

Asylum and Immigration Tribunal

OM (Returning citizens – minorities - religion) Uzbekistan CG [2007] UKAIT 00045

THE IMMIGRATION ACTS

**Heard at Field House
On 20 October 2006**

**Determination Promulgated
On 23 May 2007**

Before

**SENIOR IMMIGRATION JUDGE MATHER
SENIOR IMMIGRATION JUDGE MCGEACHY
MRS S I HEWITT**

Between

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr D Pievsky, Counsel, instructed by Paul L Simon Solicitors
For the Respondent: Mr P Deller, Home Office Presenting Officer

It has not been established that Uzbek citizens whose passports expire cannot obtain a renewal from Embassies abroad, or that returnees who have been abroad for longer than permitted by an exit visa, are at real risk of disproportionate punishment on return.

There is no satisfactory evidence that non-Uzbeks face discrimination of such a nature as to amount to persecution, or serious harm, or a breach of their article 3 rights.

Whilst followers of all religions, save for Muslims who attend registered Mosques, are subject to a degree of harassment it does not in general amount to persecution, serious harm or a breach of a worshippers' human rights. However, ministers of religion, those who practice religion in unregistered premises, particularly active members of evangelical Christian congregations, and proselytising or fundamentalist denominations of any religion may be at risk depending on the facts in every case.

DETERMINATION AND REASONS

1. The appellant is a citizen of Uzbekistan. She was born on 25 February 1973. She is a convert to the Baptist church.

Immigration History

2. The appellant left Uzbekistan on 1 March 1996, flying direct to the United Kingdom where she was granted leave to enter as a student. On 23 July 1996 she applied for asylum. On 12 August 2004 (just over eight years later) the respondent refused to vary her leave to enter, having refused her asylum application. The appellant appealed and on 22 November 2004 an Adjudicator (Ms E G Elliman) dismissed the appeal on both asylum and human rights grounds.
3. The appellant submitted grounds in support of an application for permission to appeal and her application was refused by a Vice-President of the Immigration Appeal Tribunal on 24 February 2005. Further grounds were submitted in support of an application for statutory review and, on 26 April 2005, Wilkie J reversed the Vice-President's decision on two grounds. Firstly, he considered that the Adjudicator had misunderstood or misapplied some of the background evidence. Second, he considered that delay in the order of eight years was a matter which should be weighed in the balance against the maintenance of an effective immigration policy when considering Article 8 ECHR. The coming into force of the Asylum and Immigration (Treatment of Claimants etc) Act 2004 has resulted in the appeal being dealt with as a reconsideration.

In finding that the Immigration Judge had made an error of law the Tribunal said:

"The parties agreed that the Adjudicator had failed to take into account the issue of the excessive delay in deciding the application when assessing the Article 8 appeal.

We are also satisfied that the Adjudicator erred in law in her assessment of the asylum claim by failing to take into account the specific evidence adduced of the treatment of Christians in Uzbekistan as set out in grounds 7 b and c and ground 14 of the application for statutory review."

Grounds 7b and c (the Tribunal must have meant 8 b and c) refer to delay. Ground 14 refers to the treatment of Christians.

The Reconsideration Hearing

4. We started the hearing by discussing with the representatives the extent of the reconsideration. Both parties agreed that there had not been any attack on the Adjudicator's findings concerning the appellant's evidence as to her claim. The attack was in respect of the way in which she had applied those findings to the background evidence and in relation to the delay.

The Adjudicator's Findings and the Basis of the Appellant's Claim

5. The Adjudicator by no means accepted all of the appellant's evidence. She started her findings by saying that there was a significant part of the evidence to which she could attach no credence and no weight. However, she accepted that the appellant is a committed Baptist and that she and her husband converted "to Christianity" in 1995 when they married. The Adjudicator said it seemed likely that her mother-in-law may have encouraged their conversion because she herself was a Baptist convert. The appellant asserted that her husband's paternal relatives were opposed to the marriage "but their reasons remain unclear". The Adjudicator felt bound to assume the appellant's ethnicity (she is Russian) would not have been an issue for her father-in-law because his own first wife had similarly been a Russian. Thus the Adjudicator did not accept that ethnicity was a cause of the opposition despite that being asserted by the appellant. She did "accept it as possible" that their religious conversion may have been a cause.

