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ANALYSIS OF JURISDICTIONS OF MOTA AND DOA IN MANAGEMENT OF ANTIQUES AND TOURIST SITES

This publication was made possible through support provided by the U.S. Agency for International Development, under the terms of Award No. PCI-I-98-00015-00 and Task No. PCE-I-21-98-00015-00. The opinions expressed herein are those of the author(s) and not necessarily reflect the views of the U.S. Agency for International Development or the United States Government and Chemonics International

This publication was produced by IBLAW through the USAID/Jordan Tourism Development Project.

GBTI Contract No. PCE-I-00-98-00015-00
Task Order No. PCE-I-21-98-00015-00

Contractor Name: Chemonics International, Inc.

USAID Cognizant Technical Office: Office of Economic Opportunities
USAID Jordan

Date of Report: 01/12/2005

Document Title: *Analysis of Jurisdictions of MOTA & DOA in
Management of Antique & Tourist Sites
Final*

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Activity Title and Number: Siyaha - Jordan Tourism Development Project
IBLAW_03_Comp1_01
1231

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Final
December 1st, 2005*

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ACRONYMS

DoA Department of Antiquities
MoTA Ministry of Tourism and Antiquities

Introduction and Background:

Jordan wealth of antiquities is at the core of its tourism product. These include world class iconic sites such as Petra and Jerash, castles from various periods, remarkable mosaic remains, and numerous archeological sites, many more not yet open to the public, if at all excavated. Jordan is a veritable archeological museum.

It is now widely recognized that the contribution of such assets to the tourism economy while significant is still suboptimal to say the least. The tourism strategy has identified many shortcomings in site-product development that detract from the quality of tourism interface and experience, and naturally from tourism expenditures and length of stay. While sites may be fairly well preserved, the same cannot be said about their presentation, tourism utilization, development of tourism infrastructure, and surrounding and supporting tourism economy. Preliminary diagnostics have identified poor site management practices and regulatory framework as a main factor accounting for gaps and deficiencies in site presentation and development.

It has been maintained that holistic/integrated management of sites open to tourists involves much more than fee collection and site supervision to ensure protection of antiquities (these are essential off course). It also involves all those measures and authorities affecting public presentation of sites, and development of their surrounding which may include but are not be limited to:

- Planning and oversight for access and services infrastructure;
- Planning and control of zoning and land use, including building codes within sites and in relevant site surrounding;
- Involvement and solicitation of private sector in site animation, presentation, reuse, operation, and development;
- Planning and control of integral development of surrounding site economy (tourist shops, small crafts, hotels, restaurants, other tourism services);
- Manning and staffing site operations;

- Management of site related museums.

The above functions and authorities have been referred to as tourism management aspects as opposed to those functions relating strictly to archeological preservation of the antiquities therein. It has been maintained that while DOA is, and should assume authorities for antiquities protection, it is more consistent with best management practices to vest authorities for site tourism management with Ministry of Tourism, while stipulating clear mechanism for coordination in respect of areas of inevitable overlap. The question was then raised, is this separation of authorities sustained by current legislation? To what extent can the Ministry of Tourism assume tourism “management”, not to say regulatory authorities, over antiquities areas? Is there a clear designation/separation of authorities and/or legal mechanism for coordination where overlap is inevitable? The report attempts to address such questions.

Laws Reviewed

This report is based on a close review of two laws:

- The Tourism Law No. 20 for the Year 1988. (The Tourism Law)
- The Antiquities Law No. 21 for the Year 1988. (The Antiquities Law)

These are the two main laws relevant to tourism management of antiquities and antiquities sites. Naturally, tourism sites are not limited to antiquities and may include ecological areas, historic urban heritage areas, and any other area deemed of touristic importance. In such cases, many other laws become relevant depending on the nature of the site. This report, however, is focused only on tourism management issues pertaining to antiquities, and their immediate surroundings, that typically enter within the purview of such sites.

We have also cited certain provisions that relate to the subject in question from other legislations, these legislations are:

- The Jordan Tourism Board Regulation No. 62 for the Year 1997 Issued Pursuant to Article 14/a of the Tourism Law No. 20 for the Year 1988.

- The Admission Fees for Museums and Antiquities Sites' Regulation No. 40 for the Year 2002 Issued Pursuant to Article 32 of the Antiquities Law No. 21 for the Year 1988.
- The Commission of the Baptism Site Regulation No. (48) for the Year 2001 Issued Pursuant to Articles 3, 16 of the Tourism Law No. (20) for the Year 1988.
- The Administration of the Tourist Plaza of the Karak Castle Regulation No. (48) for the Year 2002 Issued Pursuant to Articles 3, 16 of the Tourism Law No. (20) for the Year 1988.
- The Quarries Regulation No. (8) for the Year 1971.
- The Administration of State Property Law No. 17 for the Year 1974.
- The Commissioning and Leasing of State Property Regulation No. 53 for the Year 1977 issued in pursuance to Article 19 of the Administration of State Property Law No. 17 for the Year 1974.
- The Petra Region Authority Law No. 15 for the Year 2005

Main Conclusions:

Our analysis departs from the legal provision that the Tourism Law allows Ministry of Tourism to designate tourism sites, without any indication that such sites may not overlap with antiquities and /or antiquities sites. This raises the question: to what extent does the Law allow the Ministry of Tourism to exercise management authorities outlined above, without prejudice to the rules governing the protection of antiquities? What is the relative distribution of authorities in the case of collocation of tourism sites and antiquities and/or antiquities sites? Do the Laws provide explicitly and clearly rules, principles and mechanism for site management, as outlined in references to best practice?

- At the outset, it is important to note that while the Law allows for collocation of tourism sites, and antiquities sites, this remains today largely a theoretical possibility. For one, as we mention in earlier reports, the DOA has to our knowledge not officially designated except two antiquities sites. On the other hand, the Ministry of Tourism has only designated two tourism sites, one of which - the baptism site- is both a designated tourism and antiquities site. This site however, is not governed solely

pursuant to the general provisions of the Tourism Law, but pursuant to a special regulation issued under article 14/g of this Law. Our conclusions below therefore explore the “possibilities” for using the authorities in the Tourism Law for tourism management, generally or by use of special area regulations pursuant to this Law.

