

The FFMTA Response to the Five-member committee report on SAITM issue appointed by His Excellency the President

The committee has proposed four main recommendations. Their reasons for not considering the proposal submitted by the Faculties of Medicine through the Medical Deans are provided in an annexure. The FFMTA's response to this report is as follows;

The committee report does not indicate the Terms of reference of the committee. We observe that the committee has deviated from the stated objective of this committee, as appeared in the media, i.e. finding a solution for the present crisis. The committee has attempted to propose a way out to salvage SAITM at any cost. The following statements indicate the failure to grasp the root cause of the issue and attempts to deviate from the main issue by misinterpreting it stating to resolve university students boycotting academic activities.

This report does not intend to go in to historical details of the SAITM issue as they are well known to the parties attempting to arrive at an equitable solution. The immediate issue that needs to be resolved centres around students who are currently boycotting academic activities at state medical faculties. In December 2016, all students of state medical faculties started a

1.0 Introduction

By letter PS/SP/Sec/SAITM dated 30 August 2017, the Presidential Committee on Issues on South Asia Institute of Technology and Medicine (SAITM), hereafter known as the Committee, was appointed by the Secretary to the His Excellency the President. The Committee was tasked with reporting back to the President within 10 days from the day following; subsequently approval was granted to present the Report on 11 September. This confidential Report proposes a solution that has broad acceptance among most stakeholders; in particular, with representatives of the Sri Lanka Medical Council (SLMC) with whom the Committee met.

This statement attempts to show that the committee has a broad acceptance among most stakeholders by providing a list of meetings the committee has had with different stakeholders. The FFMTA never had or requested a meeting with this committee. During previous communications with the Hon. Minister, we have very clearly communicated our stance, which has never been considered by this committee. The committee who has misinterpreted the whole issue as due to university students who are currently boycotting academic activities, has even failed to obtain the views of university students and students unions.

The Committee consists the following:

1. Hon (Dr) Harsha de Silva, MP, Deputy Minister, Ministry of National Policies and Economic Affairs (Chairman)
2. Mr D.C. Dissanayake, Secretary, Ministry of Higher Education and Highways
3. Mr Janaka Sugathadasa, Secretary, Ministry of Health, Nutrition, and Indigenous Medicine
4. Hon Jayantha Jayasuriya, Attorney-General (Represented by Mr Sanjay Rajaratnam, Additional Solicitor General, Attorney-General's Department)
5. Prof Mohan de Silva, Chairman, University Grants Commission (UGC)

The committee consists of five members who were named and appointed by the Secretary of the H.E the President. However, the Attorney General (AG) had not participated in the meetings and had been represented by another official who is alleged to have a direct conflict of interest on this matter. Three of the other members are direct subordinates of the Minister of Higher Education and the Minister of Health, who have clearly indicated in public that they support SAIMT. Therefore, there are serious doubts about the integrity of this committee.

The Committee is of the view that any solution proposed to resolve the current issues related to SAIMT must be in accordance with the Government's commitment to enable some level of non-state higher education, including in medical education. The solution must be equitable to non-state higher education, including in medical education. The solution must be equitable to all stakeholders and not be a financial burden on the Government. It must be transparently

This statement contradicts the government statement of "promoting non-state higher education other than in Medicine" which was stated during the Budget speech 2016 (Item 333 page 75)

Allocating 200 Million rupees per month for the Nevil Fernando Hospital from the Ministry of Health is a clear financial burden, especially during a time when the country is supposedly in an economic crisis.

3.1 Matters related to ownership and management of SAIMT

1. **Abolish the current shareholding and management structure of SAIMT;** i.e., the for-profit entity owned and controlled by Dr Neville Fernando and family.

By this statement, the committee clearly declares that SAIMT is an unacceptable, profit motivated family business, established with the sole intention of profit making at any cost.

Furthermore, this statement challenges the UGC Institutional report on SAIMT (2011), which noted that SAIMT has a "Satisfactory" grade for governance. The

gazette notification giving the degree awarding status to SAIMT was based on this institutional report.

2. In its place, **create a new entity that is not-for-profit with a broad-based ownership structure.** The best option will be to collaborate with one or more already established educational institutions along with some amount of public participation. It may take the form of a Public-Private-Partnership (PPP). This entity **should conform to the (to be introduced) Minimum Standards and other quality control measures** with improved governance over a specified period of time.

In Sri Lanka, there are no private sector organizations that have the capacity to provide not-for-profit high quality medical education. With this statement, the committee accepts that in Sri Lanka, only the state sector is capable of making the investment for providing medical education at the required standard.

By definition, not-for-profit organizations cannot have shares or shareholders. There cannot be any return on investment in a not for profit organization. It should be pure philanthropy and not an investment seeking profits.

