

Treason, punishment and postcolonial insecurity in sub-Saharan Africa

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Abstract

As the death penalty declines in sub-Saharan Africa, capital treason laws endure, with several countries passing death sentences for treason in recent years. This paper addresses the significance of the death penalty for treason in sub-Saharan Africa. While treason exceptionalism survives beyond Africa, in sub-Saharan Africa, capital treason has acquired penal-political salience, with its retention and use shaped by the interaction of postcolonial insecurity, military interventions and sovereign anxiety. Drawing on scholarship in punishment studies, the article conceptualises capital treason as a form of penal governance through which states symbolically assert sovereignty and manage perceived threats to political authority. Capital treason also contributes to shaping the legal and coercive repertoires through which state power is defended. By tracing how different colonial legacies produced uneven processes of nation building, civil-military relations and political legitimacy, this article demonstrates that capital treason laws have played a central role in responding to threats to state power. It argues that capital treason laws acquired particular penal-political significance where postcolonial authority remained vulnerable to coups, insurgencies and challenges to state power.

Keywords

death penalty, treason, Africa, colonialism, state power, sovereignty

Introduction

Sub-Saharan Africa is abolishing the death penalty faster than any other region, with seven countries passing legislation to end the punishment since 2020.¹ However, the

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death penalty for treason has survived abolition – Ghana, Equatorial Guinea, Zambia and Zimbabwe still retain the death penalty for treason, having abolished it for ordinary crimes (Amnesty International, 2025). This is not merely symbolic: within months of abolishing the death penalty for ordinary crimes, Ghana sentenced six soldiers to death for treason (Muia, 2024). This persistence raises a broader question: why does capital punishment survive for crimes against the state even where it has been abandoned for ordinary offences? While a growing body of scholarship has examined the politics and decline of punishment globally, and in Africa particularly (e.g. see Dudai, 2023, 2024; Novak, 2014; Strange et al., 2025), relatively little attention has been paid to the specific relationship between treason, capital punishment and postcolonial state insecurity in sub-Saharan Africa. Treason punishment reveals how states use penal power to construct and defend sovereignty in the face of instability. The death penalty is, and historically has been used to maintain political power against threats through uprisings and coups, with the last executions in at least eight sub-Saharan African nations being for treason (Peel, 2024). There have been over 200 military coups in Africa since the 1960s, 45% of which have resulted in regime change (Barka and Mcube, 2012). Prior to the 1990s, the most prominent means of power transfer in sub-Saharan Africa was through a military takeover (Grauvogel and Heyl, 2020). More recently, political instability, both in the form of military coups and constitutional coups, where presidents are usurping term limits to retain power, has meant that state power remains under threat. The resurgence of coups has resulted in the resumption of capital treason laws: ousted leaders sentenced to death (Democratic Republic of Congo's Kabila) or threatened with the death penalty (Niger's Bazoum). Burkina Faso's young junta leader is considering reinstating the death penalty (Lavelle, 2024). While treason exceptionalism is not unique to sub-Saharan Africa, it is the frequency of sentences, often deployed for political purposes that warrants investigation. Although comparative scholarship has shown that treason is often among the last capital offences to be abolished, existing studies have largely treated treason as a residual legal anomaly or symbolic exception. Less attention has been paid to conditions under which treason continues to be actively deployed and why it retains practical significance in some postcolonial states. Sub-Saharan Africa provides an important context in which to examine this question because capital treason has continued to be imposed in response to coups, insurgencies and other challenges to political authority.

Existing explanations centred solely on colonialism or sovereignty do not fully account for these divergent trajectories. This article examines the significance of the death penalty for treason in sub-Saharan Africa, situating its retention and use within the relationship between punishment, sovereignty and postcolonial state formation. This article argues that capital treason acquired particular penal-political significance in parts of sub-Saharan Africa because uneven postcolonial state formation, militarised politics and recurrent challenges to political authority made sovereignty unusually vulnerable. Colonial legacies served to shape divergent processes of nation-building, civil-military relations and state legitimacy that influenced how governments responded to threats to political order. As scholarship on punishment and sovereignty has demonstrated, states frequently respond to perceived threats to political order through exceptional legal measures (Dudai, 2021; Sarat, 2001). In this context, treason laws became a means through

which governments seek to defend political authority and symbolically assert sovereignty in the face of military coups, insurgencies and other challenges to state power.

