

**CAA RELEASE THE FULL TEXT OF THE COURT VERDICT PAPER OF THE  
THREE SENTENCED CHRISTIANS**

**对华援助协会全文公布浙江省杭州市中级人民法院就刘凤岗等三基督徒  
刑事判决书**

**CAA-August 15, 04(Philadelphia)**

**CAA today releases the full text of the court verdict paper of recently sentenced three Christians.** On August 6, three famous Chinese house church Christians were sentenced one to three years imprisonment respectively by the Intermediate People's Court of Hangzhou city, Zhejiang province. All of them were charged of "illegally soliciting, providing national intelligence to overseas organizations". The sentences against Liu Fenggang, Xu Yonghai and Zhang Shengqi were three, two and one year respectively.

CAA urges the international legal experts to examine this unjustified verdict with baseless accusations against three innocent Christians.

Bob Fu

President, China Aid Association

August 6, 2004

**Verdict Issued by the Middle Court of the City of Hangzhou, Zhejiang Province**

Prosecutor: the People's Procuratorate of the City of Hangzhou, Zhejiang Province

Defendant: Liu Fenggang, male, born on Dec. 23, 1959, Han nationality, resident of Beijing, college graduate, unemployed. His address is 8-14 Dong Pingfang, the dormitory of the Beijing No. 7 Transportation Company, Haidian District, Beijing. Being a suspect who might collect and illegally leak the state intelligence overseas, he was ordered to live under surveillance by the Xiaoshan Branch of the Public Security Bureau of Hangzhou on October 13, 2003, and was detained on November 14, 2003, and was arrested at the approval of the People's Procuratorate of Xiaoshan District, Hangzhou. On May 14, 2004, he was ordered to live under surveillance by this court.

Attorney: Zhao Jian, attorney at law, Beijing Zhenghai Law Firm.

Defendant: Xu Yonghai, male, born on November 26, 1960, Han nationality, resident of Beijing, Bachelor Degree, doctor of Beijing Fusuijing (Ping An) Hospital. His address is 259 Jinshifang, Xicheng District, Beijing. Being a suspect who might collect and illegally provide the state intelligence overseas, he was detained on November 9, 2003 by the Xiaoshan Branch of the Public Security Bureau of Hangzhou, and was arrested at the approval of the People's Procuratorate of Xiaoshan District, Hangzhou. On May 14, 2004, he was ordered to live under surveillance by this court.

Attorney: Qian Lieyang, attorney at law, Beijing Zhongfu Law Firm.

Defendant: Zhang Shengqi, male, born on May 12, 1974, Han nationality, resident of Cao County of Shandong Province, junior high school graduate, peasant. His address is Zhangdian Village, Wangji Township, Cao County, Shandong Province. Being a suspect who might collect and illegally provide the state intelligence overseas, he was detained by the Xiaoshan Branch of the Public Security Bureau of Hangzhou on November 17,

2003, and was arrested at the approval of the People's Prosecutorate of Xiaoshan District, Hangzhou. On May 14, 2004, he was ordered to live under surveillance by this court. Attorney: Xu Ping, attorney at law, Beijing Zhongfu Law Firm.

In the indictment numbered Hangxingjiansu (2004) 46, the People's Prosecutorate of the City of Hangzhou of Zhejiang Province accused Liu Fenggang, Xu Yonghai, and Zhang Shengqi of collecting and illegally leaking the state intelligence overseas, and filed a prosecution to this court. A full court was called to try this case. Due to the involvement of the state secret, the trial was not open to public. Zhao Linjie and Yang Tian, who were assigned as acting prosecutors by the People's Prosecutorate of the City of Hangzhou were present to defend their accusation. Defendants Liu Fenggang, Xu Yonghai, Zhang Shengqi, and their respective attorneys Zhao Jian, Qian Lieyang, and Xu Ping were present. The trial is now done.

