

# **POWER AND PROFIT: INVESTIGATING SRI LANKA'S MILITARY BUSINESSES**





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Investigating Sri Lanka's Military  
Businesses**



The South Asian Centre for Legal Studies (SACLS) works on advancing Transitional Justice: victims' right to truth, justice, reparations and guarantees of non-repetition.

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## **1. INTRODUCTION**

The end of the armed conflict in Sri Lanka saw a significantly increased level of military presence in civilian life across the country, with the military actively engaging in a variety of activities. These activities include humanitarian relief and participation in infrastructure projects, as well as engaging in profit generation through businesses and other economic ventures. This foray into economic activities and businesses by the military covers a range of sectors including hotels, restaurants, travel, leisure, and agriculture. These enterprises are spread across the country and have nationwide implications for the economy and rule of law.

This report examines these implications by discussing the following concerns and issues arising from the military's economic activities:

- The lack of information regarding the legal and administrative frameworks within which the military engages in businesses;
- Potential unfair competition and market distortion by the military's engagement in business resulting in the crowding out of private investors;
- Lack of oversight over military businesses by the government, causing several rule of law implications regarding transparency and accountability;
- Social and economic consequences particular to the North and East as a result of the military occupying an economic vacuum.

The report concludes that the military's engagement in businesses and economic activities in Sri Lanka has led to serious consequences for the economy and rule of law. Markets are distorted, civilians are deprived of economic opportunities and state-funded or operated businesses are neither transparent nor accountable. The report recommends that these businesses be eventually managed by private or public sector entities, to ensure fair play in the market and greater transparency and accountability.

This report is informed by primary data, which was collected principally in Kilinochchi and Mullaitivu but also in Jaffna, Mannar and Vavuniya, in late 2017. It involved a series of interviews with local members of the community, CSD employees, government officials and community leaders. This report additionally relies on a literature review and secondary data from a variety of sources. Much of the data was obtained from information publicly made available by government entities.

The remainder of the report is divided into four sections. Section two will introduce the range of military enterprises and attempt to place them within the framework of their respective forces. Section three will discuss the implications for the country's economy and rule of law and examine how military business affects the market and accountability. Section four will identify the unique impact these businesses and activities have in the North and East, given the context of post-war recovery. Finally, section five will conclude and offer concrete recommendations.



## **2. THE ECONOMIC ACTIVITIES OF THE ARMED FORCES AND THE CIVIL SECURITY DEPARTMENT**

The Sri Lanka Army (SLA), Sri Lanka Navy (SLN), Sri Lanka Air Force (SLAF) and the Civil Security Department (CSD) each have a portfolio of businesses, which are spread across various sectors. This section details these profit generating businesses, though it is important to note that it remains largely unclear<sup>1</sup> how these businesses are administered or what legal oversight applies, due to the lack of information available in the public domain.

### ***A. Businesses of the Armed Forces in the Hotel/Resort Sector***

The armed forces run a number of hotels and resorts throughout Sri Lanka. These entities appear to rely on state resources for construction and their continued operations. All of the following entities were built and are operated exclusively by the respective branch of the armed forces that owns them today, and there are no records of any private investors or corporate partners being involved in their construction or operations. Moreover, armed forces exclusively staff these hotels and resorts, which do not employ civilians.

#### ***i. The Laya Group of Resorts***

The Laya Group of Resorts is a luxury chain of resorts offering high-end accommodation and hospitality services.<sup>2</sup> As of February 2018, the Laya Group operates resorts in four main destinations: Laya Waves in Kalkudah, Laya Leisure in Kukulegama, Laya Beach in Wadduwa and Laya Safari in Yala.<sup>3</sup> Each offers a range of all-inclusive packages at competitive prices. The group also operates Laya Travels; a travel agency offering services such as air ticket reservations, visa handling and securing of travel insurance.<sup>4</sup>

The Laya Group operates and functions under the SLA's Directorate of Welfare (DoW).<sup>5</sup> Although the DoW has operated hotels for SLA personnel in the past<sup>6</sup>, its role was significantly enhanced after the end of hostilities in 2009 with the DoW cooperating with the Government's policy of nation-building through urban development and tourism.<sup>7</sup> The resorts of the Laya Group constitute the culmination of the DoW's implementation of this policy.

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<sup>1</sup> The term “*profit-generating businesses*” is to be understood in this context as businesses carried out by the armed forces and the Civil Security Department (‘CSD’) that generate profits while being supplemented by state/military budgetary allocations/resources.

<sup>2</sup> Laya Sri Lanka Hotels, available at <http://layahotels.lk/>

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Sri Lanka Army, *Performance Report*, 2016, page 42.

<sup>6</sup> In 1989, the SLA Directorate of Welfare set up the Wadduwa Holiday Resort, Wadduwa. The resort was to be a space for rest and recreation for SLA personnel and their families.

<sup>7</sup> Laya Sri Lanka Hotels, available at <http://www.layahotels.lk/aboutus.php>

**Figure 1: Laya Safari, Yala**



Source: <http://www.layahotels.lk/layasafari-gallery.php>

**Figure 2: Laya Beach, Wadduwa**



Source: <http://www.layahotels.lk/layabeach-gallery.php>

**Figure 3: Laya Waves, Kalkuda**



Source: <http://www.layahotels.lk/layawaves-gallery.php>



**Figure 4: Laya Leisure, Kukulegama**



Source: <http://www.layahotels.lk/layaleisure-gallery.php>

### *ii. Thalsevana Holiday Resort*

The Thalsevana Holiday Resort is a luxury beach resort on the secluded Kankesanthurai beach. Opened in October 2010, it remains one of the only luxury resorts in Kankesanthurai<sup>8</sup> and regularly attracts patrons for this reason.<sup>9</sup>

Though the hotel is owned and managed by the SLA<sup>10</sup>, unlike the Laya Group of Resorts, there is very little information on whether or not the Thalsevana Army Resort falls within the control of a Directorate of the SLA. This is curious as the armed forces' command structures for accounting and reporting are based on their network of Directorates. However, it has been reported that the resort is overseen by the Security Forces Headquarters – Jaffna, which is merely a regional command, and not a central administrative arm of the SLA.<sup>11</sup>

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<sup>8</sup> Sri Lanka Army, *Commander of the Army Declares Open 'Thalsevana', the Luxurious Holiday Resort in Jaffna*, available at <http://www.army.lk/news/commander-army-declares-open-%C3%A2%E2%82%AC%CB%9Cthalsevana%C3%A2%E2%82%AC%E2%84%A2-luxurious-holiday-resort-jaffna-0>; see also, Civil Military Coordination – Jaffna, *Thalsevana Holiday Resort at KKS Wins International Gold Award*, available at [http://www.cimicjaffna.com/Cimicnews\\_2013\\_07\\_04.php](http://www.cimicjaffna.com/Cimicnews_2013_07_04.php)

<sup>9</sup> Although much of the land in Kankesanthurai has been released to the public following the end of the armed conflict, vast tracts of land are still under the exclusive control of the SLA, including the land and stretch of the coastline where the Thalsevana Army Resort is located. See: The Sunday Leader, *Government Accused of Failing to Address Land Issue*, available at <http://www.thesundayleader.lk/2016/06/05/government-accused-of-failing-to-address-land-issue/>; Sri Lanka Army, *Valikamam North Areas under KKS High Security Zone Released to Their Rightful Owners*, available at <http://www.army.lk/news/valikamam-north-areas-under-kks-high-security-zone-released-their-rightful-owners>

<sup>10</sup> Thalsevana Army Resort Jaffna, available at <http://www.thalsevanaresort.com/>; see also, Sri Lanka Army, *Commander of the Army Declares Open 'Thalsevana', the Luxurious Holiday Resort in Jaffna*, available at <http://www.army.lk/news/commander-army-declares-open-%C3%A2%E2%82%AC%CB%9Cthalsevana%C3%A2%E2%82%AC%E2%84%A2-luxurious-holiday-resort-jaffna>

<sup>11</sup> Thalsevana Army Resort, Jaffna, available at <http://www.thalsevanaresort.com/>

**Figure 5: Thalsevana Holiday Resort, Kankesanthurai**



Source: <http://www.army.lk/news/>

### iii. Chundikulam Nature Park Holiday Resort

The Chundikulam Nature Park Holiday Resort is one of the few resorts located near the Chundikulam Birds Sanctuary, a national park near Kilinochchi.<sup>12</sup> This resort opened in January 2012 and is operated exclusively by the SLA.<sup>13</sup> It is more modest than other listed resorts and hotels and offers much lower prices.<sup>14</sup> It is unclear which arm of the SLA oversees administration of the Chundikulam Nature Park Holiday Resort; there are conflicting reports indicating that it is administered either by the 55<sup>th</sup> Division of the SLA or by the Security Forces Head Quarters - Jaffna.<sup>15</sup>

### iv. Malima Hospitality Services

Malima Hospitality Services is a real-estate group that operates a number of luxury resorts, restaurants and reception/banquet halls. Since commencing its operations in 2013, it has established properties in some of Sri Lanka's most popular destinations.<sup>16</sup> The group operates five luxury resorts: Sober Island Resort in Trincomalee,<sup>17</sup> Fort Hammenhiel off the southern

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<sup>12</sup> Sri Lanka Army, *Chundikulam Birds Sanctuary Resurrects and Open for Tourists*, available at <http://www.army.lk/news/chundikulam-birds-sanctuary-resurrects-open-tourists>

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid. See also; Sri Lanka Army, *Chundikulam Birds Sanctuary Resurrects and Open for Tourists*, available at <http://www.army.lk/news/chundikulam-birds-sanctuary-resurrects-open-tourists>, which states that the Chundikulam Nature Park Holiday Resort was formally opened by the Commander of the Security Forces Head Quarters – Jaffna at the time.

<sup>16</sup> Daily FT, *Navy Launches Hospitality Ventures under new brand Malima*, available at <http://www.ft.lk/article/158358/Navy-launches-hospitality-ventures-under-new-brand-Malima>; News.lk, *'Malima'- Sri Lanka Navy's hospitality venture*, available at <http://archive2.english.news.lk/news/sri-lanka/5601-malima-sri-lanka-navys-hospitality-venture>

<sup>17</sup> Sober Island Resort available at <http://soberislandresort.lk/>



coast of Jaffna,<sup>18</sup> Lagoon Cabanas in Panama,<sup>19</sup> Weligambay Villas in Weligama,<sup>20</sup> and the Golf Link Hotel also in Trincomalee.<sup>21</sup> It has been reported that at least one of these properties was built on lands belonging to private citizens who had been forcibly evicted.<sup>22</sup>

Malima Hospitality Services is operated exclusively by the SLN. However, there is no information regarding the administrative framework within which it operates, or which arm of the SLN oversees its operations and management. Despite media reports that Malima Hospitality Services functions under the “Sri Lanka Navy leisure sector” and that the Navy Commander is the “Chairperson” of the venture<sup>23</sup>, official documentation of the SLN makes reference to neither such a “leisure sector” nor its functions. In fact, the official web-portal of Malima Hospitality Services makes no reference to it being operated by the SLN.