6. For the sake of completeness we record a number of assertions that the Adjudicator did not accept. She did not accept that there was any link between problems that the appellant's father experienced, and her marriage. Similarly, she did not accept that there was any link between ill-treatment he had suffered and his death. The Adjudicator said there was nothing, other than assumption, in support of the claims that had been made about that. Similarly, while she accepted the appellant's sister Alla may have had some problems, there was no evidence to show that they were linked to the appellant's husband's family or that any harm was inflicted as a result of their interference. In making that observation she noted that the appellant's mother and Alla still lived in Tashkent and apparently practised their religion without interference. She said that there was no evidence to suggest that the death of the appellant's husband's grandmother was as a result of religious hatred. In rejecting those parts of the evidence the Adjudicator acknowledged that such things can be difficult to prove. She recognised that corroboration should not be looked upon as a necessity in asylum claims but observed that the appellant's fears and assumptions about the cause of problems were not supported by any evidence at all. She summarised her findings of fact by saying:-

"My findings ... are simply that she and her husband converted to Christianity and that his paternal family members were hostile to the marriage and the appellant but that his mother was instrumental in their conversion, having herself recently converted to Baptism (in the summer of 1995 ...). I accept the police visited the appellant in October 1995, seeking out her husband who was, at that time, liable for military service. I find the appellant's mother-in-law tried her best to assist her son and the appellant to leave Uzbekistan in March 1996 and that she took some advice from David Smith and that consequently the couple came over with a group of students and did not apply for asylum immediately. I find the appellant herself has a real subjective fear of some harm if she returns but the question is of whether she is, in fact, a refugee."

7. During the course of her findings the Adjudicator considered the appellant's own experiences in Uzbekistan prior to leaving. Having said that there was hostility to the appellant's marriage from her father-in-law, the Adjudicator recorded that the appellant said they married in secret. The Adjudicator then said that, on the evidence

before her, the appellant has not suffered any problems directly from her father-in-law or in any other way. The appellant said her husband's problems with the police were because he did not want to do his military service. The Adjudicator concluded that it was his liability for military service which was the most pressing reason for their desire to leave the country. Having said that, the Adjudicator did accept there had been some hostility from other individuals at the time of the appellant's baptism. She and her mother-in-law, who also gave evidence, referred to a group of people who watched the baptism and then threw stones. The Adjudicator found that was an unpleasant experience but that the level of harm was not such as to amount to persecution.

8. During her account of the evidence, the Adjudicator referred to the suggestion that the appellant's husband's father and grandfather were both involved with the KGB and were well-known for that (his grandfather was said at one time to have been Minister of the Interior). A statement in a letter from the appellant's mother-in-law, who is also Russian born and became a Baptist after visiting the United Kingdom in 1993, asserts that there is a fifteen year jail sentence for claiming asylum in another country. She apparently returned to Tashkent and was converted there in 1995, the week before the appellant and her own son. The letter, dated 2 July 2000, suggests that the appellant's mother-in-law moves between the United Kingdom and Uzbekistan. There was no finding by the Adjudicator about those matters.

The Appellant's Evidence

9. The appellant started by confirming that the contents of her three witness statements were true. The first was dated 10 November 2004 and was before the Adjudicator. The other two post-date the Adjudicator's hearing. The second is dated 29 May 2005 and refers to events involving the appellant's sister, Alla. In it the appellant said she was told by her mother-in-law, in a telephone call on 11 May 2005, that her sister had been arrested. It is not clear how her mother-in-law knew. She had been released by the time the appellant was able to speak to her mother in Uzbekistan. She said her sister told her that she had been enticed to a private home, but on arrival was grabbed by armed police officers who planted drugs on her. She was taken to a place where drug offenders were held. That concerned her because she had previously been to prison for ten years after the police planted drugs on her. (There is evidence elsewhere that her sister was sent to prison in 2002 for three years(paragraph 16 page 2)). At paragraph 9 of her statement the appellant said:-

"9. Both my mother and my sister were told by the police, that she would be released only if they paid the sum of \$1,000. My mother and sister told them they had no money. The police said they knew all about my sister, and that she had money.

10. They told my sister things they could only have learnt from her medical records at her doctor's surgery, and many other things that were entirely private. They said that they knew she went to church, and where the church met. They said they knew who her friends were, and where they lived."