The People's Prosecutorate of the City of Hangzhou made the following accusation: In the mid-October of 2001, Xu Yonghai gave RMB 1000 yuan (one US dollar equals about 8.2 RMB yuan) to Liu Fenggang as traveling fee, and sent him to the City of Anshan of Liaoning Province to get some information about Li Baozhi who was being re-educated through labor. Afterwards Liu Fenggang wrote an article titled "Facts and Process about Li Baozhi's 'Cultic' Case As I Know", which was then offered by Xu Yonghai to the publisher of an overseas magazine named "Life Quarterly", and published fully in the 20<sup>th</sup> issue.

On July 25, 2003, Liu Fenggang, under the instruction of certain overseas individuals, came to Dongtou County of Wenzhou City of Zhejiang Province, Xiaoshan District and Xihu District of Hangzhou City to collect information about the so-called persecuted people. After returning to Beijing, he wrote an article titled "A Report from the Motherland". On August 5, 2003, he asked Zhang Shengqi to e-mail this article to overseas individuals.

On August 18, 2003, Liu Fenggang wrote an article titled "How I Was Interrogated by the Police during My Preaching in the Mountain Area of Suburb Beijing", describing how he was interrogated by the police when he was attending illegal activities in Dachengzi Township of Miyun County of Beijing. Zhang Shengqi typed this article and e-mail it to overseas individuals.

To defend the above-mentioned accusations, the prosecutors read and presented to the court the confessions and pleadings of Liu Fenggang, Xu Yonghai and Zhang Shengqi, the testimony of Li Baozhi and others, the appraisal issued by the State Bureau of Secret Protecting, the evidences by the Department of State Security of Zhejiang Province, the magazine "Life Quarterly", MP3 player, digital camera, and other materials. And they thought Liu Fenggang, Xu Yonghai and Zhang Shengqi had committed the crime of collecting and illegally leaking the state intelligence overseas, and should be punished according to law.

Liu Fenggang, Xu Yonghai and Zhang Shengqi had no objection to the facts cited by the prosecutors, but claimed they were innocent.

The attorneys of the three defendants thought their clients were innocent, pointing out that the State Bureau of Secret Protecting is not qualified to make relevant appraisals, and the three articles involved are not intelligence.

Through the trial, the following is confirmed: In the mid-October, 2001, Xu Yonghai, after learning that Ms. Li Baozhi, a resident of Anshan City of Liaoning Province was not satisfied with the decision on re-education through labor, thus filing administrative suit, and the Middle Court of Anshan City would openly try her case again, instructed Liu Fenggang to go to Anshan City to collect some information, and gave him RMB 100 yuan as his traveling fee. Afterwards Liu Fenggang wrote an article titled "Facts and Process about Li Baozhi's 'Cultic' Case As I Know", which was then offered by Xu Yonghai to the publisher of an overseas magazine named "Life Quarterly", and published fully in the 20<sup>th</sup> issue.

On July 25, 2003, Liu Fenggang, under the instruction of certain overseas individuals, came to Dongtou County of Wenzhou City of Zhejiang Province, Xiaoshan District and Xihu District of Hangzhou City and some other places to collect information about the so-called persecuted people. After returning to Beijing, he wrote an article titled "A Report from the Motherland". On August 5, 2003, he asked Zhang Shengqi to e-mail this article to overseas individuals.

On August 17, 2003, Liu Fenggang was interrogated by the police in Dachengzi Township of Miyun County of Beijing due to attending illegal activities. On the following day, Liu Fenggang wrote an article titled "How I Was Interrogated by the Police during My Preaching in the Mountain Area of Suburb Beijing", which was then e-mailed by Zhang Shengqi to overseas individuals.

After their criminal activities were exposed, the police confiscated one digital camera, one MP3 player, two computers, one printer, and one scanner discovered in Liu Fenggang's home.

