

**REFUGEE STATUS APPEALS AUTHORITY**  
**NEW ZEALAND**

**REFUGEE APPEAL NO 76323**

**AT AUCKLAND**

**Before:** C M Treadwell (Chairperson)  
B A Dingle (Member)

**Counsel for the Appellant:** C Curtis

**Appearing for the Department of Labour:** No Appearance

**Dates of Hearing:** 18 & 19 February 2010

**Date of Decision:** 30 June 2010

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**DECISION DELIVERED BY B A DINGLE**

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[1] This is an appeal against the decision of a refugee status officer of the Refugee Status Branch (“RSB”) of the Department of Labour (“DOL”), declining the grant of refugee status to the appellant, a citizen of the People’s Republic of China (“China”). This is her second appeal to this Authority.

**INTRODUCTION**

[2] The appellant is a woman in her mid-30s who first arrived in New Zealand on 8 August 2000. Her first refugee claim, in 2004, was based on her participation in *Falun Gong* protests in China. It was disbelieved.

[3] The crux of the appellant’s second claim is that she has continued to engage in *Falun Gong* protests in New Zealand and is now a committed *Falun Gong* practitioner. In addition, since 2009, the appellant has worked as a volunteer for New Tang Dynasty Television (“NTDTV”), where she has compiled reports which allege wrong-doing by the Chinese government. The appellant says that her association with NTDTV, in addition to her many activities with *Falun Gong* practitioners protesting against the Chinese government will have come to

the attention of Chinese authorities and she will suffer serious harm on return to China as a result.

[4] The issues to be determined in this case are:

- (a) whether the Authority has jurisdiction to hear the second appeal; and, only if so,
- (b) whether or not the second claim to refugee status is credible; and, if so,
- (c) whether or not the second claim to refugee status is well-founded.

### **JURISDICTION OF THE AUTHORITY TO HEAR THE APPEAL**

[5] This is the second occasion on which the appellant has appealed to this Authority, and therefore the Authority must first determine whether it has jurisdiction to hear the appeal.

[6] Neither a refugee status officer nor the Authority has unlimited jurisdiction to receive and determine a further refugee claim after a first claim has been finally determined. Section 129J(1) of the Immigration Act 1987 (“the Act”) is headed “Limitation on subsequent claims for refugee status” and sets out the circumstances in which a refugee status officer may receive and determine a second or subsequent claim for refugee status:

A refugee status officer may not consider a claim for refugee status by a person who has already had a claim for refugee status finally determined in New Zealand unless the officer is satisfied that, since that determination, **circumstances in the claimant’s home country have changed to such an extent that the further claim is based on significantly different grounds to the previous claim.**

[Emphasis added]

[7] Where the refugee status officer declines the subsequent claim, or finds that there is no jurisdiction to consider the claim on the basis that the statutory criteria are not met, the claimant has a right of appeal to the Authority. Section 129O(1) of the Act provides that:

A person whose claim or subsequent claim has been declined by a refugee status officer, or whose subsequent claim has been refused to be considered by an officer on the grounds that circumstances in the claimant’s home country have not changed to such an extent that the subsequent claim is based on significantly different grounds to a previous claim, may appeal to the Refugee Status Appeals Authority against the officer’s decision.

[8] The Authority therefore intends to consider the appellant’s previous claim,

together with her second claim as presented at the second appeal hearing, with a view to determining whether it has jurisdiction to consider the second appeal. If so, it will then determine whether the appellant is a refugee within the meaning of Article 1A(2) of the Refugee Convention.

## **COMPARING THE APPELLANT'S FIRST AND SECOND CLAIMS FOR REFUGEE STATUS**

### **The first claim**

[9] The appellant lodged her first application for refugee status on 23 July 2004.

[10] In essence, her claim to the RSB was to have practised *Falun Gong* for three years in China. She also claimed to have protested in Beijing against the government's unfair treatment of *Falun Gong* practitioners and to have been questioned by security officials as a result. She left China without further difficulties, having decided that she wanted to live in a society where she was free to express her beliefs. Her application was declined by the RSB in a decision issued on 28 January 2005 on the grounds that she had not provided a credible account.

[11] She appealed to this Authority (differently constituted) and that appeal was dismissed on 12 July 2005. At the hearing she admitted that her RSB account of having practised *Falun Gong* in China was fabricated but she asserted that she was, at the time of the first appeal hearing, a genuine practitioner having adopted *Falun Gong* practice since 2003. The Authority found that she was not a genuine *Falun Gong* practitioner and that she would not seek to practise *Falun Gong* should she then return to China.