Understanding this pattern requires moving beyond legal retention to consider how punishment functions in moments of political insecurity. To explain this dynamic, the article develops the concept of sovereign anxiety, where challenges to the authority of the ruling party are treated as threats to the state itself. Under such circumstances, the distinction between regime security and state security becomes blurred, and political opponents can be construed as traitors as opposed to legitimate rivals. In sub-Saharan Africa, successful coups have frequently been accompanied by the emergence of exceptional legal forms, such as military courts and special tribunals, that operate outside of the ordinary criminal justice process. These institutions frequently exercised jurisdiction over treason and other security offences, often with limited procedural safeguards, making the death penalty more readily available for offences deemed to threaten the state, thereby functioning as exceptional legal spaces where the state exercised sovereign power.

Death penalty for treason

The retention of the death penalty for treason has not traditionally been associated with a commitment to capital punishment (Dudai, 2021). Globally, abolition for ordinary crimes precedes abolition for all crimes, with countries showing far more reticence to do away with the death penalty for treason: the UK took 29 years, Denmark took 45 and Portugal took 110. This pattern reflects a broader tendency, noted in comparative scholarship, for abolition to proceed unevenly, with political offences such as treason among the last to be removed from capital statutes (Dudai, 2024; Schabas 2002). The persistence of capital treason in jurisdictions such as the UK and France underscores that its retention is not unique to sub-Saharan Africa but rather reflects a broader pattern in which sovereignty-related offences are among the last to be abolished.

Punishment can be understood as an expression of power and social order. According to Foucault (1991), crimes against the sovereign were treated as affronts to the authority of the ruler, and punishment served to restore the symbolic order. Treason remains a crime in defence of sovereignty even as other capital offences are abolished. The retention of the death penalty for treason, therefore, reflects the enduring symbolic importance in maintaining state power. As scholarship on the death penalty has increasingly demonstrated, capital punishment is shaped by broader political and institutional contexts beyond criminal justice alone (Dudai, 2021; Garland, 2002; Sarat 2001). Scholarship on capital punishment in Africa has similarly emphasised the need to situate death penalty practices within broader questions of political authority, constitutional development and state legitimacy (Novak, 2016).

Dudai (2021) offers a specific account of the death penalty for treason, arguing that treason remains as a symbolic law, rarely used, but a symbol of the importance of state sovereignty. Treason statutes do not govern criminal offences; they survive longer because they represent sovereignty as opposed to crime control. The power to punish has historically been central to constitution and defence of political authority (Sarat and Culbert, 2009). In this context, treason laws can be understood as a legal expression

of sovereign anxiety, through which states seek to demonstrate their capacity to respond to perceived threats to political order. Criminal law can function as a tool of protection against future risks (Carvalho, 2017). Treason and other offences associated with state security often occupy an exceptional position within death penalty regimes, reflecting their continuing symbolic association with sovereignty and political authority (Dudai, 2021; Pascoe, 2019). As Thurschwell (2008) argues, treason is not just a criminal offence, it is an attack on the state itself, which is why treason outlives abolition for ordinary crimes.

Sub-Saharan Africa is not exceptional in its retention of treason as a sovereign offence. Comparative scholarship demonstrates that political offences are frequently among the last crimes to be removed from capital statutes (Dudai, 2021; Schabas, 2002). What distinguishes the region is the frequency with which capital treason laws have been deployed in response to coups, insurgencies and other challenges to political authority, and the persistence of military and exceptional jurisdictions in which treason is tried. In this context, capital treason has acquired a distinctive penal-political significance as a mechanism through which governments seek to defend and enact sovereignty. The death penalty for treason has disproportionately been used in sub-Saharan Africa since independence. This is despite the growing trend in the region away from capital punishment, with countries increasingly shunning execution or abolishing the death penalty in its entirety. While death sentences do continue to be passed, executions are increasingly rare. Recent scholarship on Zimbabwe demonstrates that this is not necessarily a reflection of a wholesale rejection of capital punishment: instead, abolition emerged through a long process of legal and political reform, leaving treason among the offences that continued to occupy an exceptional legal position (Hoyle and Jabbar, 2025). Novak (2016) has attributed this shift away from capital punishment to democratisation, growing human rights awareness and judicial reform that has developed across the continent, arguing that a reliance on the death penalty is a sign of state weakness, not strength. The reliance on the death penalty to deal with threats to state power attests to this.

The challenge of research in closed or partially closed criminal justice systems, according to Pascoe (2016) is that countries that use the death penalty tend to be the least transparent. This paper relies on figures reported by Amnesty International (1966–2024). Table 1 demonstrates that the death penalty has been frequently and consistently imposed and carried out for treason after independence. The last executions in Angola (1977), Burkina Faso (1989), Gabon (1985), Guinea-Bissau (1986), Niger (1976), Senegal (1967) and Sierra Leone (1998) have all been for treason (Peel, 2024). The use of the death penalty for treason reflects the interaction between political instability, militarised contestation and the continuing importance of state security in many postcolonial African states. Unlike offences such as murder, treason is fundamentally a political crime directed against the authority of the state. As Dudai (2021) has pointed out, capital treason statutes function as a ritual defence of state sovereignty.