- Although the scope addresses issues of overlap, it is important to note that this is not the only legal problem for effective and integrated tourism site management. It is obvious that neither the Tourism nor the Antiquities Laws have been drafted with principles of holistic /integrated tourism site management in mind. Thus, even if we set aside overlap issues, the question remains do the Law provides Ministry of Tourism with sufficient and elaborate authorities to exercise its Tourism site management and regulatory authorities effectively? We indicate in our conclusions below that this is not necessarily the case.

The following are main conclusions regarding relative allocation of management authorities in tourism/antiquities sites.

The confusion about the relative authorities over tourism antiquities sites lies in the basic mandate of the two entities which are as follows

- The Ministry of Tourism is vested with the authority of promotion and development of tourism as well as tourism investments, and with enhancing tourism economy. In respect of tourism sites specifically, the Ministry is vested with their protection upkeep and development and with direct and indirect investments thereof, as well as their regulation, management, and with oversight over infrastructure and construction therein.
- The Antiquities Law on the other hand ascribes to the DOA the management of antiquities and antiquities sites and protectorates, supervision, protection, maintenance and restoration thereof, as well as beautification of site surrounding and highlighting site features.

Accordingly, in the case of antiquities/ tourism sites, two entities are simultaneously responsible for site management, maintenance, and upkeep, which is the main source of the overlap.

- In earlier presentations, we proposed on a preliminary basis that the Ministry of Tourism may be able to affirm overriding management authorities in all matters outside the core tasks of antiquities protection. Further, we proposed utilizing the mechanism of by-laws provided for in Tourism Law to provide for holistic management of such sites. After a thorough review of the two laws, and especially of matters of land use controls, zoning and planning, we feel that only some of the overlap issues are clearly resolved by the Law and these are:
 - The designation of tourism sites does not prejudice or undermine DOA authorities for protection of immovable and moveable antiquities. The DOA maintains exclusive and overriding authorities in this area. Further, nothing in either laws challenges applicability of provisions to protect and preserve antiquities within antiquities site, to the extent that such are explicit and clear. The overlap between the two laws has clearly no bearing on those DOA rule pertaining to protection, conservation, restoration, and maintenance of the discrete immovable and moveable antiquities-again to the extent that they are clear in the Law.
 - The collection of fees for antiquities sites and tourism sites rests squarely with the DOA.
 - Other than the right to collect entry fees, associated with opening sites to the public, there is nothing in the Antiquities Law that may be construed to ascribe to the DOA the authority to invest in tourist and commercial development of sites. The DOA may be in a position to authorize or prevent use of antiquities, or set standard therefore. Further, the DOA may be also responsible for upkeep, and maintenance of site surroundings. (To the extent that this is not undermined in case of collocation-see below). However, DOA clearly has no authorities to invest commercially or solicit investments in sites in a broader sense.

- Further, the Law does not authorize DOA to collect other than entry fees. There is no basis in the Law for DOA to collect commercial site use or exploitation fees, much less returns on its own investments in sites, or investment returns from concessionaires.
 - The Ministry of Tourism on the other hand, is clearly authorized to invest tourism sites directly and indirectly, although the Law does not elaborate on the requisite mechanism and authorities to exercise this mandate.
 - The Law provides a regulatory alternative for tourism site management through special by-laws that stipulate rules governing such sites. To date, this mechanism has been adduced in case of the Karak Castle Plaza and the Baptism sites.
- The following issues however remain unresolved:
- In case of collocation of antiquities, tourism sites, do the management authorities of MOTA extend within antiquities sites? Do they override general management authorities of DOA?
 - It is not clear how MOTA general management and regulatory authorities over tourism sites, *fare vis a vis*, DOA specific authorities relating to control of land use within antiquities sites. The Ministry of Tourism has general but unqualified rights to regulate and manage tourism sites, which alone can be construed to involve control of land use, planning and investments within sites. To what extent are these undermined or inconsistent with explicit DOA authorities over land use and management authorities in antiquities sites. It seems to us that provisions applicable to antiquities specifically remain applicable within tourism sites, as they are specific and not provided for in the Tourism Law. However, general issues related site management and regulatory authorities in collocated sites are not conclusively resolved.
 - The fact that the minister of tourism is also the minister to whom DOA reports undoubtedly may serve to coordinate decisions and resolve conflicts inter-governmentally. However, any uncertainties about regulatory authorities will not be tolerated where large investments are at stake.

- The National Tourism Council recommends designation of Tourism sites and includes in its 19 members the head of the DOA, and is chaired by the Minister. This should indicate that designation of any tourism site is preceded by implicit consensus between the directorate and the Ministry. However, for all practical purposes the Council is inactive, and its decision making process are not regulated, so it is difficult to assess the extent to which the Council acts as a coordinating mechanism regarding Antiquities/Tourism Sites.
- While the DOA controls site access and openness to the public, a level of predictability in respect to site access is required in case of private management or development investments. The practical application of the concept of ‘management’ of tourist site – when it collocates with an antiquity or antiquities site’ may conflict with DoA’s authority to conduct its role in the preservation of antiquities and antiquities sites. There is no clear mechanism in the Law that insures involvement of DOA in site use authorizations, within the process of investment/ development/ site use agreements that may be handled by Ministry of Tourism. What would be the rights and responsibilities of investors vis a vis such critical matters. How do we ensure predictability of site access, subject to investor compliance with DOA regulatory standards vis a vis antiquities.(For example, what if the DoA wants close an antiquities site (which is also a tourist site) for preservation and maintenance, but this runs against access provisions in investment agreements concluded by MOTA).
- Non-withstanding the mechanism for regulating tourism/antiquity sites by special instruments, the extent to which such instruments, override DOA authorities pursuant to the Antiquities law is problematic. These instruments do indeed provide an excellent platform for integrated site management. On the ground, they have also been used, perhaps successfully to create a more coherent regulatory framework than otherwise available under general provisions of two Laws. However, technically and legally speaking, these instruments do not solve the problem of the overlap. Without clear provisions

to this effect in the Tourism Law, cannot override principles, rules and principles, set forth in the Antiquities law. Therefore, the by-law may put in place more integrated management structure. However, it does not solve the problem of the overlap in substantive provisions of the two Laws.