### **The second claim**

[12] The appellant's second claim is based on two grounds. The first is a continuation of the first claim in that the appellant says she has been a genuine *Falun Gong* adherent since 2004, during which time she has participated in many activities with other practitioners. She practises *Falun Gong* exercises every day and joins with others on a weekly basis to practise together. She also says that from 2005 until the present time she has participated in a range of protests (against the Chinese government), *Falun Gong* celebrations, public information

shows, meetings and meditation and exercise vigils outside the Chinese Embassy in Wellington and the Consulate in Auckland. In short, she claims that the Chinese government will be aware of her activities through the monitoring of *Falun Gong* practitioners in New Zealand.

[13] The second ground of her claim relates to her volunteer work as an investigative reporter for the recently established NTDTV station in Auckland. Since mid-2009 the appellant has been investigating and reporting on current affairs issues in China. The reports (and others compiled by NTDTV) often expose violations of human rights by the Chinese government or offer critical commentary on matters of policy or law. The appellant says that her involvement in an organisation which seeks to present objective information about China, and which regularly criticises the Chinese government, will put her at risk of serious harm in the form of detention and torture in China.

## **FINDING AS TO JURISDICTIONAL THRESHOLD FOR A SUBSEQUENT CLAIM**

[14] The Authority finds that the jurisdictional threshold set out in s129O of the Act is met. In essence, the appellant's claim to have worked as a reporter for NTDTV since 2009, reporting on matters critical of the Chinese government amounts to significantly different grounds from those advanced in her first refugee claim. Those grounds have clearly arisen since the determination of the first claim on 12 July 2005.

[15] Given this finding, it is now necessary to summarise the appellant's second claim, assess its credibility and determine whether or not she has a well-founded fear of being persecuted for a Convention reason should she now return to China.

## **THE APPELLANT'S CASE**

[16] The account which follows is a summary of the evidence given by the appellant and her witness, BB, in respect of her second refugee appeal. The evidence is assessed later.

### **The appellant's evidence**

[17] The appellant was born in 1973 in a city in the Heilongjiang province of

China.

[18] For the purposes of this appeal, the appellant's early life was unremarkable. She completed her primary and secondary school education and undertook employment from the early 1990s until 2000. The appellant did not have any difficulties during her school or employment years which are relevant to this refugee appeal.

[19] In approximately 1992, the appellant joined the youth branch of the Chinese Communist Party ("CCP (Y)"). Joining the CCP was, in practical terms, compulsory and the appellant was motivated to do so simply to facilitate access to good employment prospects and avoid having a negative political profile with government authorities.

[20] The appellant obtained a limited purpose study visa for New Zealand and she travelled here in August 2000. She departed China on her own passport and did not have any difficulty doing so.

[21] The appellant travelled to China to visit her parents in October 2001 and, after obtaining a further limited purpose permit to study, she returned to New Zealand in February 2002. She experienced no difficulties during her visit to China.

[22] Her arrival back in New Zealand was too late for her to enrol in her preferred course of study and the next intake was not for some months, which would mean her permit expired before the course was completed. Throughout the first half of 2002, the appellant was misled by her immigration agent who accepted her payment but was not successful in obtaining a full study permit on her behalf. Eventually the appellant was unable to contact the immigration agent at all because they no longer operated at the address or contact number she had.

[23] In mid-2003, the appellant approached a lawyer, CC, who she hoped would assist her regularise her status in New Zealand. He advised her to consider applying for refugee status and suggested that she could do so on the basis that she was a *Falun Gong* practitioner. The appellant thus set about finding information on *Falun Gong*. While at a bookshop selling *Falun Gong* literature, the appellant was given the name of a practitioner, AA, whom she could contact for further information.

[24] The appellant telephoned AA and they developed a friendship in which AA would provide information, literature and encouragement relating to *Falun Gong*

practice. The appellant began practising the exercises and, after a short time, began to notice that her physical ailments (relating to previous surgery she had had in China) were improving. In time, she even stopped taking some of her medication.

[25] After the appellant had been practising *Falun Gong* for almost a year, she lodged her first claim for refugee status. CC advised her to prepare a false account to support the claim, which she did.