**Figure 6: Fort Hammenhiel, Jaffna**



Source: <http://www.forthammenhielresort.lk/gallery.html>

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<sup>18</sup> Fort Hammenhiel available at <http://forthammenhielresort.lk/>

<sup>19</sup> Lagoon Cabanas available at <http://lagooncabanas.lk/>

<sup>20</sup> Weligambay Villas available at <http://weligambayvillas.lk/>

<sup>21</sup> The Golf Link Hotel available at <http://golflinkhotel.lk/>

<sup>22</sup> The Sunday Leader, *Panama Community Continue To Suffer Even Under Good Governance*, available at <http://www.thesundayleader.lk/2016/09/26/panama-community-continue-to-suffer-even-under-good-governance/>

<sup>23</sup> Ibid. See also: Daily FT, *Navy Launches Hospitality Ventures under new brand Malima*, available at <http://www.ft.lk/article/158358/Navy-launches-hospitality-ventures-under-new-brand-Malima>; News.lk, *'Malima'- Sri Lanka Navy's hospitality venture*, available at <http://archive2.english.news.lk/news/sri-lanka/5601-malima-sri-lanka-navys-hospitality-venture>; The Island, *Navy launches Malima Group of Hotels*, available at [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=81197](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=81197)

**Figure 7: Golf Link Hotel, Trincomalee**



Source: <http://golflinkhotel.lk/location.html>

**Figure 8: Weligambay Villas, Mirissa**



Source: <http://weligambayvillas.lk/location.html>

*v. Marble Beach Air Force Resort*

The Marble Beach Air Force Resort is a luxury hotel in Trincomalee, which is fully owned and operated by the SLAF.<sup>24</sup>

Marble Beach, Trincomalee is one of the most popular beaches in the area, and has been under the control of the SLAF from the early days of the armed conflict.<sup>25</sup> After the end of the armed conflict, Marble Beach was opened to the public.<sup>26</sup> However, the larger strip of beach in front of the Marble Beach Air Force Resort is claimed as a private beach exclusive to the Marble Beach Air Force Resort and access to the public remains restricted.<sup>27</sup>

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<sup>24</sup> Marble Beach Air Force Resort, available at <http://www.marblebeach.lk/>; Sunday Leader, *Is the Military Operating within Legal Limits?* <http://www.thesundayleader.lk/2012/02/12/is-the-military-operating-within-legal-limits/>

<sup>25</sup> National Geographic, *Marble Beach*, Trincomalee, available at <https://easternsrilanka.natgeotourism.com/content/marble-beach-trincomalee/sriabbf2018c9465a63a>

<sup>26</sup> Sunday Observer, *The Captivating Marble*, available at <http://archives.sundayobserver.lk/2011/09/18/fea11.asp>

<sup>27</sup> Ibid.

The resort has several accommodation options and, most significantly, offers private beach access, given that the public is restricted from accessing much of Marble Beach. Therefore, the resort remains attractive due to the privacy and seclusion offered to patrons.<sup>28</sup>

The resort has been defined by the SLAF as a “non-public recreational and hospitality venture,” and was funded by the SLAF “Command Welfare Fund”.<sup>29</sup> This indicates that the resort’s infrastructure was built using state/military funds, especially in light of the fact that there are no reports of the participation of private entities in the venture. Furthermore, it has been reported that all revenue from this resort is directed towards the welfare activities of the SLAF.<sup>30</sup>

## ***B. Businesses of the Armed Forces in the Reception Hall/Restaurant Sector***

### ***i. Eagles’ Lagoon View and Eagles’ Lake Side***

Eagles’ Lagoon View and Eagles’ Lake Side are two banquet halls operated by the SLAF. Staffed and managed exclusively by SLAF personnel, these banquet halls are among the largest in their respective localities.

Eagles’ Lagoon View, located in Katunayake, provides a 9,000 sq. ft. fully equipped banquet hall, while Eagles’ Lake Side has a much larger fully equipped banquet hall of 17,790 sq. ft.<sup>31</sup> In fact, Eagles’ Lake Side was constructed for the purpose of hosting the Commonwealth Business Forum in November 2013, and was thereafter handed to the SLAF and opened to the public.<sup>32</sup> Presently, both these banquet halls are immensely popular due to their capacity and facilities.

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<sup>28</sup> See <http://www.marblebeach.lk/aboutus.html>, where the SLAF describes the resort as “one of Sri Lanka’s most secluded and restorative beach resorts”. See also, Sunday Observer, *The Captivating Marble*, available at <http://archives.sundayobserver.lk/2011/09/18/fea11.asp>

<sup>29</sup> Sunday Leader, *Is the Military Operating within Legal Limits?*, available at <http://www.thesundayleader.lk/2012/02/12/is-the-military-operating-within-legal-limits/>

<sup>30</sup> Ibid. See also <http://www.marblebeach.lk/index.html>, which states that proceeds are utilized for the benevolence of SLAF personnel and their family members.

<sup>31</sup> See ‘About Us’ from Eagles’ Lakeside and Eagles Lagoon View, available at [http://www.airforce.lk/eagles\\_lakeside/aboutus.html](http://www.airforce.lk/eagles_lakeside/aboutus.html) and [http://www.airforce.lk/eagles\\_lagoonview/about.html](http://www.airforce.lk/eagles_lagoonview/about.html)

<sup>32</sup> See ‘About Us’ from Eagles’ Lakeside, available at [http://www.airforce.lk/eagles\\_lakeside/aboutus.html](http://www.airforce.lk/eagles_lakeside/aboutus.html)

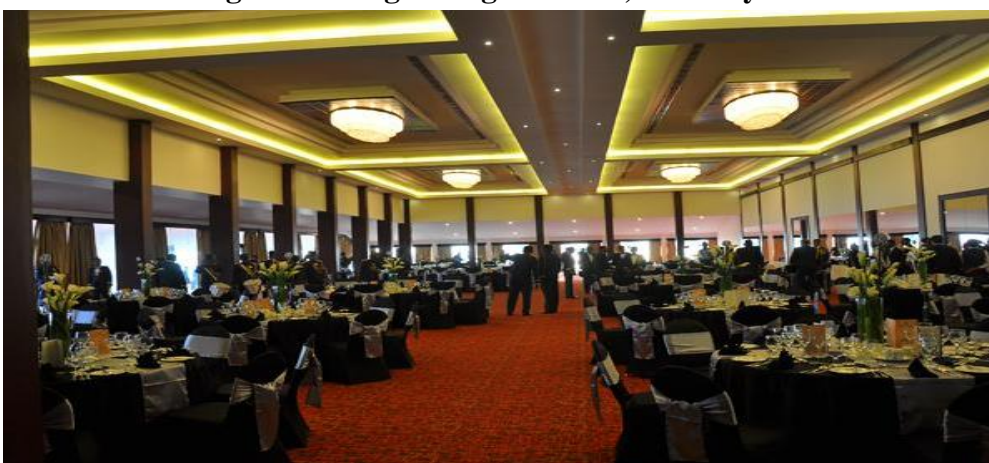


**Figure 12: Eagles Lakeside, Attidiya**



Source: [http://www.airforce.lk/eagles\\_lakeside/gallery.html](http://www.airforce.lk/eagles_lakeside/gallery.html)

**Figure 13: Eagles Lagoon View, Katunayake**



Source: [http://www.airforce.lk/eagles\\_lagoonview/Gallery.html](http://www.airforce.lk/eagles_lagoonview/Gallery.html)

These two banquet halls are staffed exclusively by personnel from the SLAF. While individual officers of the SLAF are named as the “Managing Director” of the banquet halls, it is unclear as to how these two banquet halls fall within the administrative framework of the SLAF, or which arm of the SLF regulates matters such as the finances of these institutions.<sup>33</sup>

#### *ii. Malima Reception Halls and Restaurants*

In addition to luxury hotels and resorts, Malima Hospitality Services, which is operated by the SLN, owns several reception halls. These include the Club House in Uswetekeiyawa, the Ranminithenna Reception Hall and the Poonewa Reception Hall.<sup>34</sup> The Club House, Uswetekeiyawa, in particular, is a prominent reception hall with restaurant and catering

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<sup>33</sup> See ‘Contact Us’ from Eagles Lakeside and Eagles Lagoon View, available at [http://www.airforce.lk/eagles\\_lakeside/contactus.html](http://www.airforce.lk/eagles_lakeside/contactus.html) and [http://www.airforce.lk/eagles\\_lagoonview/Contact.html](http://www.airforce.lk/eagles_lagoonview/Contact.html)

<sup>34</sup> See ‘Services’ from Malima Hospitality Services, available at <http://malima.lk/about-us.html>

facilities for receptions, private occasions and conferences. Malima Hospitality Services also operates the Light House Galley restaurant in the heart of Colombo's commercial area.

### ***C. Businesses of the Armed Forces in the Travel/Logistics Sector***

#### ***i. Air Travel Services (Private) Limited***

Air Travel Services (Private) Limited is a limited liability company that was established in November, 2010.<sup>35</sup> Although technically a separate entity from the SLA, Air Travel Services is operated by and for the benefit of the SLA. Air Travel Services offers services including the reservation of airline tickets and hotels, assistance in obtaining visas and securing travel insurances.<sup>36</sup>

Air Travel Services was established by former Commander of the SLA General Jagath Jayasuriya and the President of the Army Seva Vanitha branch at the time. The company continues to work in collaboration with the SLA's Financial Management Branch, Directorate of Welfare, Directorate of Training and Directorate of Movement. Moreover, officers of the SLA are responsible for the overall management and performance of Air Travel Services.<sup>37</sup>

While it is unclear how the income generated by Air Travel Services is disbursed, the company itself has stated that it provides concessionary air tickets and special tour packages exclusively to personnel of the SLA.<sup>38</sup> As such, it is evident that the profits generated by Air Travel Services, or at least a portion thereof, are channelled back to the SLA.

#### ***ii. Helitours***

Regarded as the "commercial arm of the Sri Lanka Air Force", Helitours is a corporate entity that is managed by the SLAF.<sup>39</sup> Although Helitours was established in 1972, operations were severely constrained during the armed conflict.<sup>40</sup> However, after 2009, Helitours recommenced operations.

At present, Helitours provides scheduled domestic flights to select destinations.<sup>41</sup> The Helitours fleet consists exclusively of aircraft belonging to the SLAF and includes fixed wing

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<sup>35</sup> See 'About Us' from Air Travel Services (Private) Limited, available at <http://www.airtravel.lk/aboutus.php>

<sup>36</sup> See 'Services' from Air Travel Services (Private) Limited, available at <http://www.airtravel.lk/services.php>

<sup>37</sup> See 'About Us' from Air Travel Services (Private) Limited, available at <http://www.airtravel.lk/aboutus.php>

<sup>38</sup> Ibid.

<sup>39</sup> See 'About Us' from Helitours, available at [https://www.helitours.lk/about\\_us.html](https://www.helitours.lk/about_us.html)

<sup>40</sup> Ibid.

<sup>41</sup> See 'Rates' from Helitours, available at <https://www.helitours.lk/rate.html>, for Helitours rates and schedules.

and rotor wing aircraft.<sup>42</sup> Given that Helitours is, fundamentally, an arm of the SLAF, all aircraft are piloted by SLAF personnel and all operations are conducted solely by the SLAF, with assistance from the Civil Aviation Authority.

#### ***D. Businesses of the Armed Forces in the Leisure/Recreation Sector***

##### ***i. Whale Watching Tours***

Following the end of the armed conflict, the SLN commenced operating whale watching tours to the public.<sup>43</sup> Given that whale watching tours were not possible during the armed conflict, the tours became very popular and lucrative.

Initially, the SLN conducted whale watching tours in military vessels.<sup>44</sup> With the expansion of operations due to increased demand, the SLN introduced whale watching tours in specialized vessels, including the luxury *Princess of Lanka* capable of seating 250+ people.<sup>45</sup> At present, the SLN operates scheduled whale watching tours in Galle and Trincomalee.<sup>46</sup>

The vessels are operated exclusively by SLN personnel and there have been no reports of the SLN partnering with any private entity for the purposes of operating and managing the tours. As such, it is a wholly SLN operated enterprise. The media has reported, however, that the SLN maintains that profits are remitted to the SLN welfare fund.<sup>47</sup>

While there are private service providers who compete with the SLN's whale watching tours, there have been reports that they find it increasingly difficult to compete with the SLN, as the SLN is capable of offering lower rates and better vessels and facilities.<sup>48</sup>

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<sup>42</sup> See 'Charters' from Helitours, available at <https://www.helitours.lk/charters.html>, for the fleet operated by Helitours.

<sup>43</sup> Sunday Observer, *Navy's Latest Venture – Whale Watching*, available at <http://archives.sundayobserver.lk/2011/01/30/sec03.asp>. See also, Daily News, *Navy Launches Bottled Drinking Water Project*, available at <http://archives.dailynews.lk/2011/06/29/news53.asp>.

<sup>44</sup> Ibid.

<sup>45</sup> See Sri Lanka Navy Whale Watching, available at <http://whalewatching.navy.lk/>

<sup>46</sup> See 'Schedules' from Sri Lanka Navy Whale Watching, available at <http://whalewatching.navy.lk/schedules.html>

<sup>47</sup> Sunday Leader, *Is the Military operating within Legal Limits?*, available at <http://www.thesundayleader.lk/2012/02/12/is-the-military-operating-within-legal-limits/>

<sup>48</sup> The Sunday Times, *Ripples as Navy Sails into Whale-Watching Business*, available at [http://www.sundaytimes.lk/110130/News/nws\\_02.html](http://www.sundaytimes.lk/110130/News/nws_02.html)



*ii. Eagles' Golf Links and Eagles' Heritage Golf Club*

Eagles' Golf Links and Eagles' Heritage Golf Club are two golf clubs operated by the SLAF. Located in Trincomalee and Anuradhapura, respectively, these clubs are the only properties that offer golf facilities in their respective regions.

