

1214443 [2013] RRTA 124 (15 February 2013)

DECISION RECORD

RRT CASE NUMBER:	1214443
DIAC REFERENCE(S):	CLF2012/106876
COUNTRY OF REFERENCE:	China (PRC)
TRIBUNAL MEMBER:	Ruth Cheetham
DATE:	15 February 2013
PLACE OF DECISION:	Sydney
DECISION:	The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration to refuse to grant the applicant a Protection (Class XA) visa under s.65 of the *Migration Act 1958* (the Act).
2. The applicant, who claims to be a citizen of China, applied to the Department of Immigration for the visa on [date deleted under s.431(2) of the *Migration Act 1958* as this information may identify the applicant] May 2012.
3. The delegate refused to grant the visa [in] August 2012, and the applicant applied to the Tribunal for review of that decision.

RELEVANT LAW

4. Under s.65(1) a visa may be granted only if the decision maker is satisfied that the prescribed criteria for the visa have been satisfied. The criteria for a protection visa are set out in s.36 of the Act and Part 866 of Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in respect of whom Australia has protection obligations under the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention), or on other 'complementary protection' grounds, or is a member of the same family unit as a person in respect of whom Australia has protection obligations under s.36(2) and that person holds a protection visa.

Refugee criterion

5. Section 36(2)(a) provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations under the Refugees Convention.
6. Australia is a party to the Refugees Convention and generally speaking, has protection obligations in respect of people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.
7. There are four key elements to the Convention definition but central to the Tribunal's decision in this matter is that an applicant must genuinely fear persecution. The mere fact that a person claims fear of persecution for a particular reason does not establish the genuineness of the asserted fear, or that it is "well-founded", or that it is for the reason claimed. It remains for the applicant to satisfy the Tribunal that all of the statutory elements are made out. Although the concept of onus of proof is not appropriate to administrative inquiries and decision-making, the relevant facts of the individual case will have to be supplied by the

applicant herself or himself, in as much detail as is necessary to enable the examiner to establish the relevant facts. The Tribunal is not required to make the applicant's case for her or him. Neither is the Tribunal required to accept uncritically any and all the allegations made by an applicant (*MIEA v Guo & Anor* (1997) 191 CLR 559 at 596, *Nagalingam v MILGEA* (1992) 38 FCR 191, *Prasad v MIEA* (1985) 6 FCR 155 at 169-70).

8. It is legitimate for the Tribunal to take into account any delay in the lodging of a protection visa application by an applicant in assessing the genuineness, or at least the depth, of an applicant's claimed fear of persecution: *Selvadurai v Minister for Immigration and Ethnic Affairs* (1994) 34 ALD 347, per Heerey J.

Complementary protection criterion

9. If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a protection visa if he or she is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').

CLAIMS AND EVIDENCE

10. The Tribunal has before it the Department's file relating to the applicant. The Tribunal also has had regard to the material referred to in the delegate's decision, and other material available to it from a range of sources.

Protection visa application and delegate's decision

Personal details and visa history

11. The following summary of information is extracted from the applicant's protection visa application and the written statement and copy of the biodata pages of her passport which accompanied it.
12. The applicant was born in [date deleted: s.431(2)] in Liaoning Province, China. She is of Han ethnicity. Her marital status is "separated" as of February 2006. She lived at the same address in Liaoning Province from her birth until 2009, then at another address until her departure from China for Australia. She gives no detail of any family members, whether in China or elsewhere.
13. The applicant states that she completed 12 years of education in China but does not give any detail of any university, trade or other qualifications obtained. The applicant describes her occupation before coming to Australia as "marketing manager" and she worked in this capacity from April 2009 to April 2012.
14. The applicant travelled to Australia on a Chinese passport issued [in] 2012 which is valid for 10 years. In her protection visa application the applicant states that she has not travelled out of China prior to her current journey to Australia. She states that she left China legally and that she had no difficulty obtaining her travel documents.

15. The applicant entered Australia [in] May 2012 on a temporary [business] visa which was granted [in] April 2012 and which was expressed to cease [in] June 2012.
16. The applicant lodged her protection visa application [in] May 2012.

