Nobel Peace Laureates call for robust criteria, scope, and implementation mechanisms in an effective Arms Trade Treaty

Arias Foundation for Peace and Human Progress

On 14 February 2012, Nobel Peace Laureate Dr. Oscar Arias Sánchez and representatives of the Nobel Peace Prize winning organizations Amnesty International and International Physicians for the Prevention of Nuclear War (IPPNW) will address UN delegates at the fourth meeting of the Preparatory Committee on the Arms Trade Treaty (ATT) to raise their voices in support of strong and legally binding regulations for the international trade in conventional arms.

As States embark upon the final Preparatory Committee, Dr. Arias reflects upon the goals that led him and fellow Nobel Peace Laureates to call for a Code of Conduct for International Arms Transfers in 1997, noting that, “the challenge before us is not just to get a document signed. The challenge before us is to do justice to ... victims of violence. The challenge before us is to ensure that our goal becomes reality. These men and women and children deserve nothing less than swift and effective action.”

The pace of change in today’s world has grown ever more staggering, especially when it comes to the increasing complexity of violence. Terrorism and international crime have replaced inter-State conflicts as the primary threats to global security, and the dangers we face appear to evolve and multiply each day. However, the tools of violence, and its underlying causes, remain essentially unchanged. There are an estimated 875 million small arms in the world today, 74 percent in the hands of civilians—a threat of “mass destruction” more lethal than nuclear weapons. Firearms cause almost one-third of a million deaths each year that are unrelated to armed conflicts.

The unbridled flow of arms to the developing world threatens the citizens not just of those nations but of all nations, and supports violators of human rights and repressive regimes. The arms trade also undermines economic growth: armed violence and conflict exact tremendous socioeconomic costs by destroying human capital, driving up defense spending, and diverting public resources away from education, health care, and social development.

The lack of transparency that often accompanies arms deals further exacerbates their economic consequences: the US Department of Commerce estimates that the arms trade accounts for approximately 50 percent of all bribery allegations.

The Small Arms Survey has reported that the annual authorized trade in small arms exceeds US$7 billion a year. Moreover, according to the Congressional Research Service, the value of all international arms deliveries in 2010 was nearly US$35 billion. Yet national security interests have shielded the arms trade from basic controls and safeguards. It is unconscionable that goods whose explicit purpose is to kill and injure are spared the regulations that govern every other legitimate industry.

It has long been both possible and convenient for those in control of this under-regulated trade to ignore its consequences. However, as we embark upon the final Preparatory Committee before the UN Conference on the Arms Trade Treaty in July of this year, we must face the reality that this is no longer the case. The shockwaves of violence that emanate from the Middle East, from our neighbors in Central America and Mexico, and in other regions affirm beyond doubt that in our interconnected world, conflict or human rights violations in one country pose a significant risk to the nation where and when the peace treaty will be signed.

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The ATT: an important opportunity to prevent gender-based violence at gunpoint
IANSA Women’s Network

64,000 women and girls are estimated to have suffered war-related sexual violence in Sierra Leone’s civil war between 1991 and 2002. Testimonies of women explain how the assaults were endured at gunpoint. “They put their guns to our throats and stomachs to make sure that we followed their orders,” one woman reported.

Discussions towards the creation of the Arms Trade Treaty (ATT) present an important opportunity to better regulate the international trade in the conventional arms and ammunition. Of these, it is most often small arms and light weapons (SALW) that are used to facilitate and commit various forms of violence and crimes against women, both during and outside of armed conflict. These forms of violence violate international human rights law and international humanitarian law.

If the Arms Trade Treaty (ATT) is to be an effective legal instrument in regulating the international arms trade, recognition of the specific potential impacts of international transfers on women and their rights should be included. Such an approach would be consistent with broader UN practice of the inclusion of a gender perspective. It would also ensure that the international standards within the ATT to regulate conventional arms comprehensively addresses the full range of potential risks associated with trading and transfers.

The United Nations (UN) has progressively recognised the need to acknowledge and address the distinct rights of women. UN frameworks and initiatives accept the importance of mainstreaming a gender perspective into all areas of its policy and activities. Increasingly there is recognition that peace and security initiatives must be foregrounded by the recognition of women’s rights and participation in such processes. For example, the UN Security Council has developed an overall women, peace and security framework that is progressively being integrated into all of the Council’s work.

