

THE WEDNESDAY INTERVIEW | S.Y. QURAISHI

‘There is no question of going back to the paper ballot’

The former Chief Election Commissioner on the EVM controversy, why the Supreme Court verdict on criminals in politics is a missed opportunity, and electoral bonds

ANURADHA RAMAN

The debate on the reliability of electronic voting machines (EVMs) refuses to settle, with political parties continuing to voice their concerns about malfunctioning machines. Former Chief Election Commissioner S.Y. Quraishi explains how EVMs work, why he is disappointed with the Supreme Court for refusing to bar politicians with serious criminal charges from contesting elections, and expresses concern over the growing number of hate speeches by senior leaders. Excerpts from an interview:

You were upset that the Supreme Court refused to bar politicians who face serious criminal charges from contesting elections.

■ For the last 20 years, the Election Commission, besides civil society, has been demanding that people who face criminal cases of a serious nature, which are pending, should be debarred from contesting elections. Even the Law Commission has demanded this. The standard defence of the politician is that you are presumed innocent until proven guilty. The second stand they take is that in politics, quite often the Opposition files false cases against opponents to defeat them judicially, if not politically, which is also a valid argument.

The Election Commission's response to this has been to ensure three safeguards. One, that every criminal case will not debar you [from contesting]; only heinous offences which carry imprisonment of five years or more will. Two, the FIR should have been registered at least six months before the election so that a case is not filed on the eve of the election. Three, a court of law should have framed the charges. The court of law in case of heinous offences would be the district and sessions court, which means the highest court below the high court.

At one stage, the then Law Minister, Salman Khurshid, suggested that the Election

Commission should change its formulation about registration of the case from six months before the election to one year. We said, no problem. Then he said, can we begin from the time the charge sheet is framed and not when an FIR is registered? We said we have no problem with that either.

I called the Supreme Court judgment a missed opportunity because the ball is now in Parliament's court. Parliament has refused to act for two decades. It is unlikely that it will act now. Asking MPs to pass a bill against themselves is futile.

Surely it is the prerogative of Parliament to legislate?

■ Of course. But let us now examine the legal maxim, innocent until proven guilty. There are four lakh prisoners in Indian jails today – 71% are undertrials. Yet, you have taken away four of their fundamental rights: the right to liberty, freedom of movement, freedom of occupation, and freedom of dignity. And the legal right to vote as well. If, under the presumption of innocence, you can take away their fundamental rights, what is the big deal about taking away the right to contest, which is not even a fundamental right? Why doesn't the same presumption apply to undertrials?

Another reason why it was a missed opportunity was that the Supreme Court did not even touch upon the is-



SHIV KUMAR RUPSPALAKAR

sue of fast-tracking politicians' cases, which is very much in its domain. In fact, in 2014, the apex court had already taken the view that all such cases must be disposed of within a year, failing which the concerned court should bring it to the notice of the Chief Justices of the respective high courts. The Law Minister wrote to all the States to help enforce this judgment. But the Supreme Court did not say a word about this.

Often the public blames the Election Commission for its ineffectiveness in keeping criminals out. They don't realise that disqualifying any candidate from contesting is the function of law. That is why the Election Commission is asking Parliament to legislate on the matter.

The controversy surrounding EVMs refuses to die down. Recently, an EVM was found abandoned on a national highway in Rajasthan and another was found in an MLA's house. Why not go back to the paper ballot?

■ There is no question of go-

ing back to the paper ballot. EVMs are good and they have done India proud. However, they are machines – sometimes they malfunction. Out of 20 lakh machines in operation, a few hundred or thousand can malfunction. For these there is a clearly defined protocol: replace them within half an hour.

But that is a lot, isn't it? Enough to switch the fortunes of a party when cleverly manipulated?

■ When there is malfunctioning, it doesn't mean rigging or cheating. As soon as defects are detected, the machines have to be replaced within half an hour, for which reserved machines are kept in place. Twenty per cent reserve machines are on standby. In cities, these extra machines are kept in a roving vehicle so that they can

reach a booth within half an hour following a complaint. In rural and remote areas, the extra machines are placed in the booth itself. Every single machine is individually tested and subjected to a mock poll thrice.

But isn't it odd that EVMs are found on highways and in an MLA's house? Shouldn't the Election Commission be worried?

■ These were reserved EVMs which had not been used. But they are also expected to be returned intact on time. Any lapse invites strict action against the staff, including suspension and even an FIR.

You are saying all this is a drop in the ocean. Yet all you need to win is to ensure malfunctioning. Is there room for doubt that a party in power can manipulate an EVM?

■ Every political party has questioned these machines but they have all been winning or losing with the same machines. Every machine is guarded by the paramilitary, State police, and district pol-

ice. The machine is the most observed object. And nobody is more vigilant than politicians during the time of elections about EVMs. They even sleep outside the strongrooms.

