2023). Unfortunately, this fact is often misunderstood by the government, the business world, and society (Muldoon dkk., 2023). Limited capital (Oh dkk., 2023), the quality of human resources (Falaha dkk., 2023), and a lack of technological prowess (Girinatha, 2023), are frequently seen as shortcomings of MSMEs, rather than as consequences arising from inadequate protection and empowerment (Khan & Mer, 2023). However, it is well-known that government economic policies at the macro level are often misguided (Lu dkk., 2023), off-target (Yan dkk., 2023), and insufficient in protecting MSMEs from business competition (Trieu dkk., 2023).

Efforts to achieve ease of doing business, empowerment, and protection for micro and small businesses are among the initiatives undertaken (Gunaksara & Antaguna, 2023), by the government to boost investment and create job

opportunities (Sindhvani dkk., 2023), in pursuit of the Golden Indonesia 2045 vision. These efforts are spearheaded by the government through the enactment of Law No. 6 of 2023 on Job Creation (Dungga & Muhtar, 2022). With the presence of the Job Creation Law, it is hoped that it will eliminate regulatory overlaps, bring about efficiency in the process of amending or revoking regulations, and eliminate sectoral egos between government agencies. Furthermore, the Job Creation Law is designed to standardize policies between the Central Government and Local Governments in order to support a conducive investment climate. Therefore, regional governments, including those in Maluku, both at the provincial and municipal levels, should be capable of providing ease of doing business, empowerment, and protection for micro and small businesses.

As previously discussed, in the Maluku Province, there are several regional legal products that regulate the empowerment of micro and small businesses. However, the majority of these regional legal products have not effectively (Sujono & Nugroho, 2023), and optimally supported business ease, empowerment, and solution-oriented protection for micro and small businesses (Schöning & Mendel, 2023). This is due to the overlapping of authority in the regulation of micro and small businesses and the lack of clarity in the content of some of these regional legal products. Furthermore, the regional legal products governing micro and small businesses in Maluku are no longer in line with higher-level legal regulations such as Law Number 6 of 2023 on Job Creation, Law Number 20 of 2008 on MSMEs, and Law Number 23 of 2014 on Regional Governance.

The issues in some regional legal products in Maluku related to micro and small businesses have an impact on the government's efforts to provide ease of doing business, empowerment, and protection for micro and small business actors. These impacts include:

1) Regional Regulation of Maluku Province Number 09 of 2009 on the Establishment of the Regional Technical Implementation Unit for the Management of Revolving Funds for Cooperatives, Micro, Small, and Medium Enterprises in the Department of Cooperatives, Micro, Small, and Medium Enterprises of Maluku Province

With this Regional Regulation, micro and small business operators benefit from an ease-of-process perspective as they can easily access capital assistance through revolving funds. This ease is facilitated by the existence of the Regional Technical Implementation Unit for the Management of Revolving Funds. It means that there is a clear legal standing for obtaining financial assistance through the regional government, which serves as a service provider willing to facilitate the disbursement of funds to micro and small businesses in accordance with the requirements outlined in relevant regulations. From an empowerment perspective, one of the objectives of empowering micro and small businesses based on Law Number 20 of 2008 on MSMEs is to nurture and

develop the resilience and independence of micro, small, and medium-sized enterprises, which includes financing and guarantees (Munthe dkk., 2023b). Here, the regional government facilitates and promotes increased working capital and investment financing through expanded sources and financing models (Sedyastuti, 2018), access to the capital market, and other financing institutions (Muhammad, 2018). It also develops credit guarantee institutions and enhances the functions of export credit guarantee institutions (Tripalupi, 2019).

Therefore, the existence of this Regional Regulation, which regulates the establishment of the Regional Technical Implementation Unit for the Management of Revolving Funds for Cooperatives and MSMEs, becomes the implementer of active empowerment actions for MSMEs in the region by providing financial assistance to MSME actors, whether as working capital assistance or funds for business development. Furthermore, from a protection perspective, this Regional Regulation benefits MSME actors by introducing a unit within the Regional Government as the manager of the Revolving Fund for Cooperatives and MSMEs to optimize protection for MSME actors, enabling them to thrive in an increasingly competitive business environment. The principle of government support for the people's economy is evident through the enactment of this Regional Regulation. It reflects a strong commitment from the state, through local governments, to provide financial assistance management services for MSMEs. Given the current contextual situation in Maluku, which is marked by the proliferation of modern stores like Indomaret and Alfamidi, MSMEs with limited capital can easily face challenges to their businesses. Therefore, the presence of this Regional Regulation can benefit MSME actors through the establishment of the Regional Technical Implementation Unit for the Management of Revolving Funds for Cooperatives and MSMEs in the Maluku Province.