10. Her sister was then taken to another building where there were more police and she was asked to provide sexual favours. She refused and her mother was told that the required bribe had risen from \$1,000 to \$2,500. Her mother raised the money that day and, upon payment, her sister was released. Her sister subsequently reported that she was being followed. The appellant concluded her statement by saying that, as a result of what happened to her sister, she was now terrified for her life and that if she were returned to Uzbekistan she believed that she would suffer imprisonment and physical and sexual abuse or even be killed by the KGB, as she said her father had been. She said that the fact she was a Christian, an ethnic Russian, and had been refused asylum in the United Kingdom, were all known by the police and her husband's family. For any of those things she could be killed or put into prison. She concluded her statement by saying that she was now estranged from her husband who was intending to return to Uzbekistan on the day she made the statement.
11. The third statement, dated 12 October 2006, was prepared to bring the Tribunal up to date with events in the appellant's life since the Adjudicator's hearing. She confirmed that she has two sisters. Her elder sister, Natasha, lives in Armenia with her Armenian husband and children. She is a non-practising Christian. The family moved to Armenia because of their Russian ethnicity, not because they were Christians.
12. Her other sister, Alla, is single and is now also in Armenia. The appellant's mother remains in Tashkent working in the appellant's former mother-in-law's office. She does practise her Christianity but in a private house. The appellant is now divorced from her husband.
13. The appellant attends the Salmon Lane Baptist church on Sundays, and Bible Study classes on Thursday evenings. She also attends services at a second church, in the East End. The latter is an evangelical congregation, in the Anglican tradition, which meets on a barge moored in the Thames. She gave an example of the way in which that pastor practises by saying he invites members of the local Bengali community to visit the church. He has created a prayer room, with a Koran, to allow them to pray there. This is in the hope that they will learn sufficient about the faith that they wish to be converted to Christianity.
14. The appellant said that she has made many friends through church activities. She has a particular friend, Eva, who lives nearby and is Swedish. Her pastor, David Smith, is also a close friend. She has a Philippino friend, Flor. She described other friends and says they help each other out a lot, for example if they are not well. She described her relationship with her neighbours and work colleagues. She described how she has been involved with the Salmon Lane football team for a year, as physiotherapist and first aider. She is registered as a part-time student at Birkbeck College and hopes to begin a law degree course next year. She is currently working at a laser clinic for skin therapy, and has been since 2001. She said that when she first started working she was permitted to do so but was told to stop after the Adjudicator dismissed her appeal. Notwithstanding, she decided to carry on. She quoted a Biblical reference as justification for that. She said that she did so because she would have no other way of supporting herself, and the flat which she is buying with a mortgage would be repossessed. She concluded the statement by saying that if she were returned to Uzbekistan she could not practise her faith as a Christian

openly because she would be in constant fear of being arrested and imprisoned. She would find it hard to get a proper job, because of her Russian ethnicity, as priority is given to Uzbeks. She said that her ex-husband is close to the regime but even he would not be able to help her if the regime wanted to prosecute her for remaining outside the country without permission for so long. She referred to the death of her ex-husband's grandmother (the asserted significance of this was rejected by the Adjudicator as not having any relevance to the claim). She concluded her statement by saying that she has now spent over ten years in the United Kingdom and, while she has no family here, she has friends in her church. They have become her family. She would lose everything and everybody that she has depended on throughout the ten years if she were returned.

15. The appellant gave oral evidence to us. She confirmed that when she left Uzbekistan both her sisters were living there. Alla left after her second arrest. Her elder sister, Natasha, left two years before that, in 2003. She said her father died two months after she got to the United Kingdom and her mother is still in Uzbekistan. Her mother is no longer going to church as it has been closed down. She said that since she arrived here her family is her church, and her friends in the church. Her pastor is more than a pastor. He cares about her and loves her like his own daughter.
16. Cross-examined, the appellant was first asked whether her sister, Alla, was a Baptist. The appellant gave a very careful but rambling answer, the effect of which was that her sister is a Christian but she could not say if she is a Baptist or is orthodox. She said her sister had been in jail for three years from 2002. She said that the reference in paragraph 9 of her statement to the police saying that they knew "all about my sister, and that she had money" was a reference to what they know about the appellant. There was a great deal of questioning about this, and in particular when it was that the police said they knew all about the appellant. It was not clear that the appellant understood the thrust of the question when it was put to her in English and for this part of the evidence the Russian interpreter was used. That did not particularly help and after questioning by Mr Deller, Mr Pievsky, and the panel, the evidence seemed to be that the police had said this to Alla when they arrested her in 2002, but Alla did not tell the appellant until she spoke to her in 2005.
17. The appellant said that before she left Uzbekistan she conducted her worship by going to church and by meeting with a few people who were Christians. That included her former mother-in-law, and a friend of hers, at the church where they used to go. Since she has been in the United Kingdom she has carried on the same way, but also has the freedom to speak about her faith. She was asked whether there was anything she would want to do in Uzbekistan that she couldn't. She said that pursuing her faith there would cause problems, and even just going to church would be a problem. She said that being a Christian requires her to present her faith and speak to others and that it is impossible to witness in Uzbekistan. She explained that by 'witness' she meant speaking about Jesus to people that don't know about him. In answer to a question from the panel she said that if she were to speak to Muslims about Christianity in Uzbekistan, as she did with the Bengali community in London, that would cause her problems. She would try speaking to them and invite them to the church but she would put herself in danger because she would not know what was in their minds.