Evidences supporting the above facts are: 1) the testimony and confirmation record of Li Baozhi, Dai Xiaoqiang, Kong Guoxian, and Gao Chongyi, which proved that Liu Fenggang went to Anshan City of Liaoning Province, Dongtou County of Wenzhou City of Zhejiang Province, Xiaoshan District, Xihu District of Hangzhou City to collect relevant information, and the testimony of Shi Shucai, Ma Shulan, Shan Cuixiang, Liu Yuqin, Han Chunzhi, Cui Wenfu, and Qi Shuhua, which proved that on August 17, 2003, Liu Fenggang was interrogated by the police when he was attending illegal activities in Dachengzi Township of Miyun County of Beijing City. 2) the documents saved in the digital camera and MP3 player confiscated by the police support the facts that Liu Fenggang came to Dongtou County of Wenzhou City, Xiaoshan District and Xihu District of Hangzhou City to collect relevant information. 3) the police confiscated two computers, one scanner, one printer which belong to Liu Fenggang, and one Toshiba 220 CDS laptop computer which belongs to Xu Yonghai. It is confirmed that the three articles "Facts and Process about Li Baozhi's 'Cultic' Case As I Know", "A Report from the Motherland", and "How I Was Interrogated by the Police during My Preaching in the Mountain Area of Suburb Beijing" were saved in Liu Fenggang's computers. "Facts and Process about Li Baozhi's 'Cultic' Case As I Know" was also saved in Xu Yonghai's computer. Parts of the draft of "A Report from the Motherland" were discovered in Liu Fenggang's. 4) the 20<sup>th</sup> issue of the overseas magazine "Life Quarterly" which published the article "Facts and Process about Li Baozhi's 'Cultic' Case As I Know", and the articles "A Report from the Motherland" and "How I Was Interrogated by the Police during My Preaching in the Mountain Area of Suburb Beijing" downloaded by the police from the overseas website were recognized by the defendants in the court, who

acknowledge they were provided by them. 5) the appraisals issued by the State Bureau of Secret Protecting indicate that the three articles “Facts and Process about Li Baozhi’s ‘Cultic’ Case As I Know”, “A Report from the Motherland”, and “How I Was Interrogated by the Police during My Preaching in the Mountain Area of Suburb Beijing” were intelligence. 6) The residence records of the police verify the status of the three defendants. 7) Liu Fenggang, Zhang Shengqi and Xu Yonghai made their confessions respectively, which support each other, and are consisted with the situation reflected by the above evidences.

This court has no objection to the above evidences, thus recognizing them.

The facts involved in this case are clear. And there are true and sufficient evidences.

Therefore, the case can be determined.

In the view of this court, Liu Fenggang, Xu Yonghai, and Zhang Shengqi collected and illegally leaked the state secret to overseas organizations and individuals, thus committing the crime of collecting and illegally leaking the state intelligence. The accusations made by the prosecutors are well grounded. The innocence pleadings of the three defendants are not consistent with the law. According to the law, to solve some technical problems involved in certain cases, relevant departments and personnel may be entrusted to make corresponding appraisal. Whether the information collected and illegally leaked by the three defendants are intelligence is a technical issue. And the State Bureau of Secret Protecting is an institution, which can make legal appraisal. Out the consideration that “secret” and “intelligence” are of the same essence, it is appropriate for the judiciary to ask the department of secret protecting to make relevant appraisal. In addition, the appraisal made by the State Bureau of Secret Protecting is legal and valid, and can serve as the basis of verdict. The opinion of the attorneys that the State Bureau of Secret Protecting is not qualified to make an appraisal, and the three articles are not intelligence, has no ground, thus being denied by the court. Therefore, according to Article 111, Item 1 of Article 25, Item 1 of Article 56, Item one of Article 55, and Article 64, the following verdict is made:

1. Liu Fenggang, on the crime of collecting and illegally leaking the state intelligence overseas, is sentenced to three years’ imprisonment, and deprived of political rights for three years.

(The term starts from the enactment of this verdict. Whereas he had been detained before the verdict was made, the detention period will be deducted from the term. Namely, his term is from November 14, 2003 to February 4, 2007.)

2. Xu Yonghai, on the crime of collecting and illegally leaking the state intelligence overseas, is sentenced to two years’ imprisonment, and deprived of political rights for two years.

(The term starts from the enactment of this verdict. Whereas he had been detained before the verdict was made, the detention period will be deducted from the term. Namely, his term is from November 9, 2003 to January 30, 2006.)