The Council also has recognised the need for more systematic attention to women, peace and security commitments in its own work and expressed willingness to ensure that measures are taken to enhance women’s engagement in conflict prevention, conflict resolution and peacebuilding.

The General Assembly has on numerous occasions expressed its concerns about the pervasiveness of violence against women in all its different forms and manifestations worldwide, noting that such violence seriously impaired or nullified women’s enjoyment of all human rights and fundamental freedoms.

**How can the ATT prevent gender-based violence?**

1. The preamble should recognise that the absence of absence of commonly agreed international standards for the transfer of conventional arms and their diversion to the illicit market are contributory factors to armed conflict, serious violations of international human rights law and international humanitarian law and gender-based violence;

2. The criteria of the ATT should require States not to transfer arms internationally where there is a substantial risk that they will be used to perpetuate or facilitate a pattern of gender-based violence, in order to ensure that the transfer decision making process includes a risk assessment of the specific risks of a potential transfer on the rights of women.

3. The criteria of the ATT should also require States not to transfer arms internationally where there is a substantial risk that they will be used to commit or facilitate serious violations of international human rights law or international humanitarian law. Where this is the case, the transfer authorisation should be denied until there is clear evidence that any risks have been mitigated.

4. In scope, the ATT should include the control of all weapons including small arms and light weapons and ammunition.

5. In order for the ATT to be strong and effective, it should require robust regulation of licensing systems. This includes, for example, mechanisms for (a) prior risk assessment and authorisation; (b) the use of end use assurances where necessary; and (c) brokering controls.

6. The ATT should require that all States keep records of the international arms transfers that the national authorities have provided formal authorisation and received clearance from customs officials.

7. The Treaty should oblige States Parties to publish accurate, comprehensive, timely and public national reports on international transfers of conventional arms and steps taken to implement the Treaty, in order to ensure transparency and accountability, build confidence among States’ Parties, and enable relevant actors, including civil society and women’s groups, to assess implementation, access information and raise public awareness on these issues.

8. States should incorporate the knowledge and experience of different civil society groups, including women’s organisations, in exchanges and training programmes and initiate a more systematic approach to the gathering of sex- and age disaggregated data.

9. An independent Treaty institution, such as an ATT Implementation Support Unit (ISU), should be established. In addition to other roles suggested, the ISU should:
   - Conduct gender-inclusive outreach and engage civil society to increase awareness of the Treaty regime and to promote the universality of the Treaty, and;
   - Promote civil society engagement and contributions to implementation of the Treaty.

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A strong and effective ATT will also reduce the diversion of conventional weapons to the illicit market, specifically small arms and light weapons (SALW) and should therefore complement and reinforce the UN Programme of Action on Small Arms (UNPoA). •

For more information, visit: www.iansa-women.org.

Notes
1. There are different understandings and interpretations of gender-based violence and it often becomes a synonym for violence against women. What needs to be made clear is that gender-based violence affects, and can be aimed at, both men and women. For example, sexual violence against men is also now increasingly acknowledged as means of gender-based violence against men, which occurs in times of conflict and peace. However, the focus of this paper is gender-based violence against women as defined by the UN Committee on the Elimination of Discrimination against Women (CEDAW) as being “directed against a woman because she is a woman or that affects women disproportionately.”

2. For example, the International Covenant on Civil and Political Rights (ICCPR) guarantees women the right to life, the right to be free from torture and cruel, inhuman or degrading treatment, and the right to security of person. Rape and sexual abuse are prohibited at all times, including during armed conflict: see for example, Fourth Geneva Convention, Art 27, Geneva Conventions Additional Protocol I, Article 76(1). In 1998, the Rome Statute of the International Criminal Court recognized that acts of rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity committed in a situation of armed conflict can constitute a war crime and a serious violation of the Four Geneva Conventions in its Article 8(2)(b)(i) and 2(evi), or a crime against humanity when committed as part of a widespread or systematic attack directed against any civilian population with knowledge of the attack, in its Article 7(1). States Parties to CEDAW must take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women (Article 6).