Analysis of Jurisdiction

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
Role in Administration and Development				
Definition of Antiquities and Antique Sites		Definition of Tourist Sites		
<p>Article 2: “The following words and terms set out in this law shall have the meanings assigned to them below unless the context denotes otherwise: ...</p> <p>7- Antiquities:</p> <p>a- Any movable or immovable object which was made, written, inscribed, built, discovered or modified by a human being before the year AD 1750 including caves,...</p> <p>b- Any movable or immovable object as provided for in Clause ‘a’ of this definition which dates back after AD 1750 and which the Minister requests to be considered an antiquity by a decision published</p>	<p>Strength: The law <i>ipso facto</i> applies to all pre-1750 antiquities, without need to designate/register the antiquities.</p> <p>Further items belonging to a period later than 1750 can come under the control of the department and the purview of the law if deemed necessary. This provision extends the scope of the law potentially to all items of historic heritage.</p> <p>In addition to locations designated as historic sites pursuant to earlier laws, antique sites are defined to include potentially any area containing an antiquities item as defined above, or pertaining to important historic events, provided it is</p>	<p>Article 2/a: “The following words and terms set out in this law shall have the meanings assigned to them below unless the context denotes otherwise: ...Tourist Sites: Sites and lands and buildings and mineral water spas that are decided to be as such by the Council of Ministers upon recommendation from the Minister and declared as such in the Official Gazette”.</p> <p>Article 6: “The Council (The National Council for Tourism) shall carry out the following obligations and responsibilities: ...c. recommendation of the designation of Tourist Sites in the Kingdom”.</p>	<p>Strength: Tourist sites are those sites that are designated as such by a decision of the Council of Ministers upon recommendation from the Minister of Tourism and Antiquities, who receives on his part recommendation from the National Council for Tourism. Unless a site is declared as a tourist one, it would not fall under the jurisdiction of the Ministry of Tourism according to the Tourism Law.</p> <p>Weakness: To our knowledge, there are only two designated Tourist Sites, these are: the Plaza of the Karak Castle Site and the Baptism Site, and both of these were regulated by special Regulations.</p>	<p>Neither the Law of Antiquities nor the Law of Tourism foresees or deals with the logical possibility that a site may be in practice declared as both Antique and Tourist at the same time (as the case is with the Baptism Site), or that a Tourist Site can be surrounding to or containing an Antiquity (as is the case with the Plaza of the Karak Castle), or any other overlap between an Antiquity or Antique Site or Antiquities Protectorate from one side and a Tourist Site from the other.</p> <p>This is where problems of jurisdiction between the DoA and MoTA may rise.</p>

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
<p>in the Official Gazette. c- Human, animal and plant remains which date back before AD 600.</p> <p>8- Antique Site: a- Any area in the Kingdom that was considered as historic site under former laws. b- Any other area that the Minister decides that it contains any antiquities or that is related to important historical events, provided that his decision shall be announced in the Official Gazette”.</p> <p>Article 3: “a- The department will carry out of the following obligations and responsibilities:...2- The appraisal of the</p>	<p>so designated by Minister and published in the Official Gazette. This definition extends widely the scope of law and regulatory reach of department.</p> <p>The designation of an antique site is by mere ministerial decision published in the Official Gazette. That decision is taken upon recommendation from the DoA.</p> <p>Weakness: To our knowledge, only two sites were found to be declared as Antique Sites, those were: the Baptism site, and the Castle of Aqaba, however, the designation of the Castle of Aqaba as an Antique Site was decided by the Council of Ministers (and not by the Minister of Tourism as</p>			

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
archaeology of objects and Antique Sites and evaluation of the importance of every piece of antiquity”.	required by the Law). This is notable, as the department may not exercise jurisdiction over sites, qua sites, without their designation.			
General Mandate of the Department of Antiquities		General Mandate of the Ministry of Tourism and Antiquities		
<p>Article 3/a: “The Department shall carry out the following obligations and responsibilities:</p> <p>1- The execution of archeological policy of the state.</p> <p>2- The appraisal of the archeology of objects and antique sites and evaluation of the importance of every piece of antiquity.</p> <p>3- <u>The administration of Antiquities, Antique Sites and Antique Protectorates in the Kingdom, the</u></p>	<p>Positive: The mandate of the DoA includes the responsibility for the administration of Antiquities, Antique Sites and Antique Protectorates. In addition to the supervision, protection, maintenance, repair and preservation thereof, and the beautification of their surroundings and display of their features.</p> <p>Weakness: The term ‘administration’ is not explained more clearly in the Law. However, listed in the below rows are some authorities given to the DoA</p>	<p>Article 3: “The Ministry aims, in cooperation with the private sector and in coordination with the relevant specialized public entities, for the promotion of tourism, and its advancement, the development of tourist resources and the investment therein to increase its contribution to the support of the national economy and the spread of mutual understanding between nations, and in pursuance of these aims it shall carry out the following obligations and responsibilities:</p> <p>a. <u>The preservation of</u></p>	<p>Strength: The first paragraph in the mandate of MoTA includes ‘the development of tourist resources and the investment therein’ which should naturally include the development of Tourist Sites as they are of the most important tourist resources. In addition, paragraph ‘a’ stipulate for the preservation of Tourist Sites and their development and organization and administration and supervision....</p> <p>Similar provisions exist in the mandates of MoTA’s</p>	<p>When an overlap occurs between an Antique Site or Antiquities Protectorate from one side and a Tourist Site from the other side as explained above, an obvious conflict of jurisdictions would exist between the DoA and MoTA in terms of ‘administration’ of the site, because the same term is used in both Laws in relation to these sites.</p> <p>The inclusion of the Director of the DoA on the National Council of</p>