Protection claims

17. The applicant provided a written statement of protection claims which accompanied her protection visa application.
18. The applicant was invited to attend an interview with the delegate to discuss her protection claims but did not attend on the scheduled day and did not contact the Department to arrange an alternative interview time.
19. In her written statement, the applicant claims (last paragraph quoted because the meaning is unclear):
 - a. She is a Falun Gong practitioner and has been learning Falun Gong for 10 years, although she also states that she started to practise Falun Gong in 1998;
 - b. In July 2001 she was reported to the police by someone. She was detained and mistreated on one place, for 23 days, then taken to a jail and detained there for a year and a half, physically mistreated and forced to perform unpaid labour;
 - c. She was harassed after her release by the police checking to see if she was practising Falun Gong and she had to move house frequently, sometimes up to two or three times a months, and had “no fixed abode”;
 - d. Her marriage and family broke apart under the pressure;
 - e. She fled China with a friend who is also a Falun Gong practitioner.

Delegate’s decision

20. The delegate concluded that on the basis of the limited information provided by the applicant, and without an opportunity to discuss her claims at an interview, the delegate could not be satisfied that the applicant was a Falun Gong practitioner in China, nor that she had ever been detained for that reason. The delegate did not accept that the applicant had a genuine fear of persecution in China and found that there was no real chance that she would face persecution for a Convention reason if she returned to China.

Application to Tribunal for review

21. [In] September 2012 the applicant lodged an application with the Tribunal for review of the delegate’s decision. No further material or evidence was provided with the review application.
22. The applicant appeared before the Tribunal [in] February 2013 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Mandarin and English languages.

Tribunal hearing

23. The applicant produced her passport at the hearing, which bore an attestation that it had been issued [in 2012] to replace a previous passport. The Tribunal asked what had happened to her previous passport and the applicant stated that she lost it, in China. The Tribunal asked when her first passport had been issued and whether she had travelled on that previous passport and the applicant said it was issued in, she thought, 2008 and around two years later she had travelled to Hong Kong. Then she stated that she went to Hong Kong in 2001, then said that it was two years after 2008 and then stated that she does not remember when she went to Hong Kong.
24. The Tribunal asked what had been the purpose of her trip to Hong Kong and the applicant said she went there to hide from the police after she was released from prison. The Tribunal asked when she had been released from prison. The applicant said it was in 2010 or 2011. When the Tribunal asked again, the applicant said she was in prison from 1998 to 2001, then she said she was caught in 2001 and put in prison for 1 ½ years, and that she started practising Falun Gong in 1998. She said she was imprisoned in July 2001. The Tribunal then repeated the question of when she had been released from prison. The applicant said she forgot when, then said that she was in prison for 1 ½ years. The Tribunal asked whether she was saying that she forgot when she was released for prison and the applicant said yes. The Tribunal put to her that this was a very significant event in her life and it would not be unreasonable to expect that she would be able to remember at least the month and year in which she had been released. The applicant replied that she really does not remember, that she only remembers that she was released when her family paid money.
25. The Tribunal asked whether she got her first passport in 2008, to which the applicant said yes. Asked if she remembered what month she got it, the applicant said no. Asked if she used that passport to travel to Hong Kong, the applicant said yes. The Tribunal asked if she travelled to Hong Kong two years after that passport was issued and she said yes. The Tribunal asked whether that meant she went to Hong Kong in 2010 and the applicant said yes. The Tribunal asked whether her evidence was that she went to Hong Kong to hide from the police after she was released from imprisonment and the applicant responded that she was there for 3-4 days because it was the anniversary of the events [of] June. The Tribunal repeated the question, and the applicant said yes. The Tribunal asked how it was that she went to Hong Kong to hide from police after being released from imprisonment if she was imprisoned for 1 ½ years in July 2001 and she went to Hong Kong in 2010. The applicant said that there were rumours that they would begin to start putting people in prison and after she was released from prison she had been practising Falun Gong.
26. The Tribunal asked where, in her protection visa application or written statement, she had said that she went to Hong Kong and that she went there to avoid being imprisoned. The applicant said that she did not mention it. Asked why not, the applicant responded that she just did not mention it.
27. The Tribunal asked who had helped her to write her statement, and she said it was a friend of a woman she came to Australia with ("Z"). She said she told Z her history and he wrote her statement, and he helped her fill in the protection visa application form as well. Asked whether both were accurate or whether she wanted to add to or correct anything in either, the applicant said that they were accurate and she did not need to make any changes.