Colonial legacies and postcolonial insecurity

The colonisation of sub-Saharan Africa was relatively quick and peculiarly violent (Young, 1994). Borders were artificial, and arbitrarily imposed, reflecting the competitive

Table 1. Death sentences and executions for treason in sub-Saharan Africa.¹⁰

Date	Executions	Death sentences
1968		Ghana (13)
1969	Malawi (8), Central African Republic (1), Zanzibar (4)	
1970	Cameroon (3)	Sierra Leone (10)
1971	Sierra Leone (4)	
1973		Rhodesia (8), Tanzania (34)
1974	Malawi (+) ¹¹	Sierra Leone (15)
1975	Ethiopia (59), ¹² Sierra Leone (8)	Dahomey (7), Benin (11), Central African Republic (8), Ivory Coast (13)
1976	Nigeria (30+), Rhodesia (60+), Angola (4), Niger (7)	Niger (2), Nigeria (2+), Ghana (7), Namibia (2)
1977	Chad (13), Congo (7), Uganda (12), Zaire (13)	Congo (+), Zaire (6)
1978	Congo (10)	Angola (15+), Guinea (1), Mali (2)
1979	Mozambique (20), Equatorial Guinea (8), Ghana (8)	Mozambique (16+), Benin (100), Comoros (2), South Africa (1), Togo (10)
1980	Liberia (13), Angola (25), Mozambique (3), Zaire (13)	South Africa (3), Central African Republic (1)
1981	Mauritania (4), Mozambique (7)	Mozambique (4), Mali (4), Rwanda (2)
1982		Gambia (28), Kenya (4), Mozambique (6), Seychelles (4)
1983	Equatorial Guinea (2)	Equatorial Guinea (1), Gambia (1), Malawi (2), Zambia (7)
1984	Burkina Faso (7)	Liberia (13)
1985	Gabon (1), Ghana (6)	Cameroon (51), Gambia (1), Zambia (5), Togo (13)
1986	Equatorial Guinea (1), Ghana (7), Guinea Bissau (6)	Guinea Bissau (6)
1987	Mauritania (3), Kenya (2)	Central African Republic (1), Guinea (58), Sierra Leone (16)
1988		Uganda (3)
1989	Sierra Leone (6)	
1990	Nigeria (120)	Uganda (16)
1992	Sierra Leone (26)	
1993		Mali (4)
1995		Sierra Leone (4+)
1998	Sierra Leone (24)	
1999		Gambia (4), Ghana (4), Zambia (59)
2003		Zambia (50+)
2004		Sierra Leone (10)
2008		Chad (12)
2010	Equatorial Guinea (4)	
2011		Gambia (8)
2012	Gambia (3)	
2015		Gambia (3)
2023		Democratic Republic of Congo (1)
2024		Ghana (6), Democratic Republic of Congo (37)

gains of rival imperial powers, rather than the characteristics of the people, cultures and societies that were partitioned (African Union Border Programme, 2014). The differing forms of colonial rule further served to disenfranchise the people who found themselves under foreign domination. British colonial rule was characterised by indirect rule, where existing ethnic divisions were encouraged and exacerbated to implement divide and rule (Blanton et al., 2001; Robinson, 2014). Violence played a necessary role in state formation and governance (Herbst, 2000; Wagner-Pacifici, 2009). Military dominance served to impose colonial rule and subdue opposition. The colonial militaries were built along ethnic lines. The ethnic division that facilitated a policy of divide and rule extended to the military, where the British and Belgium colonial authorities militarised certain tribes by only recruiting soldiers from amongst their members (Morrock, 1973; Young, 1982).

Colonial governance prioritised control over legitimacy. The death penalty was central to the coercive repertoire used to enforce colonial rule, particularly when that rule was under threat (Hynd, 2023). The use of capital punishment in colonial contexts has been widely recognised as a tool of coercive governance rather than purely a criminal sanction (Anderson 2005; Hynd, 2023). Bernault (2003) reports that, despite abolitionist sentiment in Great Britain, because of the demands for independence after World War II, the death penalty was retained in the colonies for states of emergencies. During the Mau Mau rebellion in Kenya in the 1950s, 1090 Mau Mau fighters were hanged, with 744 convicted under emergency power regulations (Anderson, 2005). The death penalty existed, both for ordinary and extraordinary crimes, but it was used far more frequently when colonial power was at stake. Rather than function solely as a punishment for criminal wrongdoing, executions during colonial emergencies operated as instruments for the defence of political authority, illustrating the close relationship between state violence and sovereign power (Sarat and Culbert, 2009).