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
<p><u>supervision thereof, their protection, maintenance, repair and preservation, beautification of their surroundings and display of their features.</u></p> <p>4- The spread of archeological culture and the establishment of archeological and heritage institutes and museums.</p> <p>5- Searching for antiquities in the Kingdom.</p> <p>6- Rendering assistance in organizing museums pertaining to Government activities in the Kingdom including historic, technical and popular museums.</p> <p>7- Co-operation with</p>	<p>that could provide for further clarification to the concept of administration authority given to the DoA.</p>	<p><u>Tourist Sites and their development and investment directly and indirectly, including their organization and administration and supervision of the execution of infrastructure and basic constructions in them.</u></p> <p>b. The licensing of tourist professions and their categorization according to the provisions of this Law and the regulations issued thereunder, and the supervision thereof in the intent to organize and develop them to enhance the level of services rendered to tourists.</p> <p>c. The facilitation of procedures related to tourists in cooperation with specialized bodies and tourist organizations</p>	<p>subsidiary/related bodies such as the National Council of Tourism where it is of the obligations of the said Council to endorse programs for the development of Tourist Sites, and Jordan Tourism Board which have the obligation to suggest projects relating to the ‘enhancement and development’ of Tourist Sites, and finally the special administrations and committees established by the cabinet for the purpose of ‘development’ and ‘investment’ and ‘sustainability’ of the Tourist Sites which they are assigned for.</p> <p>Negative: The terms ‘development’, ‘organization’, ‘administration’ and ‘supervision’ are not</p>	<p>Tourism as one of nineteen members is important in the sense that the DoA would be acquainted and involved with all decisions relating to the Council’s mandate, especially when there is an overlap between a Tourist Site and an Antiquity or Antique Site or Protectorate. However, the DoA’s Director does not have special voting powers in the Council which means the issue of overlap of jurisdictions is not solved by the DoA’s membership in the Council.</p>

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
<p>local, Arab and foreign archeological groups who serve the national heritage and spread archeological awareness in accordance with the laws and regulations in force.</p> <p>8- The control of possession and disposal of antiquities pursuant to this Law and the regulations, decisions and instructions issued thereunder.</p>		<p>inside and outside the kingdom and the supply of all means of comfort and care to them.</p> <p>d. The setting up of comprehensive plans for tourist advertisement and the execution and supervision thereof and the advertising of tourism and its marketing to the Kingdom in cooperation with the relevant bodies.</p> <p>e. The making of tourist agreements with organizations and regional and international tourist commissions upon approval of the Council of Ministers.</p> <p>f. The organization of investment and its support and encouragement in the</p>	<p>explained more clearly in the Tourism Law, further clarifications concerning Tourist Sites in the Law do not exist. The Law focuses more about tourist professions and their regulation rather than about Tourist Sites.</p> <p>This is explained when we know that all these terms were not included in the original text of the Law, but rather were inserted by the Tourism Amending Law No. 10 for the Year 2004 which replaced the Temporary Tourism Amending Law No. 65 for the Year 2002.</p> <p>The case of the special administrations for certain Tourist Sites will be discussed separately below</p>	

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
Jordan Tourism Development Project				

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
Forms of Administration		Forms of Administration		
<p>Designation of borders of antique sites and easement rights thereto</p> <p>Article 4: “a- The Minister may, on the recommendation of the Director and in co-operation with the Department of Land and Survey decide the names and borders of Antique Sites. These shall be written down in the immovable antiquities register, including the specification of any rights of easement.</p> <p>b- Notice of such a</p>	<p>Strength: Easement rights are rights that are put on a real estate for the benefit of another. They either entitle someone else who is not the owner of the real estate to conduct certain actions on that estate, or deny the owner of that estate to exercise some of his rights in relation to that estate. An example of these rights is the building limitation put on the right of the owner of a real estate to build.</p> <p>Giving the DoA the authority to recommend the borders of Antiquity Sites and easement</p>		<p>Weakness: There are no such provisions in the Tourism Law.</p>	<p>It is clear that the designation of easement rights in relation to an Antique Site is of the authority of the DoA/Minister, which entails the conclusion that if there was an overlap between an Antique Site and a Tourist Site, and if the DoA/Minister put building limitations (for example that no building above 2 stories is permitted) on lands within or outside the Antique Site,</p>

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
<p>decision shall be given to all the authorities and departments concerned. Further, such antique sites shall be marked and their rights of easement shall be written in the registers and maps of the Department of Land and Survey”.</p>	<p>rights relating to them to the Minister, gives an implication of having the responsibility to administer or at least plan these sites.</p> <p>Weakness: It is not known to us what the practical application to this provision is. Nor is it clear how broad the DoA/Minister can specify the borders of the Antique Site or how broad and to which extent can they put easement rights in and around an Antique Site.</p>			<p>then all bodies should comply with these limitations. But what if MoTA in its mandate to administer Tourist Sites decides to contract with an investor to build a 20 stories hotel in the tourist site?? In our opinion, it would have to comply with the easement rights put on the land therein, and the procedure then would be that the Minister would have to change the easement rights put in the Antique Site, as per the Antiquity Law, to make that investment possible as per the Tourism Law. The decision of the Minister in that case would be illegal on grounds that it was not taken by</p>

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
				Recommendation of the DoA (as required by the Law), especially if the DoA opposes such a decision in pursuance of its mandate to preserve and administer Antique Sites and surroundings.
<p>Right of the DoA to appropriate land Article 5/e: “It is permissible to appropriate or purchase any real estate or antiquities which the Department’s interest requires the appropriation or purchase thereof”.</p>	<p>Strength: The department is authorized to acquire properties and antiquities by eminent domain or purchase. This right to appropriate land is not restricted to land in an Antique Site, but rather to any land regardless of its being in an Antique Site or anywhere else as long as the interest of the Department lies in its appropriation. Taking the DoA’s interest as the main motive to appropriation of land gives the implication of the DoA’s role of administration and organization and even</p>		<p>Strength: MoTA can appropriate land that it deems necessary for the execution of its mandate under the general principles of the Appropriation Law No. 12 for the Year 1987.</p> <p>Weakness: There are no provisions relating to appropriation of land in the Tourism Law.</p>	<p>The special provision for appropriation of land in the Antiquities Law, as opposed to the lack of such provision in the Tourism Law, supports the notion that the DoA is the more legally enabled authority to administer a site in that sense when there is overlap of jurisdictions.</p>

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
	planning an Antique Site or an Antiquity and their surroundings.			

