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JOHN F. KENNEDY
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Irene Khan
Secretary General
Amnesty International
1 Easton Street
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Dear Irene,

Many thanks for your letter commenting on my interim report on business and human rights. I am pleased that you found the report to be of interest and thorough, and honored that there are elements of which you are appreciative. It is reassuring to hear those things from Amnesty International, and from you personally. In response, I wish simply to allay three concerns that you expressed in your letter.

First, you suggest that the approach I described as principled pragmatism may lead to an underestimation of the need for binding legal principles. Rest assured that I am not underestimating any aspect of my mandate. With regard to legal issues specifically, I am planning several workshops with scholars and practitioners to examine key questions, both positive and normative. At the same time, however, my mandate goes well beyond the strictly legal sphere: I am also asked to assess best practices by companies and states alike, and even to develop materials and methodologies for conducting human rights impact assessments. Thus, mine is a broadly diversified mandate, and member states are looking for a portfolio of recommendations from me.

Second, you say that it is important not to overstate the value of consensus. But in my interim report I did not endeavor to reach any consensus; I sought merely to identify strategic approaches that make sense. I rejected the Norms as a basis on which to build my mandate not because they enjoy little if any political support. I rejected them because, after intensive analysis of my own and extensive consultations with a wide spectrum of international law experts, I concluded that their conceptual foundations are flawed and their doctrinal claims excessive. As a result of these defects, in jurisdictions characterized by weak governance the Norms would lead us in the direction of a more benign 21st century version of East India Company enterprises, undermining indigenous efforts to build social capacity and democratic rule – which surely are the most effective guarantors

of human rights. But as I go forward I certainly intend to draw on all useful elements contained in all prior initiatives, as indeed my mandate requires me to do.

Third, you make the valid point that one must not stop with sectoral approaches, that there is no substitute for general norms and standards. I agree but would also argue the reverse: one must not stop with general norms and standards because they are bound to be relatively abstract and indeterminate. In the end, the human rights challenges and dilemmas posed by running sneaker factories are different from those of large mining operations, and both differ from the information technology industry. I can hardly be exhaustive on this front in my final report, with its 10,000-word limit, but I do believe that it is important to capture some of these sectoral differences.

In conclusion, I welcome your offer to contribute to the mandate, and perhaps we can follow up on what that might consist of. As you may recall, last fall I explored with AI the possibility that it might take the lead in constructing a geographic and sectoral mapping of corporate related human rights abuses, based on the many reports human rights organizations have issued over the years. Alas, this did not materialize and I ended up doing a quick and truncated version of the exercise myself for the interim report. But as I've said on many occasions, in view of the mandate's magnitude and complexity I need all the help I can get, and Amnesty has an enormous reservoir of knowledge and experience that can be helpful.

With continued thanks and good wishes, I am,

Sincerely yours,

John G. Ruggie

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