**ESELA CONFERENCE: AMIT BHATIA’S OPENING REMARKS**European Social Enterprise Law Association
London School of Economics; Friday, 12 April 2019

1. BEHIND EVERY SUCCESSFUL REVOLUTION IS A LAWYER

Last year, the Supreme Court of India decriminalized homosexuality by declaring the 150-year old Section 377 of the Indian Penal Code unconstitutional. It had been a long and arduous battle for gay rights in India. Many still stand against it; but, a constitutional change has ensured that the people it protects can now lead lives of dignity without being criminals in the eyes of law. The law may not change culture in a day but as Thomas Hobbes wrote, “the law is the public conscience”. Indeed, I believe it shapes public conscience and has done so for centuries. I can’t help but recall a few pioneering enactments which helped build a better world:

* In 1863, Abraham Lincoln, American President and lawyer by profession, wrote the Emancipation Proclamation, and ensured that it became a part of the American Constitution- a moment that changed the course of history and ended slavery

* In early part of the 19th century, right here in Great Britain, about 49 per cent of the workforce in factories and in rural areas was under 20 years of age. Child labor in the UK was brought partially to an end with the Factory Act of 1833 and the Education Act of 1870
* In 1970s in the US, due in large part to the writings of Rachel Carson and efforts of then US senator Gaylord Nelson, Earth Day was created which paved the way for the historic Clean Water, Clean Air and Endangered Species Act
* The Comprehensive Anti-Apartheid Act of 1986, another act passed in the US was to have great impact on a country in another continent. It ensured that South Africa was compelled to abolish Apartheid
* You may have heard, Canada has recently passed a law penalizing big emitters and the monetary recompense is to go back to the Canadian people

Ladies & Gentlemen- behind every successful revolutionary change, is a thoughtful and activist lawyer who helps reset the moral compass for the society. After the fire and the chaos of a revolution subsides and the revolutionaries are long gone, the essence of these revolutions is captured and sustained through law and constitutional changes. These changes often have global impact. The role of lawyers and the legal system is irrefutable and irreplaceable. A great power is in your hands. Today, I am here to ask you what role will you play in the Impact Revolution?

1. THE IMPACT ACT

Right here, right now, the Impact Revolution is underway. It seeks to address the world’s most challenging issues- hunger & poverty, income & wealth inequality, climate change and of course, the 17 SDGs. There is a way that actions accentuating inequality and global warming can be identified and addressed by law. Many will say, that our problems are due to our broken economic system of unfettered capitalism. I don’t disagree. I say there’s more wrong than just capitalism- our social contract is broken. Even Rousseau, whose 18th century book The Social Contract, is still a bible for political philosophy, could never have envisioned our dilemma today. Despite 250 years of capitalism 1.0, three billion people live in poverty, inequality is growing and climate change threatens our fragile planet.

How will we change the fact that the 26 richest individuals own as much wealth as 3 billion poor- just 26 individuals. Can we change it? 82% of the new wealth created in 2017 went to the Top 1%. Can we change it? The IPCC report of last year says we will breach the 1.5 degree celsius global warming red line by 2030. Can we change it?

We can. The Impact Revolution can. It can change this economic system and the social contract that has failed us. They, who defend status quo, believe that only occasionally there will be a French Revolution and a queen, a Marie Antoinette, may lose her head, occasionally. They believe that The Arab Spring, the Occupy Wall Street movement and possibly even the Yellow Vest protests will not deliver their full promise. They know it took centuries for democracies to be born and bring down aristocracies and monarchies; they believe that it may take generations for democracies to become just and equal. But we have just 12 years and that’s why we need an Impact Revolution.

The good news is that we envision to use the same market mechanism, the invisible hand, offered by capitalism to address the greatest social and environmental challenges of our time and make capital and profits moral again. But first, we must help capital find its highest purpose – Impact. Impact is the measure of an action’s benefit to the society and the planet. We must bring it to the center of our consciousness and make it the invisible heart of the markets. We must build impact economies where impact is a deliberate decision criteria, alongside risk and return, in all business, investment, policy and consumption decisions. We need to establish a new equation that Capital + Purpose (=) Impact.