28. The Tribunal noted that she had not attended the interview with the delegate. The applicant said that she never received that invitation.
29. The Tribunal asked the applicant some questions about her claim to have been arrested in July 2001. Asked where she had been taken by the police, the applicant at first failed to understand the question, stating that she had been at home when the police came, then said that she was taken to the No.1 prison in her area and kept there for about a month, during which time she was physically mistreated, then she was taken somewhere else, she does not know where and was there for one year. Asked whether she was there for one year, the applicant said that her family paid money and she was released and she was there altogether for 1 ½ years. When the Tribunal asked if she meant that place for 1 ½ years, or both places in total for 1 ½ years, the applicant said both places for a total of 1 ½ years.
30. The Tribunal asked the date on which she was arrested. The applicant said she does not remember.
31. The Tribunal asked if she remembered the date on which she was released. The applicant said she does not remember anything at all, that there was lots of torture and they paid money and she does not even know how she was released.
32. The Tribunal asked how much was paid. The applicant said her mother paid 30,000 yuan and someone else paid 20,000 yuan. Asked who that other person was, she said it was her ex-husband.
33. The Tribunal asked whether she could provide any corroboration, documentary or otherwise, for her claim to have been arrested, detained for 1 ½ years, and 50,000 yuan paid for her release. The applicant said she could not. She said that there were no documents, that the police just came to her home and put her in prison.
34. The Tribunal asked the applicant about her claim that the police harassed her after her release, and asked what they had done. The applicant said that came to her home, that she moved 2-3 times to avoid disturbing her neighbours, and that when the police came they would steal her jewellery and watches and anything they could see.
35. The Tribunal asked the applicant the period of time when this harassment had occurred. The applicant said it was after she was released from prison, because she had been practising Falun Gong and maybe a neighbour reported her to the police and that her husband had to go to work somewhere outside their city because of the harassment. The Tribunal repeated the question, asking when the harassment started and when it had finished, if at all. The applicant said it was after she was released. The Tribunal repeated the question again, and explained that the purpose of the question was to know what dates the harassment started and finished. The applicant responded that it was after her release, that she really did not remember. Asked what year it had started, the applicant said she did not remember. Asked what year it had ceased, if at all, she said it started a few months after she was released. The Tribunal asked what year she had been released and the applicant said she was in prison for 1 ½ years since 2010, then corrected this to 2001. The Tribunal asked when the harassment had ceased, and the applicant said about 6 months after she was released.
36. The Tribunal then asked whether her evidence was that the police harassment started a few months after her release and ceased 6 months after her release. The applicant said that it started 6 months after her release. Asked when it stopped, the applicant responded that the

police came to her house only once then she started to move around and they could not find her. Asked why they couldn't find her, the applicant said she was moving house every other month. Asked where she moved to, the applicant said she moved around different places within her home town, and for the last 10 years she has been moving all the time. The Tribunal asked why her protection visa application gives only one address from her birth until 2009, and the applicant said she did not fill in the other addresses, that she was here for a couple for months and there for a couple of months. The Tribunal asked why she gave a different address, again only one address, for the period May 2009 to April 2012. The applicant said that could be the address of her husband. When the Tribunal pointed out that she said in her protection visa application that she was separated, the applicant said they had been separated for 7 years. The Tribunal asked why she would give her former husband's address in her protection visa application and she said she does not know.

