

ACHIEVING A GLOBAL CONSENSUS ON SOCIAL ENTERPRISE: UNDERSTANDING GOVERNMENT'S VITAL ROLE

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INTRODUCTION

The work of the Grammen Bank earned the bank and its founder, Muhammad Yunus, the Nobel Peace Prize in 2006 “for their efforts to create economic and social development from below.”¹ In the United States companies such as Ben & Jerry’s² and King Arthur Flour³ proudly display their B Corp certification from B-lab while others companies in the United States, such as Patagonia, have registered as Benefit Corporations under state law.⁴ In Brazil, Leonardo Letelier created SITAWI, Brazil’s first social enterprise fund.⁵ Former university professor Zheng Hong established the Dandelion School in Beijing to ensure that migrant children who could not legally attend school because they lacked a city resident permit would receive an education.⁶ Each of these various efforts is unique and yet together they form part of the mosaic that is the international social enterprise landscape.

A cursory glance at social enterprise literature immediately alerts one to the fact that any attempt to neatly craft and package a comprehensive overview of social enterprise will fall woefully short. While no one definition can adequately encapsulate the various meanings attributed to the term "social enterprise," a useful starting point is to consider social enterprise as the application of private efforts to remedy social ills. Recent decades have witnessed an increase in the number of social entrepreneurs, those who seek to fill the social needs left unmet by both the government and traditional non-profit and charitable organizations. The manner in which social entrepreneurs fill this gap varies according to a country’s social, political, economic, and cultural experiences. In some countries, the social enterprise label is only available to those entities formed as not-for-profit organizations. In others, commercial for-profit ventures can be considered social enterprises. More recently, some governments, such as the United States and the United Kingdom, have adopted new forms of hybrid entities specifically designed for those entities that combine both the desire to aid society and the desire to make a profit.

While the lack of a universal definition of the term makes navigating the social enterprise

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¹ Ole Danbolt Mjøs, Chairman, Norwegian Nobel Comm., Norwegian Nobel Committee Chairpersons Speech (Dec. 10, 2006), available at <http://www.muhammadyunus.org/index.php/professor-yunus/nobel-peace-prize>.

² *Ben & Jerry’s Joins the B Corp Movement!*, BEN & JERRY’S, <http://www.benjerry.com/about-us/b-corp> (last visited Apr. 8, 2015).

³ *Social Responsibility at King Arthur Flour*, KING ARTHUR FLOUR, <https://www.kingarthurfLOUR.com/about/social-responsibility.html> (last visited Apr. 8, 2015).

⁴ Mat McDermott, *Patagonia Becomes a California Benefit Corporation*, TREEHUGGER.COM (Jan. 3, 2012), <http://www.treehugger.com/corporate-responsibility/patagonia-becomes-california-benefit-corporation.html>.

⁵ Leonardo Letelier, *Journey into Brazil’s Social Sector*, STAN. SOC. INNOVATION REV. (Winter 2012), at 15, available at http://www.ssireview.org/articles/entry/journey_into_brazils_social_sector.

⁶ Andrea Lane, *FYSE 2012 China Social Enterprise Report*, BUS. FOR SOC. RESPONSIBILITY 10, http://www.bsr.org/reports/FYSE_China_Social_Enterprise_Report_2012.PDF (last visited Apr. 8, 2015).

terrain challenging, it has not impeded efforts by international, regional, and national organizations to keep the social enterprise conversation moving forward. The purpose of this paper is to offer insights into efforts that governments have taken and can take going forward to either establish or further invigorate the social enterprise sector. But, any meaningful discussion of such efforts can only take place within the context of a basic understanding of how social enterprise is perceived and understood on the global level. To achieve this baseline of knowledge, Part I describes the challenge of creating a working definition of social enterprise and the historical and cultural factors that make this especially difficult. Part I endeavors to identify the minimum base upon which a social enterprise discussion can be built. Part II provides a glimpse into how social enterprise is understood and implemented in various countries. International approaches to social enterprise are explored, with an in-depth look at approaches to social enterprises in countries such as: Brazil, China, India, Italy, Japan, Russia, the United Kingdom, and the United States. Part III explores the government efforts that have been implemented to propel social enterprise forward.

This paper provides a snapshot of the present, a look back at the past, and a forward gaze into the future possibilities. The article outlines those government efforts that can be used to support the social enterprise sector and explores the ways in which such efforts have already been used in some jurisdictions. Finally, the article concludes that it is only supportive government efforts that will ensure the recognition of social enterprise as an indispensable aspect of a country's social and economic landscape.

I. THE CHALLENGE OF WORKING WITHOUT A UNIVERSAL DEFINITION OF SOCIAL ENTERPRISE

As described in the Introduction, "social enterprise" is an often-used term with numerous variations in meaning. Conversations on social enterprise can be narrowly or broadly tailored to fit the needs of any given audience. Globally, cultural identity, societal customs, historical experiences, and forms of government shape any given society's embrace and adaptation of the social enterprise movement.

A. Crafting a Unifying Definition of Social Enterprise

Perhaps the most useful starting point to begin to understand the meaning of social enterprise is to consider a description of that term that was agreed to by fifty-five global leaders in the social enterprise movement:

Social enterprise is widely understood to describe businesses that exist to tackle social and environmental issues, whose surpluses are principally reinvested to do so, rather than driven by the need to maximize profit for shareholders and owners.

The social enterprise term has been used for nearly two decades by a worldwide movement for social justice that has support from governments and civil society organizations all over the world. Time, energy and resources have been invested into the social enterprise movement, a thriving and a powerful force providing solutions to some of the world's most pressing problems – poverty, inequality, unemployment, disadvantage, climate change and global

warming.⁷

Notice the two-fold focus of this description: (1) mission-base and (2) use of surplus.

Let's consider the "mission" aspect first. While at their core, social enterprises exist to provide social value and serve "the interest of the public,"⁸ even within geographical regions there is no one consensus on the social enterprise mission. Consider the European Union (EU) as an example. In the EU we find that the concept of social enterprise has various meanings between countries. One perspective focuses on innovation to meet social needs and highlights the work of those who engage primarily in business in the non-profit sector.⁹ Another school of thought reduces emphasis on the non-profit sector and stresses the social entrepreneurship dynamic developed by firms seeking to advance the social impact of their productive activities.¹⁰ Yet another approach in the public debate in the EU only uses the term "social enterprise" for entities in the sector with a focus on the fact that "the social impact on the community is not merely a consequence or a side effect of economic activity; it is the motivation itself."¹¹ This latter approach is consistent with the approach of the EMES, an international research network sponsored by the European Union, which limits its definition of social enterprise to those "not-for-profit organizations providing goods and services directly related to their explicit goal of serving the community" which "place a high value on their independence and economic risk-taking related to ongoing socioeconomic activity."¹²

This emphasis on primary motivation is an important one. The primary motivation of a social enterprise is social betterment, not profit-seeking. Without recognizing this distinction, one runs the risk of falling into the mistake of using the notion of social enterprise interchangeably with the concept of corporate social responsibility (CSR). As business leaders such as Richard Branson continue to warn corporations that they must contribute more to society,¹³ it is likely that CSR efforts will continue to be on the rise for the foreseeable future. Therefore, distinguishing between CSR and social enterprise may become increasingly complex. While admittedly there are blurred lines between the concepts, the two are distinct.¹⁴ A social

⁷ Letter from Muhammad Yunus, Founder, Grameen Bank et al. to Marc Benoiff, Chairman and CEO, salesforce.com (Aug. 31, 2012), *available at* http://www.socialenterprise.org.uk/uploads/editor/files/Global_letter_Salesforce_Aug_2012.pdf (last visited Apr. 8, 2015) (fifty five global social enterprise leaders were signatories to this letter which asked Marc Benoiff, CEO of salesforce.com, to withdraw his pending trademark application for use of the term "social enterprise" in the IT field in the United States, the United Kingdom and Jamaica.) For additional information on this dispute and its resolution, see Jim Schorr & Kevin Lynch, *Preserving the Meaning of Social Enterprise*, STAN. SOC. INNOVATION REV. (Sept. 14, 2012), http://www.ssireview.org/blog/entry/preserving_the_meaning_of_social_enterprise and *Salesforce Withdraws 'Social Enterprise' Trademarks and Vows to Stop Using the Term*, SOC. ENTER., http://www.ssireview.org/blog/entry/preserving_the_meaning_of_social_enterprise (last visited Apr. 8, 2015).

⁸ Francielli Martins Borges Ladiera & Hilka Vier Machado, *Social Entrepreneurship: A Reflection for Adopting Public Policies that Support the Third Sector in Brazil*, 8 J. TECH. MGMT. AND INNOVATION 188, 189 (2013).

⁹ Marthe Nyssens, *Western Europe*, in SOCIAL ENTERPRISE: A GLOBAL COMPARISON 12, 13 (Janelle A. Kerlin, ed., 2009).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 13-14.

¹³ Simon Denny & Fred Seddon, *Evaluating Social Enterprise: An International Perspective*, in SOCIAL ENTERPRISE, ACCOUNTABILITY AND EVALUATION AROUND THE WORLD 3, 3 (Simon Denny & Frederick Seddon eds., 2013).

