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# *amnesty international*

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## **MALAWI**

### **Open letter on the death penalty to the Constitutional Conference**

20 FEBRUARY 1995

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Dear Delegates,

Amnesty International notes with concern that the interim Malawian Constitution currently before you retains the death penalty under Article 16.

Amnesty International has raised the issue of the death penalty on numerous occasions during Malawi's transition to political pluralism since 1993. It has argued that the death penalty is a violation of the fundamental right to life and the most extreme form of cruel, inhuman and degrading punishment. As many academic studies have shown, the death penalty has no special power to deter crime. Judicial studies and our own experience show that innocent people have been executed in countries which retain the death penalty, even after the most rigorous judicial procedures have been observed.

A unique opportunity currently exists in Malawi to usher in a new era for human rights. The final shape of the Constitution is due to be decided by Parliament by mid-April 1995. By abolishing the death penalty at this time, Malawi would give a clear signal of its commitment to incorporating international human rights standards into its legal and penal systems. In taking this step, Malawi would also become part of what appears to be a growing shift away from advocacy of the death penalty by governments within the South African Development Community (SADC) in recent years. Three of the seven African countries which are now abolitionist for all crimes, Namibia, Angola and Mozambique, are SADC member-states. South Africa's Constitutional Court is due to rule on the constitutionality of the death penalty in the coming months. Tanzania's Court of Appeal is also due to rule on the constitutionality of the death penalty after hearings which took place in September 1994. There are currently active public debates in Zambia and Zimbabwe about whether to abolish the death penalty.

Amnesty International urges delegates to the Constitutional Conference to lead the way in Malawi towards abolition of the death penalty by recommending to Parliament that the

**interim Constitution should be amended so that the affirmation of the right to life contained in Article 16 is followed within that article by a clear declaration that the death penalty will never be allowed.**

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**KEYWORDS:**