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# Legal Loopholes in the Regulation of Corruption Eradication in the Management of State-Owned Enterprise Investment Funds in the Tourism Sector

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**Abstract:** This study examines the legal gap in the regulation of corruption eradication in the management of State-Owned Enterprises (SOEs) investment funds in the tourism sector. SOEs have a strategic role in developing national tourism through the management of large-scale assets and investments sourced from separate state assets. However, despite the existence of legal frameworks such as Law No. 19 of 2003 concerning SOEs, Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, Law No. 25 of 2007 concerning Investment, and Law No. 10 of 2009 in conjunction with Law No. 6 of 2023 concerning Tourism, there are no specific regulations regarding the prevention, supervision, and action against corruption in SOEs' tourism investments. This legal gap has resulted in overlapping authority between supervisory institutions, weak transparency in financial reports, and the absence of clear indicators to classify acts as criminal acts of corruption in this sector. This study uses a normative juridical method with a statutory and conceptual approach to analyze regulatory gaps, examine international practices such as the provisions of the United Nations Convention against Corruption (UNCAC), and formulate the need for reformulation of specific regulations. The analysis demonstrates the urgency of establishing detailed regulations that address integrated oversight mechanisms, technology-based transparency, proportionate criminal and administrative sanctions, and integrate the role of supervisory institutions to prevent and prosecute corruption from the planning stage through project evaluation. Implementation of these specific regulations is expected to increase legal certainty, investor confidence, and the sustainability of national tourism development.

**Keyword:** Legal Gap, Corruption, State-Owned Enterprises, Investment Funds, Tourism, UNCAC, Integrated Oversight, Transparency.

## INTRODUCTION

State-owned enterprises (SOEs) play a significant role in advancing the tourism sector because they drive the national economy through the management of strategic state assets (Gunawan Nachrawi, 2021). SOE investments in leading tourist destinations have the potential to increase foreign exchange, create jobs, and strengthen Indonesia's global image (Nurhidayati, 2025). Article 1 of Law No. 19 of 2003 defines SOEs as business entities whose capital is wholly or primarily owned by the state through direct participation from separated state assets (Daffa, 2023). This provision provides legal legitimacy for SOEs to manage large-scale funds, including for national-scale tourism projects. However, this flexibility also carries risks when not balanced with adequate regulations regarding investment governance.

SOE investments in the tourism sector have unique characteristics because they combine elements of public service with a profit-oriented orientation (Julaika, 2024). The funds used typically come from state capital participation or the business results of state-owned enterprises (SOEs), which are then allocated for infrastructure development, promotion, and management of tourist destinations (Lisnawati, 2024). Law No. 19 of 2003 regulates capital and state capital participation, but does not yet detail the transparency and accountability mechanisms for the use of investment funds in the tourism sector (Akhyar, 2024). The regulatory loophole could be exploited for irregularities that result in state losses. As a result, potential economic benefits that should be enjoyed by the wider community can be reduced due to unlawful practices.

Regulations regarding SOE capital management do exist, but not all of them are relevant to the risks of corruption in tourism projects (Putri, 2022). Tourism investment management requires multi-layered oversight because it involves multiple parties, from technical ministries, SOEs themselves, to private partners (Aprilia, 2023). Without detailed regulations regarding accountability mechanisms, the potential for budget inflation, non-transparent partner appointments, and abuse of authority will increase (Aprilia E.D., 2024). Strategic projects such as the development of integrated tourism areas often involve significant investment, increasing the risk of misuse (Fattah, 2023). This demonstrates that existing regulations have not effectively addressed the challenges of managing tourism investment funds.

Law No. 31 of 1999 concerning the Eradication of Corruption, in conjunction with Law No. 20 of 2001, defines corruption as an unlawful act intended to enrich oneself or others, resulting in losses to state finances (Pratama, 2023). Articles 2 and 3 stipulate severe sanctions for perpetrators, including imprisonment and substantial fines. In the context of state-owned enterprises (SOEs), losses resulting from corruption in tourism investment funds clearly constitute state losses because the funds used originate from segregated state assets. This regulation provides a legal basis for enforcement, but there are still shortcomings in preventive measures that could prevent corruption from occurring at the investment planning stage. Without a clear prevention mechanism, legal action often only occurs after losses have already occurred.