¹⁴ See, e.g., Antony Page & Robert A. Katz, *Is Social Enterprise the New Corporate Social Responsibility?*, 34

enterprise embeds its social goal(s) into its core mission.¹⁵ A socially responsible business engaged in CSR activities, on the other hand, engages in such behavior with the recognition that CSR will add to the financial value of the business and so a socially responsible behavior may be simply an “add-on” to business as usual or adoption of a cause as a “branding strategy.”¹⁶ The primary purpose of a social enterprise “lies outside the commercial outcomes related to their trading of goods and/or services in the market (beyond the generation of profit or the growth of the enterprise itself).”¹⁷

The second prong of the social enterprise definition focuses on the fact that the surplus of a social enterprise is “principally reinvested” in the mission. Use of the word *principally* suggests that there is flexibility in this regard, allowing for the ability to return profits to shareholders or other stakeholders. Such flexibility is required in a baseline definition in order to accurately represent the many variations of social enterprises. For example, while some countries, such as Italy, may limit the social enterprise label to entities that reinvest all surpluses in the mission, many other countries, such as the United States, have adopted a more expansive social enterprise definition that includes for-profit businesses that generate returns to owners under the social enterprise umbrella.

B. Origins of Social Enterprise

The term “social enterprise” was first used approximately twenty years ago to signify a “worldwide movement for social justice.”¹⁸ During the twenty plus years that have elapsed since then, social enterprise has gained increasing momentum internationally.¹⁹ Certainly, social enterprise-like efforts predate the use of the term. Some take the view that social enterprise efforts date back to the 1600s. British social enterprise scholars Simon Denny and Fred Seddon point to the work of Thomas Firmin who made employment available in London for those out-of-work as a result of the plague of 1665.²⁰ Between 1676 and the 1690s, Mr. Firmin established a linen manufacturing factory with the objective of employing up to 1,700 of the poor in London.²¹ Though his businesses did not prove to be financially successful, he is credited as an early social entrepreneur incorporating overt social values as the core business mission.²² In the United States, some point to Goodwill Industries as one of the most well-known social enterprises in the United States.²³ Rev. Edgar James Helms, who founded the entity in 1902 in

SEATTLE U. L. REV. 1351, 1377-78 (2011) (answering the question in the negative); Thomas Kelley, *Law and Choice of Entity on the Social Enterprise Frontier*, 84 TUL. L. REV. 337, 350 (2009) (comparing and contrasting corporate social responsibility and the social enterprise movement).

¹⁵ Anja Cheriakova, *The Emerging Social Enterprise: Framing the Concept of Social Entrepreneurship*, THE BROKER (Oct. 28, 2013), <http://www.thebrokeronline.eu/Articles/The-emerging-social-enterprise>.

¹⁶ *Id.*

¹⁷ Denny & Seddon, *supra* note 13 at 29.

¹⁸ *Global Figures, Associations, Professors and NGOs Call on Technology Giant to Halt Attempted Take-Over of ‘Social Enterprise’*, SOC. ENTER., <http://www.socialenterprise.org.uk/news/global-figures-associations-professors-and-ngos-call-technology-giant-halt-attempted-take-over-social-enterprisea> (last visited Apr. 9, 2015).

¹⁹ Xiaomin Yu, *Social Enterprise in China: Driving Forces, Development Patterns and Legal Framework*, 7 Soc. Enter. J. 9, 9 (2011).

²⁰ Denny & Seddon, *supra* note 13.

²¹ *Id.* at 4.

²² *Id.*

²³ Matthew F. Doeringer, *Fostering Social Enterprise: A Historical and International Analysis*, 20 DUKE J. COMP. & INT’L L. 291, 293 (2010).

Boston, Massachusetts, described Goodwill as an “industrial program as well as a social service enterprise...a provider of employment, training and rehabilitation for people of limited employability, and a source of temporary assistance for individuals whose resources were depleted.”²⁴

What is clear is that social enterprises have stepped in and continue to step in to fill an unmet need.²⁵ In some instances these may be needs that were previously met by government, but economic downturn may have prevented government from continuing to offer assistance. Consider, for example, the emergence of social enterprise in the United States and Europe during the 1970s and 1980s.²⁶ In the 1970s, an economic downturn in the United States led to welfare entrenchment and cuts in federal funds flowing to nonprofit organizations.²⁷ Nonprofits engaged in commercial activities (the sale of goods and service not necessarily in further of their mission) in order to fill the gap in funding.²⁸ The nonprofit sector also began “to set up and operate its own businesses as a way of creating job opportunities for the disadvantaged, the homeless, and other at-risk people.”²⁹ Between 1982 and 2002, the portion of income generated by charities from commercial activities increased 20%.³⁰ In Europe, the economic downturn of the 1970s was also a concern, causing long-term unemployment to rise as high as 40%.³¹ Fiscal pressure caused the governments in Europe to cut budgets thereby reducing unemployment assistance. Because of this, charities began focusing their efforts on the problem of unemployment and established work-integration and job training programs.³² Also, in Europe, the legitimacy and effectiveness of the state welfare programs were under scrutiny, further contributing to the growth of social enterprise.³³

Forty years ago, six women in India formed the papad (crispy bread) manufacturing co-operative, Shri Mahala Griha Usyog Lijjat Papad, as a way to enable poor and uneducated women to make a living and care for their families.³⁴ Today that co-operative has over 40,000

²⁴ Arlene McCrehan, Goodwill’s History, available at <http://www.goodwill.org/about-us/goodwills-history/>.

²⁵ MICHAEL BLOWFIELD & ALAN MURRAY, CORPORATE RESPONSIBILITY 270 (3d ed. 2014) (“[f]or many, what is special about social entrepreneurship is the primacy attached to the social or environmental mission. This means identifying and addressing an unmet need or value creation opportunity”); Marguerite Mendell, *Social Enterprises in OECD Member Countries: What are the Financial Streams?*, in THE CHANGING BOUNDARIES OF SOCIAL ENTERPRISES 89, 89 (Antonella Noya ed., 2009) (“[a]s social enterprises continue to draw the attention of national governments and local authorities alike in the fight against unemployment and social exclusion, they are also being embraced by civil society as a way of addressing unmet needs in a sustainable manner”); Ministry of Social and Family Development, *Start Your Own Social Enterprise*, SINGAPORE GOV’T, <http://app.msf.gov.sg/SocialEnterprise/Get-Started/Start-your-own-Social-Enterprise> (last visited Apr. 10, 2015) (“social enterprises should have a marketable product or service that can meet a real demand or an unmet need in the market”).

²⁶ Jacques Defourny, *Foreword*, in SOCIAL ENTERPRISE: A GLOBAL COMPARISON xi, xii (Janelle A. Kerlin, ed., 2009).

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Doeringer, *supra* note 23 (explaining that commercial activity income was at 48.1% in 1982 and increased to 57.6% in 2002) (citing Janelle Kerlin, *Social Enterprise in the United States and Europe: Understanding and Learning From the Differences*, 17 VOLUNTAS 247, 251 (2006)).

³¹ *Id.* at 294 (citing TACKLING SOCIAL EXCLUSION IN EUROPE: THE CONTRIBUTION OF THE SOCIAL ECONOMY 5 (Roger Spear et. al. eds., 2001)).

³² *Id.*

³³ Nyssens, *supra* note 9 at 16.

³⁴ Paul Ostasiewski, *Social Entrepreneurship in an International Context* 3, <https://www.wju.edu/academics/bus/iscm/Ostasiewski2.pdf>.

women owners and brings in revenue of \$65 million annually.³⁵ To allow the co-operative to continue to provide jobs to the poor, minimum technology is used in the production process.³⁶

When one considers that social enterprise develops in response to unmet societal needs, it is not surprising that how social enterprises is molded and understood may vary between countries, thus accounting for challenge of trying to formulate a universal definition. With this in mind, Part II provides a comparison of how social enterprise is understood and put into practice in a variety of countries.

II. APPLICATION OF SOCIAL ENTERPRISE THROUGHOUT THE WORLD

As explained in Part I, social enterprise has various meanings internationally. This Part provides an overview of how social enterprise is applied in practice in a variety of countries including: the United States, the United Kingdom, Canada, China, France, India, Italy, Japan, and Russia. The cultural, legal and economic environments help form the many models through which social enterprise operates.³⁷

A. The United States

In the United States contemporary social enterprise has its roots in the work of three nonprofits during the 1980s.³⁸ Ashoka was started by Bill Drayton to encourage investment in private innovators working in the public sector.³⁹ That same year Ed Skloot founded the New Ventures consulting firm to help nonprofits find funding to make them more financially viable.⁴⁰ In 1985, the Alpha Center for Public and Private Initiatives was founded with the goal of encouraging for-profit business to address social problems.⁴¹ Social entrepreneurs began to think about ways in which their companies could serve the common good and companies such as Ben & Jerry's and Newman's Own led the way, introducing mainstream America to the notion of a socially responsible business.⁴²

While a social enterprise may organize as any one of the available legal forms of business: sole proprietorship, partnership, limited liability company, or corporation, there are hybrid legal forms available in the United States well suited for social enterprise. The first legal structure designed with the social enterprise in mind was the Low-Profit Limited Liability Company (L3C) which was first adopted in Vermont in April, 2008 and now exists in eight states. L3Cs combine social mission with the LLC legal structure.⁴³

³⁵ *Id.*

³⁶ *Id.*

³⁷ Janelle A. Kerlin, *A Comparison of Social Enterprise Models and Contexts*, in SOCIAL ENTERPRISE: A GLOBAL COMPARISON 1, 5 (Janelle A. Kerlin ed., 2009).