(There is a suggestion that a portion of shares of the new establishment should be given to Dr. Nevil Fernando. This is either due to a serious lack of understanding of not-for-Profit concept or reveals the poorly concealed hidden agenda of salvaging a fraudulent organization).

The committee contradicts its own proposal to have a not-for-profit entity by introducing a public private partnership (PPP) in the next line. PPP is a profit making arrangement. No private investor will pump funds without a return for the investment. Therefore, the committee is misleading the public of this country by proposing to establish a PPP but stating the new entity is not-for-profit. This is blunt insult to the intelligence of the citizens of this country.

One of the main prerequisites for a country to establish the PPP concept is to have clear and transparent governing mechanisms to be in place. This is due to the high risk to a PPP drifting towards financial malpractices and corruption. It is against principles to hope for governance to improve over time without realistically considering that Sri Lanka has slumped further down in the corruption index.

Furthermore, in a PPP, all parties assume the shared financial risk. Risking public funds to salvage a fraudulent organization cannot be justified.

In summary, this recommendation is a theoretical fantasy made without the basic understanding of the underlying principles of health financing and practical realities.

3.2 Matters related to establishing legally empowered Minimum Standards for medical education and training

- 1. Ministry of Health to gazette Minimum Standards for medical education and training.**
Such to be based on the draft submitted by SLMC upon which views of relevant stakeholders (Ministry of Higher Education, Ministry of Health and UGC) have been already obtained and resubmitted to SLMC for their observations. Once such comments are obtained, finalize the draft, after further clarification by SLMC and other stakeholders if necessary and upon obtaining clearance from the Legal Draftsman and Attorney General. The entire process must be **completed by 30 November 2017, at the latest.**

Minimum standards cannot be applied retrospectively. Therefore, developing minimum standards does not help students who are already recruited. Developing minimum standards for medical education should be separate entity altogether.

This recommendation again poorly conceals the intention to interfere with the powers of the SLMC as the statutory body in making regulations regarding Minimum standards in Medical Education.

Minimum Standards in Medical Education have been in existence from 2006. The SLMC (Sri Lanka Medical Council) first Gazetted its Minimum Standards Regulations No 01 of 2006 in the Gazette of the Democratic Socialist Republic of Sri Lanka (Extraordinary) No.1458/16 August 17,2006 and No.1488/14 March 13,2007. These were regulations made by the then Minister of Health Care and Nutrition, under section 19 to be read with Section 72 (3)(4) of the Medical Ordinance (Chapter 105) in consultation with the Sri Lanka Medical Council.

The SLMC next gazetted Minimum Standards of Medical Education in 2009. Gazette No. 1590/13 - 2009 25th February 2009. These regulations prevail until the next revision is published. Based on the above standards, the SLMC published two comprehensive books.

1 Guidelines and Specifications on Standards and Criteria for Accreditation of Medical Schools in Sri Lanka and Courses of Study provided by them, 2011

2 Guidelines and Standards, Criteria and procedures for the recognition of Degrees Awarded by Foreign Medical Schools, 2010

Regretfully none of the Ministers of Health from 2007 onwards tabled the Minimum Standards in Parliament.

Recently, a committee appointed by the SLMC has prepared a draft revision of Minimum Standards, which was presented to the Medical Council, and modifications were made according to the feedback obtained from Faculties of Medicine. The revised Minimum standards have already been drafted and sent to the AG's department. The delay is due to certain officials of AG's department misinterpreting the medical ordinance due to reasons best known to them.

According to the Medical Ordinance, the power to make regulations on Minimum standards in Medical Education is with the SLMC (Part 111 section 19(e)). The established procedure in drafting minimum standards does not include obtaining UGC concurrence. Even if the UGC provides their observations, it is not binding or mandatory to accept them. This process is based on the recognition of the technical expertise of SLMC in developing minimum standards and it is in-line with the best practices followed in reputed institutions such the GMC in the UK.

3.3 Matters related to a sustainable solution for accreditation and quality assurance in medical education

- 1. Expedite the establishment of the proposed Independent Quality Assurance and Accreditation Authority (IQAAA).** A draft IQAAA Bill is currently at an advanced stage of drafting. Unfortunately, it had not been shared with the SLMC nor with any other statutory professional body for discussion towards arriving at a strong piece of legislation with overall buy-in. The Committee directed that the draft IQAAA Bill be shared with SLMC immediately.
2. This envisaged Authority will take over the powers currently with the UGC and Ministry of Higher Education in the determination of quality assurance and accreditation of all degrees (state and non-state) including those that require professional recognition to practice.
- 3. For medical degree programmes, the SLMC will be the professional or statutory body, which will be consulted and SLMC shall work in collaboration with IQAAA.** The evaluation of medical degree programmes for accreditation will be conducted jointly by the IQAAA and SLMC using the legally empowered Minimum Standards and in accordance with the provisions of the IQAAA Act.