Eagles' Golf Links in China Bay, Trincomalee was established in January 2012, and is marketed as the "only golf course along Sri Lanka's picturesque East coast".<sup>49</sup> It spreads over 171 acres, and provides an 18-hole golf course.<sup>50</sup>

Eagles' Heritage Golf Club, located within the Anuradhapura Air Force Base, is marketed as the "only golf course in Sri Lanka to be situated in the picturesque North Central Province".<sup>51</sup> Eagles' Heritage Golf Club also has its own golf course and clubhouse.<sup>52</sup>

Both these properties are owned and operated by the SLAF, and there are no reports of corporate partnerships or private assistance being rendered with respect to the functioning of the properties. Accordingly, it is wholly under the purview of the SLAF. Moreover, it is unclear if these properties report to any of the Directorates of the SLAF. Although the official website of the properties does allude to the existence of a "Board of Management" that controls these properties,<sup>53</sup> there is no information available in the public domain as to the constitution or framework of the "Board of Management".

***E. Businesses of the Armed Forces in the Agricultural and Livestock Sector***

*i. SLA Farms under the Directorate of Agriculture & Livestock*

In 2011, the SLA established the Directorate of Agriculture and Livestock (DAL).<sup>54</sup> Under this new Directorate, the SLA established several agriculture and livestock farms for the dual purposes of self-sustainability and for selling agricultural and livestock products to the general public. Accordingly, since 2011, the DAL has established six large scale agricultural and livestock farms and several smaller farms, and further operates another seven farms built by the SLA's General Service Corps.<sup>55</sup>

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<sup>49</sup> Eagles' Golf Links, available at [http://www.eaglesgolf.lk/China\\_Bay/index.html](http://www.eaglesgolf.lk/China_Bay/index.html)

<sup>50</sup> Ibid.

<sup>51</sup> Eagles' Heritage Golf Club, available at <http://www.eaglesgolf.lk/Anuradhapura/index.html>

<sup>52</sup> Ibid.

<sup>53</sup> See, 'Contact Us' from the Eagles' Golf Links and Eagles' Heritage Golf Club, available at [http://www.eaglesgolf.lk/China\\_Bay/contactus.html](http://www.eaglesgolf.lk/China_Bay/contactus.html) and <http://www.eaglesgolf.lk/Anuradhapura/Contactus.html>

<sup>54</sup> Sri Lanka Army, *Army Establishes Its New Directorate for Agriculture and Livestock*, available at <http://www.army.lk/news/army-establishes-its-new-directorate-agriculture-and-livestock>

<sup>55</sup> Sri Lanka Army, *Performance Report*, 2016, page 37.

However, even before the DAL was established, the SLA has been involved in the sale of produce to the public. In early 2011, it was widely reported that the SLA had commenced selling vegetables, which it had bought from public vendors, at prices that were lower than prevailing market prices. This was undertaken by the SLA as a means of providing relief to consumers in the wake of a sharp rise in prices of essentials in Sri Lanka at the time.<sup>56</sup> It was reported that due to lower overheads such as lower transport and labour costs, the SLA was able to purchase vegetables from vendors and resell them at lower costs without bearing substantial losses.<sup>57</sup>

Moreover, it has been reported that the SLA had taken steps, over the years, to further expand its farms; especially with respect to the production of vegetables and dairy products. This reveals that operations under the DAL had progressively expanded.<sup>58</sup>

In 2016, it was reported that the DAL had cultivated over 100 acres of land, and had entered into a joint venture with Browns Global Farm (Private) Limited and Aththama Quality Agro (Private) Limited.<sup>59</sup> Additionally, it has been reported that the SLA has been able to produce agricultural and livestock products at very low costs.<sup>60</sup> There has been at least one reported instance where profits from certain SLA farms have been remitted to the SLA Welfare Fund.<sup>61</sup>

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<sup>56</sup> BBC, *Sri Lanka Army Become Vegetable Vendor as Prices Rise*, available at <http://www.bbc.com/news/world-south-asia-12138540>; Daily Mirror, *Vegetables from the Army*, available at <http://www.dailymirror.lk/article/vegetables-from-the-army--8867.html>; Sri Lanka Army, *Army Ventures into Sale of Vegetables at Cost Price for Consumers*, available at <http://www.army.lk/news/army-ventures-sale-vegetables-cost-price-consumers>

<sup>57</sup> Ibid.

<sup>58</sup> Sri Lanka Army, *North to Get 70 Dairy Villages*, available at <http://www.army.lk/news/north-get-70-dairy-villages>; The Sunday Times, *Sri Lanka's Business-like Army Moves Into Dairy Farming*, available at <http://www.sundaytimes.lk/140817/business-times/sri-lankas-business-like-army-moves-into-dairy-farming-110771.html>; Sri Lanka Army, *Army's Manik Farm Begins Production of Hybrid Corn Seeds*, available at <http://army.lk/news/army%E2%80%99s-manik-farm-begins-production-hybrid-corn-seeds>

<sup>59</sup> Sri Lanka Army, *Performance Report*, 2016, page 38.

<sup>60</sup> Sri Lanka Army, *Performance Report*, 2016, pages 38-39.

<sup>61</sup> Sunday Leader, *Is the Military Operating within Legal Limits*, available at <http://www.thesundayleader.lk/2012/02/12/is-the-military-operating-within-legal-limits/>

**Figure 9: The Karandeniya Farm, visited by Lieutenant General Jagath Jayasuriya.**



Source: <http://www.army.lk/news/commander-visits-karandeniya-army-farm-mic-construction-site-0>

**Figure 10: The Palaly Farm, spreading over 180 acres of land, with a state-of-the-art water sprinkler system.**



Source: <http://www.army.lk/news/palaly-farm-use-new-sprinkling-water-system>

**Figure 11: The Menik Farm, Vavuniya, which has also undertaken the cultivation of hybrid corn seeds, in addition to paddy, vegetables and seasonal crops.**



Source: <http://army.lk/news/army%E2%80%99s-manik-farm-begins-production-hybrid-corn-seeds>



## ***F. Businesses of the Civil Security Department***

The CSD was initially formed during the early years of the armed conflict as a voluntary armed group known as the “National Home Guard Service”, tasked with protecting border villages.<sup>62</sup> As their presence grew, the CSD commenced operations in aiding the police and armed forces with security functions. In light of the growth of the National Home Guard Service, the Rajapakse administration, by Government Gazette No. 1462/20 dated 13<sup>th</sup> September 2006, officially reorganised and reclassified the “National Home Guard Service” into the “Civil Security Department”.<sup>63</sup>

The functions of the CSD as listed in the government gazette include security functions such as acting as a “supplementary force” to the armed forces and assisting the police in “protecting the law & order”, as well as more civilian functions such as “assisting social welfare functions”.<sup>64</sup>

Since the end of the conflict, the CSD has grown in size and function, with 23 regional Force Headquarters and 6 training schools, in areas such as Ampara, Kilinochchi, Mullaitivu, Kanthale, Puttalam, Kebithigollawa, Anuradhapura and Weli Oya. It now has over 38,000 employees including both armed forces personnel and civilian employees (the latter comprising the majority of the headcount).<sup>65</sup>

In recent years, the role of the CSD has changed further. It is no longer just a provider of development-related projects but is now also a source of employment. The CSD recruits civilians to work either on CSD farms (on activities varying from agricultural work to animal

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<sup>62</sup> See ‘History’ from CSD, available at [http://www.csd.lk/index.php?option=com\\_content&view=article&id=10&Itemid=132&lang=en](http://www.csd.lk/index.php?option=com_content&view=article&id=10&Itemid=132&lang=en)

<sup>63</sup> Ibid.

<sup>64</sup> Gazette Notification No. 1462/20 dated 13<sup>th</sup> September 2006, states the functions and duties of the CSD as follows:

- “1. Taking actions as a Supplementary Force for aiding and assisting Armed Forces and Police Service, as per the case of the existing security situation within the country.*
- 2. Taking action to safeguard the villages, properties and cities where terrorist threats are present.*
- 3. Assisting the Police and Armed Forces for the function of protecting Law and Order within the country.*
- 4. Engaging with the Security on instances of National Events and any other important occasions.*
- 5. Assisting to the activities of mitigating various disasters (such as floods, landslides and Tsunami) occurred within the country.*
- 6. Assisting with Social Welfare activities.*
- 7. Engaging with special functions ordered by the President, Minister (in charge of the subject) or the Government.*
- 8. Establishment of Civil Security Department Head Quarters.”*

<sup>65</sup> CSD, *Progress Report*, 2016, available at [http://www.csd.lk/index.php?option=com\\_content&view=article&id=10&Itemid=132&lang=en](http://www.csd.lk/index.php?option=com_content&view=article&id=10&Itemid=132&lang=en)

husbandry), in manufacturing projects (including the manufacture of bricks, cement blocks, electric bulbs and pottery), or as pre-school teachers.<sup>66</sup>

The CSD's presence in the Northern Province is unique, given the context of heavy militarisation during the course of the armed conflict and continuing after its end in 2009. The CSD's Progress Report notes this unique context, reporting that Tamil civilians in Kilinochchi and Mullaitivu were actively recruited “with the purpose of creating harmony between the Sinhala and the Tamil communities”.

As part of its drive to “create harmony”, the CSD initially recruited ex-LTTE cadres and women from Women-Headed Households (WHHs), with the majority of farm employees being women.<sup>67</sup> Respondents interviewed by SACLs estimated that approximately 70% of labourers on their farms were women, and most had lost their husbands. The CSD's 2016 Progress Report indicates that most CSD employees are non-military; of this subset, 61% in Mullaitivu and 68% in Kilinochchi are women.

CSD employees work 6 days per week on farms and projects. They often make long journeys to reach their places of employment, for which the military provides no transport or travel stipend. Although security presence on the farms and projects has significantly diminished since the previous regime<sup>68</sup>, one soldier is deployed to oversee each farm/project. Within the farms, respondents noted that employees are split into groups. Each group is led by a local civilian employee, but higher-level supervisors are all military personnel. All supervising and overseeing personnel are men.

The CSD's main income-generating ventures include agriculture, animal husbandry, and the manufacture of bricks, cement blocks, electric bulbs, clay pots, fertilizer, cadjans and cane products. Revenue from these activities has been drastically increasing over the years, including after the change in regime in January 2015.

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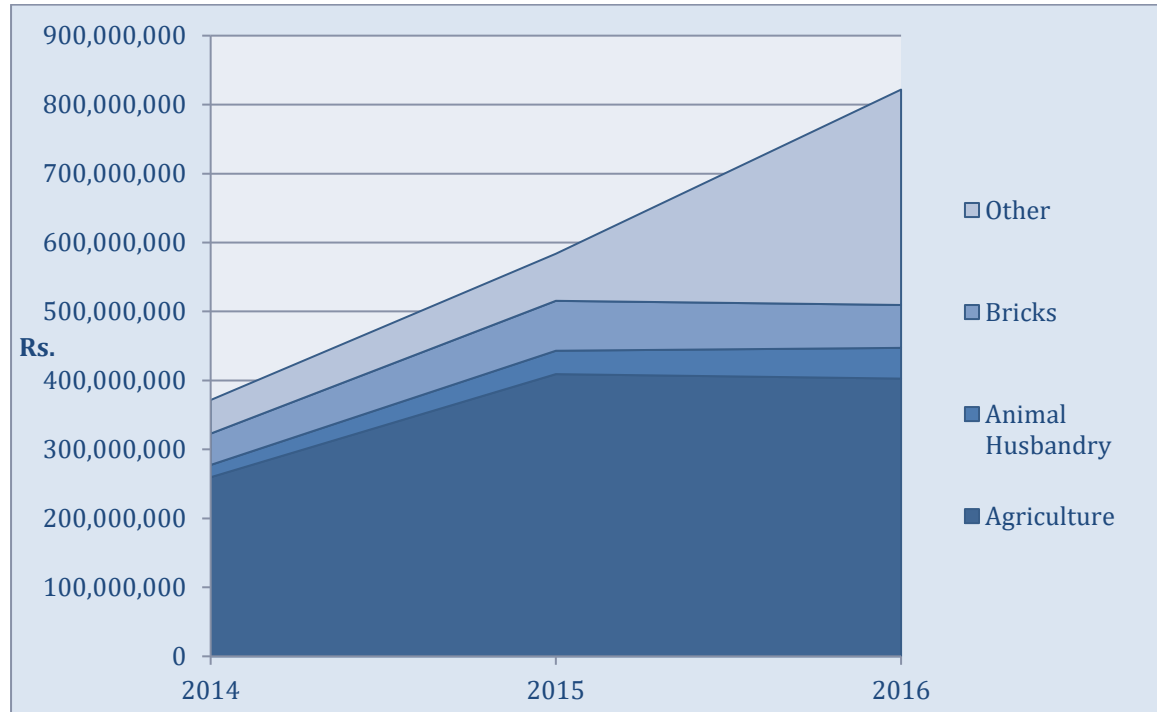
<sup>66</sup> Ibid. Under functions performed by each regional force it is indicated that several regional forces deployed as employees are pre-school teachers.