³⁸ Katherine Fulton & Greg Dees, *The Past, Present, and Future of Social Entrepreneurship, a Conversation with Greg Dees*, DUKE UNIV. CENTER FOR ADVANCEMENT OF SOCIAL ENTREPRENEURSHIP (Feb. 15, 2006), https://centers.fuqua.duke.edu/case/wp-content/uploads/sites/7/2015/02/Interview_Fulton_Deese_ThePastPresentFutureofSocialEntrepreneurship_2006.pdf.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Mystica M. Alexander, *Benefit Corporations-The Latest Development in the Evolution of Social Enterprise: Are They Worthy of a Taxpayer Subsidy*, 38 SETON HALL LEG. J. 219, 232 (2014).

⁴³ Emily Cohen, *Benefit Expenses: How the Benefit Corporation's Social Purpose Changes the Ordinary and Necessary*, 4 WM. & MARY BUS. L. REV. 269, 274 (2013).

In 2006, the nonprofit organization B-Lab was founded with the goal of introducing a "Certified B Corporation." B-Lab acts as an independent third party reviewer offering such certification to corporations that meet the social and environmental performance standards set by B-Lab. But, certification from B-Lab is essentially a "seal of approval" and Certified B Corporation status is not a separate legal form.⁴⁴ B-Lab, however, began grassroots efforts to encourage the adoption of Benefit Corporations in the United States. The Benefit Corporation embeds social goals into its corporate DNA and allows corporate directors to consider achieving the social mission and objective in addition to generating a profit. In 2010, Maryland became the first state to enact Benefit Corporation legislation.⁴⁵ Since that time, an additional 26 states and the District of Columbia have also passed Benefit Corporation legislation.⁴⁶ Benefit Corporation legislation has also been introduced in twelve other states.⁴⁷

B. Europe

In Europe, social enterprise emerged from the focus of the third sector⁴⁸ on providing public interest services and generating diverse sources of revenue.⁴⁹ In the European countries there has been a shift in the relationship between individuals and the government/public sector over the last few decades.⁵⁰ As welfare services are increasingly based on a "public-private network," "citizens play a more active role as the co-producers of some of the many services they expect, demand, and even depend upon in order to fulfill some of the most important roles in their daily lives."⁵¹

1. Italy

Social enterprise found its impetus in Italy with the rise of the co-operative movement.⁵² The term "social enterprise" was first used in Italy as early as the 1980s.⁵³ In that context it

⁴⁴ Janine S. Hiller, *The Benefit Corporation and Corporate Social Responsibility*, 118 J. BUS. ETHICS 287, 290 (2013).

⁴⁵ B Lab, *Maryland First State in the Union to Pass Benefit Corporation Legislation*, CSRWIRE, Apr. 14, 2010, http://www.csrwire.com/press_releases/29332-Maryland-First-State-in-Union-to-Pass-Benefit-Corporation-Legislation

⁴⁶ These include: Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho (effective 7/1/15), Illinois Louisiana, Massachusetts, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Virginia, and West Virginia. See State by State Legislative Status, BENEFIT CORPORATION INFORMATION CENTER, <http://benefitcorp.net/state-by-state-legislative-status>.

⁴⁷ These include: Alaska, Indiana, Iowa, Kentucky, Maine, Montana, New Mexico, North Carolina, North Dakota, Oklahoma, Tennessee, and Wisconsin. See *id.*

⁴⁸ "The third sector brings together cooperatives, associations, mutual societies, and, increasingly, foundations or, in other words, all not-for-profit organizations that are labeled the 'social economy' in some European countries." See, Nyssens, *supra* note 9 at 12.

⁴⁹ Nyssens, *supra* note 9 at 12.

⁵⁰ Jacques Defourny, Lars Hulgard, and Victor Pestoff, *Introduction to the "SE Field,"* in SOCIAL ENTERPRISE AND THE THIRD SECTOR 6, (Jacques Defourny, Lars Hulgard, & Victor Pestoff eds.,2014).

⁵¹ *Id.* at 7.

⁵² Jacques Defourny, *From Third Sector to Social Enterprise*, in SOCIAL ENTERPRISE AND THE THIRD SECTOR 17, (Jacques Defourny, Lars Hulgard, & Victor Pestoff eds.,2014).

⁵³ EUROPEAN COMM'N, A MAP OF SOCIAL ENTERPRISES AND THEIR ECO-SYSTEMS IN EUROPE, COUNTRY REPORT: ITALY 1 (2014), available at <http://ec.europa.eu/social/BlobServlet?docId=13026&langId=en> [hereinafter *European*

referred to the work of volunteer groups providing social services and helping people transition back into the labor market. Initially these efforts were part of the nonprofit form of business, but when the Act on Social Cooperatives was passed in 1991 much of this work moved to the cooperative form.⁵⁴ The co-operative, in which the members work together for their mutual good, continues to be popular in Italy today. The co-operative "makes it possible to carry out commercial activities vis-a-vis third parties thus pursuing a profit making goal alongside the mutual purpose envisaged in the company's by-laws."⁵⁵

In 2006, Italy adopted the Law on Social Enterprises to allow any legal form of organization that met certain criteria to be considered a social enterprise. The social enterprise requirements for an entity are: (1) the entity must be a private legal entity, (2) the entity must engage in the exchange of good and services that have a social utility and seek to achieve a public benefit purpose rather than generate a profit, and (3) the entity can make a profit but cannot distribute to members or owners and must either reinvest those profits in public benefit or use them to increase assets.⁵⁶ While this "Social Enterprise" status may be granted to non-profit or for-profit entities, this legal status subjects the entity to various restrictions including the inability to share profits with owners and shareholders.⁵⁷ There is also an asset lock in place meaning that shareholders do not have a claim on company assets and upon dissolution assets must revert to a nonprofit entity.⁵⁸ As compared to the Social Cooperative, Social Enterprise status has been less successful in part because the social reporting requirements and the minimum capital requirements are more burdensome than those for social cooperatives.⁵⁹ There is also a lengthier administrative process required to register a social enterprise.⁶⁰ Further, fiscal benefits⁶¹ made available to social co-operatives are not available for the social enterprise.⁶²

2. France

While the laws of France do not provide a special form of business for a social enterprise, social purpose may be integrated into any one of a number of business types including nonprofits, associations, foundations, cooperatives, and any one of France's for-profit corporate forms of business.⁶³ The term "social enterprise" is a rather recent addition to the French vocabulary, emerging in the early 2000s, and since that time no clear definition of the term has emerged.⁶⁴ At present, no legal form exists for social enterprise but some have suggested that

Comm'n Country Report: Italy].

⁵⁴ *Id.*

⁵⁵ ORRICK, HERRINGTON & SUTCLIFFE LLP, BALANCING PURPOSE AND PROFIT: LEGAL MECHANISMS TO LOCK IN SOCIAL MISSION FOR "PROFIT WITH PURPOSE" BUSINESSES ACROSS THE G8 79 (2014), available at <http://www.trust.org/contentAsset/raw-data/1d3b4f99-2a65-49f9-9bc0-39585bc52cac/file>.

⁵⁶ European Comm'n Country Report: Italy, *supra* note 53 at 2.

⁵⁷ ORRICK, HERRINGTON & SUTCLIFFE LLP, *supra* note 55 at 72-73 (law no. 118 introduced the social enterprise ("impresa sociale") into the Italian legal system).

⁵⁸ *Id.* at 87.

⁵⁹ European Comm'n Country Report: Italy, *supra* note 53 at 23.

⁶⁰ *Id.*

⁶¹ These fiscal benefits will be discussed in Part III C.

⁶² European Comm'n Country Report: Italy, *supra* note 53 at 23.

⁶³ ORRICK, HERRINGTON & SUTCLIFFE LLP, *supra* note 55 at 39.

⁶⁴ EUROPEAN COMM'N, A MAP OF SOCIAL ENTERPRISES AND THEIR ECO-SYSTEMS IN EUROPE, COUNTRY REPORT: FRANCE 1-2 (2014), available at <http://ec.europa.eu/social/BlobServlet?docId=13024&langId=en> [hereinafter *European Comm'n Country Report: France*].

the Societe cooperative d'interet collectif (SCIC) adopted in 2002 comes close to reflecting the social enterprise model in France.⁶⁵ "The most common view in France appears to be that social enterprise is a sub-set of 'the social and solidarity economy'. The Social and Solidarity Economy (SSE) law enacted in France on July 21, 2014 seems to have incorporated the term social enterprise and renamed it: solidarity enterprise with a social utility."⁶⁶

In France a conventional for-profit company can incorporate a social and /or environmental purpose into its articles of association. In this regard the Societe Par Action Simplifiee, a legal form enacted in 1994, may be particularly beneficial for a social enterprise because corporate governance is primarily dictated by an entity's articles of association rather than by French civil law.⁶⁷

3. The United Kingdom

The United Kingdom was one of the first countries to pave the way for the rest of the world by creating a separate legal entity designed especially for social enterprise that combines the mission of creating social betterment with generating a profit for investors. This new form of business, the Community Interest Company ("CIC"), "requires companies to restrict distributions of profit and capital and take on an "asset lock" guaranteeing that the assets will be used for community benefit in perpetuity."⁶⁸ Created on July 1, 2005, the CIC initially limited the profit distribution per share to 5% above the Bank of England base lending rate of the paid-up value of a share. Changes made to the CIC legislation in April 2010 increased this amount to 20%.⁶⁹

The CIC was developed

"to address the legal problems that confront many social enterprises. If they are established as charities, social enterprises are financially constrained, with limited opportunities for growth, entrepreneurship, or access to capital. If incorporated as private companies, they risk losing the public trust- not because a private enterprise is intrinsically untrustworthy, but because outsiders do now view profit-seeking companies as fundamentally altruistic."⁷⁰

Instead of choosing "between a charitable public image and an entrepreneurial organizational status, social enterprises wanted both."⁷¹

CICs are also subject to a community interest test.⁷² This test is conducted by the CIC

⁶⁵ *Id.* at 2-3.