3. Zhang Shengqi, on the crime of collecting and illegally leaking the state intelligence overseas, is sentenced to one years’ imprisonment, and deprived of political rights for one years.

(The term starts from the enactment of this verdict. Whereas he had been detained before the verdict was made, the detention period will be deducted from the term. Namely, his term is from November 17, 2003 to February 7, 2005.)

- Such instruments used in committing the crime as one digital camera, one MP3 player, two computers, one printer, one scanner, which are turned into this court, will be confiscated, and surrendered to the state.

If the defendants do not agree with this verdict, they may make their appeals directly or through this court to the Supreme People's Court of Zhejiang Province within ten days as of the following day after receiving the verdict. And if the appeals are made in written form, the original copy and two xeroxed copies of the appealing documents shall be submitted.

Chief Judge                    Zhang Yongchun  
People's Juror Zhang Baowen  
People's Juror Hua Xianglin

Clerk                            Ma Jun

**对华援助协会(美国费城)-2004年8月15日**

**对华援助协会今天全文公布浙江省杭州市中级人民法院就刘凤岗等三基督徒  
刑事判决书**

，杭州市中级人民法院已于8月6日对被捕的三位中国家庭教会基督徒宣布一审判决。杭州市中院法官以“为境外刺探，非法提供国家情报”罪分别判决刘凤岗，徐永海和张胜其有期徒刑三年，两年和一年。

三人均被控告和认定触犯了根据中华人民共和国刑法第一百一十一条，“为境外的机构、组织、人员窃取、刺探、收买、非法提供国家秘密或者情报的..”。

对华援助协会呼吁国内国际社会法学专家能针对此欲加之罪和荒谬判决提出独立意见并持续关注该案。敦促中国有关部门立即释放这三位无辜的家庭教会基督徒并且应该依法赔偿非法囚禁十个月给被告造成的财物和人身名誉损失。

(前北京市委党校讲师，中国家庭教会传道人，威斯敏德神学院哲学博士候选人): 傅希秋

2004年8月15日于美国费城

对华援助协会

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# 浙江省杭州市中级人民法院

## 刑事判决书

( 2004 ) 杭刑初字第 39 号

公诉机关浙江省杭州市人民检察院。

被告人刘凤钢，男，1959年12月23日出生，汉族，北京市人，大专文化程度，无业，住北京市海淀区市运七厂宿舍东平房8排14号。因涉嫌犯为境外刺探、非法提供国家情报罪，于2003年10月13日被杭州市公安局萧山区分局监视居住，同年11月14日被刑事拘留，同年12月4日经杭州市萧山区人民检察院批准逮捕。2004年5月14日由本院决定被监视居住。

辩护人赵健，北京正海律师事务所律师。

被告人徐永海，男，1960年11月26日出生，汉族，北京市人，大学文化程度，北京市福绥境（平安）医院医生，住北京市西城区锦什坊街259号。因涉嫌犯为境外刺探、非法提供国家情报罪，于2003年11月9日被杭州市公安局萧山区分局刑事拘留，同年12月4日经杭州市萧山区人民检察院批准逮捕。2004年5月14日由本院决定被监视居住。

辩护人钱列阳，北京中孚律师事务所律师。

被告人张胜其，男，1974年5月12日出生，汉族，山东省曹县人，初中文化程度，农民，住山东省曹县王集乡张店村。因涉嫌为境外刺探、非法提供国家情报罪，于2003年11月17日被杭州市公安局萧山

区分局刑事拘留，同年 12 月 4 日经杭州市萧山区人民检察院批准逮捕。2004 年 5 月 14 日由本院决定被监视居住。

辩护人徐平，北京中孚律师事务所律师。

浙江省杭州市人民检察院以杭检刑诉（2004）46 号起诉书指控被告人刘凤钢、徐永海、张胜其犯为境外刺探、非法提供国家情报罪，于 2004 年 3 月日向本提起公诉。本院依法组成合议庭，因涉及国家秘密，不公开开庭审理了本案。浙江省杭州市人民检察院指派代理检察员赵琳洁及杨甜出庭支持公诉，被告人刘凤钢、徐永海、张胜其及其辩护赵健、钱列阳、徐平到庭参加诉讼。现已审理终结。