At independence, leaders were faced with creating nation states out of an empire (Daly, 2024). The existing colonial structures were designed to rule over differences, and so they tended to be adopted at independence, meaning a continuation of structures of colonial power in independent states. These institutional legacies have been attributed to the rise in post-independent authoritarianism (Mamdani, 1996), because they were designed for subjugation, not democracy, and continued the ethnically delineated means of governance that had facilitated colonialism. Together, these factors created conditions in which political authority was frequently contested and legitimacy difficult to consolidate, increasing the likelihood that governments would rely on coercive rather than consensual mechanisms for rule. While such dynamics are not unique to the region, they have been identified as significant factors shaping the development of penal and political institutions in postcolonial African states (Novak, 2014).

The armies also remained in their colonial format, built on ethnic division and alienation from civilian society. Investing in militaries has been shown to increase the risk of coups (Collier and Hoeffler, 2007). The army was a source of protection against outside forces, but if a leader lacked the political ability to control or contain the army, it meant they had empowered the organisation that could overthrow them. Civil war is the result of not having control of the army, and militarised post-colonial states are more likely to experience civil war (Henderson and Singer, 2000). The vast majority of conflict in Africa has been intrastate (Englebert et al., 2002).

Tanzania is an important counterpoint to the broader pattern identified in this article. A former German, then British colony, Tanzania inherited borders that encompassed over 120 ethnic groups. Yet under the skilful leadership of Julius Nyerere, the post-independence government pursued a programme of nation-building that fostered a shared political identity that transcended ethnic affiliation (Green, 2011; Miguel, 2004). Instead of relying on coercive forms of political integration, Tanzania invested in institutions designed to develop national cohesion and political legitimacy. The role of the military has also been pivotal: at independence Nyerere rebuilt the army, to dismantle the colonial structure that many other nations inherited wholesale. He maintained civilian control over the military, never empowering it enough to represent a genuine threat (Lindemann, 2010). Tanzania has never experienced a successful coup,² and political authority was not repeatedly contested through military intervention. Treason therefore never acquired the same penal-political salience that it has elsewhere in sub-Saharan Africa. While Tanzania has passed death sentences for treason and has charged 240 protesters of the 2025 election with treason, it has never executed anyone for the offence (Amnesty International, 1970, 2004; Mgonja and Muia, 2025). The Tanzanian case suggests that the significance of capital treason is shaped by the extent to which political authority remains vulnerable to military challenge and regime insecurity.

Uganda provides a stark contrast to Tanzania. Whereas Tanzania has largely succeeded in maintaining civilian control over the military, political authority in Uganda became deeply intertwined with military might following independence. Independence leader Milton Obote consolidated his power by building up his army (Mutibwa, 2008), relying on military domination instead of consensus for rule. Colonial strategies of ethnic differentiation were reinforced rather than dismantled, with the military becoming a key arena where political power was organised and contested. Obote was twice overthrown by military intervention, first in 1971 and again in 1985, illustrating the extent to which the armed forces became the arbiters of political authority in the postcolonial state (Ofcansky, 1996; Setfel, 1994). Successive regimes relied heavily on state violence to confront perceived political threats. Under Idi Amin, public executions and other forms of political violence became integral to regime consolidation (Kyemba, 1977). As Pascoe and Sato (2025) argue, state killing should be viewed on a continuum that extends beyond formal executions. In Uganda, the death penalty represented only one element within a broader repertoire of coercive practices used to defend political authority. Since seizing power in 1986, Uganda's current president Yoweri Museveni has faced numerous armed insurgencies and challenges to his rule (Justice and Reconciliation Project, 2008). In this context, treason has acquired a distinctive penal-political significance. Thousands have been charged with treason during Museveni's presidency, and over a thousand civilians have been tried in military courts for offences against the state (Chagutah, 2025). Uganda's judiciary, however, has placed constitutional limits on how the state exercises power, limiting the scope of capital punishment (see *Susan Kigula & 417 Others v Attorney General*, 2009). Military courts permitted the state to bypass the protections or oversights offered by civilian courts, making it the arena within which challenges to state security have been tried. Museveni recently decried the decision of the Supreme Court to stop trying civilians in military court (Ibrahim, 2025).

These contrasting trajectories suggest that colonial rule did not determine the subsequent use of capital treason. Rather, different patterns of postcolonial state formation shaped the extent to which treason became politically salient as a mechanism for defending state authority.