4. See, for example General Assembly resolutions on the elimination of all forms of violence against women (A/RES/59/167, A/RES/57/181, A/RES/55/68), and resolution on eliminating rape and other forms of sexual violence in all their manifestations, including in conflict and related situations (A/RES/62/134).

Preventing gender-based violence (cont.)

Nobel Peace Laureates call for a robust ATT (cont.)

stability of others. It is clearer now than ever before that the unfettered arms trade poses a threat to all of us, a risk to our global security.

The ATT seeks to establish binding universal standards for the international trade of conventional arms, to close gaps in existing arms control policies that too often allow weapons to fall into the hands of those who would use them to violate international humanitarian and human rights laws and perpetuate other unacceptable abuses that destroy lives and livelihoods.

The burgeoning of international support for an ATT is due in large part to the efforts of civil society organizations, as well as the leadership of key countries including the initiative’s “co-authors”: Argentina, Australia, Costa Rica, Finland, Kenya, Japan, and the United Kingdom. Our challenge now is to muster the political will of all countries to ensure that the Treaty is not only legally binding, but also comprehensive enough in the range of weapons and international transactions that it covers to have a meaningful impact. Only with the support of major arms-exporting nations as well as developing and middle-income countries can we prevent some States from acting as loopholes through which irresponsible arms transfers can pass unchecked.

In July 2011, 21 global investors, collectively representing assets of US$1.2 trillion, declared the under-regulated arms trade to be an unacceptable risk to investment and voiced their support for a strong and binding ATT. Their call is further evidence that the enduring political and economic security to which the peoples of our world aspire is a dividend of peace, not of war.

Security is a goal that cannot be attained as long as conventional weapons continue to be readily supplied to zones overrun by armed violence and to States known to systematically violate the human rights of their citizens.

The vast human suffering caused by the under-regulated global arms trade is a tragedy and an injustice. It is an unacceptable risk to global security that will continue to sully our best efforts toward global peace and development. The time has come for States to invest in our collective security by supporting the Arms Trade Treaty. •

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Control Arms has been nominated for the 2012 Nobel Peace Prize by the International Peace Bureau (IPB), itself a Nobel Laureate.

“It’s an honor to be nominated for the Nobel Peace Prize. We hope this nomination will draw attention to the deadline this year to negotiate a strong Arms Trade Treaty to ban irresponsible arms transfers and save lives. Concluding a strong treaty in July will be a crucial step towards a safer world,” said Jeff Abramson, coordinator of the Control Arms secretariat.

The arms trade is a matter of life and death

Jonathan Frerichs | World Council of Churches

Churches around the world have taken a strong interest in the ongoing arms trade treaty (ATT) negotiations. The reason for that is clear. Churches are not outsiders visiting conflict-stricken places to do research or write reports. Parishioners, priests, and other church workers share the daily life, fears, and hopes of communities marked by violence when the trade in conventional weapons is poorly regulated or not regulated at all.

With other members of the community, they are challenged to stand up for human dignity and to defend human life. Since churches are already present in communities affected by violence, they may also have the trust and confidence to bring local voices into the international arena. Such is the case for the ATT.

Again and again, testimonies based on life experiences at the local level reinforce the importance of regulating the arms trade globally. Here are a few examples from a continent where the deleterious consequences of the illicit trade in weapons are tragically apparent.

The Honorable Joy Kwaje, member of parliament in South Sudan and long-time leader of church women, is all too familiar with conflicts exacerbated by illicit supplies of weapons. Early this year, 6,000 young fighters from one ethnic group raided the territory of another group in a dispute over cattle stealing. “The attackers were from an ethnic group that just went through a disarmament process two years ago. Now they have brand-new guns. They killed about 600 people. Where does one get new guns for 6,000 young men?”

In neighboring Uganda, Fr. Silvester Arinaitwe, general secretary of the Uganda Joint Christian Council, says, “We lobby as churches to stop the illegal international arms trade, and at the same time to conscientize the public in communities at risk about their rights and responsibilities as citizens, including the ban on having illegal weapons.” He adds, “Cooperation between governments in our region is important to control such weapons.”