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
<p>Ownership of immovable antiquities and registration of Antique Sites in the name of the Treasury/DoA</p> <p>Article 5/a: “Ownership of immovable antiquities shall be exclusively vested in the state. No other party may own these antiquities in any way or challenge the state’s right to such ownership by prescription or any other means”.</p> <p>Article 5/f: “All antique sites shall be registered in the name of the Treasury/Antiquities in addition to all the antique sites which are not registered with the Department, which are discovered in the Treasury land or which are</p>	<p>Strength: The law states categorically that immovable antiquities are public property <i>de jure</i>, and are not subject to private claims.</p> <p>It has been stressed by the Court of Cassation that the ownership of the Treasury/Antiquities extends only to Immovable Antiquities, and does not extend to land ownership in the Antique Site unless this land was originally of the ownership of the Treasury or if it was appropriated or bought by the Treasury.</p> <p>This – along with Article 6 – stresses the notion that the DoA is responsible for the administration of Antique Sites.</p> <p>Weakness: The statement in Article 5/f is unclear and is</p>			

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
appropriated or purchased”	confusing and gives the notion that all land in an Antique Site should be of the property of the Treasury/Antiquities, however, as explained above, that is not true.			
Control over land in an Antique Site Article 6: “The Minister will, on the recommendation of the Director, publish in the Official Gazette a list of the names and borders of the Antique Sites in the Kingdom provided that such lists will be displayed in the center of the Governorate, province, district, locality or village where the Antique Site is located. No land in such sites shall be commissioned, leased or allocated to any entity without the approval of the Minister”.	<p>Strength: Approval of the Minister is required for any commissioning, allocation, or leasing of lands within Antique Sites. This gives the Department some control over state land as well as private land within the Antique Site.</p> <p>The required approval of the Minister does not seem to require recommendation from the DoA or its Director.</p> <p>Weakness: Article (6) seems to imply that lands within antiquities sites are state property. In any case, the law is not clear as to the transfer, use, and rights of disposal related to private lands within Antique Sites.</p>		Weakness: There are no such provisions in the Tourism Law.	The question arises here about the Minister’s actions that are taken in his capacity to execute the provisions of the Antiquities Law, should he always act upon recommendation from the DoA even when that recommendation is not required by the Law? Example: If MoTA wants to commission or lease or allocate land in an Antique Site for some entity to achieve more tourist development for the tourist site, the Minister’s approval is required to affect such land disposition;

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
				however, does the Minister have to consult with the DoA before giving such consent? This would be up to the discretionary authority of the Minister would not be questioned unless specific conditions occur such as the major defect in the decision he issued.
<p>Building buffer zones around antiquities Article 13: “a- It is prohibited to license the establishment of any structure including buildings and walls unless it is about 5-25 meters away from antiquities, against a fair compensation. b- It is permissible, by a decision of the Minister on the recommendation of the Director, to increase the distance mentioned in Paragraph ‘a’ of this Article if</p>	<p>Strength: Although poorly drafted, the law effectively prevents licensing of construction within less than 5 meters and up to 25 meters of antiquities.</p> <p>This restriction is linked to antiquities and not sites and therefore applies unconditionally (as opposed to the requirement of official designation of Antique Sites for purposes of law application).</p> <p>It can be invoked arguably to reverse violating</p>	<p>The Quarries Regulation No. (8) for the Year 1971 issued in pursuance of the Regulation of Natural Resources Affairs Law provides that: “No license for the establishment of a quarry shall be granted or renewed unless: ... c. the distance between the quarry and the closest public place such as tourist areas and forests and public parks is not less than one kilometer in flat and open areas, half of this distance would suffice in case of the existence of a natural partition that conceals the quarry on condition that this would not affect the general view of the</p>	<p>Strength: The provision in the Quarries Regulation applies directly to Tourist Sites.</p> <p>Weakness: There are no other similar provisions in the Tourism Law to these concerning building buffer zones around antiquities stipulated in the Antiquities Law.</p>	<p>Here arises the issue of jurisdictional conflict between the DoA and MoTA when an Antiquity is surrounded by an area declared as a Tourist Site.</p> <p>In light of lack of any other provisions or stipulations, it is concluded here that MoTA should comply with the buffer zones stipulated and/or expanded under Article 13 of the Antiquities Law, even if that area was declared as a Tourist Site.</p>

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
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<p>necessity requires in any of the following cases:</p> <p>1- The protection or maintenance of the antique site.</p> <p>2- The expansion of the antique site.</p> <p>3- To secure that the antique site is not obscured by any construction</p> <p>c- It is prohibited to set up any heavy or dangerous industries, lime furnaces or stone quarries at a distance less than one kilometer from the location of the antique sites. In all cases, prior approval of the Department shall be given before inviting offers or awarding tenders for engineering services, designs and sketches and preparing the documents of public and private project tenders”.</p> <p>The Quarries Regulation</p>	<p>constructions after discovery or active regulation of an antiquity.</p> <p>This is a basic provision that may be invoked to create a buffer zone around antiquities, extend antiquities sites and protect scenic views.</p> <p>The provision in the Quarries Regulation should apply to Antique Sites and to areas surrounding Antiquities in their consideration as public areas, which adds an application mechanism to the provision in the Antiquities Law</p>	<p>neighboring area...”.</p>		

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<p>No. (8) for the Year 1971 issued in pursuance of the Regulation of Natural Resources Affairs Law provides that: “No license for the establishment of a quarry shall be granted or renewed unless: ...</p> <p>c. the distance between the quarry and the closest public place such as tourist areas and forests and public parks is not less than one kilometer in flat and open areas, half of this distance would suffice in case of the existence of a natural partition that conceals the quarry on condition that this would not affect the general view of the neighboring area...”.</p>				