Coups

As increasingly autocratic leaders built up their armies to consolidate power, the military became the arbiter of regime change in Africa, and military rule became the norm, rather than the exception (Daly, 2024). Three quarters of African leaders were deposed through a coup in the 1960s and 1970s (Caruso et al., 2015; Posner and Young, 2007). Thirteen deposed leaders have faced treason charges, and at least six former heads of state have been executed for treason.³ A further seven heads of state have been sentenced to death but not executed.⁴ Of these 13 former leaders, three were the leaders at independence (Nguema, Kayibanda and Youlou), while the other 10 came to power through a coup. They were all deposed by coups.

Threats to power are regulated through punishment. The use of the death penalty for political offences reflects the need of regimes to manage perceived threats to power. Military coups and political uprisings increase the practical significance of treason laws because they constitute direct challenges to state authority. The death penalty in many sub-Saharan African countries has been used against a backdrop of civil war. Coups rendered treason laws politically salient, as an instrument for defending contested statehood and punishing threats to the regime. Recurrent political instability and coups then made treason laws a key instrument for defending regimes under the guise of defending the state, with the two becoming merged. State insecurity became the same as regime insecurity, and threats to the regime were treated as treason against the state itself rather than political dissent.

Botswana is one of the few sub-Saharan African countries never to experience a coup or coup attempt.⁵ Botswana has never executed anyone for treason – the country actively carries out executions, but since independence all have been for murder (FIDH, 2007; Peel, 2026). Despite remarkable political stability and the absence of coup attempts, it remains one of the continent's most consistent defenders of capital punishment (Peel, 2026). Novak (2016) argues that Botswana's retention and use of the death penalty can be attributed to the fact that the postcolonial state is viewed as legitimate. Capital punishment has not lost credibility because it has not been used to uphold a political regime; rather, it remains purely within the realms of criminal justice. Botswana does not need to defend against internal threats. Sovereignty is instead exercised in resistance to outside pressure. Botswana has repeatedly refused calls to abolish the death penalty, arguing that it is a matter of democratic self-governance, with public opinion in support of the death penalty, and the democratically elected government choosing to keep it (Novak, 2016). The election of a human rights lawyer as President in 2024 may materially alter Botswana's commitment to the gallows, but in the 18 months since coming to power, Boko Duma has neither signed death warrants nor abolished the penalty (Peel, 2026). Botswana's exceptionalism demonstrates that while regime insecurity helps explain the

salience of capital treason in many states, retention for ordinary crimes can be sustained through distinct legal and political traditions.

Treason has predominately been tried under military law in sub-Saharan Africa, a reflection of its use to assert political authority rather than for law enforcement. Military law has been effective in challenging crimes against the state because it was opaque – there was no oversight or mechanisms to question or review the decisions reached (Daly, 2024). Angola, for example, applied the Combatants Disciplinary Law, which had been created for the People's Movement for the Liberation of Angola (MPLA) forces during the civil war, and incorporated into law at independence, which meant it applied to civilians (Hoover, 1977). Crimes against the state operated outside of the civilian criminal justice system, heard in military courts, or special tribunals, and representing a militarisation of law in the contexts of coups and contested statehood. In Angola, the People's Revolutionary Court was established in 1976 (Law no.7/1976) as a separate system from the civil court system, to try cases against state security. The Court had the jurisdiction to impose the death penalty (Blanes, 2023). The use of military courts and special tribunals reflect a broader tendency for states experiencing insecurity to move punishment beyond legal frameworks and into exceptional jurisdictions where sovereign power can be exercised more directly (Sarat and Culbert, 2009). It also enables law to serve a protective function, guarding against future risk (Carvalho, 2017), because military courts and tribunals do not offer the same – if any – procedural protections for the person on trial.

Similar courts have been formed in response to threats to power in at least 12 countries between 1976 and 1992⁶ to try security offences. They have all been used to try the offence of treason, and carried the death penalty, often bypassing internationally accepted standards of fair trials, such as the right to a defence or to appeal. Death sentences were sometimes carried out hours after conviction: when President William Tolbert was overthrown in Liberia in April 1980, 13 former ministers were tried for treason, then taken out and publicly executed by firing squad on a beach near Monrovia (Amnesty International, 1981). In Congo, members of the army and former head of state Alphonse Massamba-Debat were summarily executed after a court martial in 1977 (Amnesty International, 1978). Equatorial Guinea's deposed President Nguema was shot, along with six others, hours after being convicted by a Special Military Tribunal in 1979 (Amnesty International, 1980). Such spectacles of execution serve to publicly demonstrate the authority of the new regime, illustrating the symbolic relationship between state violence and political power (Sarat, 2001; Wagner-Pacifici, 2009). Treason is governed through exceptional legal forms because it is part of a broader apparatus of emergency rule. When political authority is insecure, states shift treason from the realm of ordinary criminal justice into exceptional security jurisdiction, where lower thresholds and opaque processes make capital punishment easier to apply.

