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When Political Campaigns Decide Criminal Cases

What one campaign gives, the next takes away, and vice versa

By [Chi Yin](#)

Xu Xin, a defense lawyer, law professor, and social media influencer with tens of thousands of followers is often critical of Chinese Communist Party (CCP) policies. But last July he posted on his blog an uncharacteristically supportive view of a new CCP campaign: “I am very excited to see this news and stand in solidarity with the central government.” Xu was talking about the CCP’s Education and Rectification Campaign, which had recently been launched on a trial basis in selected locations. Why was a staunch proponent of rule of law declaring his support for a classically authoritarian political campaign? Because the Education and Rectification Campaign helped one of his clients get a needed change of venue. The irony is that his client probably would not have been charged with a crime in the first place if not for an earlier party campaign, called the [Special Campaign to Crack Down on Organized Crime](#) (the Special Campaign).

Political campaigns that mobilize state and social resources in highly publicized bursts of

activity have been a [feature of CCP rule for most of its history](#). Though more common during the Maoist era than in recent years, such campaigns have never entirely vanished, and CCP General Secretary Xi Jinping finds them useful. An anti-corruption campaign launched soon after Xi took office in 2012 helped Xi to topple a number of powerful challengers, including Zhou Yongkang, former head of the party Political and Legal Affairs Commission, which oversees the police and entire legal system.

The [Education and Rectification Campaign was announced last summer](#) as a movement to investigate and eliminate corruption and disloyalty inside law enforcement and the judiciary. The announcement compared the campaign to the infamous [1942 Yan’an Rectification](#) led by Mao Zedong, and used rhetoric that harked back to that era, calling for “two-faced people” to be purged and poison to be “scraped off the bone.” Some China observers view the campaign as an effort to purge the political-legal system of anyone still loyal to Zhou Yongkang and [help Xi secure a controversial third term in 2022](#).

The initiation of this heavy-handed and nakedly political campaign came at a fortuitous time for Xu Xin’s client Wang Yongming (王永明), a moneylender in Baotou, Inner Mongolia. Wang and 11 associates were arrested in 2019 under the Special Campaign and accused of leading and participating in organized crime, loansharking, racketeering, assault, and other crimes. Defense lawyer Xu, who maintained Wang’s innocence, tried in 2020 to get the leading prosecutor in the case recused because, Xu said, he had extorted bribes from the defendants. Instead of launching a probe into the alleged extortion, the police carried out a midnight raid on the hotel rooms of Xu and other defense

lawyers. Nothing illegal was found during the raid, but the local police demanded the defense attorneys surrender their fees on the grounds that they were paid from the defendants' illegal gains. This was the difficult position in which Xu and his client found themselves when the Education and Rectification Campaign began in July 2020.

Xu (who later withdrew from the case) and his fellow lawyers managed to draw public attention to the leading prosecutor's alleged actions and the police raid just as the new campaign against corruption among prosecutors and police was gathering steam. Suddenly the Baotou City Police Department was added to the list of 35 pilot locations for the Education and Rectification Campaign, thereby becoming subject to the campaign's special investigation. The leading prosecutor was stripped of his CCP membership, fired from his job and put under investigation by the local supervision committee, an anti-corruption agency. The case against Wang and his co-defendants was moved to another court, in Wuhai City. This month, [the court sentenced Wang to 15 years' imprisonment](#) after Wang pleaded guilty to charges of leading an organized crime group, picking quarrels and provoking trouble, fraud, and seven other crimes. Co-defendants also pleaded guilty and were sentenced to prison terms of varying lengths. Harsh as some of the sentences were, their defense lawyers expressed the view on social media that their clients would have received more severe sentences if the case had been tried in the original court with the original prosecutor.

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The Baotou case illustrates some all-too-familiar problems with campaign-style law enforcement. Those carrying out a campaign are evaluated on the basis of whether they meet their quotas for arrests, prosecutions, and convictions. Because the conduct that is the target of a campaign is often vaguely defined in political documents, those conducting the campaign have great discretion that can easily be abused for personal gain. The unpredictability and incoherence of campaigns run counter to the spirit of rule of law and undermine judicial credibility. Rather than striking a blow against criminal behavior, campaigns likely increase the cost of social governance. Campaigns also illustrate yet another way in which the late CCP leader Deng Xiaoping's cautious moves to separate the party from day-to-day government administration have been thoroughly reversed.

Xu's efforts to get due process for his client did not gain traction until the next campaign came crashing down from the CCP. He ended up exploiting Xi's current campaign to save his client from Xi's last campaign. This demonstrates the difficulty, in such a highly unstable legal environment, of mounting a defense based on facts and law alone.

The Education and Rectification Campaign's five-month pilot phase concluded at the end of November and the campaign will be launched nationally in early 2021. During the pilot phase, official investigations were initiated against 448 officials in the political-legal system, 39 of which advanced to the prosecution stage; in addition, 2,247 officials received administrative or disciplinary punishment. Defense lawyers have already been hired to represent judges, prosecutors, and police officers who have been placed under investigation pursuant to the Education and Rectification Campaign.

If Xu were retained as attorney for one of these defendants, he might well find himself in the awkward position of denouncing as over-zealous a campaign he has already publicly praised. It is sobering that criminal proceedings have become so dependent on political currents that even those attorneys who are usually the strongest proponents of rule of law find themselves embracing policies that actually represent a departure from it.

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