Then, we must enshrine Impact in law. Just like the slave trade and apartheid and colonialism were all once blessed by law and later outlawed- our battle against poverty, inequality and global warming will come down to embedding Impact in law. The quest for justice- social, climate & economic justice, is the quest for “The Impact Act”.

The Impact Act will be a new social contract, which works for the poor and mother nature, helps eradicate poverty, pursues social and climate justice, therefore allowing capital to find its highest purpose. The Impact Act will make reporting of measurable, standardized and comparable impact mandatory for all organizations- big business, governments, investors and ofcourse social and impact enterprises. We must create The Impact Act and advocate it’s adoption at city, state and country level. The Impact Act is an idea whose time has come. I hope you will all partner the Impact Revolution in this initiative. We have already coopted two of your own- Roberto Randazzo and John Simpkins into the effort as part of a GSG special working group on Impact Economy. Ladies & Gentlemen- together, and only together, we can make The Impact Act the new conscience for humanity.

1. THE DOTS ARE CONNECTING IN THE IMPACT REVOUTION

The Impact Revolution is much like the tech revolution and is showing the same growth trajectory. It was not too long ago, that the Tech Revolution, held out a similar promise in the mid-90s. While we still were getting used to the 20 kg desktops with monochromatic CRT monitors and CPUs, with cooling fans which made noise like a truck, the vision of a wireless 200 gm device in every hand was just science fiction. Gurus and Pundits did announce how the entire world would become a web. Naysayers laughed. But new babies were being born- Microsoft, Apple, Amazon, Cisco, Intel, Alibaba, TenCents and Facebook. After 30 years, those new borns rule global capitalism. And science fiction is reality. Steve Jobs used to say, “You can't connect the dots looking forward; you can only connect them looking backwards.” As we look at the Impact Revolution- the dots are already connecting. With a $26 trillion plus sector of Responsible, Sustainable & Impact Investing, in less than two decades, we are on a path to create the impact economies of the future.

Let me remind you, that the MDGs focused on ending extreme poverty, hunger and preventable disease. They were audacious in 2000. But we got there in 2015. They have been the most important global development goals in the UN’s history. The SDGs are equally compelling. The SDGs will continue the fight against extreme poverty, but also target equitable economic growth and environmental sustainability. Whether you are the G7 or G20, EU or AU, ASEAN or SAARC, you cannot ignore SDG and COP goals. There is no escaping the Impact Revolution.

Yes, we have an annual $2.5 trillion SDG financing gap. And that’s why the Impact Revolution is critical. It unlocks private capital for public good at scale. As Sir Ronald often puts it, it is an evolution in thought but a revolution in means. If we make Impact reporting mandatory through an Impact Act, we will close financing shortfalls for the SDGs and COP- the entire economic system will work for impact, for social and climate justice.

I know you are all lawyers; you seek irrefutable evidence in every argument. Let me therefore also highlight that we are not the only ones- multiple treaties and declarations (like UN SDGs, COP21 Paris Agreement, The B Corp Movement, ICC Business Charter for Sustainable Development, The Earth Charter, etc.) and proposed legislation (like Senator Elizabeth Warren’s bill) are all attempts in this direction. The Impact Act is a winning proposition as it will be a simple act which unites the social and environmental movements and proposes a simple, impact weighted accounts methodology, which makes impact measurement simple and comparable. We have a separate initiative with Harvard Business School on Impact Weighted Accounts which is making good progress.

I will leave you with this. It’s not a question of “if” this is happening- it’s a question of when and where will it end? We can finally see the kaleidoscope settle and the shape of the future impact economy. We can finally envision a new social contract which drives social justice and climate justice. If we could end tyranny of aristocracy through democratic systems, we canend the tyranny of poverty, in law. St. Augustine wrote and Martin Luther King famously repeated this legal maxim in the Civil Rights movement, “An unjust law is no law at all”. We cannot continue to be victims of a broken social contract- let’s establish the Impact Act, to ensure that our political and economic systems become more equal and just. Let’s make poverty and climate change history, legally, constitutionally and forever.

Thank You.