As the committee itself accepts, the IQAA bill is still at the draft stage. As a bill covering the whole higher education sector, it will require obtaining the concurrence of several professional bodies and not only SLMC. This long drawn up procedure is not a solution for the current crisis. The President has appointed this committee to come up with a meaningful solution for the current crisis within 10 days. Deliberating on future plans seems to be a gross attempt to further delay a justifiable solution to the current crisis and deviate attention from the core issues of this crisis.

Furthermore, any future act or bill cannot and should not interfere with the Medical Ordinance, which has been functional for over 90 years. Thus, any future legislation should focus on filling gaps and not taking over well-established processes and norms.

4.0 Action recommended to trigger the proposed solution and to negotiate to end the boycott of medical students of state-universities

1. As an immediate step, the Committee recommends that the Secretary Ministry of Higher Education to discuss with the Attorney General to determine an appropriate legally binding mechanism to **inform SAIMM to suspend admission of new students until proposed restructuring is complete, and fresh approvals are granted** for the degree programme according to legally empowered Minimum Standards. This phase to be **time bound so that any mala fide delays could be avoided** and investors are able to complete the restructuring exercise.

This action is expected to build confidence among all stakeholders the genuine desire of the Government to implement the proposed recommendations, which will be equitable to all.

However, this letter should not have any binding impact on the students who have already passed out with MBBS degrees from SAIMM. The solution for them to obtain provisional registration from SLMC is beyond the scope of this report.

The Deans expressed their view to the Committee that such a time-bound suspension of admissions to SAIMM that carries legal weight is likely to result in the students calling off the current boycott of academic activities.

2. To appoint a **high-powered committee to oversee the completion of the recommendations** contained in this report.

This vague statement does not convey any genuine intention of stopping admissions, and rather it shows the unwillingness to take a decision. Attempting to link many other parties into making this decision, especially the AG's department, whose officials have been continuously opposing the stance of SLMC at the court of law, casts serious doubt on the credibility of the recommendation.

Previously published government solutions clearly indicate that there are deficiencies in quality of training and examinations at SAIMM which need to be rectified. This is one of the main issues. Any solution that does not take the inadequacies in the training of current students into consideration is not a meaningful solution for the current crisis and negates the very reason of establishing this committee.

Further, this suggestion only shows the lack of understanding on the concept of minimum standards in medical education by the committee members. This suggestion assumes that all the shortcomings in SAIMT will be automatically rectified the day minimum standards are gazetted. An institution that could not attain minimum standards for 9 years that has not responded to many warnings from SLMC to stop admissions and have grossly violated stipulated procedures, cannot be salvaged through a temporary suspension. This will not build confidence of the stakeholders of this issue or the public. It will further complicate this issue with catastrophic consequences.

It should be also noted that the committee refers to “investors”. This is contradicting the first recommendation of this report, which state a non-profit model.

All in all, the four recommendations of this committee are inherently contradictory and based on misguided principles and fantasy. Appointing another committee to implement the above irrelevant, biased and impractical recommendations, as indicated in the 4th recommendation, would be a waste of public funds and time.

Responses to the content in the Annexures of the report

Annexure 2: Answers to proposals made to the Hon Minister of Higher Education by Deans of medical faculties. These responses have been submitted by the Secretary Ministry of Higher Education and Attorney General.

Proposal 1: Admission of students to the SAIMT MBBS degree programme should be terminated, i.e. enrolment should be stopped on a permanent basis.

Answer: Termination of admissions of students to SAIMT on a permanent basis cannot be considered due to following reasons.

1. The Presidential Secretariat release refers to temporary suspension.
2. The cabinet decision refers to broad basing the ownership of SAIMT and transforming into a non-profit making, public private partnership.
3. The Neville Fernando hospital has been handed over to the state with the objective of facilitating clinical training to SAIMT students.
4. The decision given by the Court of Appeal to grant provisional registration to student of SAIMT is challenged by the SLMC and the case is pending before the Supreme Court. Therefore, it is prudent to await the outcome of the said case.
5. It is observed that SAIMT has temporarily suspended enrolments in response to a request made by the specified authority. The said suspension is still in force.

The reasons provided by the committee for not considering the proposal for terminating admissions to SAIMT are unacceptable.

The first and second reasons provided are irrelevant as the presidential committee was appointed to look for possible solutions and not to ratify previous press statements by the president's secretary or cabinet decisions that did not materialize. If the committee tries to hide behind those statements, it proves that this committee is incapable of providing a solution to this issue.