⁶⁶ *Id.* at 3.

⁶⁷ ORRICK, HERRINGTON & SUTCLIFFE LLP, *supra* note 55 at 43.

⁶⁸ BUZZACOTT, SOCIAL ENTERPRISE – FROM A TAX PERSPECTIVE 1 (2009), available at <http://apsocialfinance.com/wp-content/uploads/2013/03/buzzacott-insight-tax-structures.pdf>

⁶⁹ Department for Business Innovation & Skills, *Office of the Regulator of Community Interest Companies: Leaflets Information Pack*, GOV.UK 14 (Dec. 2010), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416350/13-783-community-interest-companies-information-pack.pdf.

⁷⁰ William Davies, *How to Tame Capitalism*, NEW STATESMAN (Sept. 13, 2004 1:00 PM), <http://www.newstatesman.com/node/148826>.

⁷¹ *Id.*

⁷² Department for Business Innovation & Skills, *supra* note 71 at 12-13 ("[t]o become a CIC, an organization would need to satisfy the Regulator that its purposes could be regarded by a reasonable person as being in the community or wider public interest. It will also be asked to confirm that access to the benefits it provides will not be confined to

Regulator and helps to ensure that a CIC is run in the interest of the community.⁷³ Annual community interest reports are submitted to illustrate that the actions of the CIC comport with its stated mission.⁷⁴ Since their inception in 2005, the number of CICs has grown exponentially. In the first year the CIC was introduced there were 200 CIC's created; as of July, 2014 over 9,500 CICs have been registered.⁷⁵ As will be described in Part III, those CICs that can demonstrate compliance with CIC requirements have recently been granted tax incentives.

C. Canada

In Canada, the forms available for a social enterprise include: (a) For-profit Entity (organized as a sole proprietorship, a partnership, a corporation, or a business trust); (b) Registered Charity; (c) Non-profit Organization; and (d) Co-operative.⁷⁶ Historically there has been a preference for defining a social enterprise as a "business operated by a nonprofit entity," since together the nonprofit and for-profit components reflect both social and financial value.⁷⁷ "The emergence of revenue-generating activities for non-profits has created an operating model where business principles, market characteristics, and values co-exist and work with traditional public sector values like responsiveness to the community and serving the public interest."⁷⁸

Federally, the appropriate structure for a social enterprise will vary depending on the social goals and core priorities for the organization and its organizers.⁷⁹ Whichever form is chosen, "it is vital that individuals and organizations engaging in social enterprise decide upon a structure based on these considerations, rather than allowing the structure to dictate the path that the enterprise takes."⁸⁰ Those Canadian businesses that choose a for-profit form can opt to receive certification as a B Corporation from B-Lab.

While Canada has not yet established a distinct hybrid form of business tailored for social enterprise, provincial governments have been encouraged to move in this direction.⁸¹ These efforts at the provincial level have paid off. In July, 2013 the Community Contribution Company (C3) went into effect in British Columbia.⁸² This entity, similar to the UK's CIC, has an asset lock in place as well as a 40% cap on dividends. Nova Scotia has enacted the Community Interest Company (CIC) model of the U.K. Ontario has now begun a period of consultation on adoption of a hybrid form.⁸³

an unduly restricted group").

⁷³ Davies, *supra* note 70.

⁷⁴ *Id.*

⁷⁵ EUROPEAN COMM'N, A MAP OF SOCIAL ENTERPRISES AND THEIR ECO-SYSTEMS IN EUROPE, COUNTRY REPORT: UNITED KINGDOM 5 (2014), available at <http://ec.europa.eu/social/BlobServlet?docId=13001&langId=> [hereinafter *European Comm'n Country Report: United Kingdom*].

⁷⁶ SUSAN M. MANWARING & ANDREW VALENTINE, SOCIAL ENTERPRISE IN CANADA: STRUCTURAL OPTIONS 15 (2011), available at http://www.marsdd.com/wp-content/uploads/2012/04/MaRSReport-Social-Enterprise_2012.pdf.

⁷⁷ Enterprising Non-Profits, *The Canadian Social Enterprise Guide: 2nd Edition*, SOC. ENTER. CAN., <http://www.socialenterprisecanada.ca/en/learn/nav/canadiansocialenterpriseguide.html> (last visited Apr. 8, 2015).

⁷⁸ *Social Enterprise Business Models*, MaRS (Dec. 6, 2009), <http://www.marsdd.com/mars-library/social-enterprise-business-models/>.

⁷⁹ Manwaring, *supra* note 76 at 4.

⁸⁰ *Id.* at 4.

⁸¹ *Id.* at 15.

⁸² Brenda Bouw, *B.C.'s New Business Model Makes It Easier to Make Money and Give Back*, THE GLOBE AND MAIL (Aug. 9, 2013), <http://www.theglobeandmail.com/report-on-business/small-business/sb-growth/going-global/new-business-model-lets-bc-companies-blend-social-values-into-bottom-line/article13631725/>

⁸³ WILLIAM CHUNG ET AL., SOCIAL ENTREPRENEURSHIP SERIES: LEGISLATIVE INNOVATIONS 12 (2011), available at

D. Brazil

In Brazil, social enterprises are "moving away from relying on donations and goodwill, and instead are aiming to establish more sustainable commercial models which can offer investors a small profit on their investment."⁸⁴ In turn, this has led to more interest in investing in Brazil's growing number of social businesses. By mid-year 2014, approximately \$200 million had been invested in Brazil social enterprises.⁸⁵ This is a dramatic increase in interest in the social enterprise sector when compared with the total investment of \$76 million that was invested between 2001 and 2013.⁸⁶ Despite this interest, "Brazil still lacks an environment that encourages social entrepreneurship."⁸⁷

E. China

China's adoption of social enterprise is a very recent development.⁸⁸ China's rapid economic advancement in recent decades has been accompanied by many challenges to the quality of education, health care, and the environment.⁸⁹ As the government and private sector seemed unable to meet the growing demand created by this period of growth, NGOs arrived on the scene to attempt to fill the gap.⁹⁰ The current social enterprise movement in China has its origins in the growth of these NGOs in the 1980s.⁹¹

The notion of social enterprise was relatively unknown in China until 2004.⁹² At that time a translated version of an OECD report, "The Social Enterprise" was published in *China Social Work Research*.⁹³ In that same year a symposium, "Sino-British Symposium on Social Enterprise and NPO" was held in Beijing with funding from the British embassy.⁹⁴ Aiding this preliminary effort were the work of Chinese journals such as *China Economic Herald*, *Comparative Economic and Social Systems*, and the *21st Century Business Review* which promoted the notion of social enterprise and social innovation.⁹⁵ It was through these efforts plus a series of symposia, conferences, and forums that the idea of social enterprise took hold in China, although a consensus has not yet emerged on how it should be defined.⁹⁶

While China has not yet adopted a legal form of business specifically for social

http://www.marsdd.com/wp-content/uploads/2011/02/MaRSReport_Legislative_Innovations.pdf

⁸⁴ Paula Adamo Idoeta, *Brazil's Social Firms Aim to Craft a Brighter Future*, BBC NEWS (June 26, 2014), <http://www.bbc.com/news/business-27884803>

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ Yu, *supra* note 19.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ Gil Lan, *U.S. and U.K. Social Enterprise Legislation: Insights for China's Social Entrepreneurship Movement*, 8 INT. J. INNOVATION AND SUSTAINABLE DEV. 146, 154 (2014).

⁹² Yu, *supra* note 19 at 10.

⁹³ Jacques Defourny & Shin-Yang Kim, *Emerging Models of Social Enterprise in Eastern Asia: A Cross-Country Analysis*, OPEN REPOSITORY AND BIBLIOGRAPHY 9,

<http://orbi.ulg.ac.be/bitstream/2268/91190/1/Defourny%20Kim%20final%20SEJ.pdf> (last visited Apr. 8, 2015).

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ Yu, *supra* note 19 at 10.

enterprises, legal forms currently utilized by those in the social enterprise sector include "commercial companies, farmers' specialized cooperatives, social welfare enterprises, civilian run educational institutions, and civilian run non-enterprise units."⁹⁷

F. India

Social enterprises in India have been defined as "organizations that have triple bottom line returns: namely they address social and environmental needs such as affordable health services and energy, and have a financially sustainable revenue model (or plan to become sustainable in the near future)."⁹⁸ While there is no distinct legal form for a social enterprise, a social enterprise may be organized as a co-operative, a private company (sole proprietorship, partnership, limited liability partnership) a non-profit, a trust, or other type of legal entity.⁹⁹ There is also a hybrid model which begins with a non-profit or for-profit entity and later adds an opposite twin.¹⁰⁰ The nonprofit arm can be used to attract donations and grants, while the for-profit arm helps to ensure access to social venture funding.¹⁰¹

As in China, the social enterprise sector is very new to India. A 2010 survey indicated that at that time, approximately 68% of social enterprises had been in operation for five years or less.¹⁰² "A growing trend observed in the Indian [social enterprise] space is the transformation of many not-for-profit models into for-profit models, as these are in a better position to secure financing and scale over time."¹⁰³ Due to the ability of a Private Limited Company raise capital more easily than a partnership or proprietorship, this has been the predominant legal form chosen by social enterprises.¹⁰⁴

There are signs of increasing government support of social enterprise in India. As will be explained in Part III, such government backing is essential for success of the social enterprise movement. "There is increasing recognition within India's central and state governments about the usefulness of engaging or facilitating the private sector to address some of the country's pressing developmental issues, although the specific nomenclature of 'social enterprises' is often not used."¹⁰⁵

Keeping in mind that the growth of social enterprise in any given country can only come about within the context of that country's legal, social, and cultural environment, we see existing regulatory constraints in India that impact the social enterprise space. In the area of education, for example, Indian law mandates that all formal educational institutions be not-for-profit. This

⁹⁷ *Id.*

⁹⁸ ASIAN DEVELOPMENT BANK, INDIA SOCIAL ENTERPRISE LANDSCAPE REPORT 1 (2012), available at <http://www.adb.org/publications/india-social-enterprise-landscape-report>.