The use of military courts to deal with political threats can also be attributed to the preponderance of military regimes. In 1972, 24.6% of the world was ruled by military dictatorships, and 45.7% of those were in Africa (Caruso et al., 2015). The death penalty for treason is used against threats to state power, the majority of which have come from the military. The death penalty in military codes is designed to deter against indiscipline

amongst soldiers. It is considered necessary to maintain discipline and ensure military effectiveness (Marchesi, 1994). Daly (2024) argues that the law was used by military leaders as a means to enforce discipline on the civilian population, failing to distinguish political rule from a military campaign; thus, military heads of state sought to militarise societies, and the law was used to facilitate this.

Ghana illustrates how treason acquired particular significance during periods of military rule. After the 1972 coup, treason was prosecuted by a military tribunal, which carried a mandatory death penalty with no right to appeal (Amnesty International, 1973). In the aftermath of a failed coup in 1975, the military government further strengthened those exceptional institutions, passing amendments to prevent the decisions of the military tribunals from being challenged in ordinary courts (Amnesty International, 1977). Treason was therefore removed from the realm of civilian criminal justice and placed within a distinct system of militarised legality designed to protect the regime from political threats. The political significance of these measures became particularly evident under JJ Rawlings. After seizing power in 1979, Rawlings swiftly ordered the public execution of three former leaders – Ignatius Acheampong, Frederick Akuffo and Akwasi Afrifa – transforming state killing into a visible demonstration of the new regime’s authority (Peel, 2024). Although civilian rule briefly returned between 1979 and 1981, Rawlings staged a second coup and restored military rule. During civilian rule only two death sentences were passed, whereas under military rule from 1982 to 1992, hundreds of death sentences were passed, and 77 executions carried out, with at least 20 killed for their part in attempted coups (Amnesty International, 2000a). Coup plotters were tried under military tribunals without the right to appeal, creating an exceptional legal category in which punishment served to defend political authority. The Ghanaian case demonstrates how treason became a mechanism through which regimes confronting challenges to their rule sought to reassert sovereignty and deter future attempts at regime change. The continuing significance of treason is evident in contemporary Ghana. Although the country abolished the death penalty for ordinary crimes in 2023, six men were sentenced to death for treason in 2024, following their conviction for plotting to overthrow the government (Muia, 2024). Ghana therefore illustrates the persistence of treason exceptionalism within an otherwise abolitionist trajectory, demonstrating that the legacy of militarised post-colonial rule was institutionalised through exceptional legal mechanisms governing treason. While capital punishment has increasingly been rejected as a response to ordinary criminal offences, it continues to be regarded as a legitimate sanction where political authority and constitutional order are perceived to be under threat.

Unlike the death penalty for ordinary crimes, the death penalty for treason is enshrined in Ghana’s 1992 Constitution, which was enacted when Ghana transitioned to civilian rule. This demonstrates that state survival was treated as exceptional and deserving of special constitutional protection. This contrasts with Uganda, where treason is not protected in the Constitution, and the judiciary has sought to balance state power with constitutional rights, resulting in the regime moving treason trials into military courts, to bypass judicial scrutiny. For both countries, sovereign anxiety can sustain capital treason – in civilian or military courts – even amid broader reforms. This divergence reflects the broader pattern identified in comparative scholarship, whereby offences

associated with state security and sovereignty retain an exceptional status within death penalty regimes, even as capital punishment is restricted or abolished for ordinary crimes (Dudai, 2021; Pascoe, 2019; Schabas, 2002).

Constitutional coups

The decline in use of the death penalty in sub-Saharan Africa in the 1990s coincided with broader processes of democratisation and constitutional reform across the continent (FIDH, 2017; Novak, 2016). As governments stabilised, there were fewer threats to power. Death sentences continued to be passed for criminal offences – and treason⁷ – but executions became increasingly isolated events. However, threats to power have once again begun to emerge, in the form of constitutional coups, where heads of states are attempting to prolong their tenure in power. Part of the democratisation process of the 1990s saw multi-party elections and the introduction of presidential term limits (Cassani, 2020; Cheeseman, 2019). Yet, between 2015 and 2021, 13 heads of states have circumvented presidential term limits (Siegle and Cook, 2021). Nine of these 13 came to power through a coup (Africa Center for Strategic Studies, 2024).