The United Nations Convention Against Corruption (UNCAC), ratified through Law No. Law No. 5 of 2009 emphasizes the importance of preventing corruption in the private sector and state-owned enterprises (Waluyo, 2022). Article 12 of the UNCAC stipulates the need for participating countries to take steps to prevent corruption involving commercial entities, including state-owned ones (Kartika, 2021). Implementation of this principle in Indonesia should encourage the strengthening of specific regulations in the tourism sector, which is prone to the misuse of funds. This strengthening relates not only to criminal provisions but also to transparent and accountable governance arrangements. These international provisions demonstrate that effective prevention can reduce the risk of corruption before law enforcement action is required.

A legal vacuum, or *rechtsvacuum*, in legal theory refers to a situation where a legal issue has not been adequately regulated in applicable laws and regulations (Atikah, 2023). Such a

vacuum can lead to confusion among law enforcement officials in interpreting norms, resulting in ineffective enforcement (Hadi, 2022). In the management of state-owned enterprise investment funds in the tourism sector, the legal vacuum is evident in the absence of provisions explicitly regulating oversight mechanisms and administrative sanctions. As a result, actions that have the potential to harm state finances are sometimes not immediately addressed due to debates regarding the legal basis that can be used. This situation opens up opportunities for perpetrators to exploit regulatory loopholes for personal or group gain.

Indicators of a legal vacuum can be seen in weak legal certainty, overlapping authority between institutions, and a lack of operational technical regulations (Banola, 2025). In the tourism sector, oversight of state-owned enterprise investment funds often involves the Ministry of State-Owned Enterprises, the Ministry of Tourism, the Supreme Audit Agency (BPK), and the Corruption Eradication Commission (KPK) simultaneously (Maula, 2025). Without clear boundaries of authority, coordination between institutions becomes ineffective and potentially creates overlapping procedures. This situation not only slows down enforcement but also creates loopholes for perpetrators to evade legal action. Therefore, the existence of clear regulations is essential to prevent disputes over authority that hinder the legal process.

The management of state-owned enterprise investments in the tourism sector should adhere to the principles of transparency and accountability, in line with Law No. 10 of 2009 in conjunction with Law No. 6 of 2023 concerning Tourism (Makruf, 2025). These regulations emphasize the importance of sustainable tourism and economic benefits for local communities. However, in practice, financial oversight of investment projects often focuses solely on final reports without adequate audits during the implementation phase (Hardian, 2023). As a result, potential misappropriation of funds goes undetected early. This creates a significant loophole that can be exploited for systematic corruption.

State-owned enterprises operating in the tourism sector, such as PT Aviassi Pariwisata Indonesia (InJourney), play a crucial role in managing national priority tourist destinations. The company manages projects involving significant investment, international collaboration, and various private partners. While it offers significant potential to enhance Indonesia's tourism competitiveness, managing such large-scale funds also increases the risk of misappropriation if not closely monitored. Current regulations do not provide a clear framework to ensure that every stage of investment is free from corruption (Ohyver, 2024). The lack of detailed rules makes internal and external oversight less than optimal.

The risk of misappropriation of funds in tourism investment management increases if there is no system requiring transparent and regular reporting. When financial reports are merely formalities and are not subject to independent audits, the potential for data manipulation increases. It can damage investor confidence and hinder the growth of the tourism sector itself. The need for regulatory strengthening is urgent to ensure effective management of SOE investment funds in this sector and in line with national development goals. Without appropriate regulatory reform, the legal vacuum will continue to be a major obstacle to corruption eradication efforts.