37. The Tribunal asked the applicant why she had not included having been in Hong Kong and she said she just did not mention it. The Tribunal noted that she did not provide this despite there being three opportunities to do so, as part of her protection claims in her written statement, in the part of the protection visa application form asking about other travel, and in the part of the form asking for addresses. The applicant said she did not mention it.
38. The Tribunal put to the applicant that it had some concerns about whether she was being honest and that that her failure to mention the new claim about having to go to Hong Kong to avoid being imprisoned might suggest that she did not have any fear about returning to her hometown after Hong Kong. The applicant said that she did not think to mention it. She said she got a scar while she was in prison.
39. The Tribunal asked the applicant how she secured employment as a marketing manager in a technology firm, a senior position, if she was a known Falun Gong practitioner who was in hiding from the police and had been moving every other month from about 2001. The applicant said she got the job through a recommendation of friends, then that it was on the recommendation of travel agents because they wanted to get her a business visa so they asked her to work at that company. The Tribunal asked whether she had actually been employed as the marketing manager for that company between April 2009 and April 2012 as she said in her protection visa application, and she said that the friend she travelled to Australia with also worked there and that she had actually worked there for that time. The Tribunal asked how she could have done that if she was moving every other month to hide from the police. The applicant said she was working within the city so she was still able to work. The Tribunal asked why the police were unable to find her if she was working for three years at the same company. The applicant said they did not find her, or maybe they could find her but they did not put her in prison, and that she was practising Falun Gong secretly then.
40. The Tribunal asked how the applicant was able to obtain two passports, the first one in 2008 and the one she travelled to Australia on which was issued in 2012, while she was running and hiding from the police from 2001 to 2012. The applicant said she gave someone money and her photograph and they got it made, the one issued in 2012. The Tribunal asked where in her protection visa application or statement she had mentioned this, and the applicant said that she does not remember writing this. The Tribunal asked how she got her first passport. The applicant said she went to the passport office and found someone and gave that person a little bit of money.
41. The Tribunal put to the applicant the independent information that being able to obtain a passport in one's own name, and to depart on a genuine passport, was an indication that the

Chinese authorities had no adverse interest. The Tribunal noted that she had been able to obtain two passports and to pass through airport security on two occasions, to Hong Kong and to Australia. The applicant said that the first time she got someone inside the passport office and the second time she paid money. The Tribunal asked how she passed through security both times and she said she was on a business visa so they just said that they were going to an exhibition, and that she travelled with her friend.

42. The Tribunal put to the applicant that there was independent information which indicated that the Chinese authorities confiscate identity documents from known Falun Gong practitioners in order to prevent them being able to obtain passports, but that this did not happen to her. The applicant said she did not know about this, that they just let her go, they did not check on her.
43. The Tribunal informed the applicant that there were a number of aspects of her evidence and claims which might throw doubt on whether she was telling the truth or whether she had fabricated her protection claims. The Tribunal indicated that it had not come to any conclusions but would put these matters to her for response:
 - a. That she had no corroboration for any of her claims, that she was Falun Gong in China, that she was arrested, that she was detained, that money was paid for her release, that the police harassed and searched for her, that she had to pay money for both her passports;
 - b. That her capacity to obtain two passports and to pass through airport security on two occasions was, on the independent information, indicative of no adverse interest in her by the Chinese authorities;
 - c. That not having had her identification documents confiscated at the time of her arrest was inconsistent with the independent information;
 - d. That she had held a passport since 2008 but did not attempt to leave China to seek protection until her travel to Australia in 2012;
 - e. That her departure from China was characterised by a series of delays which, in combination, were more suggestive of a planned and orderly departure than a fleeing from persecution, being that she had her second passport [from early] 2012 and her Australia visa April 2012 but did not depart China for almost another month, and that when she arrived in Australia she did not lodge her protection visa application [until] May 2012 which was only 7 days before her visa was to expire;
 - f. That she had raised significant new claims about how she obtained her two passports at a late stage, contrary to her responses to questions on those matters in her protection visa application, and only after the Tribunal put contrary independent information to her;
 - g. That she raised a new and significant claim, about having to go to Hong Kong to avoid being imprisoned, at such a late stage and could not explain why she made no mention of it in her written statement or as part of her travel history in her protection visa application;

- h. That she had stated in her protection visa application that she had no trouble obtaining her travel documents and departed China legally, which she contradicted in her evidence at the hearing; and
 - i. That she had indicated in her protection visa application form that she had only ever lived at two addresses, which she contradicted in her protection claims.
44. The Tribunal asked the applicant whether there was anything she wished to say in response to any of these matters. The applicant said that everything she has said is true, and that she does not want to go back to China.