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
<p>Mandate to issue regulation relating to admission fees to Antique Sites</p> <p>Article 34: “The Cabinet may issue the regulations necessary for the execution of the provisions of this Law including the excavation fees and conditions, fees of admission into museums and Antique Sites, museum guide licensing and formation of consultative councils and bodies”.</p> <p>The Admission Fees for Museums and Antique Sites’ Regulation No. 40 for the Year 2002 Issued Pursuant to Article 32 of the Antiquities Law No. 21 for the Year 1988:</p> <p>Article 3: “Without prejudice to the provisions of Article 4 of this Regulation [exemption of admission fees], the Department [the DoA] shall</p>	<p>Strength: The law provides for the Council of Ministers to put regulations governing admission fees for Antique Sites.</p> <p>Weakness: The admission Fees for Museums and Antiquity Sites’ Regulation No. 40 for the Year 2002 stipulates for admission fees for both Antique Sites and Tourist Sites, and puts the DoA in charge of collecting them. However, there is no mandate in Antiquities Law for the DoA to be collecting admission fees for Tourist Sites</p> <p>In addition, it is noted here that the Law does not authorize DOA to collect other than entry fees. There is no basis in the Law for DOA to collect commercial site use or exploitation fees, much less returns on its own investments in sites, or investment returns from concessionaires.</p>	<p>Mandate to issue regulation relating to admission fees to Tourist Sites</p> <p>Article 16: “The Cabinet may issue the regulations necessary for the execution of the provisions of this Law including in relation to the following matters:</p> <p>...</p> <p>b. specification of admission fees to Tourist Sites and exemption thereof”.</p>	<p>Strength: The Law provides for the Council of Ministers to put regulations governing admission fees for Tourist Sites and exemption thereof.</p> <p>Weakness: The Admission Fees for Museums and Antique Sites’ Regulation No. 40 for the Year 2002 Issued Pursuant to Article 32 of the Antiquities Law No. 21 for the Year 1988 stipulates for admission fees (and exemption thereof) for both Antique Sites and Tourist Sites, and puts the DoA in charge of collecting them.</p>	<p>As both Law (the Tourism and Antiquities) provide for the regulation of admission fees for (respectively) Tourist and Antique Sites, but with no foresight of overlap between both sites, this could theoretically lead to the duplication of admission fees to a site when it is designated as both Tourist and Antique. However, the Cabinet upon issuance of the Admission Fees for Museums and Antique Sites’ Regulation No. 40 for the Year 2002, included therein both Tourist and Antique Sites, and put the DoA in charge of collecting admission fees to them.</p>

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
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<p>charge every visitor who is more than twelve years old upon his visit to any museum or antique or tourist site admission fees as per the following schedule:</p> <ol style="list-style-type: none"> 1. The Jordanian museum of Antiquities and the mount of the Citadel in Amman... 2. The museum of folklore life and the museum for folklore accessories and customs and the Roman Auditorium and the Small Auditorium... 3. The museum of the antiquities of Madaba and Madaba's archeological park and the church of the prophets... 4. Om Qais... 5. The Castle of 				The assignment of the collection of admission fees to Tourist Sites to the DoA is not legally founded and exceeds the mandate of the DoA.

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
<p>Ajloun...</p> <p>6. Jerash...</p> <p>7. The sound and light program in Jerash...</p> <p>8. The castle and museum of Karak...</p> <p>9. The museum of the residence of Al-Sharif Hussein bin Ali and the castle of Aqaba...</p> <p>10. The Antiquities Protectorate of Petra..."</p>				
		<p>The Commission of the Baptism Site Regulation No. (48) for the Year 2001 Issued Pursuant to Articles 3, 16 of the Tourism Law No. (20) for the Year 1988</p> <p>Article 3/a: "A commission shall be established in the Kingdom by the name 'The Commission of the Baptism Site' that aims for the preservation of the site, its administration, development, the investment of its utilities, its</p>		<p>(as in below comment)</p> <p>The Baptism site is declared as both Tourist and Antique Sites, this raises questions on the legality of regulating a site that is under the jurisdiction of the DoA pursuant to the Law of Antiquities through a Regulation that is issued in pursuance to the Law of Tourism, and on the giving of certain authorities that</p>

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
		<p>sustainability in a way that corresponds with its civilizational and archeological and environmental importance and its preparation for visitors reception”.</p> <p>Article 5: “For the purpose of establishing its goals, and in cooperation and coordination with relevant entities, the Commission shall carry out the following obligations:</p> <p>a. the preservation of archeological discoveries in the Baptist Site, of the remains of churches and the utilities relating to the Christ baptism and of the Mosaic drawings and other discoveries.</p> <p>b. the preservation of the natural beauty of the site and the formation of the rocks and soil and the plant organism and wild life therein.</p> <p>c. the preparation of all studies and projects necessary for the development of the site, and the undertaking of all necessary measures for their execution.</p>		<p>was originally of the DoA to a special commission separate from the DoA.</p>

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
		<p>d. the protection of the natural environment and the archeological discoveries in the site from the possible negative effects resulting from the execution of the development works and from architectural and agricultural activities and the visitors movement.</p> <p>e. the set up of a suitable cultural and educational plan to enable the visitors of the site to know its religious, historical and natural components, and the undertaking of necessary measures to implement the plan without any effect on the components of the site.</p> <p>f. the supply of suitable services for the visitors of the site in accordance with international standards.</p> <p>g. the preservation of the water basin surrounding the Site, the prevention of any excessive use of the groundwater in that area, that is in cooperation and coordination with relevant entities.</p>		

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
		<p>h. the coordination with relevant entities to organize the direct surroundings of the Site by the prevention of the execution of works and constructions that is inconsistent with the activities of tourist investment in the northern beach of the Dead Sea and the preservation of these activities.</p> <p>i. the collaboration with the relevant entities in the preservation of the agricultural area in the Site from the constructional advance and any non-agricultural activity.</p> <p>j. the cooperation with all relevant public institutions and the tourism sector to provide the necessary financing for the administration of the site and its maintenance and sustainability.</p> <p>k. the registration of archeological discoveries and preparation of leaflets and movies and booklets and tourist posters and the production of tourist entertainment media and their publishing, distribution and selling and the issuance of</p>		