⁹⁹ *Id.*

¹⁰⁰ Nelson Vinod Moses, *Wondering Which Legal Structure to Choose for Your Social Enterprise? Read on...*, SOC. STORY (Feb. 22, 2014 11:58 PM), <http://social.yourstory.com/2014/02/egal-structure-choose-social-enterprise/>.

¹⁰¹ *Id.*

¹⁰² ASIAN DEVELOPMENT BANK, *supra* note 98.

¹⁰³ *Id.* at 6.

¹⁰⁴ Sarah Allen et al., *On the Path to Sustainability and Scale: A Study of India's Social Enterprise Landscape*, INTELLECAP 14 (Apr. 2012), available at http://intellecap.com/sites/default/files/publications/intellecap_landscape_report_web.pdf (a survey of over 100 for-profit social enterprises revealed that 80% of these were doing business as private limited companies, only 10% were partnerships or proprietorships, and 1% were producer companies).

¹⁰⁵ ASIAN DEVELOPMENT BANK, *supra* note 98 at 8.

restriction on investment impedes the growth of social enterprise in this sector.¹⁰⁶

G. Japan

The Japanese have a "government-centric system" meaning that society tends to rely on the government to solve the social ills.¹⁰⁷ Although there has been a movement away from this view, the idea of private enterprise filling an unmet need left by government is a relatively new one. Natural disasters appear to have been the impetus behind the origins of social enterprise activity in Japan. According to Nana Watanabe, founder of Ashoka's foundation in Japan, "it was the Great Hanshin (Kobe) earthquake in 1995 that really mobilized civil society in Japan."¹⁰⁸ The event seemingly instilled an awareness of the need for solidarity and mutual assistance.¹⁰⁹ The social enterprise sector is developing out of cooperatives in Japan and is working in various areas such as the promotion of fair trade, care for the elderly, and improvements in urban areas.¹¹⁰ In 2009, the government began a series of discussion called "New Public Commons" with the goal of enhancing the presence of non-profits in the social service sector.¹¹¹ As part of this effort, US\$210 million was provided to fund 800 social entrepreneurs for a two-year period.¹¹² This further increased the awareness of social enterprise in Japan.

At present, Japan does not have a specialized legal form of business for social enterprise. Instead, such businesses are generally formed either as a KK, the most common corporate form of business, or the GK, a corporate form similar to the Limited Liability Company in the United States.

H. Russia

In the Russian federation we find two main categories of business entity: non-profit entities and commercial enterprises. As typical in most systems, non-profits may engage in commercial activities but there can be no distribution of profits. The non-profit sector in Russia is not well-developed and in general the sector "lacks business skills and private sources of funding are very limited."¹¹³ Any one of a number of for-profit forms could serve as a social enterprise include the limited liability company, a joint-stock company, a limited partnership, or an economic partnership. While the main purpose of the commercial entity in Russia is the generation of profits, Russian law permits an entity to specify a social purposes in its organizing documents, although no mechanism exists for determining whether in fact that purpose is carried out.¹¹⁴ Compared to other countries the level of social entrepreneurship in Russia is very low.¹¹⁵

¹⁰⁶ Allen, *supra* note 104 at 60.

¹⁰⁷ U.S.-Japan Research Institute, *Remarks on Social Innovation: U.S. - Japan Comparison Studies in this New Emerging Trend in Innovation* (Feb. 24, 2013), available at http://www.us-jpri.org/en/reports/seminar/summary_20140224_03.pdf

¹⁰⁸ Claudia Cahalane, *Japanese Social Enterprise: Triumph in the Face of Adversity*, THE GUARDIAN (Sept. 18, 2012), available at <http://www.theguardian.com/social-enterprise-network/2012/sep/18/japanese-social-enterprise-triumph-adversity>.

¹⁰⁹ *Id.*

¹¹⁰ Jacques Defourny & Shin-Yang Kim, *supra* note 93 at 17.

¹¹¹ JAPAN NATIONAL ADVISORY BOARD, THE SOCIAL IMPACT INVESTMENT LANDSCAPE IN JAPAN 11 (July, 2014)

¹¹² *Id.*

¹¹³ ORRICK, HERRINGTON & SUTCLIFFE LLP, *supra* note 55 at 103.

¹¹⁴ *Id.*

¹¹⁵ Julia Khaleeva, *The State of Social Entrepreneurship in Russia*, SEFORIS 1 (Apr. 2014),

There are discussions in Russia regarding possible new legislation that would not only define social entrepreneurship but also provide either for existing business forms to qualify as a profit-with-a-purpose business or create a new form a business specifically suited to this dual purpose.¹¹⁶

III. GOVERNMENT'S ROLE IN ESTABLISHING SOCIAL ENTERPRISE

While social enterprise is a gaining in popularity, it still remains a misunderstood sector and the lack of the legal framework in most countries further contributes to the inability of bankers and accountants to fully grasp the notion of social enterprise.¹¹⁷ A recent OECD report identified five barriers that impede the growth of social enterprise in Europe: "legal and regulatory frameworks, financial resources, access to markets, business support and development structures, and training."¹¹⁸ This Part will focus on government efforts that can address the first three of these concerns.

As shown in Part II, some governments have helped propel social enterprise by creating special hybrid entities specifically for this purpose, such as the CICs in the UK and the Benefit Corporations in the United States. But, short of this there are many actions governments have taken and can continue to take in order to foster social enterprise. For purposes of this paper these efforts will be divided into three distinct categories: (1) public policy that creates an awareness of social enterprise and government grant-making to such organizations, (2) the availability of investment vehicles that facilitate funding for social enterprises, and (3) the development of tax incentives.

I. Policy

Without a doubt, "the development of social enterprise models is profoundly shaped by the regulatory environment and policy frameworks that define the contribution social enterprises can make to national policy goals."¹¹⁹ Public policies that are constructed holistically through collaborative efforts of government and private actors are critical to success.¹²⁰

Before social enterprise efforts can effectively be supported and advanced, however, the concept of social enterprise must first be put onto a nation's radar screen. Initially, this can be done through educational efforts supported by the government as well as more collaborative research efforts involving both the government and private sector. Through the use of various policy instruments, government can achieve goals that are in the best interest of society.¹²¹

http://www.seforis.eu/upload/reports/Country_Report_Russia.pdf.

¹¹⁶ ORRICK, HERRINGTON & SUTCLIFFE LLP, *supra* note 55 at 105.

¹¹⁷ Gideon Burrows, *Social Enterprise - In Whose Interest?*, NEW STATESMAN (Feb. 9, 2004 12:00 PM), <http://www.newstatesman.com/node/147227>

¹¹⁸ SOCIAL ENTREPRENEURS IRELAND, SOCIAL ENTREPRENEURSHIP – CONSIDERATIONS FOR POLICY MAKERS AND PRACTITIONERS 12 (2014), available at <http://socialentrepreneurs.ie/assets/2014/07/Social-Entrepreneurship-Considerations-for-Policy-Makers-and-Practitioners.pdf>.

¹¹⁹ PAOLA BABOS, EMMA CLARENCE, & ANTONELLA NOYA, REVIEWING OECD EXPERIENCE IN THE SOCIAL ENTERPRISE SECTOR 5 (2006), available at <http://www.oecd.org/cfe/leed/38299281.pdf>.

¹²⁰ Charlotte Seager, *Best Bits: What Will Social Enterprise Look Like Across Europe in 2020?* THE GUARDIAN (Jan. 7, 2014), <http://www.theguardian.com/social-enterprise-network/2014/jan/07/live-discussion-social-enterprise-europe-2020>.

