CHAPTER 6

SHIFTING NARRATIVES OF STATE KILLING

Introduction

By the mid-2000s, momentum for the shift to a “kill fewer” regime of capital punishment was building apace on the politico-legal landscape of China’s criminal justice policy. Yet, changes in institutional arrangements and law would not be enough to turn the tide. As we have observed throughout this story, the key plank in determining the use of the death penalty—before law, judicial discretion, or any other influencing circumstance—is criminal justice policy. The interpretive space of the judiciary inside courtrooms nationwide has been prefigured by the contest over ways of thinking about the death penalty carried out in the space of policy making in the corridors of power in Beijing. This interpretive space is where policy is ideologically packaged. To embed “kill fewer” in policy, verbal linchpins like “death penalty” itself had to be ideologically repackaged, and “leniency” had to be incorporated. Most importantly, the new approach needed to be ideologically rationalized. New ways of thinking about state killing could not shift policy on the death penalty without first preparing the ideological ground in which the severe punishment philosophy of the existing Yanda policy was rooted.

Reformers took up this task of ideological groundwork through the necessary policy vehicle of upper-echelon discourse. In keeping with their preferred less harsh approach, they expurgated rather than axed the rhetoric of Yanda’s severe “kill many” policy to create their own more lenient rhetorical cloak for “kill fewer.” They would recast the familiar Yanda language, as “kill fewer” itself attests, to avoid this policy’s aggressive “strike hard” tone, seeking to minimize political ruptures while working to subtly generate support and overcome resistance from the highest political levels down. They would project Yanda’s clear failure to deter rising crime to lever out
its now fading rationale and lever in the ideological justification for “kill fewer” as replacement. Their moves would perform politics at the highest levels, through traditional semiotic jousting in discourse and rhetoric. Through a metapolitical lens we see how this discursive process itself served to temper the rhetorical status of Yanda, to help balance this policy’s severity with leniency.

The reformers’ moves were largely successful, but power playing at the highest levels of the politico-legal landscape meant that this policy shift was inevitably a subtly articulated political stoush not a seamless process. In this chapter we examine the rhetorical jousting played out at the highest levels of policy-making politics through the 2006–2007 policy announcements and speeches on the death penalty. It reveals the shifting power relationships between key players on the politico-legal landscape at that time and the significant impact these players had on the direction of death penalty reform through their narratives about state killing.

For the first time in any major discussion on the death penalty in China, contesting opinions about the efficacy of the Yanda tradition were expressed by key players in the media, albeit in delicate and tempered tones. These views were informing policy making. Their concerns were explicitly pragmatic: efficiency and effectiveness of death penalty practice in relation to its identified purpose—reinforcing crime control to sustain social stability and economic development. The ethics of state killing was not on the agenda, and it occupied only a small space in the debate. Through this discursive process, the reformers’ contributions were providing the ideological underlay necessary for the policy shift away from Yanda’s “severe and swift punishment” to the more tempered disposition of “kill fewer.” Over time, they would also inform and reform the national political culture of death sentencing.

This was not a full spectrum shift away from Yanda policy. The reformers knew it could not be. It would be pointless to aim narrowly at the death penalty when the ideological context validated severity in crime punishment across the board. First, the reformers would have to crack Yanda, the ideological home of the severity ethos. The announcements and speeches in this discursive battle therefore express varying views about the appropriateness of applying the death penalty as severe punishment. At one end was the revived revolutionary dictum “kill fewer, kill cautiously” that 60 years earlier had surfaced, like its contemporary, in response to a severe punishment regime. At the other end was the enduring Yanda policy of