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Ela Bhatt: In Memoriam

By: Indira Jaising

Ela Bhatt, committed to improving the well-being of self-employed women, was one of those rare people who, in their lifetime, saw more than one law travel from the drafting board to its implementation.

Much is known about the life and times of Ela Bhatt, founder of SEWA. I had the privilege of working for her and with her in the service of self-employed women, which gives me some confidence to speak about her and her work.

I was always fascinated by the question: how does one organise the self-employed? I was brought up to believe that organisation into unions is for the working class employed in industry. Yet, the idea of organising the self-employed is unknown to the trade union movement. The Trade Unions Act is a legislation from 1926, but it did not – and to this day does not – envisage the formation of unions of the self-employed. The very concept of employment entails the existence of an employer, the payment of wages, and the need to organise fair terms and conditions of work. In my career as a lawyer, I have provided services to several trade unions, worked closely with their leadership, and learnt and understood the concept of the generation of surplus labour leading to capital generation.

It was Ela Bhatt who introduced me to the idea of the need to support and organise a movement of the self-employed. Even then, I asked the question: how can the self-employed unionise? Against whom would they make their demands? I found no answers until I figured out some for myself. Close to that time, I was also working for the dock workers who had been unionised by the then Bombay trade unionist George Fernandes. Simultaneously, alongside organising the traditional working class, Fernandes had started organising the hawkers of Bombay. He came to the issue through the organisation of workers employed in the Bombay Municipal Corporation (BMC). The BMC was issuing licences to hawkers and Fernandes was naturally attracted to the issue. Even so, we approached the issue of the rights of hawkers through the prism of corruption within the BMC. Licences were deliberately kept to a minimum. In a city with over 50,000 hawkers, only 14,000 licences were issued, after which the gateway to a licence was blocked.

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Fernandes realised that the reason for this blockage was none other than the collection of a *hafta* by the local police in return for the right to hawk legally. It was then that he started organising the hawkers in full swing and went on to found the Bombay Hawkers Union, which, in turn, played a historic role in the legal history of the country. I had the privilege of appearing for the Bombay Hawkers Union in the Supreme Court of India, demanding the right to hawk as a fundamental right, an argument never heard in the Supreme Court. No one could have imagined that the self-employed would organise themselves into a big union and go on to be responsible for the most critical right to livelihood cases of the Supreme Court of India in *Bombay Hawkers' Union and Ors vs Bombay Municipal Corporation*.

In a judgement delivered by Chief Justice Y.V. Chandrachud in 1985, the Supreme Court held that the right to hawk was a fundamental right which could not be denied by the non-grant of licences by the corporation. While arguing in the case, we had the challenge of proving that hawkers had indeed been hawking on the streets of Mumbai over the years, which entitled them to certain rights. The only proof of this activity was the receipt of a fine imposed on them for hawking on the streets of Bombay. That receipt of criminality became the gateway to their rights. It struck me as highly poignant that the self-employed tend to go through the route of criminal law before they could claim any rights. It was also at that time that I made the connection between my work for the Bombay Hawkers Union, led by Fernandes, and SEWA led by Bhatt.

It was around the same time that Bhatt had approached me with a bunch of receipts for being prosecuted criminally and for having paid fines for the self-employed women hawkers on the streets of Ahmedabad. She showed me proof that they had been hawking for a long time on the streets of Ahmedabad. From recycled footwear to vegetables to embroidered garments, these women were out there earning their living with the support of Bhatt. I found the answer that I was looking for. How can the self-employed be unionised? By trade unionists, of course. Neither Fernandes nor Bhatt would have been able to unionise the self-employed without the experience of having worked in the organised working class, which brings me to the creative development of Bhatt as a force to reckon with.

Bhatt organised home-based workers in the bidi industry who were mainly women. Bidi manufacturers disowned all responsibility for them, claiming they were independent contractors or, worse, partners.

Ela Bhatt was born in Ahmedabad, India, on 7 September 1933. In 1948, she graduated from Sarwajanik Girls High School in Surat. Thereafter, Bhatt attended MTB (Maganlal Thakordas Balmukunddas) Arts College in Surat, where she received a bachelor's degree in English in 1952. In 1954 she graduated from Sir L.A. Shah Law College in Ahmedabad, earning a gold medal for her work in Hindu law.

In 1955 Bhatt joined the legal department of India's oldest union for textile workers, the Textile Labour Association (TLA), formed in 1920 in the wake of a textile workers' strike led by Mahatma Gandhi. Inspired by Gandhi's example, she founded the Self-Employed Women's Association (SEWA) in 1972, serving as the union's secretary-general until her retirement in 1996. Under her leadership, SEWA established a cooperative bank in 1974 to provide small loans to poor women to start their own businesses. The union also provided financial and business counselling. Bhatt was also a co-founder in 1979 of the Women's World Banking (WWB), a global network of microfinance organisations that assisted poor women. She served as chairperson of WWB from 1980 to 1988.