<sup>67</sup> According to respondents' (CSD employees') estimates.

<sup>68</sup> According to our respondents who were CSD employees. This further corroborates ACPR, *Civil Security Department – The Deep Militarisation of the Vanni*, 2017 available at [adayaalam.org/report-release-civil-security-department-the-deep-militarisation-of-the-vanni/](http://adayaalam.org/report-release-civil-security-department-the-deep-militarisation-of-the-vanni/), which finds that CSD farm employees are under continued surveillance by the CID, though it is a reduced presence under the new government.

Chart 1 shows that income over three years has increased from LKR 371.5m in 2014 to LKR 821.8m in 2016; indicating a growth rate of over 200% within the span of just two years.

**Chart 1: Revenue of the CSD from 2014 to 2016**



Source: 2014, 2015 and 2016 CSD Progress Reports



### **3. IMPLICATIONS FOR THE ECONOMY, GOVERNANCE AND ACCOUNTABILITY AT THE NATIONAL LEVEL**

From five-star resorts to agricultural produce, the spread of military businesses across the country has varied implications. Although arguments have been made that the military's engagement in economic activities is beneficial to the country, within the post-conflict context of Sri Lanka there are multiple consequences that cause concern. This section will discuss these concerns for the economy (including unfair competition, loss of livelihoods, crowding out of private investment), for the rule of law and for public accountability, all of which have repercussions at a national level.

#### ***A. Economic Implications***

##### ***i. Unfair Competition***

The military's intrusion into the economy creates a distortion in the market, as it is able to enjoy “economic privilege”<sup>69</sup>, and thereby create an environment of unfair competition. We define economic privilege as the enjoyment of benefits “such as the use of military infrastructure, tax exemptions and favouritism in public bids’ available to companies operated by the armed forces”<sup>70</sup>. In using such privileges, the economic activities of the military occupy market space and crowd out private investors, which can result in a loss of livelihoods and revenue for the country.

We know this from other states. In Indonesia, military involvement in the economy over the past several decades has resulted in a business empire run exclusively by the armed forces.<sup>71</sup> The increased ability of Indonesia’s military to use income outside of the government budget allowances gave it increased autonomy and led to civilian authorities being undermined. As a result, the government of Indonesia had to implement measures to reduce the military’s presence and control. Pakistan's military runs multiple businesses and is currently the largest business corporation in the entire country.<sup>72</sup> Similarly, in Egypt, where the military already had a very heavy presence throughout the country, the military was able to develop businesses using their many economic and political advantages.<sup>73</sup> The Egyptian government has “enabled the military to create a vast business empire that enjoyed superior access to state land, had

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<sup>69</sup> Brömmelhörster and Paes, *The Military as an Economic Actor Soldiers in Business, International Political Economy Series*, (Palgrave Macmillan UK, 2003).

<sup>70</sup> Ibid.

<sup>71</sup> Human Rights Watch, *Unkept Promise Failure to End Military Business Activity in Indonesia*, 2010, available at <https://www.hrw.org/sites/default/files/reports/indonesia0110webwcover.pdf>

<sup>72</sup> Quartz India, *Inside Pakistan’s Biggest Business Conglomerate: The Pakistani Military*, available at <https://qz.com/1134516/inside-pakistans-biggest-business-conglomerate-the-pakistani-military/>

<sup>73</sup> Middle East Institute, *Egypt’s Military Business: The Need for Change*, available at <http://www.mei.edu/content/map/egypt%E2%80%99s-military-business-need-change>.

exceptional tax breaks, circumvented labour rights, and functioned outside of public accountability either by the parliament, government auditing agencies, or civilian courts”.<sup>74</sup>

Sri Lanka is beginning to witness a similar trend of the military using its economic privilege to develop vast business enterprises that surpass and displace private competitors. The military's encroachment into the private sector, bolstered by economic advantages particular to the military, creates unfair competition and leads to losses for the whole economy.

The military's presence within the tourism industry is perhaps the most striking example of involvement in economic activity. With military ownership and management of resorts, leisure & recreational activities and restaurants, it is evident that the SLA, SLN and SLAF are venturing into profit-generation through activities that have no direct link to security or even national development. Furthermore, it is evident that the military is able to use its immense budget and resources<sup>75</sup> to undercut market competitors due to the following significant cost-saving advantages:

- a) The salaries of military personnel are included in the approved budget for the MoD<sup>76</sup> and, therefore, create savings for any military-run enterprise, as the cost of labour is paid for by the state. As noted in section 2, military-run resorts and hotels are staffed by military personnel, not civilians.
- b) The military have capital outlay (including buildings, vehicles, machinery, equipment and furniture) covered by their respective budget allocations that are being used for their businesses. There is no additional cost to rent or purchase necessary capital.
- c) Access to existing resources and infrastructure such as land provides an economic advantage over any potential competitor who would have to incur additional costs to purchase or rent land. In the case of the Thalsevana resort, the military occupies land belonging to local civilians.

Because the military does not explicitly indicate when or where resources or budget allocations are used for economic activities, it is impossible to know the size or scale of state resources used (and the resulting cost savings). It is also possible that the prestige and authority of the military allow them to circumvent many of the bureaucratic procedures (and thereby avoid

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<sup>74</sup> Ibid.

<sup>75</sup> LST, *Biting the Bullet Demilitarising Economic Relations in Post-War Sri Lanka*, 2017, available at <https://www.lstlanka.org/wp-content/uploads/2017/11/english-20170508162910-1.pdf>, argues that the military is able to “mobilise internally” in order to save on “the cost of labour, construction machinery or other resources and expertise” that are “already resourced and funded through the recurrent and capital outlays allocated to the military in the National Budget”.

<sup>76</sup> *Approved Budget*, 2018. Pages 181-228 detail the breakdown of the budget for the MoD including the breakdown for each of the five departments. The budget consists of recurrent expenditure (for example, salaries and wages, asset maintenance, uniforms, transport etc.) and capital expenditure (including assets such as buildings and vehicles, investments, etc.).

costs) that a private civilian or entity would face<sup>77</sup>. Nevertheless, the following tables demonstrate significant price-cutting by military-run resorts compared to their private market competitors.

**Table 1: Price Comparison between Laya Safari (SLA) and Competitors<sup>78</sup>**

| Package         | Laya Safari                     | Jetwing Yala                | Cinnamon Wild            |
|-----------------|---------------------------------|-----------------------------|--------------------------|
| Bed & breakfast | <b>LKR 23,800</b><br>(USD 153*) | LKR 31,100<br>(USD 199.89*) | LKR 32,700<br>(USD 210*) |
| Half board      | <b>LKR 26,000</b><br>(USD 167*) | LKR 38,900<br>(USD 249.90*) | LKR 37,300<br>(USD 240*) |
| Full board      | <b>LKR 27,400</b><br>(USD 176*) | LKR 45,100<br>(USD 289.89*) | --                       |

Source: Hotel websites<sup>79</sup>

**Table 2: Price Comparison between Whale Watching Tours (SLN) and Competitors<sup>80</sup>**

| Sri Lanka Navy                  | Whale Watch Mirissa                 | Raja & the Whales      | Whale Watching Mirissa with Geeth |
|---------------------------------|-------------------------------------|------------------------|-----------------------------------|
| <b>LKR 3,000**</b><br>(USD 20*) | LKR 6,000 – 7,500<br>(USD 39 – 48*) | LKR 6,500<br>(USD 42*) | LKR 6,230<br>(USD 40*)            |

Sources: Official websites<sup>81</sup>

\*\* The SLN imposes a higher rate of LKR 9,350 (USD 60) for foreigners.

**Table 3: Price Comparison between Helitours (SLAF) and Competitors**

| Destination            | Helitours                           | Cinnamon Air             |
|------------------------|-------------------------------------|--------------------------|
| Colombo to Trincomalee | <b>LKR 18,500</b><br>( USD 118.77*) | LKR 40,800<br>(USD 262*) |

Sources: Official websites<sup>82</sup>

<sup>77</sup> As suggested in Brömmelhörster and Paes, *The Military as an Economic Actor Soldiers in Business, International Political Economy Series*, (Palgrave Macmillan UK, 2003).

<sup>78</sup> Room rates are based on the cheapest available type of room for one night for two adults, for the date Saturday, April 14<sup>th</sup> 2018. Rates are inclusive of taxes, though taxes came to \$0.00 for Laya Safari.

<sup>79</sup> Laya Safari, available at <http://www.layahotels.lk/layasafari.php>, Jetwing Yala, available at <http://www.jetwinghotels.com/jetwingyala/>, Cinnamon Wild, available at <http://www.cinnamonhotels.com/en/cinnamonwildyala/>. (Rates as at 25<sup>th</sup> March 2018).

<sup>80</sup> There have been reports that private whale watching tour providers find it increasingly difficult to compete with the SLN, as the SLN is capable of offering lower rates and better vessels and facilities: see, The Sunday Times, *Ripples as Navy Sails into Whale-Watching Business*, available at [http://www.sundaytimes.lk/110130/News/news\\_02.html](http://www.sundaytimes.lk/110130/News/news_02.html)

<sup>81</sup> SLN, available at <http://whalewatching.navy.lk/schedules.html>, Whale Watching Mirissa, available at <http://whale-watchingmirissa.com/>, Raja and the Whales, available at <http://rajaandthewhales.com/whale-watching-trips-mirissa/>, Whale Watching Mirissa with Geeth, available at <http://www.whale-watching-mirissa.com/whale/>. (Rates as at 12 April 2018).

<sup>82</sup> Helitours, available at <https://www.helitours.lk/rate.html>, Cinnamon Air, available at <http://www.cinnamonair.com/schedules-fares/fares-winter.html>. (Rates as at 12<sup>th</sup> April 2018).

These figures demonstrate the ability of military businesses to offer the identical or similar services as their competitors, but charge a significantly lower price. Although the immediate economic benefits enjoyed by the military are obvious, the impact it has on competitors and potential investors or entrants to the market requires analysis.

It is possible that by undercutting competitors, as displayed in Tables 1, 2 and 3 above, military businesses create unfair competition. This in turn crowds out future investment, as the military continues to occupy space in the private sector with the ability to undercut any investors in the market. Such conditions likely act as a barrier to entry for potential private businesses<sup>83</sup>.

In the case of the agricultural sector, the CSD's operations undermine the local farming economy, where farmers are already facing low incomes.<sup>84</sup> The agricultural produce from the CSD farms is sold in local markets<sup>85</sup> and, as shown previously in Chart 1, the revenue and profits generated by the farms are substantial. It is reported that 98%<sup>86</sup> of income generated from agriculture in 2016 constituted a profit to the CSD. Similarly, total profit from all activities represents 94%<sup>87</sup> of the CSD's total revenue for 2016, revealing extraordinary profit margins.

The CSD earns these high profits despite evidence that they are undercutting local farmers, thereby causing disruption and distortion in local markets. Respondents interviewed by SACLs remarked that CSD produce was sold at prices approximately LKR 10-15 lower than prevailing market prices, and that local farmers either struggle or are simply unable to compete. According to an official from the Department of Agriculture, price undercutting has forced local farmers out of the market, and some farmers have resorted to joining the CSD out of an inability to sustain their own agricultural businesses.<sup>88</sup> This distortion of the agricultural market could be occurring across the country, as the CSD's operations are widespread and agriculture continues to be its greatest source of income and profit.