Despite the assurances, there are lapses. How do you explain that?

■ Eleven million people conduct elections at one million polling stations. Some can be inefficient, some extremely nervous. 'Zero error' effort is sought to be maintained. Yet, mistakes happen and corrective action is promptly taken. In any case, with the introduction of VVPAT, the controversy should have died down.

But it hasn't.

■ Because people have not fully understood the operation. Every EVM now has a printer attached. This printer has a screen on which the selected candidate appears – his face, name and symbol – and stays there for seven seconds, which is enough time to register the correctness of the vote. Then the slip drops into a sealed box to be counted for cross-checking when required. In the last four years, nearly 800 such machines have been counted. Not one mismatch has been reported. What better proof do we need?

Yet, there are doubts about how the Election Commission arrived at such a small sample for every constituency.

■ I agree that counting just one machine per constituency is too little. My proposition is to have 5% VVPAT of the constituency. That would mean 10 to 15 machines in a constituency. I had mentioned this to the former Chief Election Commission-

er, O.P. Rawat, in a casual conversation. He had told me that the Election Commission had written to the Indian Statistical Institute, Kolkata, asking what sample would be scientific enough to achieve 99.99% public satisfaction. This was music to my ears. But I don't know what response came from the institute. It must be put in the public domain.

The recent Assembly elections were marred by Uttar Pradesh Chief Minister Yogi Adityanath's communal speeches. What do you think the Election Commission should have done?

■ Hate speech by senior leaders is a matter of grave concern. Unfortunately, we notice a growing tendency among senior leaders to indulge in such speech. There was a time when political leaders had evolved a code of self-discipline known as the model code of conduct. This was followed in letter and spirit for decades. But today's leadership doesn't seem to bother. They even test the patience of the Election Commission. Instead of respecting the model code, they repeatedly challenge it. This will have consequences: there will either be a severe backlash from the Commission or the image of the Commission will get eroded, which will be suicidal for our democracy.

What is your view on the dissolution of the Jammu and Kashmir Assembly and the role of the Governor?

■ In the present context, when Governors have become too political, the powers of the Governor should be clearly defined, according to the recommendations of the Sarkaria Commission. They should invite the party

with the largest numbers to form the government, failing which [they should invite] the combination of parties claiming the largest numbers. In Jammu and Kashmir it seems that a political coalition, however disparate, was coming into place. In the famous *Bommai* judgment, the Supreme Court had clearly held that the question of majority can only be tested on the floor of the House, not in a Raj Bhavan.

What do you think of electoral bonds?

■ Electoral bonds have taken away whatever little transparency there was. The only little good that has come out of it is that cash donations have been replaced by banking transactions. The Finance Minister had stated in his Budget speech that for seven decades, efforts to achieve transparency of political funding have not succeeded, without which free and fair elections are not possible. After these fine statements one expected transparency in political funding, to know which corporate has paid how much to which party so that quid pro quo could be known. Electoral bonds have made the whole transaction secretive and opaque. Only the government knows who gave how much to which party. Crony capitalism has been legalised and institutionalised.

According to media reports, over ₹10 billion has been donated by citizens through electoral bonds and most of the donations seem to have come in October, ahead of the recently concluded Assembly elections. What do you make of this?

■ I am not surprised. The ruling party always corners more funds for obvious reasons.

SINGLE FILE

A case for content

Scientific papers should be judged by their content and not by the journals in which they appear

SHUBASHREE DESIKAN



The best scientific research is not necessarily published in the most popular mainstream journals, and history has many examples to prove this. In 1986, when J. Georg Bednorz and K. Alex Müller made a breakthrough with their discovery of high temperature superconductivity in a ceramic material, they did not publish their results in the sought-after journals. They chose to publish in a journal that was not very well known: *Zeitschrift für Physik B*. Their discovery was awarded the Nobel prize in 1987.