## **METHOD**

The research paper employs a normative juridical method, namely legal research that focuses on the study of legal norms contained in laws and regulations, doctrines, and legal principles relevant to the topic discussed. The approaches used include the statute approach, which examines various positive legal provisions that regulate the problem, including related laws and regulations from the statutory level to implementing regulations, and the conceptual approach, which analyzes legal concepts, principles, and theories that have developed in legal science to provide a comprehensive basis for thinking. The data used are sourced from primary legal materials in the form of laws and regulations, secondary legal materials in the form of literature, books, journals, scientific articles, and opinions of legal experts, and tertiary legal

materials in the form of legal dictionaries and legal encyclopedias. Data analysis is carried out qualitatively by describing, comparing, and interpreting applicable legal provisions, then linking them to relevant legal doctrines and concepts, so that conclusions are obtained that are logical, systematic, and academically accountable.

## **RESULTS AND DISCUSSION**

### **Legal Arrangements and Weaknesses of Anti-Corruption Regulations in the Management of State-Owned Enterprise Investment Funds in the Tourism Sector**

Law No. 31 of 1999, in conjunction with Law No. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, is the primary legal basis for combating corruption in Indonesia. Article 2, paragraph (1) stipulates that any person who unlawfully enriches themselves or another person or a corporation, thereby harming state finances or the national economy, shall be punished with life imprisonment or a minimum of 4 years and a maximum of 20 years' imprisonment, and a fine of at least IDR 200 million and a maximum of IDR 1 billion. Article 3 stipulates sanctions for abuse of authority resulting in state financial losses, with similar criminal penalties. These provisions are general in nature, but they also cover acts of corruption involving state-owned enterprises (SOEs) as entities that use separate state assets.

Law No. 19 of 2003 concerning SOEs provides the legal basis for the management, supervision, and accountability of state-owned enterprises. Article 66 stipulates that SOE supervision is carried out by the minister overseeing the SOE. Articles 67 to 72 outline procedures for internal oversight, audits, and annual reporting requirements. However, this provision does not explicitly address corruption prevention and enforcement mechanisms specifically for investment funds in the tourism sector. This gap results in oversight being solely administrative and not directed at the early detection of misuse of funds.

Law No. 25 of 2007 concerning Investment regulates the protection of investments made by the government, the private sector, and state-owned enterprises. Article 15, letter b, stipulates the obligation of investors to report on investment activities. Article 16 stipulates the obligation to implement good corporate governance principles. While providing general obligations, this regulation does not establish strict sanctions for misuse of funds in tourism investment projects managed by state-owned enterprises. This weakness complicates enforcement because there are no specific norms that can serve as a basis for law enforcement officials to classify acts as corruption in the tourism investment realm (Dwirainingsih, 2025).

Law No. 10 of 2009 concerning Tourism, as amended by Law No. 6 of 2023, emphasizes in Article 4 that tourism development is carried out based on the principles of benefit, sustainability, and accountability. Article 26, paragraph (1) stipulates the obligation of the central and regional governments to provide public facilities and tourism facilities. However, this regulation does not technically address how the management of state-owned enterprise investment funds in the tourism sector is monitored and audited on an ongoing basis. Consequently, there is the potential for differing interpretations regarding the transparency and accountability standards that must be met by state-owned enterprises operating in the tourism sector.

Implementing regulations, such as the Ministerial Regulation of State-Owned Enterprises and the Presidential Decree regarding state capital participation, provide the administrative framework for investment implementation. The Ministerial Regulation of State-Owned Enterprises typically regulates investment procedures, cooperation, and risk management, while the Presidential Decree specifically regulates the amount and purpose of state capital participation. While important, these implementing regulations are internal and administrative in nature, and therefore lack sufficient criminal law force to directly prosecute perpetrators of corruption. This situation demonstrates the need for harmonization between administrative regulations and criminal law.

The absence of a specific article governing corruption of state-owned enterprise investment funds in the tourism sector creates legal uncertainty. Law enforcement officials must combine provisions from various laws, which often have different scopes. As a result, the evidentiary process becomes more complicated and time-consuming. The general norms in the Corruption Eradication Law can be applied, but without specific regulations, preventive oversight is weakened. Another impact is the difficulty of mapping legal risks at every stage of investment, from planning to evaluation.