#### *ii. Loss of Livelihoods and Profit*

Distorting markets through unfair competition is not the only way military businesses affect the economy. These businesses also lead to the loss of livelihood opportunities and profits for civilians and the crowding out of potential investment.

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<sup>83</sup> OECD, *Competition and Barriers to Entry*, 2007, available at <https://www.oecd.org/competition/mergers/37921908.pdf>

<sup>84</sup> According to an interview with a government official in the Department of Agriculture.

<sup>85</sup> It is possible that CSD produce is sold beyond local areas. Respondents interviewed knew that produce was sold in local markets but were uncertain whether or not it travelled further.

<sup>86</sup> Calculated using income and profit figures from CSD, *Progress Report*, 2016.

<sup>87</sup> Ibid.

<sup>88</sup> From interviews with an official from the Department of Agriculture in the Northern Province.

This is best analysed in relation to the tourism sector. Tourist arrivals hit a record high in 2017, reaching over 2.1 million visitors.<sup>89</sup> The trend is continuing; already, tourist arrivals are up 12.6%<sup>90</sup> in January 2018 relative to 2017. This is not surprising, as the tourism industry has been one of the government's most significant strategies for the economy, with Prime Minister Ranil Wickramasinghe having made several economic policy statements<sup>91</sup> promoting the sector as an engine for Sri Lanka's economic growth and as a mechanism to create jobs. Yet, while the government has been promoting investment and encouraging businesses to engage in the tourism industry, the military has become increasingly involved in the sector by building hotels, resorts and restaurants and providing services including air travel and whale watching, as described in Section 2. This participation by the military in the tourism sector has deprived locals from gaining employment that they would otherwise have received, had these businesses been carried out by private entities that would hire civilians. As noted, businesses run by the military - including hotels, restaurants, air travel, whale watching etc. - are staffed by their own personnel, directly unseating potential livelihood opportunities.

Furthermore, by crowding these businesses out, the profits and the tax revenue that would have been generated remain within the military and the defence establishment, and cannot be utilised by the state to be reinvested in the local economy. The military is also able to undercut local businesses due to its significantly lower incurred costs, again posing a threat to the private tourism industry that should be benefitting the local economy.<sup>92</sup>

The loss of livelihood and profits experienced in the tourism sector will also be experienced by the numerous other sectors within which the military is conducting businesses.

## ***B. Implications on the Rule of Law and Accountability***

Beyond economic impacts, profit-generating business activity by the armed forces and the CSD present significant challenges to the rule of law. With almost no control or oversight by the central government or local government entities, increasing profits by military-run businesses raise serious legitimacy and accountability concerns. This “Wild West” landscape stands in stark contrast to the legal and administrative framework adhered to by other public corporations and state entities.

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<sup>89</sup> Sri Lanka Tourism Development Authority, Monthly Statistical Bulletins 2017, available at <http://www.slttda.lk/node/692>

<sup>90</sup> Lanka Business Online, *Sri Lanka Tourist arrivals up 12.6-pct in Jan 2018*, available at <http://www.lankabusinessonline.com/sri-lanka-tourist-arrivals-up-12-6-pct-in-jan-2018/>

<sup>91</sup> For example, economynext, *Economic Policy Statement by Sri Lanka Prime Minister – Full Text*, available at [http://www.economynext.com/Economic\\_policy\\_statement\\_by\\_Sri\\_Lanka\\_Prime\\_Minister\\_full\\_text-3-8979.html](http://www.economynext.com/Economic_policy_statement_by_Sri_Lanka_Prime_Minister_full_text-3-8979.html); see also Daily Mirror, *Government to Introduce New Tourism Promotion Law: PM*, available at <http://www.dailymirror.lk/article/Govt-to-introduce-new-tourism-promotion-law-PM-137209.html>

<sup>92</sup> Global Risk Insights, *Under the Radar: Tourism in Sri Lanka at Risk from Military*, available at <https://globalriskinsights.com/2016/10/tourism-sri-lanka-threatened-military-declining-accountability/>



*i. The Unfettered Discretion to Establish, Run and Possibly Expand the Businesses*

It is well established that vesting unchecked power to any official or entity that exercises the authority of the state is the antithesis of the rule of law.<sup>93</sup> The rule of law, by its very nature, requires the exercising of power by public officials to be in strict accordance with applicable laws and regulations, and also in a manner that is reasonable, rational and in consideration of all relevant factors.

The usual practice in Sri Lanka when there is a need for public officials and entities to be vested with powers for governing or managing public affairs is for Parliament to enact legislation. Such legislation regulates the exercise of such powers by providing guidance to relevant officials and providing for oversight by a relevant minister, who forms part of the Cabinet of Ministers.<sup>94</sup> The judiciary is vested with jurisdiction to enforce the fundamental rights of the people and to review executive and discretionary decisions taken by officials and entities of the state and, thus, acts as a check on the exercise of such powers.<sup>95</sup>

In stark contrast to this usual procedure adopted by the state, the profit-generating businesses conducted by the armed forces and the CSD, are set up and carried out with absolutely no control or oversight.

In terms of the legal framework, the SLA, SLN and SLAF are each governed by their respective Acts.<sup>96</sup> Although these Acts set out the functions, compositions, and the duties and obligations of personnel, they do not provide for the manner in which all internal operations are to be conducted. This is, naturally, to permit the military a degree of flexibility in crafting internal practices, with the consultation of the MoD and other relevant officials, based on the exigencies of the circumstances (given that the armed forces deal with national security).<sup>97</sup> Accordingly, there are no provisions which explicitly prohibit the conducting of profit-generating businesses by the armed forces in any of their respective Acts.

Nevertheless, the SLA, SLN and SLF Acts do not appear to contemplate the use of armed forces for civilian purposes such as revenue generation. Only the President can call upon the armed forces by way of a proclamation or order, upon the satisfaction of certain circumstances,

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<sup>93</sup> H. W. R. Wade & C. F. Forsyth, *Administrative Law*, Tenth Edition (OUP, 2009), pages 296-297.

<sup>94</sup> Article 42(2) of the Constitution of Sri Lanka. By this provision, the ministers in charge of the relevant public officers/entities entrusted with public power are accountable to Parliament.

<sup>95</sup> By Article 126 of the Constitution the Supreme Court of Sri Lanka is vested with the exclusive jurisdiction to enforce Fundamental Rights, and by Articles 140 and 104H the Court of Appeal and the Supreme Court, respectively, are vested with the jurisdiction to issue Writs in respect of decisions taken by lower courts, tribunals, and other public institutions.

<sup>96</sup> See Sri Lanka Army Act No. 17 of 1949, Sri Lanka Navy Act No. 34 of 1950, and Sri Lanka Air Force Act No. 41 of 1949.

<sup>97</sup> As per Government Gazette Notification No. 1897/15 dated 18<sup>th</sup> January 2015, the MoD is required to fulfil the duty of “formulating policies, programmes and projects in regard to the subjects of defence, and all subjects that come under the purview of” the Sri Lanka Army, Sri Lanka Navy, Sri Lanka Air Force, and the Civil Security Department.

for the maintaining of peace and security. Accordingly, the legal framework of the armed forces does not appear to contemplate freewheeling military-run business activity.<sup>98</sup>

The CSD, likewise, was established to primarily function as a “supplementary force” to the armed forces.<sup>99</sup> Although the other functions required to be fulfilled by the CSD include functions such as “assisting social welfare activities”, it cannot be reasonably maintained that the carrying out of large scale profit-generating businesses is a “social welfare activity”.<sup>100</sup>

Accordingly, it is evident that the Acts of the armed forces, as well as the government gazette which lists the functions of the CSD, do not provide for the armed forces or the CSD to engage in such profit-generating businesses, which are in no way related to security. Nor are internal policies or regulatory frameworks in place. This reveals that these businesses operate at the absolute discretion of officials from the armed forces and the CSD.

The implications on the rule of law are numerous:

- a) As stated earlier, almost all the businesses are run solely by the armed forces and the CSD without any private partnership. Therefore, it is plain that public assets and resources – comprising land, infrastructure, vehicles and funds from the Appropriation Bill<sup>101</sup> - that are vested in the armed forces and CSD by the State for the purposes of maintaining peace and national security, are used to operate these businesses.<sup>102</sup> Therefore, these public assets, resources and funds, which have been periodically vested in the military by the state for the purpose of maintaining peace and national security, are presently being grossly misappropriated by the military and CSD for purposes that are completely extraneous to maintaining peace and national security.
- b) Given that there is neither a policy enforced by the MoD on the establishment and management of businesses, nor a regulatory framework which exercises oversight on the businesses, absolute discretion to establish and operate these businesses is vested in

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<sup>98</sup> Under the Army Act, the Sri Lanka Air Force Act and the Sri Lanka Navy Act, the power to call out soldiers or military regiments is vested with the President, who is required to call out soldiers/regiments by way of proclamation, or by an order where such proclamation cannot be reasonably made, for the purposes of the defence of Sri Lanka or for the prevention or suppression of any rebellion, insurrection or other civil disturbance. Furthermore, Section 12 of the Public Security Ordinance states that the may President call out members of the armed forces in a situation where the public security endangered or when such danger is imminent, where it is the opinion of the President that the police is inadequate.

<sup>99</sup> See supra note 64.

<sup>100</sup> See functions and duties of the CSD, supra note 64.

<sup>101</sup> As per the Sri Lanka Army Performance Report, 2016, the SLA was allocated Rs. 160 billion in 2016 of which Rs. 147 billion was used to cover recurrent expenditure, which includes emoluments, travelling expenditure, maintenance expenditure, and other services. The Sri Lanka Navy Performance Report, 2016 reveals that Rs. 61 billion was allocated to the SLN, of which Rs. 48.7 billion was used to cover recurrent expenditure. Similarly, the Sri Lanka Air Force Performance Report, 2015 reveals that the SLAF was allocated Rs. 53 billion, of which Rs. 33.8 billion was used to cover recurrent expenditure. The reports also reveal that capital overlay is also serviced by these budgetary allocations.

<sup>102</sup> See Section 2.

senior officers of the armed forces and the CSD. As stated earlier, there is significant uncertainty regarding the administrative framework of the majority of the businesses of the armed forces and the CSD.<sup>103</sup> Therefore, unidentified senior officers within the armed forces and the CSD have unbridled discretion to misappropriate public assets, resources and funds in furtherance of profit-generating businesses.

- c) The Public Trust Doctrine, which has been adopted and reaffirmed by the courts of Sri Lanka, specifically dictates that holders of public power are merely custodians of such power. As such the ultimate repository of public power is the people and, accordingly, public power must be exercised for the benefit of the people.<sup>104</sup> Viewing the unfettered discretion of senior officers of the armed forces and the CSD in contradistinction with the Public Trust Doctrine, it is apparent that the businesses of the armed forces and the CSD constitute a gross abuse of the public trust. This is because the said businesses operate beyond the scope of the law, with no oversight or control being exercised by the central government or local authorities so as to be accountable to the people.
- d) Although the CSD is permitted to carry out civil functions such as social welfare operations, the vast scale of its businesses and their progressive growth in revenue generation reveals that the businesses of the CSD are not merely welfare operations, but large scale profitable businesses. As such, permitting the CSD to carry on these businesses results in the dual implications of 1) the CSD being permitted to operate beyond its functions, and 2) vesting unfettered discretion in the CSD with respect to using public resources, assets and funds for profit generation.

In short, it is clear that the armed forces and the CSD presently have the discretion and authority to arbitrarily use public resources, assets and funds to generate profits, without any oversight by the state or guidance by legislation. This threatens democratic governance, public accountability and the rule of law.

It has been reported that the CSD plans on expanding their profit-generating activities, and it remains uncertain whether the tri-forces also plan on expanding their businesses.<sup>105</sup> Expansion will only exacerbate existing concerns.

#### ii. Valuable State Lands are used for Businesses with no Benefit to the Public

As noted, the Public Trust Doctrine dictates that the state is the custodian of natural and national resources, and holds such resources for the benefit of the people.<sup>106</sup> Any use of natural and

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<sup>103</sup> Ibid.

<sup>104</sup> The jurisprudence in *De Silva v. Athukorala* [1993] 1 Sri LR 283 and *Bandara v. Premachandra* [1994] 1 Sri LR 301 are exemplary of the Public Trust Doctrine vis-a-vis the exercise of public power. See also, ICES, *Public Trust Doctrine: The Sri Lankan Version*, 2010, pages 28-30.

