

# A BATTLE OF IDEAS

Fighting against the death sentence with arguments, with intelligence, from within the university and through the Law. This is because to put an end to executions is a battle of ideas, politics and international laws. A protracted struggle, in which governments, inter-governmental organizations, NGOs and academics are involved.

By **LUIS ARROYO ZAPATERO** Photography by **SOFÍA MORO**.

**S**cientific societies have always concerned themselves with the abolition of the death sentence. For example, the International Society of Social Defence (ISSD), established in 1949, has always been committed to that cause and to humanist Criminal Law. As early in 1955, it was an active participant in the first United Nations Congress on Crime. The then president of the Society, Marc Ancel, was also the first rapporteur general on the death penalty at both the Council of Europe and the United Nations General Assembly. Since the 1950s up to our days, the fight against executions has progressed a great deal, and nevertheless, it is still an ongoing task. Two professors, Roger Hood from the University of Oxford and William Schabas,

from the University of Middlesex, have been the last two rapporteurs to the UN general secretary on matters concerning capital punishment in the world.

Hood and Schabas also have in common their membership of Academics for Abolition, a network of scholars and researchers united against executions, established in 2009 in Madrid, as part of the commitment assumed by the government of Spain, which at that time also held the presidency of the European Union, "to prioritize the fight against inhuman punishment". The mission was also to cooperate with the International Committee against the Death Penalty, which would be established in 2010, as well as with Governments and NGOs committed to its abolition. The basis of >



**ROGER HOOD**  
Profesor emérito  
de la Universidad  
de Oxford.

**WILLIAM SCHABAS**

President of Academics for Abolition (REPECAP).  
Professor of the University of Middlesex,  
London (United Kingdom).



Academics for Abolition was the agreement between four large scientific associations: the ISSD, the International Association of Penal Law (IAPL), the International Society for Criminology (ISC) and the International Penal and Penitentiary Foundation (IPPF). A union that was personified in the figure of professor Cherif Bassiouni, a United Nations expert in war crimes, who organized a conference between those associations in the Hague, in April, 2009, the fruit of its project fighting impunity against international crimes. Concern over the death sentence also forms part of its agenda. In fact, twenty years ago, the ISSD, the IAPL, the ISC, and the IPPF met at the Institute of Syracuse for a specific congress to debate the matter.

The network of Academics for Abolition, also known as the International Academic Network or REPECAP, is presided over by William Schabas, and its executive directors are Stefano Manacorda, from the University of Naples II, and Sandra Babcock, of the Northwestern University of Chicago, all three of whom are photographed on these pages, together with other members of the network, responsible since April, 2010, for the publication of seven books in Spanish and English, as well as a DVD-book entitled *Still Killing* available from the website [www.academicisforabolition.net](http://www.academicisforabolition.net). The legal texts listed below that relate to the death penalty belong to the United Nations, the European Convention of Human Rights and the Spanish Constitution.

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**UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948**

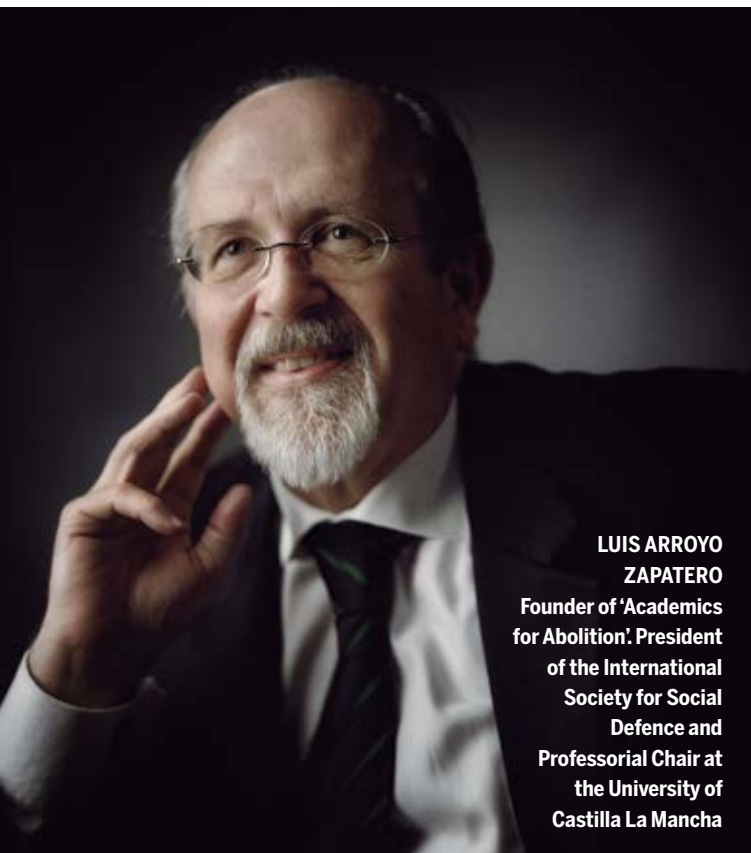
**ARTICLE 3.** Everyone has the right to life, liberty and security of person.

**INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS**

Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. Entry into force 23 March 1976, in accordance with Article 49.

**ARTICLE 6.**

- 1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
- 2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court. >



**LUIS ARROYO ZAPATERO**  
Founder of 'Academics for Abolition'. President of the International Society for Social Defence and Professorial Chair at the University of Castilla La Mancha

**“The application of the death penalty almost always implies cruel, inhumane and degrading treatment, in violation of international law. Its cruelty begins long before the real execution, when the convicted person is trapped in a limbo”**

NAVI PILLAY  
*United Nations High Commissioner for Human Rights*



**Innocents condemned to death**

Joaquín José Martínez and Muan Meléndez, Spanish and Puerto Rican citizens, were imprisoned in Florida USA for crimes that they had not committed. They were imprisoned on death row for 6 and 17 years, respectively.



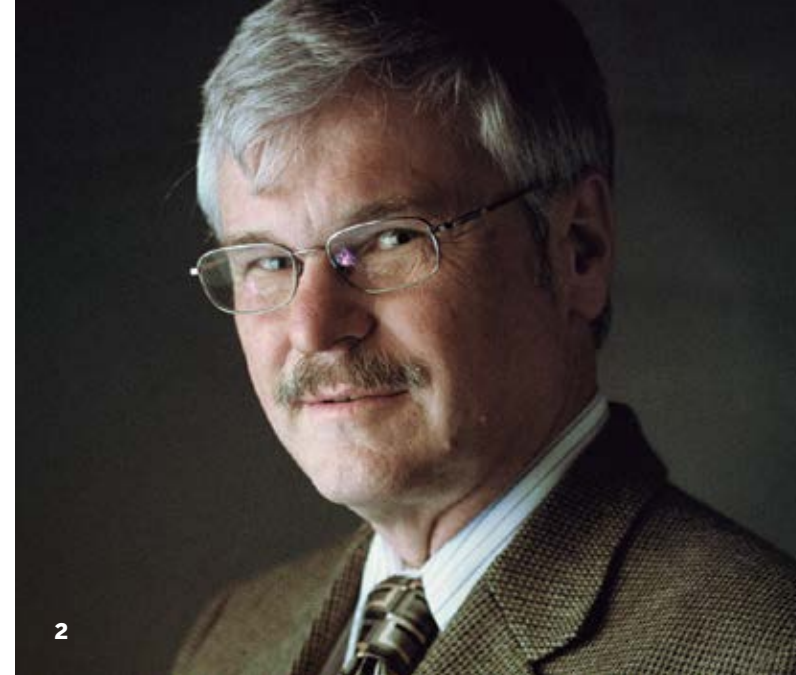
**Warmth for those about to die**

The religious, Helen Prejean is a spiritual counsellor to death row prisoners. She was interpreted by Susan Sarandon in the film 'Dead Man Walking' (1995).