Dr. Irene Tschangou, a gynaecologist, works at a hospital in Democratic Republic of Congo that treated 2,591 victims of sexual violence last year. Nearly half were cases of gender-based violence used as a weapon of war. Such violence, she notes, “increases mortality and morbidity, diseases, family breakdowns and the collapse of social structures—the same effects as military weapons.” All survivors need medical care and 75 percent also need psychological care. Tschangou says her work relies on faith: “Our wish is to have a world without gender-based violence.”

Mr. Cleophas Basaluci directs a church aid agency in eastern D.R. Congo. “Men who use guns to make money take a heavy toll on their communities. Their weapons come from the illicit trade in arms. They are used to rob people, extort money and rape women,” he says. Farming, travel, and community services are all vulnerable. “International action is needed to stop the supply of weapons so we can get out of this vicious cycle and get on with developing our country,” he says.

Ms. Ebun James, who heads the Sierra Leone Council of Churches, has seen her country recover slowly from a long and violent civil war. “The only way to deal with illegal weapons is to get rid of them and to stop new guns getting in,” she says. “It is like trying to stop smoking—you cannot keep getting cigarettes if you want to quit.”

Stories like these show why the ATT negotiations matter for many people around the world. The arms trade is not a normal business. Most states recognize the fact by imposing controls on arms at the national level. The ATT is about recognizing the same fact inter-nationally and imposing protective, common-sense controls at that level too.

In the stories above, aspects of scope, criteria, and implementation of an ATT are evident. Arms flows across borders including small arms and light weapons are factors in Sudan, Uganda, and D.R. Congo today, and during Sierra Leone’s civil war. The Sudan story speaks to human rights criteria, sustainable development, and international assistance. The Uganda case speaks to cross-border cooperation, and the Congo story speaks to socio-economic development, gender-based violence, and endemic violations of basic rights.

To back up these real-life experiences, leaders of churches and related organisations on six continents have written to their governments for this PrepCom to urge that the Arms Trade Treaty must include: binding criteria on International Human Rights Law and International Humanitarian Law, sustainable development, gender-based violence and survivor assistance; broad scope including small arms and light weapons, ammunition and parts; and robust provisions for implementation, cooperation, transparency and reporting.

On the ground, where the often distant consequences of irresponsible arms trading have effects on people’s lives, all of these criteria are real. Families, communities and nations at risk stand to benefit from a strong and effective arms trade treaty or will continue to suffer if such a treaty is weak and ineffective instead. The arms trade is in many hands, but it is governments with clear and defined obligations to their citizens who will ultimately decide if the ATT will do its part to shift the balance—protectively—on matters of life and death.
Global arms deal talks resume amidst tensions in Syria
Control Arms Campaign

Recent events in the Middle East and North Africa demonstrate the tragic impact of the unregulated arms trade and the urgent need for a strong Arms Trade Treaty, says the Control Arms Campaign.

Control Arms says that a global deal on arms trade would prevent irresponsible arms transfers that cost so many innocent lives and fuel internal conflicts such as in Syria.

There is currently no global regulation on the conventional arms trade, making it too easy for arms to end up in the hands of human rights abusers.

“Sadly, there are too many imploding countries right now that point to the need for a strong Arms Trade Treaty. It is also deplorable that Russia argues it is responsible to continue sending weapons to a regime that is bombarding its citizens,” said Jeff Abramson, Coordinator of the Control Arms Coalition.

This week’s ATT PrepCom at the UN is focusing largely on the rules of procedure for the July negotiations.

“States have an historic opportunity to help save lives by bringing the deadly arms trade under control,” added Abramson.

“The recent case of Viktor Bout—seen here arrested in late 2010—points to the reality that arms dealers have the luxury to operate in a legal vacuum and run their deadly trade with complete impunity.

“This must come to an end, and the process of the Arms Trade Treaty is our best way to tackle this problem,” said Abramson.

More than 100 civil society participants from all continents attend the ATT talks as part of the Control Arms Campaign, including Nobel laureates, parliamentarians, armed violence survivors, lawyers, activists, policy experts, and health professionals.