Considering the various issues in this Regional Regulation related to the overlapping of authorities between provincial and district/city governments and the lack of clarity in regulating monitoring and evaluation instruments, it is crucial for regional governments to evaluate and amend this regulation to provide ease of doing business, empowerment, and protection for micro and small business actors in Maluku.

2) Regional Regulation of Maluku Province Number 10 of 2009 on the Management of Revolving Funds for Cooperatives, Micro, Small, and Medium Enterprises.

The basis for managing the revolving funds for micro, small, and medium enterprises (MSMEs) is to support the improvement and development of regional economic development in alleviating poverty (Nasrin dkk., 2019), and expanding job opportunities (Sujarweni & Utami, 2015). This requires the development of small businesses and cooperatives through capital loans. The strategy and policy for disbursing revolving funds through established,

professional banks is an appropriate option (Economidou dkk., 2023). Revolving funds have distinct characteristics: they are provided to individuals or community groups, repaid with or without added value, and rolled back to individuals or community groups, commonly known as a revolving fund (Jamil, 2022). The mechanism of providing revolving funds is expected to enable these individuals or community groups to utilize the received revolving funds to enhance their businesses and economic well-being. If the disbursement of revolving funds to a particular community or group has successfully increased the level of business and economic independence, the government can then roll back these funds to other communities or groups with the same goal, which is to enhance businesses and the economy (Wijaya & Waluyo, 2015). The success of the revolving funds program will help the government address issues related to unemployment (Indika & Marliza, 2019), poverty (Sopah dkk., 2020), and contribute to the improvement of the national economy (Jan dkk., 2023).

Based on the Regional Regulations in Maluku related to the Management of Revolving Funds for Cooperatives and MSMEs, the benefits that should be derived from the implementation of Regional Regulation of Maluku Province Number 10 of 2009 are as follows:

- a. Economic Sector
 - 1) Poverty Alleviation in the Maluku Province;
 - 2) Enhancement and Development of Productive Economic Activities for the Community in the Maluku Province.
- b. MSMEs Sector
 - 1) Business Capital Strengthening: With the assistance of loans from revolving funds, this can provide a stimulus for SME entrepreneurs to acquire capital and, furthermore, facilitate the circulation of capital to support business development.
 - 2) Human Resources Allowances: Revolving funds from the local government can be used by SME entrepreneurs who employ a significant workforce, such as those with legal entities, to provide allowances to their employees. Additionally, it allows them to hire new employees for their business.
 - 3) Increased Sales Turnover: Ideally, the loans from the Revolving Fund should benefit SME entrepreneurs in expanding their ability to attract customers and broaden their market reach, thereby boosting their business turnover.
 - 4) Increased Business Profits for SME Entrepreneurs: Rationally, the larger the loan amount, the greater the opportunity for SME entrepreneurs to expand their businesses, which in turn increases their profits.
- c. Employment Sector
 - 1) Job Creation
 - 2) Increased Labor Productivity

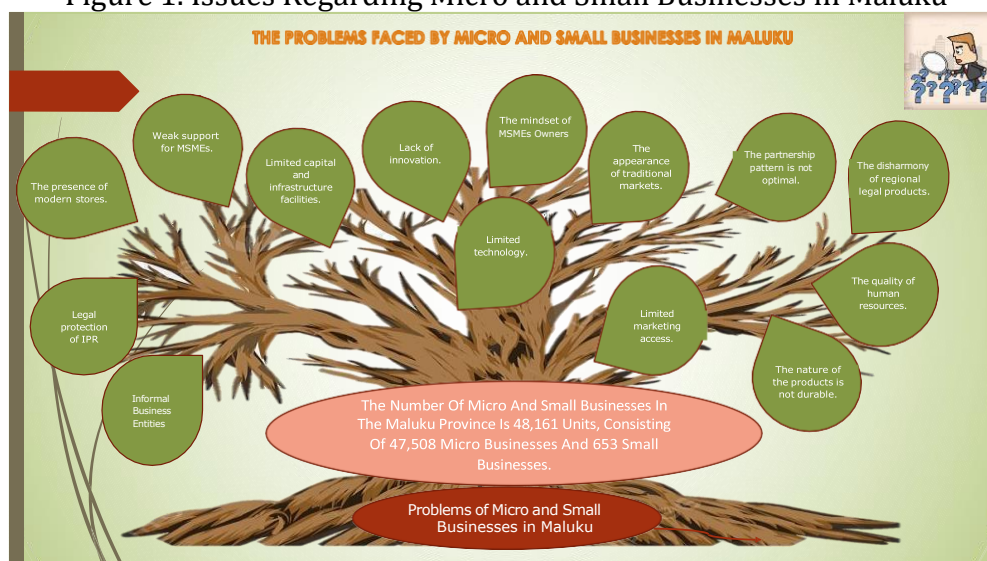
The aspects of benefits from Regional Regulation No. 10 of 2009 can be