浙江省杭州市人民检察院指控：2001 年 10 月中旬，被告人徐永海出资人民币 1000 元给被告人刘凤钢作差旅费，由刘凤钢前往辽宁省鞍山市了解李宝芝被劳动教养的情况。事后，刘凤钢写了《我所了解的辽宁鞍山市刘宝芝“邪教”一案的事实与经过》一文，由徐永海提供给境外杂志《生命季刊》的发行机构。该刊物在第 20 期上全文刊登。

2003 年 7 月 25 日，刘凤钢受境外人员指使，窜至浙江省温州市洞头县和杭州市萧山区、西湖区等地，收集当地有关人员所谓受逼迫的情况，回京后写成《来自祖国的报道》一文。同年 8 月 5 日，刘凤钢指使被告人张胜其通过电子邮件提供给境外人员。

2003 年 8 月 18 日，刘凤钢将自己在 8 月 17 日至北京市密云县大城子镇参加非法活动被警察盘查的情况写成《在北京远郊的山区传福音被警察盘查的经过》一文，由张胜其打印成文，并通过电子邮件提供给境外人员。

为证实上述指控，公诉机关当庭宣读和出示了被告人刘凤钢、徐永海、张胜其的供述与辩解；证人李宝芝等人的证言；国家保密局出具的鉴定结论、浙江省安全厅出具的证明等；《生命季刊》杂志等书

证；MP3 播放器、数码相机等物证。认为被告人刘凤钢、徐永海、张胜其的行为已构成为境外刺探、非法提供国家情报罪，应依法惩处。

被告人刘凤钢、徐永海、张胜其对公诉机关指控的事实均无异议，但均提出不构成犯罪。

三被告人的辩护人分别提出国家保密局没有鉴定资格，且本案涉及到的三篇文章，不属情报，被告人的行为不构成犯罪。

经审理查明：2001 年 10 月中旬，被告人徐永海得知辽宁省鞍山市妇女李宝芝因对被决定劳动教养不服而提起行政诉讼，及鞍山市中级人民法院即将二审公开开庭审理此案的消息后，指使被告人刘凤钢前往辽宁省鞍山市收集该案情况，并出资人民币 1000 元作差旅费。事后，刘凤钢将前往当地收集的情况写成《我所了解的辽宁鞍山市刘宝芝“邪教”一案的事实与经过》一文，由徐永海提供给境外杂志《生命季刊》的发行机构。该刊物在第 20 期上全文刊登。

2003 年 7 月 25 日，刘凤钢受境外人员指使，窜至浙江省温州市洞头县和杭州市萧山区、西湖区等地，收集当地有关人员所谓受逼迫的情况，回京后写成《来自祖国的报道》一文。同年 8 月 5 日，刘凤钢指使被告人张胜其通过电子邮件提供给境外人员。

2003 年 8 月 17 日，刘凤钢在北京市密云县大城子镇因参加非法活动受到警察盘查。次日，刘凤钢写了《在北京远郊的山区传福音被警察盘查的经过》一文，由张胜其通过电子邮件提供给境外人员。

案发后，公安机关从刘凤钢处扣押作案时使用的数码相机一架、MP3 播放机一只、电脑二台、打印机一台、扫描仪一台。

认定上述事实的证据有：（1）证人李宝芝、戴小强、孔国宪、高崇益、张福才证言及辩论笔录，证明刘凤钢到辽宁省鞍山市、浙江省温州市洞头县和杭州市萧山区、西湖区等地收集有关情况的事实。证人史书才、马淑兰、单翠香、刘玉琴、韩春芝、崔文福、齐淑花的证