[26] The appellant was interviewed by the RSB but her claim for recognition as a refugee was declined on 28 January 2005 on the grounds that the RSB did not believe her to have been involved with *Falun Gong* in China and to have had difficulties with the Chinese authorities. The RSB did accept that she had been practising *Falun Gong* in New Zealand but found that she did not have a well-founded fear of being persecuted in China because it was satisfied that she would not practise it there and that her modest activity in New Zealand did not give rise to a real chance of serious harm.

[27] The appellant appealed that decision to the Authority with representation by another lawyer, Mr Gore. By this time the appellant was genuinely exploring the *Falun Gong* philosophy and considered herself to be a genuine, if nascent, practitioner.

[28] Prior to her first appeal hearing, the appellant told Mr Gore the advice she had received from CC. At around the same time, she informed AA that her claim to the RSB was fabricated. She made these confessions because she was beginning to understand the meaning of the *Falun Gong* belief and realised that to progress in her practice she needed to be truthful. AA accepted the confession and continued to support the appellant.

[29] In May 2005, the appellant participated in a *Falun Gong* day celebratory public performance which involved 10-20 followers singing songs underneath a *Falun Gong* banner. In the same month she attended an "exhibition" in Auckland which involved *Falun Gong* practitioners handing out pamphlets in a bus terminal.

[30] In June 2005, the Authority (differently constituted) heard her first appeal and, in a decision delivered on 12 July 2005, dismissed it on the grounds that she was not a genuine practitioner. In summary, the Authority found that her belated claim, the late notification that her RSB claim was false and inconsistencies between her written statement (submitted prior to the first appeal hearing) and her

oral testimony satisfied it that her claim was not credible.

[31] The appellant was shocked but was determined to continue her *Falun Gong* activities in New Zealand. As time went on she learned more and more about *Falun Gong* and about the suppression of it and other beliefs by the Chinese government. She was appalled as she learned of the human rights violations and abuse of those who opposed the Chinese government or who held beliefs not condoned by the government. Her disgust motivated her to resign from the CCP (Y) by entering her name on the *DaJiYuan* website. The movement to withdraw from or denounce the CCP (the *Tuidang* movement, as it is called) started in late 2004. It was then that the *DaJiYuan* newspaper (known in English as *The Epoch Times*), staffed largely by *Falun Gong* adherents, ran a series of editorials called *Nine Commentaries on the Communist Party* which led many who read it to enter their names on the website and withdraw from the CCP. By 2005, the number of withdrawals was in the millions.

[32] From July 2005 until early 2006, the appellant participated in a number of protests and public education activities throughout the North Island run by the *Falun Gong* movement. In March 2006, she first became aware of allegations that the Chinese government was responsible for harvesting organs from *Falun Gong* practitioners who had been detained by them. These revelations led *Falun Gong* in New Zealand to respond with a series of "Cruel Treatment Road shows" which sought to publicise the information. Later in 2006, the road-shows were held every Saturday in Aotea Square.

[33] In March 2006, the appellant joined other *Falun Gong* practitioners in a protest about organ harvesting held in front of the Chinese Embassy in Wellington. In all, the appellant has protested in Wellington approximately seven times, including in the grounds of Parliament. In several protests in which she has participated in front of the Chinese Embassy, she and the other practitioners have held banners with slogans such as "Stop Persecution", "Stop Harvesting Organs" and "Falun Dafa Good". During the protests, staff from the Chinese Embassy photographed and took video images of the protesters, including the appellant. While the appellant felt concerned about this, she was more concerned to oppose the actions of the Chinese government.

[34] In August 2006, the appellant attended a seminar in Wellington addressing the organ harvesting issue. It was presented by David Matas, a Canadian lawyer, and David Kilgour, a former Canadian politician, who had jointly authored a 2006 report investigating the issue.

[35] Throughout 2006, the appellant had continued her daily practice of *Falun Gong* exercises and also met weekly to practise with others, usually in parks around Auckland. She also participated in other celebratory events, continued to publicly disseminate information about *Falun Gong* by handing out pamphlets and talking to the public and participated in meditation and demonstrations outside the Chinese Consulate in Auckland. She says these activities are often photographed by strangers, at least some of whom are likely to be monitoring the events on behalf of the Chinese government.

[36] In late 2006, the appellant took part in a series of parades in North Island cities relating to *Falun Gong*.