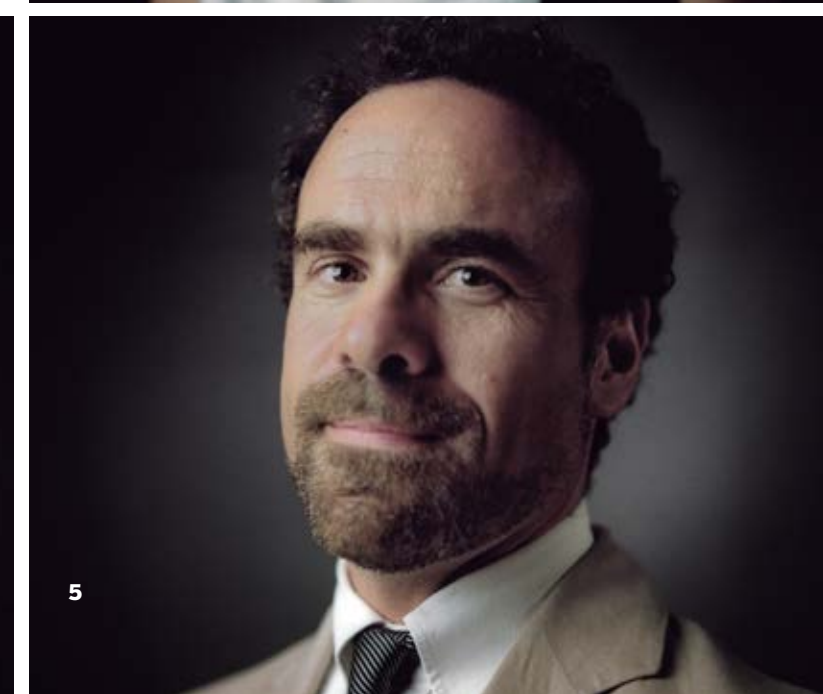
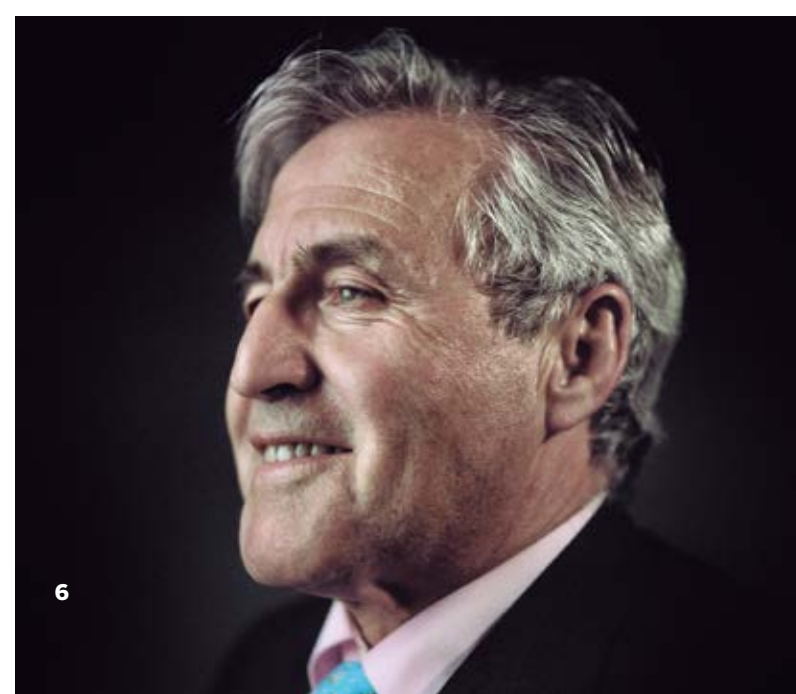
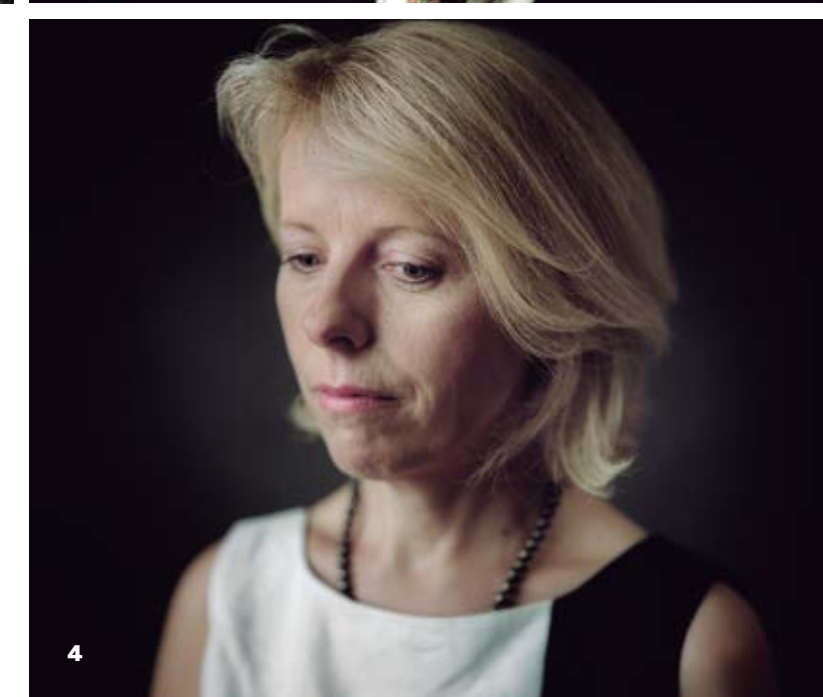