¹²¹ CRYSTAL TREMBLAY, CANADIAN SOCIAL ECONOMY HUB, PUBLIC POLICY TRENDS AND INSTRUMENTS SUPPORTING THE SOCIAL ECONOMY: INTERNATIONAL EXPERIENCES 9 (2010), available at

Acting in union with stakeholders from civil society in a "public-private partnership or collaboration between government and civil society...utilizes assets from a number of different economic sectors and therefore has the potential to be more efficient for each partner."¹²² In addition to using education as a means of disseminating information about the value of social enterprise, government can further lend its support to this sector through structural commitments within government dedicated to furtherance of social enterprise efforts. Lastly, the availability of government funding via grants for social enterprise efforts can help propel such efforts forward. For example, the UK government has been a global leader in capitalizing the social finance market investing over £1 billion of public money in the sector from 2001 to 2011.¹²³

1. Education

Globally, national, regional, and international government sponsored and private sector collaborative efforts to raise awareness of social enterprise have helped accelerate its acceptance. At the national level, consider, for example, efforts by the government of Ireland. To promote social enterprise as a vibrant part of the Irish economy, the Social Enterprise and Entrepreneurship Task Force (SEETF) was established in 2009.¹²⁴ One of its achievements has been securing the following government commitment that was included in the Fine Gael-Labour Programme for Government: "...promote the development of a vibrant and effective social enterprise sector. We will instruct agencies to view social enterprises as important stakeholders in rejuvenating local economies."¹²⁵ In India, the Government's Twelfth Five Year Plan has not only emphasized the vital role of social enterprise and innovation, but has also prioritized these items in the national agenda.¹²⁶ In China, the China Social Entrepreneur Foundation and the NGO Research Centre at Tsinghua University have been created to encourage dialogue and disseminate information on social enterprise.¹²⁷

Regional conferences, such as "Social Enterprise: Helping Young People into Work" brought together representatives from the OECD and the European Commission, along with representatives from civil society and government and social entrepreneurs.¹²⁸ This conference was held in November, 2014 in Lisbon, Portugal to discuss innovative ways to create jobs for young people. Social enterprise was hailed as one way to address this concern. Consider also the annual meeting of the Skoll World Forum on Social Entrepreneurship which in April, 2015 brought together approximately 1,000 of the world's most influential thought leaders and social entrepreneurs from 60 countries to provide a "platform for advancing entrepreneurial approaches

http://aloe.socioeco.org/IMG/pdf/International_Policy_Trends_for_the_SE_Feb_2010.pdf.

¹²² *Id.* at 10.

¹²³ Alex Nicholls, *Filling the Capital Gap: Institutionalizing Social Finance*, in SOCIAL ENTERPRISE, ACCOUNTABILITY AND EVALUATION AROUND THE WORLD 161, 165 (Simon Denny & Frederick Seddon eds., 2013).

¹²⁴ Social Enterprise and Entrepreneurship Task Force, *Unlocking the Potential of Social Enterprise & Entrepreneurship*, SOC. ENTER. (July 2012),

http://www.socialenterprise.ie/gfx/uploads/textbox/SEETF_Submission_to_Forfas.pdf

¹²⁵ SOC. ENTER., <http://www.socialenterprise.ie/default.aspx?m=1&mi=41> (last visited Apr. 8, 2015).

¹²⁶ Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH, *Enablers for Change: A Market Landscape of the Indian Social Enterprise Ecosystem*, GIZ 9 (Sept. 2012), <http://www.giz.de/en/downloads/giz2012-enablers-for-change-india-en.pdf>.

¹²⁷

¹²⁸ *Social Entrepreneurship: Helping Young People into Work*, EEA GRANTS (Nov. 11, 2014), <http://eeagrants.org/News/2014/Social-entrepreneurship-helping-young-people-into-work>.

and solutions to the world's most pressing problems."¹²⁹

As Nelson Mandela once said, "Education is the most powerful weapon which you can use to change the world."¹³⁰ Government efforts at this most basic level are essential to not only creating awareness at the national level, but to building a global consensus on social enterprise.

2. Structural Modifications

Another way in which governments can show support for development of its social enterprise sector is through the creation of governmental bodies dedicated to advancement of this sector. In Canada, for example, social enterprise garnered support from the creation of the Social Economy Initiative and the establishment of the federal Parliamentary Secretary to the Minister of Social Development with a focus on the social economy.¹³¹ In the United States, the White House Office of Social Innovation was created in 2009 to increase awareness of and encourage investment in social enterprise.¹³² The Brazilian government established the National Secretariat for Solidarity Economy as a Department of the Ministry of Labor and tasked it to develop a policy program for the solidarity economy sector, including measures in the areas of commercialization, technical assistance, skills development, and community-based finance.¹³³ In Ecuador the country's commitment to efforts involving social enterprise was made clear in the 2008 adoption of a new constitution that "establishes the importance of the Solidarity Economy development model, and recognizes the plurality of the economy based on public, social, and private enterprise."¹³⁴ In the United Kingdom, a Social Enterprise Unit has been established within the Cabinet Office.¹³⁵ This Social Enterprise Unit has been instrumental in establishing a number of initiatives in the UK to advance social enterprise including the 2012 Public Services (Social Value) Act, which effective in 2013 "requires all public bodies in England and some Welsh bodies to consider how the services they commission and procure might improve the economic, social, and environmental well-being of the area."¹³⁶ In 2012, France created the Minister of the Social and Solidarity Economy.¹³⁷ That position has been replaced with that of Secretary of the State for Trade, Crafts, Consumer Affairs, and the Social and Solidarity Economy at the Ministry of Economy.¹³⁸ One milestone in the efforts of these efforts in France has been the passage of the Law on Social and Solidarity Economy, passed in July, 2014, which

¹²⁹ SKOLL WORLD FORUM, <http://skollworldforum.org/forum-2015/overview/> (last visited May 30, 2015).

¹³⁰ Valerie Strauss, *Nelson Mandela on the Power of Education*, Washington Post, Dec. 5, 2013, <http://www.washingtonpost.com/blogs/answer-sheet/wp/2013/12/05/nelson-mandelas-famous-quote-on-education/>.

¹³¹ Tremblay, *supra* note 121 at 13 (although the Social Economy Initiative was later dismantled, the funding this initiative provided has been a significant part of the research component).

¹³² Steven Haymore, *Public(ly Oriented) Companies: B Corporations and the Delaware Stakeholder Provision Dilemma*, 64 VAND. L. REV. 1311, 1319 (2011).

¹³³ Ana Margardia Esteves, *Decolonizing Livelihoods, Decolonizing the Will: Solidarity Economy as a Social Justice Paradigm in Latin America*, in THE ROUTLEDGE INTERNATIONAL HANDBOOK OF SOCIAL JUSTICE 74, 85 (Michael Reisch ed., 2014).

¹³⁴ Tremblay, *supra* note 121 at 16.

¹³⁵ Cabinet Office, *Policy: Social Enterprise*, GOV.UK, <https://www.gov.uk/government/policies/making-it-easier-to-set-up-and-run-a-charity-social-enterprise-or-voluntary-organisation> (last updated Feb. 14, 2014).

¹³⁶ European Comm'n Country Report: United Kingdom, *supra* note 75, at 4.

¹³⁷ *Ministry for the Social and Solidarity Economy Created in France*, RELIESS.ORG (May 31, 2012), <http://reliess.org/ministry-for-the-social-and-solidarity-economy-created-in-france/?lang=en>.

¹³⁸ EUROPEAN COMMISSION, A MAP OF SOCIAL ENTERPRISES AND THEIR ECO-SYSTEMS IN EUROPE, COUNTRY REPORT: FRANCE 5 (2014), available at <http://ec.europa.eu/social/BlobServlet?docId=13024&langId=en>

marks the first time that "the concept of a social and solidarity economy has been granted a legal definition."¹³⁹

Structural changes by government that dedicate resources to an office to study and address the difficulties inhibiting the growth of social enterprise are a necessary step in the growth of this sector. But, identification of issues is one of the necessary first steps. Making funding available to support reform efforts is equally significant.

3. Availability of Funding

In Canada a government infusion of \$132 million in funding over a five year period was given to support the growth of Canada's social economy.¹⁴⁰ Part of these funds were used to help create that country's Social Economy Hub which includes six regional research centers to address public policy issues through research and educational programs.¹⁴¹ To promote social innovation, India has established National Innovation Council and has created an India Inclusive Innovation Fund to provide financial support for start-up ventures.¹⁴² "In Poland, citizens can designate one percent of their tax to be spent on socially useful causes and two public funds have been established which offer support for social enterprises and the third sector generally."¹⁴³ In France, the Banque Publique d'Investissement was established in 2013 to invest EUR500 million in social enterprises.¹⁴⁴ "The ability of social enterprises to get government grants is inversely related to their ability to generate income, i.e.: social enterprises that get income by selling products/services or through donations are less likely to get government help."¹⁴⁵

While government funding is one avenue through which social enterprise can receive financial support, in the long term, having the private sector significantly supplement government funding will allow the social enterprise sector to experience more significant periods of growth. One way to aid this transition is for the government to encourage the formation and growth of various investment vehicles geared toward private enterprise.

J. Encouraging Investment in Social Enterprise

Governments seeking more effective ways to address increasing economic challenges have started to recognize that private sector models of investing may help them do just that.¹⁴⁶ It is both philanthropy and public support that helps to develop the social enterprise market.¹⁴⁷ "Over the past twenty years a range of new organizations and financial instruments has emerged that reflects a set of significant institutional changes around the social contexts and objectives of finance. Partly, this has been driven by the needs of social organizations that cannot easily access commercial finance to start-up and grow due to their projected financial returns failing to

¹³⁹ *Id.* at 6.

¹⁴⁰ Yves Vaillancourt, *Third Sector and the Co-Construction of Canadian Public Policy*, in *NEW PUBLIC GOVERNANCE, THE THIRD SECTOR AND CO-PRODUCTION* 86 (Victor Prestoff et al., eds., 2012).

¹⁴¹ Tremblay, *supra* note 121 at 13.

¹⁴² Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH, *supra* note 126 at 9.

¹⁴³ BABOS, CLARENCE, & NOYA, *supra* note 119 at 10.

¹⁴⁴ KAREN E. WILSON, *SOCIAL INVESTMENT: NEW INVESTMENT APPROACHES FOR ADDRESSING SOCIAL AND ECONOMIC CHALLENGES* 26 (2014), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2501247.

¹⁴⁵ Ladeira and Machado, *supra* note 8 at 191.

¹⁴⁶ Wilson, *supra* note 144 at 4.