<sup>105</sup> CSD, *Performance Report*, 2015, page 36.

<sup>106</sup> *Bulankulama v. Secretary, Ministry of Industrial Development (Eppawela Phosphate Mines case)*, [2000] 3 Sri LR 243; *Environmental Foundation Limited v. Urban Development Authority (Galle Face Green case)*, S.C. (F/R) Minutes 28<sup>th</sup> November 2005; *Watte Gedara Wijebanda v. Conservator General of Forests*, S.C. (F/R)

national resources by the state must, therefore, have a public purpose or accrue some benefit to the public.<sup>107</sup> Furthermore, the Directive Principles of State Policy in the Constitution dictate that material resources shall be equitably distributed so as best to serve the common good and that the state shall protect, preserve and improve the environment for the benefit of the community.<sup>108</sup>

Several military-run businesses occupy important state lands, such as vast tracts of coastal areas in Kankasanthurai<sup>109</sup>, beaches in Trincomalee<sup>110</sup> and Mirissa<sup>111</sup>, lands within national sanctuaries<sup>112</sup> and large agricultural areas<sup>113</sup>. Many of these lands were vested in the tri-forces and the CSD for security purposes at the peak of the armed conflict and have remained in their possession well after the end of the armed conflict.<sup>114</sup>

Despite large scale profit-generating businesses being carried out on these state lands, it remains largely unknown if any profits generated by these businesses are transferred back to the state for redistribution. Moreover, the vast majority of these businesses are staffed and operated by military personnel and offer their products/services to the public at varying prices.<sup>115</sup> Thus, it cannot be maintained that benefits such as income generation for the state or job creation accrue to the general public by the operation of these businesses. Although it may be argued that there is some benefit from steeply discounted services, there has been no cost-benefit analysis to determine whether any subsidised services (e.g., cheaper hotel rates or produce) yield a net public good.

Thus, at present, the military is in possession of vast amounts of lands and resources that are potentially being utilised in a manner that creates no benefit to the public, in complete violation of the trust with which the state granted custodianship of natural and national resources to the military.

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Minutes 5<sup>th</sup> April 2007; Environmental Foundation Limited v. Mahaweli Authority of Sri Lanka and Others, S.C. (F/R) Minutes 17<sup>th</sup> October 2010.

<sup>107</sup> Ibid.

<sup>108</sup> Articles 27(2)(e) and 27(14) of the Constitution.

<sup>109</sup> See Part 2; Thalsevana Army Resort, KKS.

<sup>110</sup> See Part 2; Marble Beach Air Force Resort.

<sup>111</sup> See Part 2; Weligambay Villas, Mirissa

<sup>112</sup> See Part 2; Nature Park Holiday Resort, Chundikulam.

<sup>113</sup> See Part 2; Military Buisnesses in the Agriculture/Livestock sector.

<sup>114</sup> For instance, the Valikamam area within which Kankesanthurai is located was declared a High Security Zone in 1990 and controlled by the SLA, of which vast portions including the Kankesanthurai coast are still controlled by the SLA. Similarly, Marble Beach in Trincomalee was declared as High Security Zone during the conflict and controlled by the SLAF; although Marble Beach is now open to the public, vast portions are reserved as the private beaches for resorts of the SLAF.

<sup>115</sup> See Part 2.

### iii. The Lack of Accounting of Profits Generated

All public entities that carry out sizable public undertakings and generate income/profits must maintain books and accounts detailing their financial affairs. In Sri Lanka, public finance is under the full control of Parliament as per the Constitution.<sup>116</sup> The Constitution also provides for the Auditor General to audit the accounts of every public department, the offices of key state officials, independent commissions, local authorities and public corporations.<sup>117</sup>

Generally, the state carries out businesses for revenue generation through public corporations.<sup>118</sup> Public corporations are established by the state through Parliament passing legislation that creates a public corporation. The Public Corporations (Financial Control) Act No. 38 of 1971 was passed to ensure financial accountability of public corporations.<sup>119</sup>

Article 154 of the Constitution and the Public Corporations (Financial Control) Act thus define the general framework for the financial control, reporting and auditing of public entities. These provisions are applicable even to public entities that do not strictly constitute public corporations.<sup>120</sup>

With respect to the armed forces, their respective legislation does not contain provisions regarding financial reporting and auditing as, naturally, the military is not a profit-generating arm of the state.<sup>121</sup> Nevertheless, because the armed forces are vested with public funds and resources, they publish annual statements of their income and expenditure in their respective annual performance reports. These annual performance reports generally reflect the performance of each Directorate of the respective armed forces, and indicate the income, expenditure, assets and liabilities of the directorates, if any.

Because annual performance reports reflect only the affairs of each armed forces directorate, finances of any activity conducted *outside* their directorates are largely omitted. As stated herein, apart from the Laya Group of Resorts controlled by the Directorate of Welfare of the

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<sup>116</sup> Article 148 of the Constitution.

<sup>117</sup> Article 154 of the Constitution.

<sup>118</sup> A. R. B. Amarasinghe, *Public Corporations in Ceylon* (Lake House Printers, Sri Lanka, 1971), pages 2-10. See also Section 4(1) of the Public Corporations (Financial Control) Act No. 38 of 1971 which states that “It shall be the duty of the a governing body of a public corporation conduct the business of the corporation so that the ultimate surpluses on revenue account shall at least be sufficient to cover the ultimate deficits on such account...”.

<sup>119</sup> The Public Corporations (Financial Control) Act No. 38 of 1971, which is applicable to all public corporations, makes it mandatory that all public corporations maintain proper books and accounts of their financial affairs and transactions, and further makes it mandatory that such books and accounts are audited by the Auditor General.

<sup>120</sup> See Section 10 of the Urban Development Authority Act No. 41 of 1978; Section 14(4) of the Civil Aviation Authority of Sri Lanka, Section 21(1) the National Housing Development Authority Act No. 17 of 1979; Section 16(3) the Road Development Authority Act No. 73 of 1981, and Section 56 of the Land Reform Commission Act No. 1 of 1972.

<sup>121</sup> Indeed, the lack of financial reporting and auditing provisions supports the inference that the SLA, SLN, and SLAF Acts did not intend to confer authority for profit-generating activities.



SLA, it remains wholly unclear if the other businesses of the armed forces fall within the control of any Directorate.<sup>122</sup> Therefore, the financial affairs of the vast majority of the businesses of the armed forces are not required to be reported and remain unspecified.

For example, the 2016 Performance Report for the SLA only reported the revenue received by tender/procurement operations.<sup>123</sup> Significantly, the profits/revenue received by the SLA's several other businesses are not reported. In a similar vein, the SLAF reported that its revenue for the year 2015 was Rs. 246 million.<sup>124</sup> But it did not specify if this substantial amount of income was generated through tender/procurement operations or through its vast portfolios of profit generating businesses. The reports of the SLN are of a different form and report on the affairs of the SLN on a regional basis under broad generic headings. Thus, the SLN neither makes any specific reference to the exact nature of its affairs, nor makes specific reference or mention to any revenue/profits generated by its businesses.

It is noteworthy that the reports of the armed forces also do not indicate the percentage or value of the budgetary allocation that is directed to their profit-generating businesses. This indicates that the value or percentage of the annual budgetary allocation used to continue operating these businesses remains unknown.

As neither the Acts of the armed forces provide for accounting and auditing of any businesses, nor does the Public Corporations (Financial Control) Act apply to the armed forces, there remains uncertainty whether the accounts of the military reflect the financial affairs of the military's profit generating businesses. Thus, while all other public corporations and entities which have sizable financial dealings produce accounts which are audited by the Auditor General, the businesses of the armed forces operate without being accountable to the Auditor General and the public.

#### *iv. Uncertainty regarding the Disposing of the Profits Generated by Businesses*

There is reason to believe that the businesses undertaken by the tri-forces and the CSD generate substantial profits. In the case of the CSD it is undisputed; the Annual Performance Report for 2016 indicated that the CSD generated a profit of LKR 774,059,787.00/- (approximately USD 4.9 million) from its businesses.<sup>125</sup>

Profits are not, however, reported for businesses operated by the armed forces. Although there is evidence of the tri-forces offering lower prices/undercutting private competitors,<sup>126</sup> their businesses are heavily subsidised by the state. Since all tri-forces' businesses are staffed by

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<sup>122</sup> See Part 2.

<sup>123</sup> SLA, *Performance Report*, 2016, page 34.

<sup>124</sup> SLAF, *Performance Report*, 2015, page 174.

<sup>125</sup> CSD, *Performance Report*, 2016, page 26.

<sup>126</sup> See Tables 1, 2 and 3.

military personnel who are paid salaries by the state and operate using assets and infrastructure built and maintained by the military, the overheads of armed forces' businesses are significantly less than their competitors in the private sector.<sup>127</sup> Therefore, these businesses are, in all likelihood, profitable.<sup>128</sup>

Despite clear evidence the CSD earns significant profits, and apparent profitability of businesses run by the armed forces, reporting on the disposal of these profits is lax. This raises a serious concern, as it remains uncertain how profits are applied or distributed.

There is some evidence to suggest that the armed forces may have formulated their own finance directives and internal audit procedures. The SLA, for instance, has several directives in which directions are issued to offices of the SLA on the maintenance of "non-public fund accounts".<sup>129</sup> Spokespersons for the armed forces have also stated that all finances of the businesses are internally audited by military personnel.<sup>130</sup>

This indicates that the armed forces, or at least the SLA, formulate their own directives on the maintenance and disposition of revenue from these profitable businesses, and have their own internal audit practices. However, this internal policy is not transparent to the general public, and there is no accountability as to how profits are distributed or remitted.

Therefore, it can be reasonably contended that a significant amount of revenue and profit accruing from profitable ventures that use public resources, assets and funds remain unaccounted for or utilised without any Parliamentary oversight. This leaves such revenue and profits to be disposed of or utilised at the discretion of officials of the armed forces and the CSD.

Given that profits generated by these businesses are, at the very least, subsidised by the state, such profits should be remitted to the state so they may be redistributed by Parliament through the Appropriation Bill, after factors such as development policies, regional investment, or public welfare have been considered. There is no indication at present that profits generated are remitted to the state, indicating that they are maintained and/or disposed of by the armed forces and the CSD.

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<sup>127</sup> See Part 2 and Part 3(A).

<sup>128</sup> Sunday Leader, *Is the Military operating within Legal Limits?*, available at <http://www.thesundayleader.lk/2012/02/12/is-the-military-operating-within-legal-limits/>, where it is reported for certain that the Navy's whale watching tours are making profits.

<sup>129</sup> SLA, *Directives on Budget and Finance*, available at [http://www.army.lk/directives\\_on\\_budget\\_and\\_finance](http://www.army.lk/directives_on_budget_and_finance)

<sup>130</sup> Sunday Leader, *Is the Military Operating within Legal Limits?*, available at <https://mail.google.com/mail/u/0/#inbox/162dc497989a16e9>

Although the armed forces have maintained that the revenue/profits from these businesses are used for welfare and settling internal expenses of the armed forces and CSD,<sup>131</sup> the lack of any reporting or accounting of profits results carries several other implications:

- a) The exact value of profits used for welfare and recurrent expenditure, and any remaining total of the profits will remain unknown due to financial statements not being prepared and presented for auditing. Thus, there will be no means by which it can be determined that the profits have been used appropriately for welfare, or if they have been used at all.
- b) The lack of proper accounts and financial statements also raises issues pertaining to transparency, as it cannot be determined if senior officials in the armed forces and the CSD have misappropriated the profits for irrelevant purposes or for their personal benefit.
- c) Given that Parliament annually allocates funds to the armed forces and the CSD, the lack of any statement being made available to Parliament of the profits re-used by the military to cover its welfare activities and expenses will result in unnecessary allocations being made to the military. Such unnecessary allocations could be at the expense of regional development and investment in public welfare.
- d) Even if it can be ascertained that the profits are used by the military to cover its welfare activities and expenditure, the fact that such significant profits are left to be used at the total discretion of senior officials of the armed forces and the CSD could lead to abuses of power or corrupt dealings. This could arise where such profits are utilised for affairs such as procurements for the businesses or if senior military officials arbitrarily decide to further expand the businesses.

Thus, it is evident that the uncertainty pertaining to the profits generated by businesses of the armed forces and the CSD has serious implications on the rule of law, as they contravene the provisions of the Constitution and permit the disposal of substantial profits at the absolute discretion of senior officials of the armed forces and the CSD.