The Appellant's Sister's Statement

18. Alla Makhova made a statement in Russian dated 9 October 2006 and we had a translation. In her statement she described how she was arrested in possession of drugs in February 2001. She said that they were planted on her in a taxi in which she was travelling home. As a result she spent three years in prison. She described her time there in graphic terms. Although she said she was mistreated, she was not raped, but did become ill and still suffers from gastritis. She described how she was released in February 2004 and arrested again for the same reason. That time she escaped prison because her mother paid a bribe. (The dates do not tie in with the appellant's evidence about this).

Evidence of Craig Murray

Statement

19. Mr Murray made a short witness statement, dated 31 August 2006. He started by saying that he joined the Foreign and Commonwealth Office ('FCO') in 1986, serving at various posts around the world and was appointed the British Ambassador to Uzbekistan in August 2002. He left there in October 2004 and left the FCO in February 2005. His witness statement is not sourced, although we acknowledge that the evidence he gave came substantially from his own experience during his own time in Uzbekistan. His evidence is quite different from that of the more academic form of expert who gathers information and collates it from third party sources. He concluded his statement by saying that virtually all international news organisations have been banned from Uzbekistan. In particular Reuters, the BBC, Associated Press and Agence France Press have had their offices closed by the Uzbek authorities. He said that independent sources of information are not readily available, either about the situation generally, or with specific reference to religious freedom and expression. He said that there are a number of organisations operating outside the country "which do a heroic job in getting information out, about what goes on there". He referred expressly to Forum 18, based in Oslo and Human Rights Watch, based in New York.
20. In his statement Mr Murray said that he estimates that there are 950,000 Christians in Uzbekistan, of which the overwhelming majority are Russian Orthodox. The number of Baptists is much smaller. Without saying why, he considered that Christianity is in decline in Uzbekistan. He said that there are churches in most parts of the country but they must be State-registered. It is forbidden to worship outside State-controlled and registered buildings. He said the Baptist Union of Uzbekistan is registered but is prevented from opening new churches or establishing new congregations by the registration procedure. He said there have been numerous incidences of churches and congregations being forcibly shut or closed down because they were not registered. He observed that the registration process gives the regime control over religious expression, including the stipulation of what should be preached.
21. As to religious expression, he said the regime's attitude towards that is unchanged since Soviet times. He said that there is some religious expression but "within very narrow limits and strictly regulated by law". He said it is forbidden outside State-controlled activity, because Uzbekistan is a "very totalitarian State" and any religious expression is considered suspect. He said that proselytising is illegal and, because this is a fundamental tenet of the Baptist faith, it is the law most frequently used against Baptists. He said that evangelical behaviour leads to conflict with the regime and brings severe consequences. He repeated his observation that Baptists who wished to establish new congregations, or lead services in places other than a State-registered building find that it is illegal and therefore subject to sanction. He said there is a proposed new law before Parliament which is intended to make it an offence to discuss religion at all outside a State-registered building. Perhaps cynically, he said that, as the Uzbek Parliament only meets twelve days a year and has never refused to pass any Bill (no Bill ever having been introduced other than by the regime), he is confident the new law will come into force.