¹⁴⁷ *Id.*

match their perceived level of riskiness. But another driver has been a growing body of owners capital seeking to allocate their resources to generate social value as well (or, sometimes instead of) seeking financial returns."¹⁴⁸

1. Impact Investing

Over the past decade social investment has evolved as investors seek to address social issues at all levels of society.¹⁴⁹ Social investment is now more commonly referred to as “impact investing,” a phrase first used in 2007 at an initiative coordinated by the United States and the Rockefeller Foundation.¹⁵⁰ New initiatives sponsored by governments, foundations, and other stakeholders, particularly in the G8 countries, have been engaged in creating new social investment to accelerate the market.¹⁵¹

The Global Impact Investing Network (GIIN), defines impact investments as “investments made into companies, organizations, and funds with the intention to generate social and environmental impact alongside a financial return...GIIN further specifies that impact investments should have the following four core characteristics: i) intentionality; ii) investment with return expectations, iii) range of return expectations and asset classes; and iv) impact measurement.”¹⁵² Government efforts can often serve as the impetus for an impact investing fund. In Hong Kong, for example, the Community Investment and Inclusion Fund was created by the government in 2002 to “mobilize and consolidate social capital and use these [private] resources to sustain initiatives.”¹⁵³ In the UK, independent financial institutions, known as Community Development Finance Institutions are funded by the government, banks, individuals, and foundations and make capital available, for example, to community development venture capital and micro-finance funds.¹⁵⁴ In India, the government is seeking to create a regulatory environment more conducive to social enterprise. As an example, the country’s financial regulator, the Securities and Exchange Board of India (SEBI), issued a policy paper that indicated a need to “separately recognize and regulate “Social Venture Funds” and describing these funds as “for investors seeking ‘muted’ returns in their investments in return for social gains.”¹⁵⁵ Although investments in social enterprises are just starting to offer proof in the strength of the concept, challenges remain in India due to high transaction costs and limited data available to help investors understand the new sector.¹⁵⁶

Government action in this regard is crucial, especially in those countries where social enterprise remains a relatively untested commodity. Consider for example, a country such as India where there is a lack of venture capital for the emerging markets.¹⁵⁷ Social enterprises have certain distinct disadvantages in India in terms of getting the attention of investors. The capital needs of a social enterprise tend to be low and a small deal is not as attractive to

¹⁴⁸ Nicholls, *supra* note 123 at 162.

¹⁴⁹ Wilson, *supra* note 144 at 4.

¹⁵⁰ *Id.* at 6.

¹⁵¹ *Id.* at 4.

¹⁵² *Id.* at 6-7.

¹⁵³ Tremblay, *supra* note 121 at 8.

¹⁵⁴ *Id.* at 27-28.

¹⁵⁵ ASIAN DEVELOPMENT BANK, *supra* note 99 at 8.

¹⁵⁶ *Id.* at 6.

¹⁵⁷ Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH, *supra* note 126 at 51.

investors, especially when comparatively speaking transaction costs remain high.¹⁵⁸ In addition, “the lack of impact measurement of investments, the difficulty in measuring impact, and an absence in the standardization of impact measurement and third-party assurance of reporting are all industry challenges. The lack of consistent measurement makes it difficult for investors to compare social, economic, and environmental returns of different investments even though asset owners are increasingly demanding investors demonstrate the social and environmental impacts their investments.”¹⁵⁹ Furthermore, there is a “lack of disclosure of market information among the sector, for example statistics regarding investment deals.”¹⁶⁰

Recognizing the crucial role of government in encouraging investment, in 2012, the UK established the first social investment institution, Big Society Capital, an independent financial organization with the goal of supporting the growth of social investment in the UK.¹⁶¹

Creation of social stock exchanges can also help further social enterprise efforts. Some countries have led the way in this regard including South Africa with the creation of the Nexii exchange, and Singapore which established the Impact Investment Exchange (IIX) Asia.¹⁶² Singapore's Impact Exchange was created in June, 2013. In order to reach investors in both Asia and Africa it was created as a joint effort with the Stock Exchange of Mauritius, and integrated with Nexii.¹⁶³ Its issuers include not only social enterprises but also non-profits who can issue bonds.¹⁶⁴ In the UK, the Social Stock Exchange, which opened in July, 2013, helps connect companies that have passed a social impact test with investors looking for social-impact opportunities.¹⁶⁵ An Admissions Panel made up of ten financial and social sector experts reviews a company's application and Impact Report to determine whether a company is a true social impact business and thus eligible for admission. Once admitted to the Exchange, companies are required to submit an impact report to the panel each year.¹⁶⁶ Canada's Social Venture Connexion which opened in September, 2013 is intended to connect institutional investors to social impact businesses which it has evaluated using the B Corporation standard for measuring both social and environmental impact.¹⁶⁷

2. Social Impact Bonds

Social Impact Bonds (SIBs) are one of the newest financial innovations that can be utilized to support social enterprise. Through these bonds private investors invest capital and manage projects that are usually designed to (1) improve outcomes for at-risk individuals and (2) reduce government spending.¹⁶⁸ Some governments use this tool to fund social programs aimed

¹⁵⁸ *Id.*

¹⁵⁹ *Id.* at 55.

¹⁶⁰ *Id.*

¹⁶¹ European Comm'n Country Report: United Kingdom, *supra* note 75 at 7.

¹⁶² Wilson, *supra* note 144 at 20.

¹⁶³ Ashoka, *Stock Exchanges for Social Enterprises? Here's Where You Can Find Them*, FORBES (Mar. 27, 2014), available at <http://www.forbes.com/sites/ashoka/2014/03/27/stock-exchanges-for-social-enterprises-heres-where-you-can-find-them/>.

¹⁶⁴ *Id.*

¹⁶⁵ Bandini Chhichhia, *The Rise of Social Stock Exchanges*, STANFORD SOCIAL INNOVATION REVIEW, Jan. 8, 2015, available at http://www.ssireview.org/blog/entry/the_rise_of_social_stock_exchanges.

¹⁶⁶ *Social Stock Exchange Appoints John Elkington to Chair Admissions Panel*, May 6, 2015, available at <http://socialstockexchange.com/social-stock-exchange-appoints-john-elkington-chair-admissions-panel/>.

¹⁶⁷ Chhichhia, *supra* note 165.

¹⁶⁸ Jon Hartley, *Social Impact Bonds are Going Mainstream*, FORBES (Sept. 15, 2014, 1:59 PM),

at prevention.¹⁶⁹ The common characteristics of social impact bonds are (1) they are governed by an outcome-based contract (investors get repaid if desired social outcome are achieved)¹⁷⁰, (2) they are geared at preventative intervention which results in a reduction in government spending, and (3) the risk of an unsuccessful program is transferred away from the government and on to investors.¹⁷¹

The first Social Impact Bond was initiated in the UK in 2010 when £5 million was invested by both private individuals and charities to fund an intervention program for those who served short prison sentences at the HMP Peterborough prison in England.¹⁷² The success of the program in reducing the recidivism rate propelled the use of SIBs in the UK, and eventually SIB programs were initiated in the U.S., Canada, Belgium, the Netherlands, Germany, and Australia.¹⁷³ “These models are spreading to other countries and have led to the creation of the concept of Development Impact Bonds (DIBs) in emerging markets.”¹⁷⁴ In the United States the first social impact bond was a \$10 million investment in a program to reduce recidivism at New York’s Riker’s Island prison.

The success of this approach depends, of course, on the social and economic climate of any given country. The creation of an SIB is a complex, lengthy, and labor-intensive process that may not be feasible for some governments.¹⁷⁵ Once a social problem is identified, the government has to define the interventions that will be utilized and how success will be measured.¹⁷⁶ Even after the program has been designed the government then has the task of convincing investors of its value.¹⁷⁷ Success at this juncture depends in part on the nations historical patterns of philanthropy and charitable giving. Ireland, for example, has recognized that its current climate will likely make SIBs less appealing than they have been in other countries such as the United States:

The 2008 financial crisis has created a climate of public opinion that is not favorable to investors in general. This climate may act as a deterrent to some high net worth individuals that would consider investing in an SIB. In general, an ethos of public skepticism towards large scale public philanthropy has reduced the willingness of philanthropists to make high-profile donations or investments, a development that is partly responsible for the phenomenon that Ireland is donating below capacity.¹⁷⁸

SIBs are used for a very narrow purpose, serving those interventions "which are preventative and which can be quantifiably shown to generate future savings for government through reduced demand for government services."¹⁷⁹ Although SIBs are useful tools in

<http://www.forbes.com/sites/jonhartley/2014/09/15/social-impact-bonds-are-going-mainstream/>.

¹⁶⁹ SOCIAL ENTREPRENEURS IRELAND, *supra* note 116 at 23.

¹⁷⁰ *Id.* at 25.

¹⁷¹ *Id.* at 23.

¹⁷² Hartley, *supra* note 168.

¹⁷³ *Id.*

¹⁷⁴ Wilson, *supra* note 144 at 5.

¹⁷⁵ SOCIAL ENTREPRENEURS IRELAND, *supra* note 118 at 23.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ SOCIAL ENTREPRENEURS IRELAND, *supra* note 118 at 37.