**Defenders of prisoners condemned to death**

Parvais Jabbar and Saul Lehrfreund are executive directors of The Death Penalty Project in Simons Muirhead and Burton Solicitors. They work to promote and to protect the human rights of people facing the death penalty.



**1. SANDRA BABCOCK.** Director of the Bluhm Legal Clinic, Northwestern University. Chicago, EEUU. **2. MICHAEL RADELET.** Professor at the University of Colorado. EEUU. **3. EDUARDO VETERE.** Former director general of UNODOC, Vienna. **4. CAROLYN HOYLE.** Professor at the University of Oxford. **5. STEFANO MANACORDA.** Professorial Chair at the University of Naples II and Director of Research at the Collège de France. **6. IGNACIO BERDUGO GÓMEZ DE LA TORRE.** Professorial Chair of the University of Salamanca.





1. SYLVIA STEINER. Exmagistrate of the International Criminal Court. Brazil  
 2. JON YORKE. Professor at the University of Birmingham (United Kingdom).  
 3. RAÚL ZAFFARONI. Minister of the Argentine Supreme Court of Justice.  
 4. PETER HODGKINSON. Professor at the University of Westminster.



Photograph from the magazine Debate.



**“The taking of life is too absolute, too irreversible, for one human being to inflict it on another, even when backed by legal process”**

BANKI-MOON  
 Secretary General of the United Nations.

- > 3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
- 4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
- 5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
- 6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

**SAFEGUARDS GUARANTEEING PROTECTION OF THE RIGHTS OF THOSE FACING THE DEATH PENALTY APPROVED BY THE ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1984/50 OF 25 MAY 1984**

- 1. In countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences.
- 2. Capital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the time of its commission, it being understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.
- 3. Persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane.
- 4. Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.
- 5. Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.
- 6. Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.
- 7. Anyone sentenced to death shall have the right to seek pardon, or commutation of sentence; pardon or commutation of sentence may be granted in all cases of capital punishment.
- 8. Capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.
- 9. Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering.

**SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, AIMING AT THE ABOLITION OF THE DEATH PENALTY**

**ARTICLE 1.** No one within the jurisdiction of a State Party to the present Protocol shall be executed.

**ARTICLE 2.**  
 1. No reservation is admissible to the present Protocol, except for a reservation made at the time of ratification or accession that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.

**PROTOCOL NO. 13 TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, CONCERNING THE ABOLITION OF THE DEATH PENALTY IN ALL CIRCUMSTANCES**

Vilnius, 3.V.2002  
**ARTICLE 1. Abolition of the death penalty.**  
 The death penalty shall be abolished. No one shall be condemned to such penalty or executed.  
**ARTICLE 2. Prohibition of derogations.**  
 No derogation from the provisions of this Protocol shall be made under Article 15 of the Convention.

**SPANISH CONSTITUTION**  
**ARTICLE 15.** Everyone has the right to life and to physical and moral integrity, and may under no circumstances be subjected to torture or to inhuman or degrading punishment or treatment. The death penalty is hereby abolished (except as provided for by military criminal law in times of war).

What appears between brackets was dropped following ratification of protocol 13 of the European Convention of Human Rights in December 2009. ●



**SERGIO GARCÍA RAMÍREZ**  
 Ex-president of the Inter-American Court of Human Rights and researcher at the UNAM.  
**OLGA ISLAS**  
 Professor at the UNAM (Mexico).