[37] In 2007, the appellant talked by telephone to her sister, a military doctor in China, about her *Falun Gong* beliefs. Her sister said that she was frequently asked by those in authority whether she knew any *Falun Gong* practitioners, to which she always answered "no". The sister told her that she was afraid of being associated with *Falun Gong* in any way and requested the appellant not to contact her anymore.

[38] From late 2007, the appellant and *Falun Gong* associates began protesting against the Chinese government in relation to the Olympic Games being held in Beijing in 2008. The general message of the protests was to point out that the Olympic ideal of ethical human endeavour and respect for human rights was blatantly violated by the Chinese government.

[39] In May 2008, the appellant performed a solo song at a performing arts festival on *Falun Dafa* day.

[40] The appellant's second claim for refugee status was lodged with the RSB on 15 July 2008, based on her continued commitment to *Falun Gong*, her fear of reprisals against her protest activity and the new allegations of organ harvesting from *Falun Gong* adherents.

[41] The RSB interviewed the appellant and issued a decision declining her claim on 25 February 2009 on the grounds that her second claim was not based on significantly different grounds to her first claim and therefore the jurisdiction threshold to hear the claim pursuant to s129J of the Act was not met.

[42] In mid-2009, AA informed the appellant that a local station of NTDTV was to be established in New Zealand. NTDTV was set up in the United States in 2002 as an independent news source with the aim of fostering understanding between



Chinese and Western societies, promoting appreciation and awareness of traditional Chinese culture and assisting Chinese people living abroad in adapting to their new environment and society. It regularly broadcasts media reports which critique the Chinese government and investigates current affairs issues. It broadcasts through digital television channels internationally. In New Zealand it broadcasts a weekly show on Triangle Television, a community regional television station broadcasting in the Auckland region.

[43] AA had been in contact with the NTDTV managers in the United States and they were enthusiastic about starting a service in New Zealand. Because of her growing interest in wider political issues, sparked by the organ harvesting protests, the appellant accepted an offer to become a volunteer contributor.

[44] In July 2009, she began working for NTDTV as a volunteer investigative reporter. In her role she is directed to pursue or investigate certain stories of interest, usually after they have already been reported. The appellant contacts people involved in the story, or who may have comments on the issue, and interviews them. These people may be in New Zealand or overseas. With the assistance of others, she then compiles a report and reads it for the broadcast. At the time of the appeal hearing she had compiled approximately 10 such reports.

[45] When the reports are broadcast, the appellant is referred to by a pen-name. This is common practice for reporters involved in NTDTV because they do not wish to exacerbate the risks for family members in China. Nevertheless, the appellant believes that the Chinese Embassy will have investigated those involved with NTDTV in New Zealand and will be monitoring the broadcasts. Additionally, in the Christmas/New Year period of 2009/2010, video footage of those in the NTDTV New Zealand station, in which they stood together in a group of approximately 10 people and spoke a New Year message, was broadcast internationally and on multiple occasions over the course of the holiday period. The appellant is clearly visible in that footage.

[46] The appellant recalls one news story for which she contacted a Chinese economist in China to ask for comment about a particular policy. However, when she explained she was an interviewer from NTDTV, he refused to be interviewed because he said he had been warned by Chinese officials not to talk to NTDTV. The appellant says this reflects the desire of the Chinese government to gag NTDTV and other media outlets which publish information critical of the government.

### **The evidence of BB**

[47] BB is a Chinese national who has been recognised a refugee in New Zealand on the basis that he is a *Falun Gong* practitioner.

[48] BB met the appellant in mid-2008 at a study session of *Falun Gong* practitioners. Another practitioner asked him to assist the appellant with translations relating to her refugee claim. Since then they have often protested together or participated in public actions to encourage people to denounce the CCP. They have developed a friendship and also frequently discuss the persecution of *Falun Gong* in China and other political issues.

[49] In the course of helping the appellant with translations for her claim, BB asked her to explain her previous lies. She explained her actions to him and he accepts that she is now a genuine practitioner based on her behaviour and commitment to *Falun Gong*. BB says that he is convinced of her sincerity in *Falun Gong* practice and her political actions against the Chinese government.

[50] BB is also aware of the appellant's work for NTDTV and sees it as an extension of her commitment to exposing the human rights violations of the Chinese government. BB confirmed that he saw the appellant at a speech by Rebiya Kedeer, the prominent Uyghur political activist who visited New Zealand in October 2009.