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
		<p>periodical magazines and leaflets, in coordination with the Jordan Tourism Board.</p> <p>1. the coordination and cooperation with the Ministry [MoTA] to establish the Commission's goals".</p>		
		<p>The Administration of the Tourist Plaza of the Karak Castle Regulation No. (48) for the Year 2002 Issued Pursuant to Articles 3, 16 of the Tourism Law No. (20) for the Year 1988</p> <p>Article 5: "The Committee [the Committee for the Administration of the Tourist Plaza of the Karak Castle] shall carry out the following obligations and responsibilities:</p> <p>a. the set up of a general plan for the administration of the Year and its utilities and the preparation of studies and programs necessary for that purpose.</p> <p>b. the investment of heritage facilities and buildings in the Plaza in accordance to contracts</p>		<p>There are similar concerns (please see above the comment on the Baptism Site) pertaining to the Administration of the Tourist Plaza of the Karak Castle Regulation, as the Karak Castle may be considered as an Antiquity and therefore it is governed – together with its surroundings – by the Law of Antiquities, in addition, the Plaza itself maybe considered as an Antiquity .</p>

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
		<p>that are entered to with others for that purpose.</p> <p>c. the recommendation for the Council of Ministers to appropriate or lease buildings that are of heritage importance for the purposes of their restoration and investment.</p> <p>d. the set up of an appropriate marketing plan to enable the visitors of the Plaza to know its components.</p> <p>e. the supply of services for the visitors of the Plaza in accordance with international standards.</p> <p>f. the specifications of any fees that are charged for the benefit of the Plaza of the investor in return of services rendered to the visitors of the Plaza.</p> <p>g. the opening of a special account in a bank or more to deposit the revenues of the Plaza, on the condition that spending from this account should be instructions that are put by the Committee for this purpose.</p>		

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
		<p>h. to use a part from the financial revenue of the Plaza to lease the heritage buildings that are situated in the borders of the old city of Karak, or to appropriate them in accordance with the Law of Appropriation, for the purposes of their restoration and usage as it deems appropriate for tourist objectives.</p> <p>i. the appointment of the administrative and technical body necessary for the administration of the Plaza and the supervision of all tourist activities and actions that shall take place therein, and the maintenance and sustainability of its utilities.</p> <p>j. the appointment of a director for the Plaza and the specification of his salary and financial rights.</p> <p>k. the appointment of certified financial audit and the specification of his wages.</p> <p>l. the set up of a draft budget for the Plaza's special account.</p> <p>m. the endorsement of the yearly</p>		

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
		report and final audits which are prepared by the Director of the Plaza”.		
The Ability to Attract Investments				
<p>Article 6: “The Minister will, on the recommendation of the Director, publish in the Official Gazette a list of the names and borders of the Antique Sites in the Kingdom provided that such lists will be displayed in the center of the Governorate, province, district, locality or village where the Antique Site is located. No land in such sites shall be commissioned, leased or allocated to any entity without the approval of the Minister”</p> <p>The Administration of State Property Law No. 17 for the Year 1974 Article 2: “The term ‘State</p>	<p>Weakness: As the Antiquities Law have a special term mandating the approval of the Minister of Tourism and Antiquities to any commissioning or leasing of land within an Antique Site, it is not clear whether Administration of State Property Law No. 17 for the Year 1974 or the Commissioning and Leasing of State Property Regulation No. 53 for the Year 1977 would still apply to properties registered in pursuance of the Antiquities Law in the name of the Treasury/Antiquities in terms of technical procedures related to the commissioning or leasing of land.</p> <p>In the special case of Petra, it is prohibited to deposit of land in</p>	<p>Mandate of MoTA Article 3: “The Ministry aims, in cooperation with the private sector and in coordination with the relevant specialized public entities, for the promotion of tourism, and its advancement, the development of tourist resources and the investment therein to increase its contribution to the support of the national economy and the spread of mutual understanding between nations, and in pursuance of these aims it shall carry out the following obligations and responsibilities: a. The preservation of Tourist Sites and their development and investment directly and indirectly, including their organization and administration and supervision of the execution of infrastructure and basic</p>	<p>Strength: It is clear from the first phrase of the mandate of MoTA according to the Tourism Law that it can cooperate with the private sector (in coordination with the relevant specialized public entities) to achieve its obligations and responsibilities.</p> <p>MoTA’s obligations also include several indications of attracting investments to conduct MoTA’s obligation to preserve, develop, organize and administer Tourist Sites. This reiterated in the responsibility of the ‘making of tourist agreements with organizations and regional and international tourist commissions upon approval of the Council of Ministers’, and ‘the organization of investment and</p>	

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
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<p>Property’ means: immovable properties registered in the name of the Treasury of the Hashemite Kingdom of Jordan or which will be registered in its name according to applicable legislations....”</p> <p>Article 7: "Leasing of State Property for non-agricultural purposes is to be conducted by a decision from the Minister [Minister of Finance] upon the recommendation of the Director [Director of Land and Survey Department] without the need for a committee or declaration, other terms and conditions for leasing in this case shall be specified by a regulation that shall be issued for that purpose".</p> <p>Article 8: "Taking into consideration the provisions of Paragraph (c) in this Article, State</p>	<p>the Protectorate, it is also prohibited to make any form of disposition of State land in the Province unless this was for governmental purposes and uses, and upon the approval of the Cabinet by recommendation of the Board of the Administration of the Authority.</p>	<p>constructions in them.</p> <p>...</p> <p>e. The making of tourist agreements with organizations and regional and international tourist commissions upon approval of the Council of Ministers.</p> <p>f. The organization of investment and its support and encouragement in the tourism sector according to the general policy that the Council puts.</p> <p>g. The encouragement of internal tourism and tourist investment and its organization and support and the organization of tourist plans for that purpose to acquaint citizens with the Kingdom’s landmarks”.</p> <p>Mandate of special administrations or commissions</p> <p>Article 14/g: “The Cabinet</p>	<p>its support and encouragement in the tourism sector according to the general policy that the Board puts’, and ‘the encouragement of internal tourism and tourist investment and its organization and support and the organization of tourist plans for that purpose to acquaint citizens with the Kingdom’s landmarks’.</p> <p>It is also stressed upon the provision for special administrations or commission to manage certain Tourist Sites, by stating that their management for the sites includes ‘the development and investment of these sites and utilities and their sustainability, the obligations and all relevant matters thereof’.</p> <p>Two Tourist Sites are administrated by special commissions and regulated by Regulations, these are: the Baptism site regulated by the Commission of the Baptism Site</p>	