optimally experienced when the framework for monitoring and evaluation of the implementation of revolving fund management in the Maluku Province is carried out effectively. Additionally, continuous guidance and assistance from the Maluku Provincial Government are also essential to enhance the success of revolving fund management and distribution, ensuring it reaches the right targets.

3) Regional Regulation of Maluku Province Number 11 of 2014 concerning Empowerment of Micro, Small, and Medium Enterprises.

In relation to the aspect of the benefits of implementing Maluku Province Regional Regulation Number 11 of 2014, it needs to be adjusted to the realization of several variables that are integral to the empowerment of micro, small, and medium enterprises (MSMEs) in the region. These variables include human resource development, production and productivity financing and guarantees, business partnerships and networks, facilitation of permits, standardization, and marketing. When all these variables are adapted to the on-ground facts regarding MSME empowerment, various information about the benefits of implementing this regional regulation can be obtained. It is a fact that many challenges are faced by micro and small business operators in Maluku. Among the numerous micro and small businesses in Maluku, their development and empowerment efforts still encounter various challenges, obstacles, and issues that affect the organization of micro and small businesses in Maluku. These issues can be described as follows:

Figure 1. Issues Regarding Micro and Small Businesses in Maluku



From the above figure, it is evident that micro and small businesses in Maluku face a multitude of problems and issues. Below, the author outlines these issues in the table provided:

Table 2. Description of Problems for Micro and Small Businesses in Maluku

No.	Aspect of Problems	Description of Problems
1.	Informal business entities	Business entities owned by micro and small businesses are still mostly in the form of informal business entities, which affects the reputation of micro and small business operators in terms of marketing, partnerships, and obtaining capital assistance.
2.	Intellectual Property Rights products	Products produced by micro and small business owners often lack intellectual property rights protection, which means they can potentially be unlawfully taken by others with malicious intent.
3.	The presence of modern retail stores	The presence of modern retail stores such as Indomaret and Alfamidi in Maluku, especially in Ambon and its surrounding areas, by the end of 2019 also affected the purchasing power of the community towards products from micro and small businesses. Micro and small business owners must remain competitive by continuously innovating in response to the presence of these modern stores. The establishment of shopping centers and modern retail stores should take into account the social and economic conditions of the community, the existence of traditional markets, and small and medium-sized enterprises in the respective areas. Shopping centers are required to provide spaces for small businesses at prices or rental fees that are affordable for small businesses, or that can be utilized by small businesses through other forms of cooperation or partnership. Consequently, there is an opportunity for the products of micro and small business owners.
4.	The lack of support for micro and small businesses	From the aspect of mentoring and empowering micro and small businesses, there is also a lack of good integration within the departments/agencies, which affects the quality of development for micro and small businesses that is not yet optimal.
5.	Limited capital and infrastructure facilities	The problem of limited capital is causing difficulties for micro and small business owners in increasing their production capacity to meet demand, adopting modern equipment to support the production process, and increasing the number of workers. Micro and small businesses are still constrained in accessing capital and financing to help them develop their businesses, forcing them to use other financial institutions with burdensome costs and risks. The limited business facilities and infrastructure necessitate the establishment of production houses for micro and small businesses.
6.	The lack of innovation	Many micro and small business owners don't progress due to a lack of innovation. There are only a few micro and small business products that have successfully entered the national and international markets.
7.	Limited technology	The technology or equipment used by micro and small business owners in Maluku is still relatively simple, thus requiring more modern technology for their production processes.