[51] BB believes that if the appellant were to return to China she would be immediately arrested and face persecution because the Chinese authorities will already be aware of her activities in New Zealand.

### **Documents and Submissions**

[52] Counsel has provided the following documents and materials under cover of letters on 3, 16, 17,19 and 26 February 2010:

- (a) Written statement of BB.
- (b) Written statement of the General Manager of NTDTV, New Zealand. He confirms the appellant's work as a reporter on human rights issues in China. He also provided internet links to the reports she has compiled. He explained that the mission of NTDTV is to deliver uncensored information to and from China and to facilitate cross cultural exchange between Chinese and other viewers.

- (c) Print copies of the reports compiled by the appellant as a NTDTV reporter (in Mandarin with English translations).
- (d) Compact Disc with video footage of the broadcast reports compiled by the appellant.
- (e) Bundle of photographs depicting the appellant participating in various *Falun Gong* related events including protests against the Chinese government, *Falun Dafa* day celebrations, public meditations sessions and exhibitions to inform the public about human rights abuses in China.

[53] Counsel also provided written closing submissions on 3 March 2010 together with further country information, photographs of the appellant and a synopsis of articles published in the Chinese language newspaper *The Epoch Times* which reported on many events in New Zealand in which the appellant was involved. The appellant clearly appears in some of the photographs which were published alongside the articles in *The Epoch Times*, though she is not named.

## THE ISSUES

[54] The Inclusion Clause in Article 1A(2) of the Refugee Convention provides that a refugee is a 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 as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

[55] In terms of Refugee *Appeal No 70074/96* (17 September 1996), the principal issues are:

- (a) Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to the country of nationality?
- (b) If the answer is yes, is there a Convention reason for that persecution?

## ASSESSMENT OF THE APPELLANT'S CASE

[56] Prior to determining the identified issues, it is necessary to make an assessment of the appellant's credibility.

[57] The Authority finds the appellant to be a credible witness. We accept the sincerity of her *Falun Gong* belief and that she is genuinely motivated to report on alleged human rights abuses perpetrated by the Chinese government.

[58] In making that finding, we do not overlook the finding of the first appeal panel that the appellant was not, at that time, a genuine *Falun Gong* practitioner. The reasons given for that finding were cogent and persuasive. Against that however, the Authority reminds itself that previous lies do not necessarily impugn all later evidence. With regard to the first fabricated claim, we have also taken into account her concession before the first appeal hearing that her account to the RSB about difficulties she experienced in China and her longstanding practice of *Falun Gong* was untrue. Additionally, the present panel has had the benefit of evidence of the appellant's continued and committed practice of *Falun Gong* over the intervening five years, including her participation in numerous protests and other events. These aspects of her account are corroborated by photographs, video footage and witness evidence.

[59] The appellant's account of her work as a reporter on NTDTV is also corroborated by documentary and witness evidence. The Authority has no reason to doubt the genuineness of her desire to participate in such activities.

[60] The Authority therefore makes the following findings:

- (a) The appellant is a genuine *Falun Gong* adherent who has consistently been involved, over the course of five years in New Zealand, in *Falun Gong* activities including protests, sit-ins and other activities publicising human rights violations in China and the oppression of *Falun Gong* practitioners.
- (b) The appellant has developed a genuine interest in wider political issues concerning the Chinese government. She now works as a volunteer reporter for NTDTV and in that role undertakes interviews and compiles reports which examine political and human rights issues in China.
- (c) If returned to China, the appellant would maintain her *Falun Gong* practice and seek to share her knowledge of both *Falun Gong* and human rights issues.

[61] On that basis the decision now turns to assess whether the appellant has a well-founded fear of being persecuted in China.

**Objectively, on the facts as found, is there a real chance of the appellant being persecuted if returned to China?**

[62] It is well established in the Authority's jurisprudence that the standard for establishing that a fear of being persecuted is well-founded is an entirely objective one. See for example *Refugee Appeal No 72668/01* NZAR 649 at [111] to [154]. A subjective fear, however strong, is not sufficient to establish the well-founded element of the refugee definition. There must be a real or substantial basis for the harm which is anticipated.

[63] The appropriate question to be considered is whether, considering the totality of the evidence, an individual having the appellant's characteristics would face a real chance of serious harm if returned to China. See *A v RSAA* (CIV 2004-4-4-6314, 19 October 2005, HC, Auckland, Winkelmann J) at [38].