*v. Lack of Transparency from the CSD*

The CSD is relatively transparent in reporting staffing, activities, income and profit. However, there is little information available as to how the CSD can afford to pay above-market salaries to its employees.

As discussed, the CSD has reported high levels of income (revenue earned from various projects), which has increased over time despite relatively steady employee numbers with

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<sup>131</sup> See Section 2.

estimates of staff remaining between 38,000 and 42,000<sup>132</sup> over the last four years. Though agriculture remains the largest component of the CSD's income, the income derived from "other" activities has become an increasingly significant portion of the CSD's total revenue (see Table 5). In terms of profits, the CSD reports profits at similar levels to revenues, implying that the CSD encounters minimal costs when engaging in commercial activities.

**Table 5: Income and profits for the CSD in 2016, by project**

|                  | Income (Rs.)       | Profit (Rs.)       |
|------------------|--------------------|--------------------|
| Agriculture      | 402,577,260        | 396,260,072        |
| Animal Husbandry | 44,675,745         | 43,727,484         |
| Bricks           | 62,230,790         | 59,214,753         |
| Other            | 312,306,417        | 274,857,479        |
| <b>Total</b>     | <b>821,790,211</b> | <b>774,059,787</b> |

Source: CSD Progress Report, 2016

Table 5 above displays a total profit that accounts for 94% of the total income, meaning that only 6% of the income earned is used to cover costs. However, it remains uncertain as to how the CSD can afford to pay civilian employees above-market salaries and still maintain extraordinary profit margins.

An analysis of the data for 2016 from Table 5 reveals that the costs (income - profit = costs) amount to LKR 47.7mn. Assuming the annual cost borne per employee amounts to LKR 360,000 (LKR 30,000 per month for each employee), it would mean that the CSD would be capable of employing only approximately 132 civilian employees. This, however, is not possible, as the CSD's own reporting declares a staff of 37,873 civilian employees in 2016<sup>133</sup>. The CSD's reported profits, therefore, do not seem to be accounting for personnel costs and accordingly, these costs must be borne elsewhere. According to budget allocations, the CSD's expenditure in 2016 for "salaries and wages" amounted to LKR 5,984 mn<sup>134</sup>, which again is insufficient to cover the salaries for all CSD civilian staff.<sup>135</sup>

In these circumstances, serious concerns arise with respect to the CSD's extraordinary ability to generate high profits while simultaneously paying their civilian staff above-market salaries from unknown sources of income, thereby bringing into question the CSD's transparency and accountability.

Though not always the case, military involvement in profit-generating businesses has been reported to lead to corruption within the defence establishment and undue political influence

<sup>132</sup> The CSD, *Progress Report*, 2016 lists a gross total of 38,160 employees (with 38,125 in 2015 and 38,677 in 2014) but its website quotes 41,500 employees:

[http://www.csd.lk/index.php?option=com\\_content&view=article&id=10&Itemid=132&lang=en](http://www.csd.lk/index.php?option=com_content&view=article&id=10&Itemid=132&lang=en)

<sup>133</sup> CSD, *Progress Report*, 2016.

<sup>134</sup> Ministry of Finance, *Approved Budget Allocations*, 2018, page 221.

<sup>135</sup> This amount would be enough to pay the Rs. 30,000 per month salary for a year for approximately 16,622 civilian employees (N.B.: Rs. 5,984mn is the CSD's entire budget expenditure for salaries and wages in 2016, which should also include salaries of any military personnel).

by the military.<sup>136</sup> Reports of the experiences of Pakistan<sup>137</sup>, Cambodia<sup>138</sup> and Indonesia<sup>139</sup>, have revealed that there is a reasonable link between the armed forces conducting businesses and the marring of the professionalism of the armed forces. This, in turn has lead to increases in the incidences of corruption in both the defence establishment and politics. With exceedingly lax legal, regulatory, and administrative frameworks in place, there is a distinct possibility that the profit-generating businesses of the armed forces and CSD may lead to similar adverse consequences in Sri Lanka.

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<sup>136</sup> Transparency International UK: Defence and Security Programme, *Military Owned Businesses: Corruption & Risk Reform*, 2012, pages 5-6.

<sup>137</sup> Ibid., page 11; see also Ayesha Siddiqua, *Military Inc.: Inside Pakistan's Military Economy* (OUP, 2007) pages 143-169.

<sup>138</sup> Transparency International UK: Defence and Security Programme, see supra note 136, page 14; see also AisAID: Office of Development Effectiveness, *Cambodia Case Study* (Commonwealth of Australia, 2012), page 12.

<sup>139</sup> Transparency International UK: Defence and Security Programme, see supra note 136, at page 12.



#### **4. SOCIAL AND ECONOMIC IMPLICATIONS FOR THE NORTH AND EAST**

Economic activities of the military are widespread and create impacts throughout the country. However, there are certain effects caused by the CSD in particular that are unique to the North and East of Sri Lanka.<sup>140</sup>

The main question that emerges from the operations of the CSD in the North and East is; what are the consequences of the CSD recruiting a vast number of civilian employees in conflict-affected regions?

This section aims to analyse this question in light of the social and economic implications of the CSD's enterprises.

##### ***A. Economic Vacuum Left by Conflict***

The consequences of the military's extensive involvement in economic activities in the North and East must be understood within the social and economic context of the region. As a result of the armed conflict, families and economies in the North and East have been heavily impacted by repeated mass displacement and the loss of lives and assets.

The conflict also left a substantial impact on the local economy of the North and East, with average income levels still below that of the rest of the country. All respondents interviewed, from CSD employees to government officials, agreed that the lack of jobs and low levels of income in the Vanni were serious issues<sup>141</sup>. Data from the most recent Household Income and Expenditure Surveys (HIES) in 2012/13<sup>142</sup> and 2016 reveals that average household incomes in the North are significantly lower than the national average. Although Jaffna and Mannar appear to have made some progress, Kilinochchi and Mullaitivu continue to lag behind. According to 2016 data, Kilinochchi and Mullaitivu have the lowest average household incomes in the country at LKR 31,576<sup>143</sup> and LKR 31,868<sup>144</sup>, respectively.<sup>145</sup> These are also the two districts that were most impacted by the final months of the conflict.

Poverty levels are far higher in these regions. Kilinochchi and Mullaitivu have the highest poverty levels in the country with a poverty headcount index of 18.2%<sup>146</sup> and 12.7%<sup>147</sup>,

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<sup>140</sup> It is worth noting that in addition to the CSD and enterprises run directly by the armed forces, there are other concerns in the North and East, of partnerships between the military and private companies. Although this report does not delve into this issue, see LST, *Biting the Bullet Demilitarising Economic Relations in Post-War Sri Lanka*, 2017.

<sup>141</sup> According to respondents interviewed in Mullaitivu and Kilinochchi.

<sup>142</sup> This was the first time data was obtained from all 25 districts - previous HIES surveys did not include all districts from the Northern and Eastern Provinces as data was difficult to collect during the war.

<sup>143</sup> HIES, *Final Report*, 2016.

<sup>144</sup> Ibid.

<sup>145</sup> In comparison, average household income in 2016 for Jaffna was Rs. 47,732, for Mannar was Rs. 45,608 and the Sri Lanka national average was Rs. 62,237 (Ibid.).

<sup>146</sup> Ibid.

<sup>147</sup> Ibid.

respectively, compared to the national average of 4.1%.<sup>148</sup> Analysis of poverty levels by district (measured by headcount index and percentage of households in poverty), further reveals that the five poorest districts of Sri Lanka - Kilinochchi, Mullaitivu, Batticaloa, Trincomalee and Jaffna - are all located in the North and East.<sup>149</sup> Additionally, indebtedness is an increasing challenge facing the Northern Province as households struggle to find sustainable, adequate livelihoods and also cope with the costs of rebuilding their homes<sup>150</sup>. This combination of issues impacting the war-affected areas leaves an exposed economy, or an economic vacuum, in need of sustainable livelihood development.

### ***B. Consequences of CSD recruitment of civilians in North and East***

This economic vacuum ought to have been rectified by civilian authorities and private enterprise creating economic opportunities. Instead, the armed forces and the CSD have intervened. The vacuum makes opportunities provided by the CSD relatively attractive to economically needy communities. The monthly salary of a CSD employee is LKR 30,000, which includes ETF and EPF contributions; well above the average per capita income of Kilinochchi (LKR 8,076) and Mullaitivu (LKR 8,476). Given the high levels of poverty, low levels of income, and the dearth of decent and well-paid jobs in the North, the CSD is able to recruit locals despite the stigma attached to employment by the CSD, because employees are perceived to be military personnel and, thus, untrustworthy<sup>151</sup>. This section will examine the resulting consequences of CSD employment, which have contributed to an economic dependency that cannot be sustainable in the long run.

#### ***i. Social Consequences for Women and Vulnerable Groups***

The CSD aimed initial recruitment at former LTTE cadres, who over time have become employed in high numbers.<sup>152</sup> Also notable: in Kilinochchi and Mullaitivu, the majority of non-military CSD employees are women, with many coming from Women-Headed Households (WHHs).<sup>153</sup> These women are marginalised and have limited opportunities<sup>154</sup>, leading them to seek employment by the CSD. This trend stands in stark contrast to CSD employment throughout the country. Table 4 demonstrates the percentage of CSD civilian staff that are

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<sup>148</sup> Ibid.

<sup>149</sup> Ibid.

<sup>150</sup> CEPA, *Life and Debt Assessing Indebtedness and Socio-economic Conditions of Conflict Affected Housing Beneficiaries in Jaffna, Kilinochchi and Mullaitivu Districts*, 2014, page 5, available at [http://www.cepa.lk/content\\_images/0d6e1cc768f1d5f53cdc8ee970a71672-2014-Romeshun-Life-and-Debt.pdf](http://www.cepa.lk/content_images/0d6e1cc768f1d5f53cdc8ee970a71672-2014-Romeshun-Life-and-Debt.pdf), noted that "the lack of livelihood opportunities and individual capacity to rebuild a sustainable method of income generation emerges as a grave socio-economic issue that is directly related to indebtedness of households".

<sup>151</sup> According to interviews with respondents and ACPR, *Civil Security Department – The Deep Militarisation of the Vanni*, 2017.

<sup>152</sup> According to interviews with respondents who are CSD employees and other reports, e.g. ACPR, *Civil Security Department – The Deep Militarisation of the Vanni*, 2017.

<sup>153</sup> According to interviews with respondents who were CSD employees.

<sup>154</sup> WHHs face multiple challenges - the government has begun to tackle this by developing a National Action Plan on Women-Headed Households available at <https://www.dropbox.com/s/xd4bwejnewv6cqi/WHH-ActionPlanMarch2017-Ver2.pdf?dl=0>

women out of the total number of civilian staff for each regional force. With the exception of the CSD headquarters, all other regional forces are less than 30% (and, in most cases, lower than 20%) women. Even the CSD headquarters' percentage is lower at 43%. Kilinochchi's and Mullaitivu's proportions of women, by contrast, stand markedly higher at 68% and 61%, respectively.

**Table 4: Percentage of women CSD civilian employee staff, by regional force**

| Civil Security Department Force |          |            | Women as % of total staff |
|---------------------------------|----------|------------|---------------------------|
| Civil                           | Security | Department | 42.6%                     |
| Headquarters                    |          |            |                           |
| Polonnaruwa Force               |          |            | 4.8%                      |
| Trincomalee Force               |          |            | 6.3%                      |
| Seruvila Force                  |          |            | 4.6%                      |
| Gomarankadawala Force           |          |            | 7.7%                      |
| Kebithigollawa Force            |          |            | 5.5%                      |
| Welioya Force                   |          |            | 11.0%                     |
| Vavuniya Force                  |          |            | 25.4%                     |
| Anuradhapura Force              |          |            | 7.3%                      |
| Ampara Force                    |          |            | 9.4%                      |
| Mahaoya Force                   |          |            | 9.6%                      |
| Vilpattu Force                  |          |            | 1.4%                      |
| Puttalam Force                  |          |            | 3.1%                      |
| Western Force                   |          |            | 24.7%                     |
| Horowpathana Force              |          |            | 8.2%                      |
| Katharagama Force               |          |            | 6.1%                      |
| Kandy Force                     |          |            | 9.6%                      |
| Uhana Force                     |          |            | 12.2%                     |
| Katunayake Force                |          |            | 15.8%                     |
| <b>Kilinochchi Force</b>        |          |            | <b>68.4%</b>              |
| <b>Mullaitivu Force</b>         |          |            | <b>60.9%</b>              |
| Monaragala Force                |          |            | 5.9%                      |
| Medirigiriya Force              |          |            | 3.5%                      |

*Source: 2016 CSD Progress Report*

In the North, the CSD purposefully recruited among WHHs and ex-LTTE cadres for employment. It could be argued that these are the most marginalised groups who are the most in need of livelihood opportunities. However, CSD employees in the North and East are made more socially vulnerable as a result of their employment.