No.	Aspect of Problems	Description of Problems
8.	The mindset of micro and small business owners.	From the perspective of the mindset of micro and small business owners, it remains a challenge for the development and empowerment of these businesses. Most micro and small business owners still maintain a simple mindset when conducting their business activities. Their primary concern is whether the business can provide for their daily needs. They do not often think about how the business can not only meet basic sustenance requirements but also continue to grow and compete with larger businesses.
9.	Traditional market appearances	In terms of market appearance, it was found that the appearance of traditional markets is not well-organized and hygienic. This, of course, affects consumers' interest in visiting these traditional markets. There is a lack of support for traditional markets for Micro and Small Enterprises, such as regulations regarding facilities, places, or locations to accommodate Micro or Small Enterprises in traditional markets, as well as financial assistance for Micro or Small Enterprises in traditional markets.
10.	Limited marketing access	Some micro and small business owners have already marketed their products online through social media, marketplace websites, and others. However, in practice, it is still not optimal. As a result, the outcomes are less than optimal. The lack of knowledge and adaptation to the internet and technological developments experienced by these micro and small business owners is a challenge and problem that must be faced. The limited market/consumers, including newcomers, tourists, guests to the region, high shipping costs (Online Shopping System), and expensive raw materials are also issues.
11.	Partnership patterns are not yet optimal	Partnership patterns with various parties have not been established and developed. Therefore, the Regional Government needs to collaborate and form partnerships with universities, business entities, business associations, and other stakeholders.
12.	Discrepancy in local regulations	From the aspect of the content of local regulations governing micro and small businesses, it still raises legal issues related to the disharmony of legal provisions. This means that existing local regulations are still in contradiction with higher-level regulations that govern the same matters. For instance, in this case, the Micro, Small, and Medium Enterprises Law, Regional Government Law, and their implementing regulations.
13.	The quality of human resources (HR)	From the aspect of human resources, it shows that the quality of human resources in businesses is still low, and there is a lack of knowledge and entrepreneurship competence, resulting in low business productivity. Therefore, continuous training and education are needed. Difficulty in calculating revenue, gross profit, and net profit due to manual bookkeeping often hinders micro and small businesses from growing. Financial bookkeeping is

No.	Aspect of Problems	Description of Problems
		necessary to measure success and plan future business strategies.
14.	The products produced have a short shelf life	For food and beverage products, the products still have a short shelf life, meaning they are easily perishable and not long-lasting.

Source : Compiled by the author based on data and interviews.

Based on these facts, it can be concluded that there is still much work to be done by the Regional Government in addressing the Empowerment of Micro and Small Businesses in the region. Furthermore, adapting to the current technological advancements, where innovation in the digital world is highly necessary. Nowadays, the development of micro and small businesses is not solely reliant on natural resources (resource-based economy) but has moved towards a knowledge-based economy. Therefore, it is expected that through Regional Regulation of Maluku Province Number 11 of 2014, it can provide specific benefits to the business world of Micro and Small Business Actors by offering significant opportunities to create skill and culture-based products, as well as educating the younger generation to establish new businesses based on knowledge and innovation. This is to promote the development of the creative economy in Maluku Province by utilizing the creativity, intellectual capital, and innovation from the younger generation. Subsequently, the benefits are realized in the labor sector. In this regard, micro and small businesses, which are part of the creative industry, hold potential and have a bright outlook for contributing to the provision of high-quality employment opportunities.

4) Regional Regulation of the City of Ambon Number 16 of 2015 on the Implementation of the Revolving Fund and Investment by the City Government of Ambon

The presence of this regional regulation provides substantive benefits when implemented consistently, as it significantly promotes regional economic growth in the context of regional autonomy and specifically regulates the microcredit service pattern for empowering and developing micro-entrepreneurs to expand employment opportunities. However, when viewed from the perspective of legislative drafting, this regional regulation faces several issues because it does not reflect compliance with the systematics and techniques of legislation formation based on Law No. 12 of 2011 regarding the Formation of Legislation. Therefore, a review of these aspects is necessary to ensure that the comprehensive implementation of this regulation provides benefits to the wider community, particularly micro and small-scale business owners in the city of Ambon.

5) Regional Regulation of the City of Ambon Number 2 of 2019 concerning Ambon Creative City Based on Music.