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
<p>Property shall be commissioned and leased according to the following priorities:</p> <p>a. agricultural purposes:...</p> <p>b. residential purposes:</p> <p>1...</p> <p>2...</p> <p>3....</p> <p>4. Except for what is stipulated in Article 7, State Property shall be leased for purposes other than agricultural or residential according to what is decided by the Cabinet upon the recommendation of the Higher Committee [consisting of the Minister of Finance, Director of the Land and Survey Department, vice-president of the Agricultural Loan Corporation, Secretary of the Ministry of Interior, Secretary of the Ministry of Municipal Affairs and Director General of the Department of Forests and</p>		<p>may, upon recommendation from the Minister, establish administrations or commissions for Tourist Sites and utilities with specific budgets and administrative structures aiming at the development and investment of these sites and utilities and their sustainability, the obligations and all relevant matters thereof shall be regulated by a Regulation issued for this purpose”.</p>	<p>Regulation No. (48) for the Year 2001, and the Plaza of the Karak Castle site regulated by the Administration of the Tourist Plaza of the Karak Castle Regulation No. (48) for the Year 2002. The provisions of these two Regulations include special provisions for attracting investments in these sites.</p> <p>Weakness: MoTA is clearly authorized to invest tourism sites directly and indirectly, although the Law does not elaborate on the requisite mechanism and authorities to exercise this mandate – without taking the special regulations for certain Tourist Sites into account.</p> <p>The Baptism site is declared as both Tourist and Antique Sites, this raises questions on the legality of regulating a site that is under the jurisdiction of the DoA pursuant to the Law of Antiquities through a Regulation</p>	

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Legal Text	Implications and Comments	Legal Text	Implications and Comments	
<p>Pasturelands]".</p> <p>The Commissioning and Leasing of State Property Regulation No. 53 for the Year 1977 issued in pursuance to Article 19 of the Administration of State Property Law No. 17 for the Year 1974</p> <p>Article 2: "a. the Cabinet may, upon the recommendation of the Minister of Finance based on the recommendation of the Central Committee, commission State Property to industrial, mineral, tourist and residential projects, and similar services, after the taking of the opinion of the relevant ministry, and in the price of the like that is decided by the Central Committee on the base of estimated amount of market prices.</p> <p>b. the Minister of Finance may upon the</p>			<p>that is issued in pursuance to the Law of Tourism, and on the giving of certain authorities that was originally of the DoA to a special commission separate from the DoA.</p> <p>In addition, there are similar questions pertaining to the Administration of the Tourist Plaza of the Karak Castle Regulation, as the Karak Castle may be considered as an Antiquity and therefore it is governed – together with its surroundings to the extent explained above – by the Law of Antiquities, in addition, the Plaza itself maybe considered as an Antiquity.</p> <p>There is also a concern about the constitutionality of the Commission of the Baptism Site Regulation No. (48) for the Year 2001 and the Administration of the Tourist Plaza of the Karak Castle Regulation No. (48) for the Year 2002, as they were</p>	

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<p>recommendation of the Central Committee lease State Property to any of the projects referred to in Paragraph 'a' above, for a rent that shall be decided by the Central Committee on the basis of the estimated market rent.</p> <p>The Authority of the Province of Petra Law No. 15 for the Year 2005 Special Provision for Petra</p> <p>Article 22: “a. Regardless of any other legislation, it is prohibited to dispose of the lands of the protectorate (the Antiquities of Petra) or to sell or lease or commission them to any entity or natural or abstract person, whether it was Jordanian or non-Jordanian. b. The Antiquities Law in effect shall govern the lands of the protectorate (the Antiquities of Petra)”.</p>			<p>issued respectively on 26/6/2001 and 26/3/2002 in pursuance to Articles 3, 16 of the Tourism Law, and at that time the provisions of the Tourism Law did not contain a clear mandate to the possibility of indirect administration of Tourist Sites or the appointment of special commissions and the issuance of special Regulations for that purpose. The Law was not amended until 13/8/2002 by the issuance of the Temporary Tourism Amending Law No. 65 for the Year 2002 (which was replaced later by the Tourism Amending Law No.10 for the Year 2004), the amendment included the stipulation in Article 3/a on the administration and investment of Tourist Sites directly and indirectly, as well as the addition of the paragraph (g) of Article 14 which is stipulated on the left. The question is then: was there a sound legal basis for the issuance of the two regulations,</p>	

The Antiquities Law No. 21 for the Year 1988		The Tourism Law No. 20 for the Year 1988		Comments and Conclusions
Legal Text	Implications and Comments	Legal Text	Implications and Comments	
Article 23: “In spite of any other legislation, it is prohibited to dispose of any state land and property and the land that is registered in the name of the Treasury in the Province or selling or leasing or commissioning it to any body or natural or abstract person, unless this was for governmental purposes and uses, and upon the approval of the Cabinet by recommendation of the Board [The Board of the Administration of the Authority]”.			and if not, is the later amendment of the law sufficient to amend that flaw? Article 14/g of the Law uses the term ‘tourist utility’, such term was not used nor identified in the Law; therefore, it is not accurate and rather confusing.	

Recommendations:

The optimal and sustainable development, presentation, management and economic and tourism utilization of Jordan's public heritage assets is at the core of the Tourism Strategy. Further, the Strategy banks on leveraging private investment in this area, and not only at the level of operations, but also infrastructure investments and on-going development. This in turn requires a coherent, predictable, effective, and investment assuring environment. The current Legislation, especially the Tourism and the Antiquities Law in our opinion does not support such objectives. The Tourism Law has basic principles in supporting investments, but lacks the detailed rules, provisions and mechanisms to allow Ministry to exercise its authorities effectively, while insuring investor confidence. Further, when it comes to Tourism Site Management, the two Laws leave numerous unresolved overlaps in jurisdictions. Therefore it is recommended that the two Laws be revised in reference to best practice model Laws and by amended as appropriate.