Control Arms was recently nominated for the 2012 Nobel Peace Prize.
Day 1: Questions of consensus and transparency
Ray Acheson | Reaching Critical Will of the Women’s International League for Peace and Freedom

The opening day of the fourth and final preparatory committee (PrepCom) for the UN conference on the arms trade treaty (ATT) focused largely on the key procedural issues that it will have to address in order to ensure a smooth and effective negotiating process in July. Perhaps surprising to some, the PrepCom managed to adopt the draft agenda for the negotiating conference by noon (the version available now was slightly amended). The provisional rules of procedure, however, proved a little more difficult. With a short session ahead to deal with some fairly controversial issues, delegations began discussing two of the stickiest questions: consensus and civil society access.

**Consensus**

As several pieces in the first ATT Monitor noted, what consensus is and when it will be applied remains an open-ended question. Several delegations, including the Arab Group, Democratic People’s Republic of Korea, India, Israel, Nicaragua, Russian Federation, Syria, and Turkey emphasized that operative paragraph 5 (OP5) of UN General Assembly resolution 64/48 dictates the rules of procedure for the negotiating conference. This paragraph states that conference “will be undertaken in an open and transparent manner, on the basis of consensus, to achieve a strong and robust treaty.”

The Russian delegation said it was “unpleasantly surprised” by the “innovative” rules on the consensus issue provided in the provisional draft. As written, the provisional rules essentially say that decisions on matters of substance will be taken by consensus when possible but that a vote can be called, in which case it would be taken by a 2/3 majority; and that matters of procedure can be adopted with a simple majority vote. It also indicates that the final text would be adopted by consensus.

This formulation upset the states listed above, which maintain that resolution 6/48 is clear on consensus. The Russian delegation even argued that since OP5 says that the consensus-based process is mandated in order to “achieve a strong and robust treaty,” it would be impossible to achieve such a treaty without operating by consensus.

However, Norway’s delegation pointed out that 64/48 does not actually indicate a) what consensus means; or b) what decisions consensus should apply to. In the eyes of many delegations, 64/48 is far from definitive on this issue and therefore the provisional rules of procedure as laid out here are within the possible parameters of the resolution.

It’s clear that some states want to interpret consensus as meaning a unilateral veto. However, others feel this undermines the principle of consensus, which they see as the act of striving for the broadest agreement possible, not preventing any agreement from being reached. Argentina, Australia, Brazil, CARICOM, Mexico, and Norway hold this view.

**NGO participation**

Several delegations, including those of the Arab Group, strongly supported NGO participation in the negotiating conference. The Group in fact emphasized the importance of the “full implementation of principles of transparency in all phases and mechanisms of the proceedings.” The Group did not as a bloc address the relevant rules, however.

Rule 57.1 states that plenary meetings of the conference will be open unless decided otherwise. 57.2 states that as a general rule, meetings of “other organs” of the conference will be closed unless decided otherwise.

The Mexican delegation firmly argued that given the important work of civil society on the ATT and the commitment of the process to transparency, rule 57.2 should not be necessary. The Norwegian delegation agreed, saying that 57.2 should either be deleted or reversed, to state that all meetings should be open until closed, rather than closed until open. CARICOM also agreed 57.2 should be reconsidered.

Others, however, though generally supportive of civil society, felt this was going too far. Sweden and the United Kingdom suggested general flexibility but said that 57.2 should be maintained. The Egyptian delegation agreed, noting that the types of meetings that would likely be closed would be those in which states are negotiating draft text, arguing that civil society should not have access to these proceedings in order to make them as “constructive” as possible. The Russian delegation also issued its support for keeping rule 57 as is.

The other main NGO issue to arise was the number of times NGOs could address the negotiating conference. The European Union, Brazil, and Norway argued that accredited NGOs should be able to address the conference several times rather than just once.

**Where things stand now**

Neither the questions of NGO access nor the rule of consensus were settled by the end of the first day; the Chair indicated he would continue bilateral consultations and discussions will continue in plenary.
A mandate for monitoring: critical and feasible

Nathan Sears

The development of an objective, reliable system for monitoring an Arms Trade Treaty (ATT) is critical to ensuring a “strong and robust” treaty. The absence of an ATT monitoring system would be a major blow to the goal of effective treaty implementation, as states parties would be left substantial autonomy to interpret and implement a treaty as they see fit. Unfortunately, monitoring has not received its due attention in substantive debate during the ATT process thus far. State and civil society representatives that call for a strong ATT need to engage this crucial theme in order to encourage a better understanding of the importance of monitoring, the available options for a system, and the views of states.