Independent country information

Exit procedures

45. In relation to departure checks in China, advice from DFAT indicates that the Post understands China's national-level border entry and exit system electronic database "to be efficient. But Post is unclear about how this entry-exit database interfaces with individual provinces' crime databases and counties' maintenance of *dang'ans*" or personal dossiers. The Post "is aware that law enforcement agencies at the local and provincial levels have put in place electronic databases to enable them to track suspects and their crimes", but also comments that "China's various database systems can be disjointed," and the "Post considers that the integration of electronic databases holding personal information to be at an embryonic stage."¹
46. China is reported to have developed a national computer network for policing named the Golden Shield Project. A counsellor at the Chinese Embassy in Ottawa informed the Immigration and Refugee Board of Canada in June 2009 that the Golden Shield Project had eight databases, including criminal record information, criminal fugitive information and information on passports and entry and exit. Police departments at provincial, city and county levels and most police stations and other grass-roots units under the county level could connect to the system. Some small police stations and grass-roots units in remote areas were not connected. The Chinese police were in charge of entry and exit administration and the police units in charge of examination at all ports of entry including international airports could connect to the system. A researcher who was previously a professor of Chinese and East Asian Politics at Western Michigan University also advised the Immigration and Refugee Board of Canada in May 2009 that China's Public Security Departments had nationwide computer information sharing networks. There had been complaints, however, about provincial police departments being unwilling to share information with each other. The researcher also noted that China's policing system was very decentralised.²

¹ Department of Foreign Affairs and Trade 2010, *DFAT Report No. 1183 – China: RRT Information Request: CHN36990*, 10 August

² Immigration and Refugee Board of Canada 2009, *CHN103133.E – China: Whether the Public Security Bureau (PSB) has set up a national computer network for information sharing; nature and extent of communication between PSB offices across the country; whether a link to a police computer network is available at international airports in China (2006 - May 2009)*, 2 July http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=452429&l=e – Accessed 14 September 2010

47. DFAT advice indicates that “[a]lthough Post is aware of foreign reports of the Golden Shield database, Post is unable [sic] confirm the existence or implementation of the Golden Shield database or equivalent(s).”³
48. Earlier information on departure checks in China include advice from the Chinese embassy in Canada to the Immigration and Refugee Board of Canada in July 2008 that inspection officers at Chinese airports verify a person’s identity through a computer-based information system.⁴ In August 2006, DFAT advised that the Chinese authorities checked all outgoing passengers against an alert list, but DFAT did not know how comprehensive the list was.⁵ In November 2006, DFAT confirmed “that Chinese citizens subject to arrest warrants would be on the alert lists” and that it was likely that people being investigated but for whom a formal arrest warrant was yet to be issued would also be on the lists. The alert lists were connected to Chinese identity cards as well as to passports and operated at railway stations as well as airports and border crossings.⁶
49. The Ministry of Public Security have advised DFAT that only those considered Falun Gong leaders are refused passports and hence would be prevented from leaving China legally.
50. DFAT believe however that the Chinese government does act to prevent identified Falun Gong followers from leaving China, on the evidence that in many cases those who have been identified by the government as Falun Gong followers have their Chinese identity cards confiscated and hence are unable to obtain a passport and leave the country legally. Those not identified by the government as Falun Gong followers can obtain passports and leave the country legally. DFAT has emphasised that corruption is endemic in the Chinese bureaucracy, in particular at lower levels such as provincial Public Security Bureaus where passports are issued. DFAT has concluded that in many cases it would be possible to obtain a passport illegally by paying a bribe.⁷

FINDINGS AND REASONS

Country of reference - finding

51. The Tribunal finds that the applicant is a citizen of the China.
52. This finding is based on: The biodata page of the applicant’s passport which bears her name and likeness; the details of residence, education and employment given in her protection visa application; and the applicant’s language and claimed ethnicity. All these factors are consistent with Chinese nationality, and the applicant has not claimed any other nationality.

³ Department of Foreign Affairs and Trade 2010, *DFAT Report No. 1183 – China: RRT Information Request: CHN36990*, 10 August

⁴ Immigration and Refugee Board of Canada 2008, *CHN102869.E - China: Exit controls and security measures at airports in China for mainland citizens travelling overseas and to Hong Kong*, 8 July http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=451972 - - Accessed 7 April 2009

⁵ DIMIA Country Information Service 2006, *Country Information Report No.06/42 – China: Failed asylum seeker return decision*, (sourced from DFAT advice of 7 August 2006), 25 August

⁶ DIMIA Country Information Service 2006, *Country Information Report No.06/65 – China: Passport and exit arrangements*, (sourced from DFAT advice of 8 November 2006), 10 November

⁷ Department of Foreign Affairs and Trade 2008, *DFAT Report No. 943 – China: RRT Information Request: CHN34077*, 16 December.