[64] The Authority now turns to consider the country information against which the risk to the appellant is to be assessed.

**Country Information**

[65] Country information is consistent with the appellant's account of the treatment she could expect to receive in China as a *Falun Gong* practitioner and someone responsible for the public disclosure and media reporting of human rights abuses in China.

[66] As to the treatment of *Falun Gong* adherents the United States Department of State *Country Reports on Human Rights Practices for 2009: China* ("the DOS report") (11 March 2010) records that:

Authorities continued a general crackdown on groups considered to be "cults." These "cults" included not only *Falun Gong* and various traditional Chinese meditation and exercise groups (known collectively as "qigong" groups) but also religious groups that authorities accused of preaching beliefs outside the bounds of officially approved doctrine.

Public *Falun Gong* activity in the country remained negligible, and practitioners based abroad reported that the government's crackdown against the group continued. In the past the mere belief in the discipline (even without any public practice of its tenets) sometimes was sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment. *Falun Gong* sources estimated that since 1999 at least 6,000 *Falun Gong* practitioners had been sentenced to prison, more than 100,000 practitioners had been sentenced to RTL, and almost 3,000 had died from torture while in custody. Some foreign

observers estimated that *Falun Gong* adherents constituted at least half of the 250,000 officially recorded inmates in RTL camps, while *Falun Gong* sources overseas placed the number even higher.

[67] *Falun Gong* adherents found with illegal material face serious consequences, including being sentenced to *lao jiao* (re-education through labour) (refer United Kingdom Home Office *Border and Intelligence Agency Country Information Reports: China* (17 August 2007)).

[68] The suppression of the practice of *Falun Gong* in China continues. There has been no softening of the official attitude in this regard. In fact, according to Amnesty International, the Chinese government campaign against the *Falun Gong* intensified in 2009 with sweeping detentions, unfair trials leading to long sentences, enforced disappearances and deaths in detention following torture and ill-treatment. See *Amnesty International Report 2010 – China* (“the AI report”) (28 May 2010).

[69] Similarly, those who publicly criticise the Chinese government receive arbitrary and harsh treatment. In general terms, the approach of the Chinese government to freedom of expression is described in the DOS report:

The law provides for freedom of speech and of the press, although the government generally did not respect these rights in practice. The government interpreted the CCP's "leading role," as mandated in the constitution, as superseding and circumscribing these rights. The government continued to control print, broadcast, and electronic media tightly and used them to propagate government views and CCP ideology. During the year the government increased censorship and manipulation of the press and the Internet during sensitive anniversaries.

[70] The same source goes on to state:

Those who aired views that disagreed with the government's position on controversial topics or disseminated such views to domestic and overseas audiences risked punishment ranging from disciplinary action at government work units to police interrogation and detention.

[71] As noted in the AI report:

Individuals who peacefully exercised their rights to freedom of expression, assembly and association remained at high risk of harassment, house arrest, arbitrary detention, and torture and other ill-treatment. Family members of human rights activists, including children, were increasingly targeted by the authorities, including being subjected to long-term house arrest and harassment by security forces.

### **Findings as to the appellant's predicament**

[72] The appellant has been in a large number of demonstrations and other public activities in New Zealand which promote the practice of *Falun Gong* and

criticise the Chinese government for its oppression of *Falun Gong* practitioners and other serious human rights abuses. The appellant is also working as a volunteer reporter for NTDTV in which capacity she compiles reports investigating political issues, including serious human rights abuses in China. It is likely that through these activities the appellant has already come to the attention of Chinese Embassy staff in New Zealand.

[73] On return to China, the appellant would be identified as *Falun Gong* practitioner who is also deeply critical of the regime and has been responsible for media broadcasts criticising the regime.

[74] Country information indicates that the appellant would, at the least, be sentenced to re-education through labour. The duration of such administrative detention is up to three years and the conditions under which she would be detained can be expected to be harsh and even life-threatening. She faces a real chance of being subjected to serious harm amounting to being persecuted.

#### **Convention reason**

[75] The harm faced by the appellant would be for reason of her religion (belief in *Falun Gong*) and her political opinion.

[76] Both the issues aforementioned are therefore answered in the affirmative.

#### **CONCLUSION**

[77] For the reasons outlined above, the Authority finds that the appellant is a refugee within the meaning of Article 1A (2) of the Refugee Convention. Refugee status is granted. The appeal is allowed.

"B A Dingle"

B A Dingle  
Member