The Yin and the Yang of the Death Penalty Debate in China Today

by Dr Sue Trevaskes

Since early 2007, a fascinating debate about the death penalty has been unfolding at the highest levels of politics in China and is currently being played out in the state’s print media and internet news. It is a debate instigated by Chief Justice Xiao Yang, President of the Supreme People’s Court (SPC), aimed at limiting the death penalty to all but the most heinous criminals by emphasizing the principle of leniency (kuan) as an alternative to the more politically popular principle of severity (yan). In 1983, provincial courts were delegated the responsibility for reviewing and approving death sentences handed down by inferior courts. This decision, coupled with the overzealous use of the policy of ‘severity and swiftness’ against serious crime, is the leading reason for the continually high number of executions in China. The recent decision to return the authority to review and approve of all death sentences to the SPC from 1 January 2007 has given human rights and China law specialists cause for optimism. Chinese state media outlets estimate that the number of executions in China could drop by 30 per cent as a result and the National People’s Congress (NPC) called the decision “the most important reform of capital punishment in China in more than two decades.” Yet, this decision has not spelled the death knell for China’s ‘strike hard’ (Yanda) policy which has been a persistent feature of the criminal justice system since 1983. The Communist Party’s leading politico-legal bureaucrat, Luo Gan, made it clear in December 2006 and again in February 2007, that the CCP would continue to maintain Yanda policy. The debate now is not a question of whether to continue Yanda or not, but rather, a question of who to Yanda, that is, to limit Yanda to the most heinous and serious crimes. This paper explores the changing sands of death penalty policy from the viewpoint of the SPC, Ministry of Public Security, The CCP, and the Supreme People’s Procuratorate (SPP), highlighting the debates through an examination of recent capital cases.

Æ Thursday 31 May 2007
Æ Room N72_-1.18 (Business 2)
Æ Nathan campus,
Æ 12.30-1.50pm

A light lunch will be served on arrival. To RSVP, please contact Jill Moriarty on (07) 3735 3730 or j.moriarty@griffith.edu.au no later than 5.00pm Monday 28 May.