ATT monitoring is feasible. There are two general forms of monitoring that an ATT can and should take: an official system that maintains continuous operations through some form of permanent, independent institutional body (whether an implementation support unit, a technical secretariat, an executive body, or a combination thereof); and a civil society initiative that collects relevant, open-source information on treaty implementation that is used to independently judge states parties’ treaty compliance. An official monitoring system would be a big asset for an ATT, and there are a number of existing monitoring systems in the disarmament, arms control, and non-proliferation field that provide useful models for an ATT, particularly the International Atomic Energy Agency (IAEA) and the Organization for the Prohibition of Chemical Weapons (OPCW). These bodies have permanent executives and secretariats that collect and analyze information presented directly by states parties, as well as what is gathered through more intrusive means, such as fact-finding missions, on-site inspections, requests for clarification of compliance, and advanced monitoring technologies.

However, a more modest system could still provide substantial value for strengthening ATT implementation and compliance. Many states have expressed their support for an ATT implementation support unit (ISU), although their visions of its role vary. It is feasible for an ISU to have a monitoring function. At the minimum, its mandate should consist of the collection and analysis of states parties’ reports, including cross-verifying their contents in order to build confidence in their accuracy and identify inconsistencies. An ISU should produce annual reports of its own for objective, reliable analysis of states parties’ treaty implementation and compliance, which could be an important source of information for assemblies of states parties. The scope of ISU reporting could be to, inter alia, provide quantitative and qualitative analysis on conventional arms transfers; evaluate states parties’ transfer control systems; identify weaknesses in reports or failure to meet reporting requirements; evaluate states parties’ actions taken towards treaty implementation; warn states parties of high risk end-users and transit routes; and identify transfers that seem to violate ATT transfer criteria. A mandate that gives an ISU independent judgment of states parties’ treaty implementation and compliance would be critical to make this system effective.

While the specifics of a monitoring system could be left to be debated in subsequent ATT review processes, the creation of an institution with a general mandate for treaty monitoring is a critical and feasible objective for ATT negotiations. The goal of an ISU—if it takes that specific form—should be thought of as “to promote” rather than simply “to assist” states parties’ treaty implementation, as is the current language of the Chairman’s Draft Paper of 14 July 2011, and specific provisions should be made to give an ISU a mandate to monitor the actions taken by states parties towards treaty implementation and to identify and analyze suspected cases of non-compliance. The ISU should be mandated to report its findings to assemblies of states parties, in which states parties could then decide collectively the actions to be taken on the basis of these findings.

ATT monitoring is inevitable in some form as long as negotiations produce a treaty; the monitoring potential of civil society makes this so. Nevertheless an official treaty mandate for a monitoring system would make an enormous contribution to the goal of a strong and robust ATT. An ATT monitoring system can draw on the lessons of existing systems within the disarmament, arms control and non-proliferation field, such as the IAEA and OPCW. However, for a monitoring mandate to be achieved, it first needs to become a bigger part of the ATT discourse—which has up to this stage received only minor attention. State and civil society representatives that call for a strong and robust treaty therefore need to make a concerted effort to direct debate towards the theme of ATT monitoring.

Notes
1. The theme of civil society monitoring of an ATT will be explored in detail in a later issue of the ATT Monitor.
Towards the end of the day the Holy See reminded delegations that the arms trade treaty (ATT) is not just about regulating the legal trade in arms but in “disarming the international illicit market” and establishing and maintaining international peace and security “with the least diversion for armaments of the world’s human and economic resources.”

This commitment, enshrined in article 26 of the UN Charter, is often forgotten when delegates in the ATT process are discussing the provisions of the UN Charter in relation to the potential treaty. For civil society and most governments, however, this is a key aspect to any future treaty.

In 1915, the International Congress of Women that resulted in the founding of the Women’s International League for Peace and Freedom (WILPF) urged that

*all countries should, through an international agreement, take over the manufacture of arms and munitions of war and should control all international traffic in the same. It sees in the private profits accruing from the great armament factories a powerful hindrance to the abolition of war.*

Nearly one hundred years later, delegations at the UN are taking a first step toward this imperative. The ATT process, as the Holy See remarked, should be first and foremost about preserving human life and dignity. •