Politicised military leaders – ‘generals in suits’, such as Rwanda’s Paul Kagame, Uganda’s Yoweri Museveni, Congo’s Denis Sassou Nguesso – have all broken term limits (Reyntjens, 2016; Tull and Simons, 2017). Heads of state with military backgrounds are better able to maintain personal power, because they are better able to utilise the military to repress dissent (Harkness, 2017). This represents a return of the life presidency and one-party states of the 1970s and 1980s. However, rather than using brute force, rulers are using the law to extend their rule, such as implementing Constitutional amendments, as has happened in Uganda, Chad, Comoros and the Ivory Coast. Extended periods of rule have been linked to greater corruption, more repression, increased conflict and poorer civil liberties (Cassani, 2020; Siegle and Cook, 2021). Democracy is supposed to protect against extra-constitutional takeovers (Ngoma, 2004). Being able to retain power through legitimate means demonstrates the extent to which political power has been institutionalised: presidents are now able to use legitimate institutions to retain power.

Military coups, too, are once again re-emerging on the continent, at times in response to the ambitions of an incumbent president who refuses to step down (Hengari, 2015). For example, in 2015, Burundi’s President Pierre Nkurunziza faced a coup attempt after threatening to stand for a third term (Siegle and Cook, 2021). There has been a spate of coups in West Africa, with six coups⁸ and five coup attempts⁹ across eight countries since 2020. The concentration in West Africa has in part been down to heads of states in former French colonies appearing to be more likely to try to circumvent term limits: only three presidents (Kerekou in Benin in 2006, Yayi in Benin in 2016 and Konare in Mali in 2002) have not tried to serve a third term (Tull and Simons, 2017). France has traditionally interfered heavily in the post-independence politics of former colonies: for example, Comoros’ President Ali Soilih was overthrown in 1978 by French mercenaries, who himself had been brought to power by the same French mercenaries in 1975 (Amnesty International, 1979). French military guaranteed the stability of Cameroon, Senegal and Gabon until the 1990s (McGowan, 2003), but France’s continued military and

economic interests in West Africa have led to new military rulers cutting ties with France, resulting in the withdrawal of French troops from Niger, Burkina Faso, as well as Chad, Senegal and the Ivory Coast (Lawal, 2025). The coups have led to a resurgence of military leaders as heads of state, and treason is once again at the forefront of their political agenda. Burkina Faso's new president, Captain Ibrahim Traore, who seized power in 2022, has stated: 'for the nation, from now on, treason will be the most serious crime' (quoted in Ikeh, 2024). He has also signalled his intent to reinstate the death penalty, which was abolished in 2018 (Lavelle, 2024, November 9). The last executions in Burkina Faso were for treason, when four men were killed for a coup attempt in 1988 (Amnesty International, 1989).

Deposed presidents are once again facing treason charges: the Democratic Republic of Congo's former head of state, Joseph Kabila has been sentenced to death *in absentia* for treason, by a military court, where he was not present and had no legal representation. He was convicted of supporting M23 rebels in eastern Congo (Reuters, 2025). Sierra Leone's former President Ernest Bai Koroma also faces treason charges for his alleged role in a failed military coup in 2023 (Al Jazeera, 2024). Sierra Leone does not retain the death penalty for treason, although the last executions in Sierra Leone were for treason, when 24 soldiers were shot in 1998 (Amnesty International, 1999). Treason laws remain a legal expression of sovereign anxiety in states where authority remains politically contested.

Treason charges are not limited to deposed heads of states. Last year, the government of the Democratic Republic of Congo announced an end to a 21-year moratorium on executions, in the face of the continuing threat from the M23 rebel group in the Kivu region, and sentenced MP Édouard Mwangachuchu to death for treason in 2023 for allegedly supporting the rebels (Bugabo, 2025; Reuters, 2024). Since then, 37 people – including British and American citizens – were sentenced to death by a military court in 2024 for attempting to overthrow Congolese President Félix Tshisekedi. Their sentences have subsequently been commuted to life (Musia, 2025). Nigeria is seeking to try ten protestors for treason (Human Rights Watch, 2024), and in Uganda, former opposition leader Kizza Besigye is currently on trial for treason, having previously been tried – and cleared – of treason in 2010 (BBC News, 2010, October 12). The current leader of the Opposition, Robert Kyagulanyi, aka Bobi Wine, has also previously been charged with treason in a military court (BBC News, 2018). President Museveni won his seventh term as President in 2026. Any threat to his power – even if those threats come through the ballot box – is treated as betrayal of the state rather than legitimate political opposition.