言，证明 2003 年 8 月 17 日，刘凤钢在北京市密云县大城子镇参加非法活动，受到公安人员盘查的事实。（2）公安机关从刘凤钢处查扣的数码相机一架、MP3 播放机一只，所记载的内容证明刘凤钢在浙江省温州市洞头县和杭州市萧山区、西湖区等地收集有关情况的事实。（3）公安机关从刘凤钢处查扣两台电脑、扫描仪一台、打印机一台，从徐永海处查获东芝牌 220CDS 型笔记本电脑一台，经鉴定，刘凤钢拥有的计算机内存有《我所了解的辽宁鞍山市刘宝芝“邪教”一案的事实与经过》、《来自祖国的报道》、《在北京远郊的山区传福音被警察盘查的经过》等三篇文章。徐永海拥有的东芝牌 220CDS 型笔记本电脑内存有《我所了解的辽宁鞍山市刘宝芝“邪教”一案的事实与经过》一文。从刘凤钢处查扣其所写的《来自祖国的报道》的部分底稿在案佐证。（4）搜集在案的境外出版社出版的《生命季刊》第 20 期一本，该杂志刊登了《我所了解的辽宁鞍山市刘宝芝“邪教”一案的事实与经过》一文及公安机关从境外网站下载的《来自祖国的报道》、《密云盘查》（即为《在北京远郊的山区传福音被警察盘查的经过》）的文章，经三被告人当庭辩认，确系其提供无疑。（5）国家保密局出具的鉴定意见，证明《我所了解的辽宁鞍山市刘宝芝“邪教”一案的事实与经过》、《来自祖国的报道》、《在北京远郊的山区传福音被警察盘查的经过》三篇文章系情报。（6）公安机关出具的户籍证明证实三被告人的身分情况。（7）被告人刘凤钢、张胜其、徐永海分别供述在案，所供能相印证，且与上述证据反映的情节一致。

上述证据经庭审质证无异，本院予以确认。

本院认为，被告人刘凤钢、徐永海、张胜其为境外组织、人员刺探、非法提供国家情报的行为，已构成为境外刺探、非法提供国家情报罪。公诉机关所控罪名成立。三被告人及辩护人提出不构成犯罪的辩解于法不符。根据法律规定，为了解决案件中某些专门性问题，可

以委托有关部门和人员进行鉴定。本案三被告人为境外刺探、非法提供的有关情况是否为情报，属于专门性问题，而国家保密局是“国家秘密”的法定鉴定机关，鉴于“秘密”与“情报”有相同的性质，故司法机关委托保密部门进行鉴定并无不当，且国家保密局作出的鉴定合法有效，可以作为定案依据。辩护人提出国家保密局没有鉴定资格及三篇文章不属情报的辩护意见不能成立，本院不予采纳。据此，依照《中华人民共和国刑法》第一百一十一条、第二十五条第一款、第五十六条第一款、第五十五条第一款、第六十四条的规定，判决如下：

一、被告人刘凤钢犯为境外刺探、非法提供国家情报罪，判处有期徒刑三年，剥夺政治权利三年。

( 刑期从判决执行之日起计算。判决执行以前先行羁押的，羁押一日抵刑期一日，即自 2003 年 11 月 14 日起至 2007 年 2 月 4 日止 )。

二、被告人徐永海犯为境外刺探、非法提供国家情报罪，判处有期徒刑二年，剥夺政治权利二年。

( 刑期从判决执行之日起计算。判决执行以前先行羁押的，羁押一日抵刑期一日，即自 2003 年 11 月 9 日起至 2006 年 1 月 30 日止 )。

三、被告人张胜其犯为境外刺探、非法提供国家情报罪，判处有期徒刑一年，剥夺政治权利一年。

( 刑期从判决执行之日起计算。判决执行以前先行羁押的，羁押一日抵刑期一日，即自 2003 年 11 月 17 日起至 2005 年 2 月 7 日止 )。

四、随案移送本院的作案工具数码相机一架、MP3 播放机一只、电脑二台、打印机一台、扫描仪一台，予以没收，上缴国库。

如不服本判决，可在接到判决书的第二日起十日内，通过本院或者直接向浙江省高级人民法院提出上诉，书面上诉的，应当提交上诉状正本一份，副本二份。

审判长 张永纯

人民陪审员 张宝文

人民陪审员 华香琳

二〇〇四年八月六日

本件与原本核对无异

书记员 马骏