Locals recruited to the CSD report facing mistrust and contempt within their communities, as they are perceived to be military personnel.<sup>155</sup> Such stigma and suspicions further alienate already marginalised groups, increasing their dependence on the CSD for their livelihoods and their vulnerability to potential exploitation by the CSD. Women are in a particularly precarious position. Even where the majority of CSD employees are women, all group leaders and military supervisors are men.<sup>156</sup> This creates a gendered power imbalance that exacerbates the women's vulnerability and raises their likelihood of stigma from working for the CSD.

### *ii. Indebtedness*

The CSD draws employees who are most in need of the above-market salary of LKR 30,000. However, once they commence employment, CSD employees face the possibility of becoming trapped in their jobs due to indebtedness. The CSD recently introduced loans of LKR 1,000,000 to farm employees, with interest repayments deducted from monthly salaries. Respondents suggested that around half of the employees in all CSD farms had taken out these loans. Most of these loans were taken for the purpose of constructing housing and were perceived as particularly attractive given that sources for similar loan sizes are scarce.<sup>157</sup> For example, one respondent interviewed by SACLs previously received a loan from an NGO for approximately LKR 500,000 and found it insufficient to cover housing costs.

Although all CSD farm employees are entitled to leave their jobs at any given time, those who have taken out loans are not permitted to leave until the loan is repaid. Respondents were uncertain of how long it would take to repay the loan as interest payments were simply deducted from their monthly salary. The result is that CSD employees face the possibility of being trapped in their employment for long periods of time.

Indebtedness is an increasingly worrying problem across the country. However, the situation is worse in areas affected by the conflict, particularly in the North where finance companies and banks rapidly set up operations after the opening up of the northern economy<sup>158</sup>. The rise in unregulated loans offered by finance and microfinance companies has led to people becoming trapped in debt due to high interest rates,<sup>159</sup> which in turn has had negative

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<sup>155</sup> According to interviews with respondents and ACPR, *Civil Security Department – The Deep Militarisation of the Vanni*, 2017.

<sup>156</sup> According to interviews with respondents who were CSD employees on the farms.

<sup>157</sup> CEPA, *Life and Debt Assessing Indebtedness and Socio-economic Conditions of Conflict Affected Housing Beneficiaries in Jaffna, Kilinochchi and Mullaitivu Districts*, 2014 studied housing beneficiaries in the Northern Province and their debt. They found that the average amount of debt per household was Rs. 152,489. Though finance may be accessible from other sources, a loan of LKR 1,000,000 is significantly large in comparison.

<sup>158</sup> CEPA, *No Silver Bullet An Assessment of the Effects of Financial Counselling on Decision-Making Behaviour of Housing Beneficiaries in Jaffna and Kilinochchi*, 2015, page 5 available at [http://www.cepa.lk/content\\_images/No-Silver-Bullet-20151014173642.pdf](http://www.cepa.lk/content_images/No-Silver-Bullet-20151014173642.pdf), found an "abundance of formal credit offered by banks, finance companies and microfinance institutions that have recently entered the Northern market".

<sup>159</sup> The Sunday Times, *Microfinance Blamed for Rising Indebtedness in North*, available at <http://www.sundaytimes.lk/171015/business-times/micro-finance-blamed-for-rising-indebtedness-in-north-263653.html>; The Sunday Times, *Northern Village Women in Claws of Microfinance Monster*, available at

consequences<sup>160</sup>. As a result, the provision of these sizeable loans from the CSD, with a problematic requirement to remain employed by the CSD, can lead to further indebtedness and dependency. In Kilinochchi and Mullaitivu, women form the majority of CSD employees and therefore bear disproportionate risk for indebtedness from CSD employment.

### iii. Suppression and Surveillance by the CSD

CSD employees face further alienation from their communities due to strict rules imposed by the CSD, which in certain instances suppress their civil and political rights. Participation in protests by employees is prohibited unless sanctioned by the SLA – in which case, CSD employees have been compelled to recite protest slogans crafted by the SLA.<sup>161</sup> This requirement not only disallows civil and political activism initiated by the community, but also allows for the exploitation of CSD employees to further the CSD's agenda.<sup>162</sup>

This suppression of CSD employees adds to the perceptions of staff as military personnel, further fuelling the stigma associated with CSD employment. This sentiment is also fostered by the surveillance of CSD employees on the farms<sup>163</sup>, which creates a perception that the participation of the armed forces and the CSD in businesses aims not only at profits but also at covert surveillance. A perception of constant surveillance creates a chilling effect and stifles political dissent and activism within communities.

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<http://www.sundaytimes.lk/180304/news/northern-village-women-in-claws-of-microfinance-monster-284599.html>; The Hindu, *Thousands Rally Over Mounting Debt in Northern Sri Lanka*, available at <http://www.thehindu.com/news/international/thousands-rally-over-mounting-debt-in-northern-sri-lanka/article22870307.ece>

<sup>160</sup> These consequences include impacts on the stress levels and health of the individuals, but also impact on the household as the stress of repayment can lead people to sell assets, reduce meals or send family members to migrate for better livelihood opportunities. CEPA, *Life and Debt Assessing Indebtedness and Socio-economic Conditions of Conflict Affected Housing Beneficiaries in Jaffna, Kilinochchi and Mullaitivu Districts*, 2014.

<sup>161</sup> According to interviews with respondents and ACPR, *Civil Security Department – The Deep Militarisation of the Vanni*, 2017.

<sup>162</sup> ACPR, *Civil Security Department – The Deep Militarisation of the Vanni*, 2017, page 17. The protest by CSD workers in Kilinochchi in April of 2017 illustrates this concern. ACPR's report states that CSD personnel protested against the requests by the Northern Provincial Council that CSD farms and pre-schools be handed over to civilian authorities. They held placards with statements demanding that farms remain under CSD control. However, several CSD employees who took part in the protest admitted to ACPR that they had been instructed to do so by the CSD and were compelled to participate without comprehending the purpose of the protest, as they feared for their livelihoods.

<sup>163</sup> According to interviews with respondents and ACPR, *Civil Security Department – The Deep Militarisation of the Vanni*, 2017.



## **5. CONCLUSIONS AND RECOMMENDATIONS**

As this report shows, the armed forces and the CSD are involved in profit-generating activities and businesses across a range of sectors, from tourism to agriculture, throughout the country. Each arm of the tri-forces (SLA, SLN and SLAF) and the CSD runs multiple projects and businesses that present significant implications at a national level for the economy and rule of law. The armed forces and CSD are able to distort market forces given their vast resources and cost advantages, resulting in unfair competition and loss of economic opportunity for the citizenry as a whole. With no apparent oversight and little accounting of profits, the net result is that valuable state land and assets are being used without any apparent benefit to the public.

The current situation is unsustainable and poses serious concerns for both the country as a whole and war-affected communities in the North and East. If the state undertakes business activities, it must do so through entities that are sufficiently regulated and accountable to overcome the major economic and rule of law implications currently posed.

It is self-evident from the enabling Acts and gazette that Parliament did not envision the SLA, SLN, SLAF and the CSD to serve profit-generating roles. One could argue that the solution would be to introduce strict regulations and operating procedures to the armed forces and the CSD and permit their continued profit-generation. However, such a position would be impractical. The armed forces and CSD constitute specialised and highly regimental arms of the state and are vested with the important function of maintaining national security. To burden the armed forces and the CSD with regulations concerning profit generation and oversight would obstruct this essential role.

A more appropriate course of action is for public corporations, joint ventures, or the private sector to undertake and carry out businesses that are currently operated by the armed forces and CSD. There already exists a legal regime governing the control and accountability of such entities, and their smaller capacity (compared to the armed forces and the CSD) will not result in market distortion. The state can pursue the eventual transfer of these businesses to such entities in phases.

Ultimately, a transfer of ownership of military-run businesses will ensure greater accountability, transparency and equitable distribution of state resources and profits. Such a course would foster participation from the private sector and civilian authority in the market, allowing for new sources of employment, investment and healthy competition to develop throughout the country. In the North and East, it would also prevent economic dependency on the military, while allowing marginalized groups to access sustainable employment opportunities that do not present the same social stigma and pressures.

## 6. ANNEX

**Table 6: Businesses of the Armed-Forces and CSD by Sector**

| <i>Sector/Industry</i>                     | <i>Armed Forces</i>                           | <i>Civil Security Department</i> |
|--|---|----------------------------------|
| <b>Hotels/ Resorts/<br/>Villas</b>         | Laya Safari, Yala (SLA)                       |                                  |
|  | Laya Beach, Wadduwa (SLA)                     |                                  |
|  | Laya Leisure, Kukulegama (SLA)                |                                  |
|  | Laya Waves, Kalkudah (SLA)                    |                                  |
|  | Thalsevana Army Resort (SLA)                  |                                  |
|  | Nature Park Holiday Resort, Chundikulam (SLA) |                                  |
|  | Green Jacket's Resort, Mullaitivu (SLA)       |                                  |
|  | Lagoon's Edge Resort, Nanthikadaal (SLA)      |                                  |
|  | Sober Island Resort, Trincomalee (SLN)        |                                  |
|  | Fort Hammenhiel, Jaffna (SLN)                 |                                  |
|  | Lagoon Cabanas, Panama (SLN)                  |                                  |
|  | Weligambay Villas, Mirissa (SLN)              |                                  |
|  | Golf Link Hotel, Trincomalee (SLN)            |                                  |
|  | Marble Beach Resort, Trincomalee (SLAF)       |                                  |
| Eagles' Bayview Resort, Trincomalee (SLAF) |   |                                  |
| <b>Banquet<br/>Halls/Restaurants</b>       | Club House, Uswetekeiyawa (SLN)               |                                  |
|  | The Light House Galley, Colombo (SLN)         |                                  |
|  | Ranminithenna Reception Hall (SLN)            |                                  |

|                                  |   |  |
|----------------------------------|---|--|
|                                  | Poonewa Reception Hall (SLN)  |  |
|                                  | Eagles' Lakeside, Attidiya (SLAF)   |  |
|                                  | Eagles' Lagoon View, Katunayake (SLAF)  |  |
| <b>Travel/Logistics</b>          | Air Travel Services (Private) Limited (SLA)   |  |
|                                  | Helitours   |  |
| <b>Leisure/Recreation</b>        | Whale Watching Tours, Galle/Trincomalee (SLN)   |  |
|                                  | Diving Centre, Kirinda (SLN)  |  |
|                                  | Eagles' Golf Links, Trincomalee (SLAF)  |  |
|                                  | Eagles' Heritage Golf Club, Anuradhapura (SLAF)   |  |
| <b>Agriculture and Livestock</b> | Farms operated by the Directorate of Agriculture and Livestock of the SLM; comprising six (06) large scale farms in areas such as Palaly, Vavuniya, Karadeniya and Ekala, as well as smaller farms in different SLA establishments. | Large scale agricultural and livestock farms, operated in 24 regions, including Anuradhapura, Vavuniya, Welioya, Gomarankadawala, Trincomalee, Seruvila, Kilinochchi, Mullaitivu and Puttalam. |
|                                  | Additionally seven (07) farms of the General Service Corps Regiment of the SLA.   |  |
| <b>Other</b>                     | Bugler's Nest Holiday Home, Mullaitivu (SLA)  | Brick/cement block manufacturing undertaken in 23 regions.   |
|                                  | Small kiosks/restaurants along the A9 and A19 Main Roads in Kilinochchi and Mullaitivu (SLA)  |  |
|                                  | Dambakolapatuna Pilgrims Rest, Jaffna (SLN)   | Various other businesses and profit generating projects, such as the manufacture/sale of electric bulbs, clay pots, fertilizer, cadjans and cane products.                                     |
|                                  | Lakefront Rest, Kanthale (SLN)  |  |