Conclusion

While treason exceptionalism is not unique to sub-Saharan Africa, the evidence presented suggests that its political deployment in the region has been shaped by particular configurations of postcolonial insecurity. The 2024 death sentences for treason in Ghana – after the abolition of the death penalty for ordinary crimes – demonstrate that capital treason can survive even after ordinary capital punishment has been abandoned. As Ghana demonstrates, the survival of capital treason laws in contemporary sub-Saharan Africa

is not merely symbolic: it remains a relevant form of sovereign punishment under conditions of political insecurity. The death penalty for treason persists where the state is historically insecure and where rulers continue to govern through colonial and militarised repertoires of power, with the punishment functioning as a modality of penal governance under sovereign anxiety. The use of the death penalty for treason has primarily been activated through exceptional measures, such as military courts and tribunals, outside of the ordinary criminal justice system. The frequent use of military courts indicates that treason operates within a militarised legal order in which the defence of the state is conflated with the defence of those who rule it.

The persistence of capital treason in sub-Saharan Africa is not unique: similar patterns of treason exceptionalism can be found elsewhere. What distinguishes many African states is the extent to which coups, insurgencies and contested political authority have sustained the practical relevance of treason as a crime against the state. Capital treason functions as a mechanism through which governments seek to defend and assert their sovereignty in response to threats to state power. The death penalty for treason fell into disuse in sub-Saharan Africa when there were fewer challenges to state authority. African leaders are now better at maintaining power through legitimate means – amending constitutions to extend term limits or abolishing age restrictions. However, military intervention into politics remains pervasive. Some military rulers have managed to use elections to legitimise their rule – as Ghana’s JJ Rawlings, Rwanda’s Paul Kagame and Uganda’s Yoweri Museveni did. However, the abuse of term limits, as the latter two have done, has not been popular, resulting in the need for repressive means of control. Repression undermines legitimacy, and this is the breeding ground for military coups. The success in mitigating against threats to power depends on the coercive capacity of the government. Former military leaders do this better. But as democratic stability becomes threatened by military and constitutional coups, the death penalty for treason represents the continuing political significance of state-authorised violence in contexts where authority remains contested.

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Notes

1. Chad (2020), Sierra Leone (2021), Central African Republic (2022), Equatorial Guinea (2022), Zambia (2023), Ghana (2023) and Zimbabwe (2024).
2. Zanzibar, which is a semi-autonomous island within the United Republic of Tanzania, has carried out executions for treason, in part because of its post-revolution divides, economic inequality and semi-independent rule.
3. Sierra Leone's brief head of state John Bangura in 1971, Congo's Alphonse Massamba-Debat in 1977, Equatorial Guinea's Masie Nguema in 1979, and Ghana's three former leaders Ignatius Acheampong, Frederick Akuffo and Kwasi Afrifa in 1979 (Amnesty International, 1972, 1978, 1980).
4. Congo's Fulbert Youlou *in absentia* in 1965, Rwanda's Gregoire Kayibanda in 1973, Dahomey (Benin)'s Emile Zinsou in 1975, Central African Republic's Jean-Bédél Bokassa both *in absentia* in 1980 and in person in 1987, Mali's Moussa Traore in 1993, Chad's Hissene Habre *in absentia* in 2013 and the Democratic Republic of Congo's Joseph Kabila *in absentia* in 2025 (Amnesty International, 1967, 1974, 1976, 1988, 1994; Reuters, 2025).
5. The other two are Cape Verde and Mauritius (McGowan, 2003).
6. Nigeria (1976), Rhodesia (1976), Angola (1977), Mauritania (1978), Mozambique (1979), Comoros (1979), Gabon (1981), Gambia (1981), the Central African Republic (1981), Ghana (1982), Upper Volta (Burkina Faso) (1983) and Sierra Leone (1992).
7. Ghana (1999 and 2024), Zambia (2003) and Sierra Leone (2004).
8. Burkina Faso (2021), Gabon (2023), Niger (2023), Mali (2020 and 2021) and Chad (2021).
9. Niger (2021), the Gambia (2022), Guinea-Bissau (2022), Sierra Leone (2023) and Burkina Faso (2023).
10. All data comes from Amnesty International's annual human rights reports, 1967, 1968, 1969, 1970, 1971, 1972, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1993, 1994, 1996, 1999, 2000b, 2004, 2005, 2009, 2011, 2012, 2016, 2024, 2025.
11. Number unknown – disclosed in a speech by Malawian President Hasting Banda (see Amnesty International, 1975).
12. Summary executions, unknown if trial took place.

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