The third reason given is not relevant. The proposed takeover of a hospital has nothing do with termination of admission. Further, in the proposal the committee state that Government should not have any financial burden from restructuring SAIMT. This clearly contradicts the position of the committee.

The fourth reason given is totally irrelevant. A Fundamental Rights case filed by a single student regarding her registration does not have any genuine relevance on taking a decision of stopping student admissions to SAIMT which has created a national issue. This only displays pure incapability of the committee to defend their stance. Furthermore, referring to the issue as "student" without reference to whether it is a single student or many students is clearly an attempt to misguide.

The fifth reason emanates from a wrong observation. SAIMT has so far not complied with any request to stop admissions. In fact, a press statement has been issued by SAIMT administration ridiculing the government request.

Proposal 2: Those SAIMT students enrolled before 2016 who satisfy the Minimum Entry Criteria stipulated by the SLMC (i.e. 2 credit passes and a simple pass at A levels) should be allowed to complete their course of study and enter the medical workforce after meeting additional training requirements as stipulated by SLMC, and passing a licensing examination conducted by SLMC.

Answer: Proposal 2 consists two issues: (1) Minimum entry criteria, and (2) Licensing examination

1. Minimum Entry Criteria by SLMC

Observation: As per section 15 V, VI and VII read with Section 3 (5) of the Universities' act 1978, power to decide the minimum entry criteria for enrolment of students to courses of study to state universities is vested to UGC and, as per section 70 D (I) of the Universities Act 1978, determining the requirement for admission of persons to the courses of study at degree awarding institutes is vested to the specified authority and not with the SLMC.

2. Licensing Examination

Observation: The Medical Ordinance does not empower the SLMC to conduct licensing examinations for students who qualify from Degree Awarding Institutes in Sri Lanka

An option available is extending the period of supervised training (Internship). Considering that the Provisional Registration (internship) is supervised training, students who have already obtained the MBBS Degree from SAIMT may be offered an extended period of supervised training (internship) up to 18 months (for state students the period of supervised training is 12 months)

2.1 Entry criteria is a mandatory component of minimum standards

The committee is deliberately trying to ignore the basic requirements of minimum standards and trying to justify lower admission criteria of SAIMT to please the unqualified students admitted to SAIMT.

2.2. To have a Licentiate examination for SAIMT students after proper training

The committee is quickly refusing this suggestion pointing that SLMC does not have a provision to hold a licentiate examination. However, the government stance in April 2017 clearly suggests a licentiate examination for students of SAIMT, and SLMC has proven capability in conducting such examinations.

Further, it proposes a longer internship for those ill trained students of SAIMT as a solution. Proposing an extended internship clearly shows the ignorance regarding the process of medical training, and totally downgrades the medical training. Internship is a training period for qualified doctors with provisional registration. Inadequacies during the undergraduate training cannot be compensated by an internship. This will have clear repercussions on patient safety.

Proposal 3: Details of the necessary interim arrangements for the conduct of the MBBS academic programme and the award of MBBS degree (to students enrolled before 2016) should be ratified by an Interim Independent Authority (IIA) under the purview of the SLMC. This IIA shall be dissolved after a reasonable period of time that allows for students enrolled prior to 2016 to pass out.

Answer:

1. The Medical Ordinance does not make provisions for establishment of such an authority under the purview of SLMC.
2. Establishment of an IIA will lead to a conflict with the specified authority who has powers vested under section 70 B, 70 C and 70D of the Universities Act 1978.

If the committee feels that a new legal provision is needed in SLMC, then the duty of the committee is to propose amending the Medical Ordinance to include such provision. It should be noted that the committee is refusing a minor amendment to the medical ordinance to solve an issue while proposing a new bill to create an accreditation body that cannot be realistically established for a couple of years. This contradictory stand only shows the inherited bias of this committee towards SAIMT.

All the above reasons given to hide their true intentions are lame excuses for a committee appointed by an Executive President. If legal provisions are not there, the committee should be bold enough to propose the minor amendments considering the gravity of this national crisis. What is needed is the political will. Clear examples are the intensity and enthusiasm shown by the former Minister of Higher Education in gazzeting and even backdating the degree awarding status of SAIMT and changing the

competence authority from UGC to recognize and justify the same institution. **The need of the moment is the political will for a just and equitable solution.**

Conclusion

We FFMTA totally refuse this proposal as this will not solve the issue in hand on SAITM. We reiterate our position by requesting to implement the fair solution put forward by all faculties of medicines through the medical deans on 31st July 2017.

On Behalf of FFMTA

Signed
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Convener