Overlapping supervisory authority between the Ministry of State-Owned Enterprises, the Supreme Audit Agency (BPK), the Corruption Eradication Commission (KPK), and the Attorney General's Office (AGO) adds to the complexity of the problem. The Ministry of State-Owned Enterprises has administrative oversight authority, the BPK is authorized to conduct financial audits, the KPK is authorized to investigate and prosecute corruption cases, and the Attorney General's Office has a general prosecutorial function. Without clear coordination, the potential for delays or even negligence in enforcement increases. It is exacerbated by the lack of a unified protocol governing who is responsible for each stage of tourism investment fund oversight.

Regulations regarding transparency of investment financial reports in state-owned enterprises (SOEs), particularly those related to the tourism sector, remain weak. Law No. 19 of 2003 requires SOEs to submit annual reports to the supervising minister, but does not stipulate an obligation to publish these reports openly to the public. This lack of transparency creates obstacles for the public and independent oversight bodies in monitoring the use of investment funds. Public information disclosure is a key principle in preventing corruption.

The absence of technical regulations governing the management of tourism investments by SOEs has led to variations in practice. Each SOE can have different internal procedures for project planning, procurement, and evaluation. This lack of uniformity makes oversight difficult, both internally and externally. The Corruption Eradication Law only regulates acts that have already occurred and caused losses to state finances, so preventive measures rely entirely on technical regulations that are currently inadequate.

The lack of a specific corruption prevention mechanism in national-scale tourism projects adds to the vulnerability. Large-scale projects typically involve significant financial flows and collaborations with various parties, including foreign investors. Without a strong internal control system and effective external oversight, the potential for misuse of funds is even greater. In addition, the unclear boundaries of actions that are categorized as criminal acts of corruption in tourism investment mean that law enforcement officers often face legal debates when determining whether an action can be directly qualified as a criminal act of corruption or not.

### **Legal Analysis of the Need for Reformulation of Anti-Corruption Regulations in the Management of State-Owned Enterprise Investment Funds in the Tourism Sector**

A comparison between applicable legal norms and actual needs on the ground reveals a significant misalignment. Existing legal norms tend to be general and do not explicitly regulate corruption enforcement mechanisms related to the management of state-owned enterprise investment funds in the tourism sector. It creates regulatory gaps that make it difficult for law enforcement officials to apply appropriate provisions to specific cases. The needs on the ground point to regulations that are more technical, detailed, and relevant to the unique risk patterns of the tourism sector. The absence of specific regulations makes available legal instruments unable to anticipate potential misuse of funds.

The impact of this legal vacuum on the effectiveness of corruption enforcement is evident in the weak position of law enforcement officials when dealing with complex investment schemes. Law enforcement requires a clear normative basis to determine whether an act qualifies as corruption, an administrative violation, or a breach of contract. Without such clarity, legal proceedings risk protracted delays due to debates over the interpretation of articles. It

creates uncertainty for the prosecution process and reduces the law's deterrent power. The effectiveness of enforcement also declines because perpetrators can exploit legal loopholes to avoid criminal sanctions.

International standards stipulated in the United Nations Convention against Corruption (UNCAC) encourage member states to expand the scope of law enforcement against corruption in the public sector and state-owned enterprises. Article 12 of the UNCAC emphasizes the importance of preventing corruption in the private sector, which has close ties with the public sector, including state-owned enterprises. Several countries have adopted regulations requiring state-owned enterprises to comply with transparency and accountability standards equivalent to, or even stricter than, those of government institutions. This approach has proven effective in reducing the scope for corruption in strategic investment projects. The application of this principle can serve as a reference for developing stronger regulations in Indonesia.

Comparisons with countries with stricter regulations demonstrate that the existence of specific regulations can increase the effectiveness of oversight and enforcement. For example, some countries require public disclosure of all state-owned enterprise investment contracts, along with criminal sanctions for concealing or falsifying such information. Such regulations create transparency accessible to the public, the media, and independent oversight bodies. High public transparency makes it easier to detect misuse of funds early. This model can serve as a reference for improving regulations in Indonesia.