The legal framework for the establishment of Ambon City Regulation Number 2 of 2019 undeniably provides a new perspective in the policy of the Ambon City Government to promote the prosperity and welfare of the people in Ambon City. In this regard, the Ambon City Government sees the regional potential in Ambon City to be used as a means for the development of the local

economy. The use of music as a creative activity in Ambon City is a suitable step, which is then formalized in a regional regulation. However, considering the content of Ambon City Regulation Number 2 of 2019, there is actually a crucial aspect that has not been clearly regulated, which is the implementation of supervision and guidance for the development of Ambon Creative City Based on Music. This substance plays a significant role that influences the effectiveness of this regulation. Guidance determines the concrete steps the government takes to maintain the sustainability of Ambon Creative City Based on Music, while supervision is intended to ensure that what is stipulated in the regulation is in line with the implementation steps, all in pursuit of the complete objectives and goals of this regulation. Additionally, the legal enforcement aspect that does not explicitly specify the subjects of these prohibitory norms creates confusion or ambiguity in its enforcement. Therefore, it can be said that, in terms of effectiveness, this regulation needs to be reevaluated for proper implementation in the region.

6) Regulation of the Regent of East Seram Number 15.a of 2018 concerning the Development of Local Economy and Superior Products of East Seram District

The existence of this Regent's Regulation has significant benefits when supported by the availability of designated areas for small industries, areas for agriculture, plantations, and fisheries based on the local potential in East Seram District, following the Regional Spatial Planning. The benefits include:

a. Regional Economic Sector

Empowerment of the regional economic sector can be realized through this Regent Regulation by utilizing and optimizing local resources and competencies in East Seram Regency. The local resources and competencies of the area are manifested into Local Superior Products, which are then marketed widely to generate revenue for the region. This Regent Regulation can also serve as a strong foundation for the economy in case the national economic climate experiences fluctuations or instability that affects the regional economy. With this Regent Regulation, the benefits that can be realized include increasing the utilization of regional assets, developing local investments, driving services to the community, and contributing to Regional Own-Source Revenue.

b. MSMEs Sector

By placing Farmers and SMEs as the Target Groups of this Regent Regulation, the role of micro and small business actors can be empowered, especially in the provision of raw materials, production, processing of products, and marketing. It encourages micro and small business actors to have competitiveness, sales capacity, and a drive in the global market.

c. Employment Sector

The massive absorption of labor is expected if the development of the local economy and superior local products in the region is carried out effectively. Many workers are needed in processing the existing Regional Public Companies.

7) Regulation of the Regent of Buru Number 12 of 2019 concerning Micro Business Empowerment in Buru Regency

All these aspects are implemented by the relevant departments in order to fulfill Micro Business Empowerment in Buru Regency. Basically, the practical level relies on the clarity of the normative regulation. If we review the licensing aspect, in the Regulation of the Regent of Buru Number 12 of 2019, there is no explicit reference to the legal basis for the procedures for Micro Business licensing. This also addresses the lack of knowledge among micro and small business operators regarding the online permit application procedures for those who wish to apply for business permits or environmental permits. Therefore, at the practical level, a significant contribution is required from the local government to disseminate the Regulation of the Minister of Cooperatives and Small and Medium Enterprises Number 2 of 2019 regarding Integrated Electronic Business Licensing for Micro and Small Enterprises, which is derived from the Government Regulation Number 24 of 2018 on Integrated Electronic Business Licensing Services, to micro and small business operators as a concrete form of the government's policy in empowering micro and small businesses. Taking the aspect of permits as an initial step in empowering micro and small businesses as an example provides an insight that the benefits of implementing Regent Regulation of Buru Number 12 of 2019 need to be supported by regulatory changes and concrete steps from the government in providing assistance and regular dissemination to micro and small business operators to enhance their knowledge about the procedures required to run their businesses.

4. Conclusion

Regional legal products in Maluku that regulate micro and small businesses have not effectively achieved ease of doing business, empowerment, and protection for micro and small business actors in the Maluku Province. Among the various regional legal products related to micro and small businesses in Maluku, their content raises various legal issues, such as legal regulation discrepancies, overlapping of authorities between the central government, provincial government, and district/city governments, unclear content, and legal gaps. All these issues have a significant impact on the development and empowerment of micro and small businesses in the Maluku Province. Therefore, it is high time for both provincial and district/city governments to revise the content of existing regional legal products to provide ease of doing business, empowerment, and protection for micro and small business actors in the Maluku Province, with the aim of improving the well-being of the community and increasing local revenue.

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