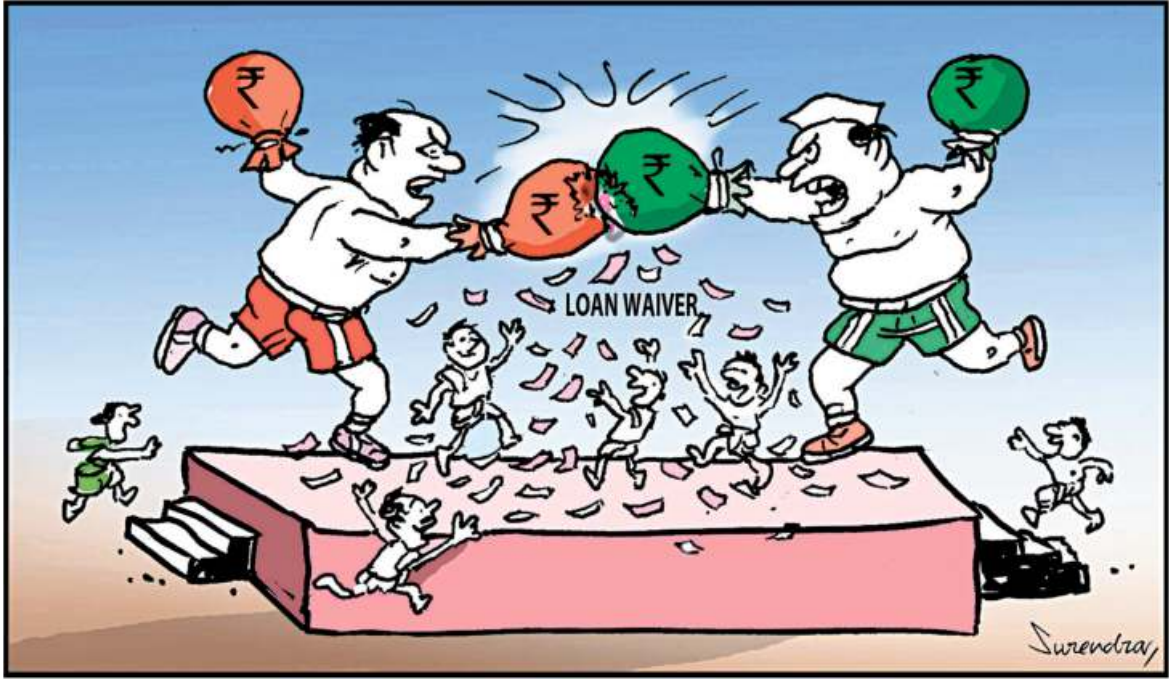
In many cases, this is not a matter of choice. Lynn Margulis's efforts to publish her influential 1967 paper, "On the origin of mitosing cells", were remarkable: The paper was rejected by 12 journals before being accepted by the *Journal of Theoretical Biology*. Now, it is considered the work that brought to focus the endosymbiotic theory of organelle origins. This is the theory that mitochondria, the power houses of cells, were initially independent free-living cells and they got into a symbiotic relationship with larger cellular beings to form a new organism. Originally proposed by microbiologist Ivan Wallin in the 1920s, the theory needed Margulis's tenacity to gain acceptance.

Personal bias can also nudge a piece of scientific work towards lesser-known journals. The landmark paper of Ronald A. Fisher, "The correlation between relatives on the supposition of Mendelian inheritance", has been so influential that geneticists are celebrating the centenary of its publication this year. It was initially submitted to the Royal Society of London. It was withdrawn following inordinate delay and unfavourable reviews and was finally published in the *Transactions of the Royal Society of Edinburgh*. "The paper laid the foundations of the field of quantitative genetics," says evolutionary biologist Amitabh Joshi of JNCASR, Bengaluru.

Some important work from Russian groups was neglected because the work either never appeared in western journals or appeared only much later in translation. "One example is the work of Vadim Berezhinskii on two-dimensional phase transitions, which appeared two years before the work of John M. Kosterlitz and David J. Thouless," says biophysicist Gautam Menon of the Institute of Mathematical Sciences, Chennai. "It was referred to as the KT transition, and both [Kosterlitz and Thouless] were awarded the Nobel prize close to four decades later. By then Berezhinskii had died, so could not have received the prize, although the transition is now increasingly referred to as the BKT transition in his honour."

The lesson that these cases underscore is that it is easy to miss important scientific works, if only the name of the journal in which they are published is considered a marker of their consequence. History suggests that it is better to judge papers by their content.

The writer covers science for The Hindu



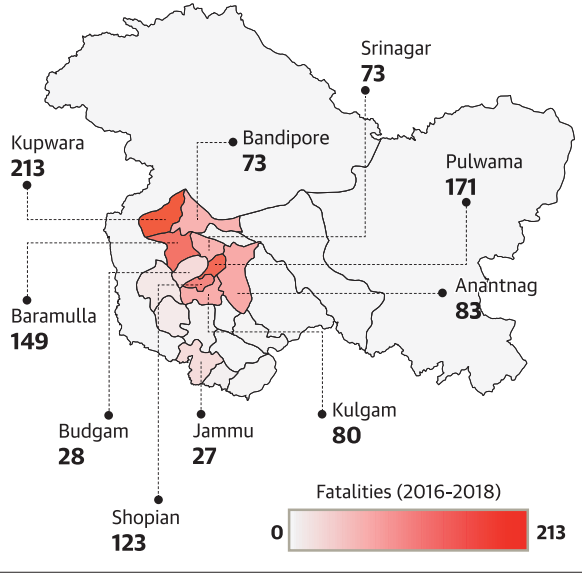
DATA POINT

Trouble again in paradise

In the last 10 years, the number of fatalities (of civilians, security personnel and terrorists) in Jammu and Kashmir was highest in 2018 and the number of incidents of violence was among the highest. From 2006 to 2012, there was a steady decline in violence, but Kashmir has been on the boil again since then. The major inflection point was in 2016 when Hizbul Mujahideen militant Burhan Wani was killed. The protests that followed led to sustained unrest and widespread violence in the Valley