The increased opportunity for corruption is a logical consequence of the existing legal vacuum. Without clear regulations, perpetrators have the freedom to exploit administrative loopholes and weak coordination between supervisory agencies. The tourism sector, which involves cross-agency collaboration and significant funding, is an easy target for corrupt practices that are difficult to detect. Patterns of corruption can range from cost markups to non-transparent tender arrangements. This risk increases if there are no internal control standards enforced through legislation.

State financial losses arising from the misuse of state-owned enterprise investment funds in the tourism sector can have a broad impact on the economy. Failed or corrupted investments not only eliminate potential profits but also hinder the development of tourism infrastructure that should provide long-term benefits. Furthermore, Indonesia's reputation as a tourist destination and investment destination will be undermined if such cases are uncovered without decisive follow-up. Investors will perceive the legal and corruption risks as too high, thus discouraging them from investing. This reputational impact is often more detrimental than direct financial losses.

Legal certainty for investors and stakeholders is a crucial pillar in building a healthy investment ecosystem. The legal vacuum results in the absence of uniform standards for assessing the security and integrity of investment projects. Investors, both domestic and foreign, require assurance that their funds will be managed according to accountability principles. Without clear regulations, stakeholders will be more cautious, even inclined to refrain from investing in corruption-prone sectors. This situation could hinder the achievement of national tourism development targets.

The urgency of establishing specific regulations to combat corruption in state-owned enterprise investment funds in the tourism sector lies in the need to clarify norms governing projects from the planning stage through evaluation. Specific regulations can establish clear definitions, indicators, and boundaries for acts categorized as corruption in tourism investment. This clarity facilitates law enforcement officials in the process of proving violations. Furthermore, specific regulations allow for the application of proportionate and effective sanctions according to the characteristics of the tourism sector. This will strengthen legal protection for invested state assets.

An integrated oversight model can be a solution to address weak inter-agency coordination. Integrated oversight involves synergy between the Ministry of State-Owned

Enterprises, the Supreme Audit Agency (BPK), the Corruption Eradication Commission (KPK), the Attorney General's Office, and tourism sector agencies within a single, integrated system. This system can take the form of a shared data center that records the entire investment flow, from fund allocation to reporting. The use of information technology in an integrated oversight model will expedite the detection of financial anomalies and narrow the scope for corruption. This integrated oversight can also reduce overlapping authority.

The development of new regulations should refer to international best practices while considering the needs and characteristics of national law. These regulations should incorporate the principles of transparency, accountability, public participation, and independent oversight. In addition to criminal aspects, regulations must also address administrative and civil sanctions to provide a comprehensive deterrent effect (Mu'min, 2025). Comprehensive development will ensure that every stage of tourism investment by state-owned enterprises is protected from potential misuse. This approach will strengthen Indonesia's competitiveness in the eyes of investors and increase public trust in the management of public funds.

## CONCLUSION

The legal vacuum in the regulation of corruption eradication in the management of state-owned enterprise investment funds in the tourism sector is reflected in the absence of specific provisions that explicitly regulate the prevention, oversight, and sanctions mechanisms for misuse of funds in this sector. Regulatory weaknesses are evident in the overlapping authority between supervisory agencies, the lack of transparency standards for investment financial reports, and the absence of clear indicators for determining what constitutes corruption in tourism projects. The implications of this situation not only impact the effectiveness of legal enforcement but also increase the risk of state financial losses, undermine investor confidence, and threaten the sustainability of national tourism development.

The development of derivative regulations from Law No. 19 of 2003 concerning State-Owned Enterprises that specifically regulate the management of investment funds in the tourism sector is an urgent step to close existing legal loopholes. These regulations need to strengthen the role of the Corruption Eradication Commission (KPK) in monitoring strategic SOE investments, both through supervisory authority and investigative audits integrated with other supervisory agencies. A technology-based reporting and transparency system must be implemented to ensure investment data is accessible in real-time to relevant authorities and the public, while facilitating early detection of potential violations. Aligning regulations with UNCAC standards will ensure Indonesia has a legal framework that aligns with international best practices, enhances the credibility of national law, and reduces the scope for corruption in the tourism sector involving state-owned enterprises.

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