Protection claims – findings

53. The Tribunal finds that the applicant is not a truthful witness and that she has fabricated her claims to Australia's protection. The Tribunal does not accept the applicant's claim to have been a Falun Gong practitioner in China or to have experienced or been at risk of any other form of harm for that reason. The Tribunal is satisfied that the applicant has fabricated her protection claims.
54. None of the applicant's claims have been corroborated by documentary or testimonial evidence. The applicant did not provide any documentary corroboration of her Falun Gong practise, or of her arrest, her period of detention or her release. She has not provided any support for her claim that a large sum of money was paid for her release, or to have had to pay for both her passports to be issued.
55. The applicant's evidence about her period of detention was vague and had the appearance of having been memorised rather than being a lived experience. The applicant became confused when the question of the duration of her detention was approached in any manner other than to state the duration. The only consistency in the applicant's evidence as regards her claim to have been detained was that it lasted for 1 ½ years.
56. It is implausible to the Tribunal that the applicant would have been able to run and hide from the police from 2001 until May 2012 when, on the applicant's own evidence, she obtained a passport in her own name in 2008, she travelled on that passport to Hong Kong in 2010, she returned to her hometown from Hong Kong, she worked at the same enterprise in her own city for three years, when she moved to evade the police she did so within her own city, and she obtained a replacement passport and an exit permit in 2012.
57. The applicant also does not explain how she was able to achieve a high status position as a "marketing manager" despite a history of being a known Falun Gong practitioner since 1998 and having been detained for 1 ½ years for this reason.
58. The applicant was able, in 2008 and 2012, to obtain passports, to travel to Hong Kong in 2010 and pass through airport security despite claiming to be running from the police, and to have departed China in 2012 for Australia without difficulty on a passport in her own name. This suggests, consistent with the independent information, that the applicant was not of any interest to the Chinese authorities by reason of her practise of Falun Gong or her claimed period of detention.
59. The applicant's delay in departing China suggests that she was not genuinely in fear of harm in China. Her passport was issued [in early] 2012, but she did not depart China [until] May 2012. Her Australia visa was granted [in] April 2012 and she left China almost a month later, [in] May 2012. The circumstances of her passport and visa, and her departure from China, are all indicative of a planned and orderly departure rather than fleeing from a fear of persecution.
60. The applicant's protection visa application was lodged only seven days before her [business] visa was to expire which suggests that her motivation for applying for a protection visa was to extend her stay in Australia rather than from any genuine fear of persecution if returned to China.

61. The Tribunal is of the view that such delays are not consistent with a genuine fear of persecution.
62. These matters were all put to the applicant at the hearing. The applicant's responses, which are set out in the recitation of her evidence at the hearing, did not resolve the Tribunal's reservations about the applicant's truthfulness. All of the applicant's claims are uncorroborated, others are inconsistent over time or with information available from independent sources, some are inherently illogical, and significant claims were raised only after the delegate rejected her claims as not credible.
63. Given all the above matters, the Tribunal is not satisfied that the applicant's claims are true. The Tribunal does not accept that the applicant was a Falun Gong practitioner in China, nor that she was detained for this reason.
64. The Tribunal therefore is not satisfied that the applicant will face serious harm if she returns to China. The Tribunal does not accept that the applicant fled China because she feared for her safety.
65. Having considered all of the applicant's claims, singly and cumulatively, the Tribunal is not satisfied that the applicant has a well-founded fear of persecution for a Convention reason if she returns to China now or in the reasonably foreseeable future.

CONCLUSIONS

66. The Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under the Refugees Convention. Therefore the applicant does not satisfy the criterion set out in s.36(2)(a).
67. Having concluded that the applicant does not meet the refugee criterion in s.36(2)(a), the Tribunal has considered the alternative criterion in s.36(2)(aa). The Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under s.36(2)(aa).

DECISION

68. The Tribunal affirms the decision not to grant the applicant a Protection (Class XA) visa.