

APRIL 2017

...\$1.27 million in legal and arbitration costs, to be reimbursed by Uganda.

cularly in large-scale infrastruc-

balance public...
al obligations to private investors.

...onal debate

BY ANTHONY WESAKA

KAMPALA. Few moments in a courtroom carry as much weight as the pronouncement of a death sentence.

Proceedings often fall into tense silence as a judge delivers the ultimate punishment—death by hanging under Ugandan law.

The issue has resurfaced following recent high-profile cases, including the sentencing of Christopher Okello Onyum, who was condemned to death after being found guilty of murdering four toddlers in Gaba, Kampala, earlier this year.

Legal experts and justice sector officials say there is no prescribed script governing how a judge should behave when handing down a death sentence.

Conduct is largely left to the discretion of the presiding judicial officer.

Mr Frank Baine, spokesperson of the Uganda Prisons Service, said many widely held beliefs about courtroom rituals are myths. "There are no clear-cut guidelines. I have attended such sentencing sessions, and some judges do nothing extraordinary," he said.

He dismissed claims that judges must perform symbolic acts, such as waving handkerchiefs or dramatising proceedings, noting that approaches vary from one judge to another.

In some common law jurisdictions, symbolic practices have

historically accompanied death sentences. One such tradition is the breaking of a pen after delivering judgment, signifying the finality and irreversibility of the decision.

In 2011, then High Court judge Albert Rugadya-Atwooki reportedly broke his pen after sentencing Thomas Nkulungira to death for the murder of his former girlfriend—an act that left many in court startled.

In the recent case involving Okello, Justice Alice Komuhangi Khaukha delivered the sentence in a composed, measured tone without visible emotion or symbolic gestures. "I hereby sentence you to suffer death... in a manner authorised

by law," she ruled, maintaining courtroom decorum.

Some legal practitioners argue that such moments should reflect the gravity of the sentence. Lawyer Caleb Alaka said the pronouncement of a death penalty ought to carry a degree of ceremony. "The breaking of the pen, changing of robes, even symbolic acts like washing hands—these have historically been part of the process. It shows the weight of the decision," he said.

Mr Alaka likened such symbolism to the biblical account of Pontius Pilate, who washed his hands before a crowd to signify detachment from the death of Jesus. He added that even in

the digital era, where judgments are prepared on computers, symbolic gestures could still be adopted.

However, not all officials agree. Mr James Ereemye, Public Relations Officer of the Judiciary, described the breaking of a pen as an outdated practice. "The proverbial breaking of the pen symbolises the doctrine of *functus officio*—that once a decision is made, it cannot be changed. It has no relevance in modern practice," he said, questioning how many pens would be broken if the tradition persisted.

Uganda retains the death penalty for certain capital offences, with hanging prescribed as the

method of execution. According to the Uganda Prisons Service, 93 inmates are currently on the death row. The last execution was carried out in 1999, when 28 inmates were hanged at Kirira Prison.

While the law clearly describes the punishment, the manner in which it is delivered remains at the judge's discretion—balancing legal duty, personal conviction and the solemn responsibility of passing an irreversible sentence.

Whether marked by solemnity or quiet restraint, the moment underscores the power of judicial authority when the final sentence is pronounced.