

HEALTH AUTHORITIES CLAIM

INFLUENZA-A ON THE WANE

JVP POINTS OUT DISCREPANCIES IN NUMBERS

By RANMINI GUNASEKARA AND METHMALIE DISSANAYAKE

The Influenza-A epidemic is going down significantly, said Director General of Health Services Dr. Anil Jasinghe, yesterday (11). Despite reports of two more child deaths, due to influenza, at the Karapitiya Hospital, Dr. Jasinghe added that epidemiologists have confirmed that the number of reported influenza cases has reduced.

"A few days ago, epidemiologists of the Epidemiology Unit and regional epidemiologists visited many hospitals like the Lady Ridgeway, the Infectious Disease Hospitals, the Ratnapura and Kalutara Base Hospitals and also many other Hospitals in the Southern Province and found that numbers have reduced. There was a slight increase that was consistent with seasonal variations, because this is the flu season in Sri Lanka."

Furthermore, Dr. Jasinghe said that a

meeting will be held on 14 June in order to appoint a committee to decide on the vaccine.

"This is not like a vaccine given by the National Immunization Programme, like for Rubella or Measles. The vaccination for the influenza only has one year of efficacy. So vaccination will have to be given yearly and the effectiveness of it varies from 40 to 60 percent. These things can't be decided in a rush, it might even take several months," he added.

Dr. Jasinghe further said that there were a few patients reported from Embilipitiya, since the area is bordering the Southern Province.

He also added that the disease could spread to other parts of the island and that it was up to people to mitigate this by taking proper precautionary measures.

"This disease spreads through drop-

lets in the air. If you have a fever and a cold, don't go out. Use a mask or a handkerchief and wash your hands with soap frequently."

Meanwhile, the Janatha Vimukthi Peramuna (JVP) on the same day alleged that a discrepancy has been reported between the Ministry of Health's statistics on influenza and the information they receive through the medical officers who work in the Southern areas.

During a media briefing, JVP Parliamentarian Dr. Nalinda Jayatissa also said that there are questions on the quality of the drugs imported from Pakistan to treat the patients who were diagnosed with influenza A. The medical officers who treat these patients say that they do not get the expected result by using these drugs imported from Pakistan, he claimed.

Judges recent recusals come under fire from ex-CJ

By RUJWAN LAKNATH JAYAKODY

Former Chief Justice (CJ), President's Counsel, Sarath Nanda Silva criticized several recent recusals of Judges of the Superior Court in relation to cases, involving former Defence Secretary Gotabaya Rajapaksa. The concept of recusal or judicial disqualification is founded on the principle of bias, the latter which can be actual or perceived.

While there are no statutory provisions governing the matter in Sri Lanka, it has evolved out of practice. Former Supreme Court (SC) Judge, Justice Dr. A.R.B. Amarasinghe in his book *Judicial Conduct, Ethics, and Responsibilities* also deals with the matter.

Section 49 of the Judicature Act, No. 2 of 1978 deals with instances where the Judge is a party to a case or is personally interested in the case or when the case concerns an appeal from or review of any judgment, sentence or order passed by the said Judge. In the former two instances, only with the express consent of the two parties to the case can the Judge in question be involved. In the latter case, the Judge can have no involvement whatsoever.

Recently, in cases involving an appeal petition and Fundamental Rights petition filed by Rajapaksa, several Judges of the Superior Courts (the SC and the Court of Appeal (CoA)) recused themselves. The SC websites states that it has 10 Judges while the CoA website states that it has 12 Judges.

Silva, speaking to Ceylon Today, explained that actual bias involves situations where a judicial officer feels that he or she has a bias in relation to a matter before the Court (for example, having a certain personal connection to a party before the Court in a particular case, no matter how remote). In the case of the latter, the judicial officer in question should disclose this on the case record. But in the case of the Judges of the Superior Courts, they entertain discretion on whether to withdraw from the case or not. If no one objects, he or she should continue to hear the case, Silva added.

Perceived bias on the other hand involves situations where there is the perception of bias. This further involves situations where objections to the further involvement of the judicial officer in question in relation to the proceeding before the Court are raised either by the prosecution or the defence. Immediate recusal in such an instance is "sine qua"

non," said Silva. "Justice as the adage goes must not only be done, it must also be seen to be done."

In the case of the minor judiciary, the party objecting to the involvement of a particular judicial officer can bring the matter to the attention of the Judicial Services Commission, and the latter can, after an inquiry, decide to transfer the matter from the said judicial officer in question to another.

In the case of the Judges of the Superior Courts, the Judge in question has the discretion to recuse himself / herself. In this instance, the matter is seen as one of acting on one's personal conscience.

There may also be instances where there is perceived bias yet no objections are brought forth in this regard by any relevant party. In this context too, the discretion pertaining to recusal is entirely with the Judge in question in the case of a Judge of the Superior Courts.

When queried as to whether the Judge in question should explain or justify himself or herself as to why he or she seeks to recuse from the case, and whether the CJ or the President of the CoA had any purview regarding the matter, Silva said, that while the CJ and the President of the CoA were merely the administrative heads of the respective Courts, they therefore had no involvement in the matter at hand, the Judge in question had to "clearly state a reason" and mention it on the case record as to why he or she sought to recuse.

Except in the instance where objections are raised, in all other instances, the Judges are duty bound to hear the case and fairly dispense justice. This is the reason why Lady Justice is blindfolded. One should not have any consideration for such connections. There is a limited number of Judges in the Superior Courts.

In the case of the SC, a Bench comprising a minimum of three Judges is required to hear a case while a panel of two Judges is sufficient to grant leave to proceed. If Judges recuse themselves at a rate, there is no end to the situation. Political matters are vital cases which Judges should hear. Only the judiciary stands above politicians. If the judiciary subjugates itself by declining to exercise its jurisdiction, but, what other course of legal redress and recourse is available? Where else can one go?"

Korea pledges more aid

Next round of talks in Seoul

By PANEETHA AMERSEKERE

The Tech City Project in Homagama, establishment of the Gampaha College of Technology and other project including several water supply schemes under the Korea Economic Development Cooperation Fund were discussed at a meeting in Colombo, between Foreign Ministry Secretary Prasad Kariyawasam

and First Vice Minister Lim Sung-nam of the Korean Foreign Ministry, on 7 June.

Acknowledging and recognizing the importance of coordinating efforts at multilateral forums to address a range of issues such as health, environment, sustainable development, climate change, human rights and the preservation and

advancement of the rules-based international order, the two sides, headed by Kariyawasam and Lim respectively, at the discussions held, agreed to work closely, the Ministry of Foreign Affairs said in a statement. "Both sides agreed to convene the Third Round of Political consultations in Seoul," it was further stated.



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