In 1986 the president nominated Bhatt to the Rajya Sabha, where she served until 1989. She chaired the National Commission on Self-Employed Women, which was established to investigate the conditions of poor women workers. Bhatt also served as an adviser to multilateral organisations such as the World Bank on matters relating to microfinance, banking, and antipoverty programmes. In 2007 she joined The Elders, a group of world leaders that Nelson Mandela founded to promote human rights and peace; she became an emeritus member in 2016.

She was awarded the Padma Shri in 1985 and the Padma Bhushan in 1986. She was also awarded the Ramon Magsaysay Award in 1977.

Bhatt lobbied tirelessly for a law which would guarantee the rights of hawkers. What was fought by SEWA snowballed into an all-India movement. Now, every state has its hawkers' union and an all-India federation, the National Hawker Federation.

While Bhatt through SEWA organised self-employed women, she continued to strive for their legal recognition as a category deserving of employment benefits. One of her biggest challenges was being kept out of tripartite meetings between labour management and government for discussions on terms and conditions of employment on the ground that the women were not 'employed'. At that time, she organised home-based workers in the bidi industry. who were mainly women. Bidi manufacturers disowned all responsibility for them, claiming they were independent contractors or, worse, partners. She played a role on the international scene by lobbying for an [ILO convention on home-based workers](#).

Sadly, India has not ratified the 1996 convention as yet. But that did not stop SEWA from taking the case to court. I appeared on behalf of SEWA in the Delhi High Court, challenging the exclusion of SEWA from the negotiating table, and succeeded. I have never seen Bhatt happier than she was on the news of that judgement. It was the legitimisation of her work for the dignity of the labour of the self-employed.

But the bulk of the work I did for SEWA was on the right-to-hawk on the streets of Ahmedabad. In the late 1990s, the Gujarat High Court was flooded with cases brought to court by hawkers to retrieve their confiscated push carts, just about the only asset they possessed to make a livelihood. Each raid would result in a massive build-up of confiscated carts dumped in municipal yards. for which the hawkers had to go to court. Those confiscated carts and penalty receipts finally became the proof of their very existence when the courts said all those who were plying their cart before a particular date would be given licences. As an organiser, Bhatt knew the value of documentation.

It was also the efforts of Bhatt which finally led to the passing of the Unorganised Workers Social Security Act of 2008 under which welfare benefits could be extended to unorganised workers...

SEWA evolved the concept of the "natural" market, a place where people congregated for their consumer needs. The one case that symbolises this concept is the case of the Manek Chowk women vegetable vendors. Over the years, they had been vending vegetables in what is now part of the heart of the city. The corporation sought to remove them on the ground that, given the increase in traffic,

the roads had to be widened, and the women had to leave. A cluster of more than 100 women was vending vegetables there, and their families depended entirely on their sales. They faced imminent eviction. SEWA argued that the women were there in a natural market long before the city grew around it, and hence, they have a prior right to be there. They were also serving an obvious consumer need with busy people hurriedly shopping for their daily needs on the way back from work.

I appeared on behalf of SEWA in the Supreme Court of India to stop their eviction. A bench presided over by Justice P.N. Bhagavati directed that they not be evicted unless they were accommodated in the newly built municipal market in the exact same location. The cases represented a significant victory for SEWA and its members, which was celebrated by distributing vegetables and fruits to us.

Bhatt lobbied tirelessly for a law which would guarantee the rights of hawkers. What was fought by SEWA snowballed into an all-India movement. Now, every state has its hawkers' union and an all-India federation, the National Hawker Federation. Ultimately, the day came when the United Progressive Alliance government passed [The Street Vendors \(Protection of Livelihood and Regulation of Street Vending\) Act, 2014](#), bringing to culmination Bhatt's struggle to protect the rights of street vendors. The law, which is gender-neutral and protects all hawkers and street vendors, ends one phase of the work of SEWA. The grand celebration, which was held in Ahmedabad, was presided over by Bhatt and was probably the last of the public functions she attended. There I saw several of the women I represented beaming with joy. They had made garlands out of vegetables which we each had to wear holding hands, symbolising the collective nature of our struggle and success.

It was also the efforts of Bhatt which finally led to the passing of the [Unorganised Workers Social Security Act of 2008](#) under which welfare benefits could be extended to unorganised workers, from which they were hitherto excluded. She had achieved her lifelong dream of enabling welfare benefits to women home-based workers.

Ela Bhatt was amongst the rare people who saw more than one law from the drafting board to its implementation in her lifetime.

Indira Jaising is a noted human rights lawyer and a senior advocate at the Supreme Court of India.