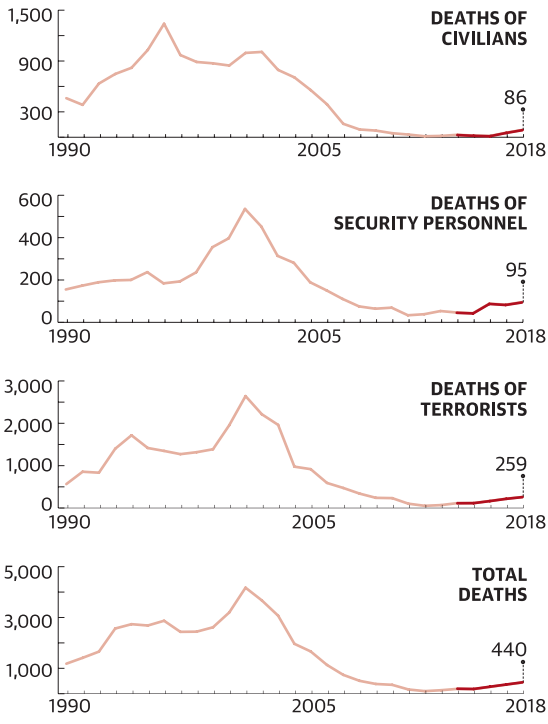
Violent hubs

Kupwara, Pulwama and Baramulla districts have registered the highest number of fatalities due to violence in the last three years



The storm after the lull

Many of the fatalities in Jammu and Kashmir occurred during the peak years of militancy in the 1990s that lasted till the mid-2000s. From then onwards, there was a definite dip as the State moved to relative normalcy. The last three years have reversed this trend with a substantial increase in violence



Compiled by Srinivasan Ramani, Vignesh Radhakrishnan, Varun B Krishnan. Source: satp.org; Ministry of Home Affairs

FROM The Hindu. ARCHIVES

FIFTY YEARS AGO DECEMBER 19, 1968

Two more Kerala naxalites held in Madras

Two more Kerala "Naxalites" were arrested by the City Police last night [December 17, Madras], following the arrest of K.P. Narayanan on Monday night [December 16]. They are A. P. Balan (30), an agricultural worker, and N. P. Viswanathan (18), a beedi worker, both hailing from Pallur, a village near Tellicherry. They are wanted in connection with the attack on the Tellicherry Police Station on November 22. The two persons have been remanded into custody for three days. The City Police obtained a clue to their presence in the City during the interrogation of K.P. Narayanan. All the three are now being interrogated by a team of police officers headed by the Deputy Commissioner of Police, Law and Order, Mr. P. Dorai. Kerala police officers are on their way to the City to take charge of the accused.

A HUNDRED YEARS AGO DECEMBER 19, 1918.

Rice for Travancore. The New Arrangements.

The price of rice has been mounting fearfully last week. The Travancore Durbar [in Trivandrum] has been doing all it can to reduce the price by importing large quantities of paddy, but the agency through whom arrangements had been made failed at the last moment. The Durbar had therefore to begin negotiations anew. The Darbar's Director of Civil Supplies had to be sent to Madras. He has now returned and reported that he has engaged Messrs. Steele Brothers, Rangoon, for importing seven thousand tons of paddy every month for five months from January, 1919. The Director of Civil Supplies expects the first supply of paddy before the first week of January. In view of the distress due to high prices, Dewan Krishnan Nair left yesterday [December 17] on tour to meet food advisory committees in the mofussil stations to afford the people instantaneously such relief as may be suggested by these Committees.

CONCEPTUAL

Overperception bias

PSYCHOLOGY

Also known as the sexual overperception bias, this refers to the tendency among people to overestimate the level of sexual interest that others have in them. It is believed that men are more likely to overestimate the interest level of women. On the other hand, women are said to underestimate men's interest level. This is attributed to the fact that the evolutionary cost of underestimation is relatively high for men when compared to women. The overperception bias is considered to be a corollary of the sexual underperception bias which refers to the tendency among people, mostly women, to underestimate the interest level of people of the opposite sex.

MORE ON THE WEB



Video: In numbers - Tiger deaths in India

<http://bit.ly/VideoTigerNumbers>