¹⁷⁹ *Id.* at 35.

advancing social enterprise, “they are not panaceas for cash-strapped governments in times of austerity.”¹⁸⁰

Governments should take concrete steps to encourage investment in social enterprise by providing clear regulatory guidance for the social enterprise market and creating an environment conducive to investment. But, the ability of government to do so is not without its challenges. Generally speaking there are currently no commonly accepted standards for measuring social investment and a noticeable dearth of information with regard to investment terms and government policy.¹⁸¹ High transactions costs resulting from “fragmented supply and demand curves” along with a limited number of intermediaries (brokers, advisors, exchanges) are additional impediments to growth.¹⁸²

Aiding in this effort are current collaborations on developing a common global standard for measuring the impact for investments.¹⁸³ Considering how difficult it has been to formulate a universal definition of the term “social enterprise,” it remains to be seen whether a global standard will arise. In 2013, UK Prime Minister David Cameron hosted a G8 Social Impact Investment Forum in London. In attendance were ministers and business, civil society, and other political leaders from the G8 countries. The purpose of the forum was to launch processes and initiatives and to help the development of an investment market on a global scale.¹⁸⁴ The forum asked that the OECD produce a Global Social Impact Investment Report to identify key components of social investing globally and help create this common ground.¹⁸⁵ This OECD report, *Social Impact Investment, Building the Evidence Base*, was released in February, 2015 and will likely prove instrumental in moving the cross-country social enterprise dialogue forward. Significantly, the report indicated that while there is “gathering momentum around social impact investment globally, there is a current lack of communication between different countries, with perceptions of and the actual shape of the market being very different depending on its location.”¹⁸⁶ The Taskforce authoring the report will complete its work in July, 2015 with the formation of a global committee on impact investment.

K. Tax Incentives

Tax policies can serve as effective agents of social change and tax incentives can serve as the necessary carrot to ensure a steady flow of investment capital to further the growth of the social enterprise sector.

1. Existing Tax Incentives

Relatively few tax incentives exist globally, and in this regard the UK has once again blazed the trail. Social Investment Tax Relief (SITR), passed in 2014, applies to investments in social enterprise made after April 6, 2014.¹⁸⁷ The legislation is specifically designed for CICs in

¹⁸⁰ *Id.*

¹⁸¹ Wilson, *supra* note 144 at 5.

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ *Id.* at 6.

¹⁸⁵ *Id.*

¹⁸⁶ Ellie Ward, *OECD Report Marks “Important Milestone” for Impact Investing, Says Cohen*, PIONEER POST, February 4, 2015, available at

¹⁸⁷ Ainsley MacLaren and Duncan Osler, *UK: Finally A Tax Relief to Encourage Investment in Social Enterprise*,

addition to charities and community benefit societies. Among other criteria, qualifying organizations must carry on a qualifying trade, have fewer than 500 employees, and have gross assets of no more than £15 million.¹⁸⁸ Qualifying investors will be permitted a reduction in their tax liability by an amount equal to 30% of the amount invested.¹⁸⁹ In addition, the investor can defer capital gains by investing in qualifying shares. Taxpayers will avoid all tax upon disposition of qualifying investment if such stock is held for at least three years. Prior to the adoption of SITR, the tax relief that was commonly associated with social enterprise was the Community Investment Tax Relief (CITR). “[A]lthough [CITR] is not available...for direct investment into an enterprise. Investors instead gain relief through investing in intermediary organizations, known as Community Development Finance Institutions, who then invest in a qualifying enterprise.”¹⁹⁰

In the United States nonprofit organizations meeting certain legal requirements qualify for significant tax relief and incentives. Tax incentives are not available to the for-profit Benefit Corporation, but there are some who hope for that to change. For example, Andy Kassoy, one of the founders of B-Lab has shared his ideal, “[I]n the dream scenario when you have companies obligated to create public benefit you can measure the externalities those companies are internalizing and say they should be taxed at a lower rate than a C Corporation.”¹⁹¹ Progress has not been made toward this goal, although the city of Philadelphia has provided limited tax relief in the form of a \$4,000 tax credit to 25 eligible Certified B Corporations for the years 2012 through 2017.¹⁹²

In Manitoba, the Community Enterprise Development Tax Credit provides a 45% tax credit for investments of up to \$60,000 in for-profit community-based enterprises.¹⁹³ Recently that province committed to simplifying the application process for use of the credit to improve access to this tax benefit.¹⁹⁴ Nova Scotia's Community Economic Development Investment Fund provides a 35% credit for those investing in “funds that support locally-owned and operated for-profit corporations, cooperatives, and community economic development initiatives.”¹⁹⁵

2. Can Tax Incentives Make a Difference?

The City of London Corporation and Big Society Capital commissioned a report to

MONDAQ, Apr. 2, 2014, <http://www.mondaq.com/x/303936/Capital+Gains+Tax/Finally+A+Tax+Relief+To+Encourage+Investment+In+Social+Enterprise>

¹⁸⁸ *Social Investment Tax Relief*, GOV.UK, Mar. 27, 2015, <https://www.gov.uk/government/publications/social-investment-tax-relief-factsheet/social-investment-tax-relief>.

¹⁸⁹ Investors can only invest up to £1 million and may invest on more than one social enterprise. There is a cap on how much qualifying investment a social enterprise can receive in any given year and efforts are underway to increase that cap. *See id.*

¹⁹⁰ BUZZACOTT, *supra* note 68 at 4.

¹⁹¹ *The B Corporation: A Business Model for the New Economy*, Capital Inst., <http://capitalinstitute.org/braintrust/andrew-kassoy/>

¹⁹² PHILA., PA CODE § 19-2604(10)(c)(i).

¹⁹³ CANADIAN COMMUNITY ECONOMIC DEVELOPMENT NETWORK AND THE PROVINCE OF MANITOBA, MANITOBA SOCIAL ENTERPRISE STRATEGY: A STRATEGY FOR CREATING JOBS THROUGH SOCIAL ENTERPRISE 15 (February, 2015), *available at* http://www.gov.mb.ca/housing/pubs/mb_social_enterprise_strategy_2015.pdf.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

consider the effects of introducing tax relief for social investment. Recognizing that in order for it to further develop and progress the social investment market must move away from dependency on grants received from government, foundations, and trusts, the report focuses on the extent to which tax relief might be instrumental in moving this sector toward private funding.¹⁹⁶ To determine this, a survey of wealthy individuals was conducted. This study showed that "for those high net worth individuals (greater than 100,000 in investable wealth) 'actively interested' in social investment, a tax incentive was found to be influential in encouraging these investors to make a commitment to social investment, though it was not a primary motivation."¹⁹⁷ Those who had only a passive interest in social investments indicated that a primary motivation for them to invest in social enterprise would be the creation of tax incentives.¹⁹⁸ Accordingly, the report concludes that, "The lack of tax incentive is therefore a barrier to those wishing to make social investments, given that there are tax incentives for venture capital and charitable giving. This suggests that a tax relief would be effective in encouraging social investment amongst different categories of wealthy individuals."¹⁹⁹ For example, not surprisingly, a recent study of social enterprise in India concluded that "social investors...are looking at something tangible in financial and taxation terms when it comes to their social investments, even if they were meant to support a social cause."²⁰⁰ In the United States numerous scholars have expressed the need for tax incentives for for-profit social purpose/hybrid entities in order to promote the growth of the social enterprise sector.²⁰¹

CONCLUSION

The social enterprise landscape is quite broad and is in various stages of development internationally. While historically there has not been a global consensus on the meaning of social enterprise, through education and continued dialogue great strides have been made in identifying areas of common ground. Part I introduced that common ground and Part II provided a snapshot of how social enterprise has been developed and applied in various countries. Part III of this paper provided an in-depth look at government policy and the way in which it can influence the growth of the social enterprise sector. Educational outreach and government grants are vital to igniting a social enterprise sector. Continued growth of the sector can come about through private investment in social enterprise. It is the role of government to create a regulatory climate conducive to such an investment market. Government tax incentives for social enterprise

¹⁹⁶ WORTHSTONE, THE ROLE OF TAX INCENTIVES IN ENCOURAGING SOCIAL INVESTMENT vi-vii (2013), available at <http://www.cityoflondon.gov.uk/business/economic-research-and-information/research-publications/Documents/research-2013/the-role-of-tax-incentives-in-encouraging-social-investment-WebPDF.pdf>.

¹⁹⁷ *Id.* at vii.

¹⁹⁸ *Id.* at vii.

¹⁹⁹ *Id.*

²⁰⁰ ANIRUDH GAURANG & BARKHA JAIN, UNDERSTANDING THE FINANCIAL CHALLENGES FACED BY INDIAN SOCIAL ENTERPRISES 10 (2014), available at http://www.nse-india.com/research/content/RP_17Oct2014.pdf

²⁰¹ See e.g., Anup Malani and Eric A. Posner, *The Case for For-Profit Charities*, 93 VA. L. REV. 2017, 2030-2031 (2007) (arguing nonprofit form should not be a requirement for tax subsidies); Hadley Rose, Comment, *The Social Business: The Viability of a New Business Entity Type*, 44 WILLAMETTE L. REV. 131, 131 (2007) (advocating the expansion of the tax exemption benefits of Internal Revenue Code § 501(c)(3) to social enterprises that meet economic as well as social goals), and Ross Kelley, *The Emerging Need for Hybrid Entities: Why California Should Become the Delaware of "Social Enterprise Law"*, 47 LOY. L.A. L. REV. 619, 653 (2014) (encouraging California state legislature to consider tax benefits for its new hybrid forms, the Flexible Purpose Corporation and the Benefit Corporation).

investments have the potential to significantly increase the level of private funding investors are willing to risk in this growing segment of the market. Government policies that promote social enterprise are vital to bringing this sector into the mainstream social and economic landscape.