22. Dealing with the consequences of breaching the laws on religious expression, he said that it is easy to breach the laws, even unwittingly. Any individuals found in breach would not normally go through the established court procedure and, even if they did, the courts are not independent and do not represent the rule of law as understood in the West. He described the police as venal and an instrument of repression used by the regime against those it perceives to be a threat. He said that contravention, by an individual, of the laws on religious expression is more likely to lead to blackmail than to being brought before a court. He said that assaults and beatings by the police were common, as is “sexual blackmail” against women. He acknowledged that there have been some recorded cases of Baptists being fined or imprisoned for proselytising, but he still considered that most would not go to court. He said that, “rape by the police happens all the time to women”, particularly those who are in breach of the law including that on religious expression. He said women are vulnerable to false accusations. He referred to this being well documented in his own book “Murder in Samarkand”. Although he made reference to this book, it was not produced in evidence.
23. Mr Murray then dealt with the risks to the appellant on return to Uzbekistan. He said that as a female Baptist “she *would* be the target for sexual assault and rape” (our emphasis) as has happened to other female Baptists. The very fact of being a female Baptist, he said, would be the justification for serious sexual assault, irrespective of whether there had been an actual breach of the law on religious expression.
24. He also said that someone who had been out of the country for as long as the appellant (just over 10½ years), without valid reason, would inevitably be the subject of grave suspicion. He said that as Uzbekistan is a very effective totalitarian State, which has sophisticated instruments of regulation and control, there is no prospect of being able to slip quietly back into the country. He described a computerised entry system at the airport with a permanent secret police presence. He said anyone who arouses the authorities’ interest is immediately referred to them. The appellant’s arrival would be noted and she would be suspected because she had not kept in contact with the Uzbekistan Embassy in London. He also said that, even if she were able to get through the airport, her arrival in any particular area would come to the attention of the equivalent of a Parish Council (the Makhalla Committee). He said that, unlike Parish Councils in the United Kingdom, they are anything but benign even though they have a similar administrative status within the State. They are an example of an official agency of control which regularly reports to the regime any activity by residents that is considered to be suspicious. He said the appellant would find herself the subject of a report by the Makhalla Committee which would lead to her being picked up by the police, with the consequences that he described earlier. He did not suggest what, if anything, she would need to do in order to draw herself to the attention of the Makhalla Committee other than moving to the area.

Craig Murray -Oral Evidence

25. Mr Murray said that, of the 950,000 Christians, he estimated that 10,000 to 20,000 were Baptists. There is a difference between the way the Baptists and the Russian Orthodox are treated. He said there was some harassment of Russian Orthodox Christians, but not so intensely. He would not regard them as being in danger simply

for being members of the Russian Orthodox church. He said there were many documented cases of difficulty for Baptists, and for Jehovah's Witnesses. There are 10,000 Jehovah's Witnesses in Uzbekistan and they suffer a great deal of persecution. He said that, in general, it is evangelising Protestants who experience difficulty because their religion is new to the country, whereas the Russian Orthodox religion was there before the bulk of the laws were established. He described the State as being very wary of any independent thought. Any religious teaching, or any ethical code superseding the State, is not acceptable in a truly totalitarian society.

26. Speaking about the appellant being the subject of grave suspicion on return because she had been out of the country, Mr Murray said that Uzbekistan has an exit visa system. The appellant would have needed a visa and permission to leave. She would have not been permitted to remain outside the country longer than the secret police allowed. All passports expire when the holder reaches 21. In general, Uzbek Embassies abroad do not issue new passports because, by not doing so, they can force people to return home. Failing to return is viewed as anti-regime. He said that he knew of two people who were deported from Germany who were seriously mistreated and imprisoned on return. He was not able to say anything about deportees from the United Kingdom because, he said, the United Kingdom has never returned anybody. Mr Pievsky asked Mr Murray the source of his assertions about the mistreatment of women. He said that he had spoken to the victims themselves, he had taken into account the conditions in Uzbekistan, and the views of the United Nations Special Rapporteur. He said there was no independence of the judiciary, and 99% of criminal cases end in a guilty verdict. He said the majority of people who are picked up by the police do not even go to court, and that Baptists are more than likely to be beaten, sexually abused and forced to pay bribes. He said there is no working criminal system, the police are venal and there is prominent sexual abuse of women. He said that the account given by the appellant's sister was entirely credible and typical of other accounts he had heard. He was surprised that, although she had suffered sexual abuse and was beaten and humiliated, she was not raped. He said she should be grateful for that. He said that the planting of narcotics is a routine procedure with people that the police wish to persecute, such as politicians and Christians. Mr Murray said that his own partner had suffered from having narcotics planted on her.
27. Mr Murray said that references in Home Office documents to Uzbek refugees in America are to a number (many hundreds) who fled after an incident in May 2005 known as the Andijan (also referred to as Andizhan) massacre, when 500 to 600 people were killed. He said that a large group of people fled and ended up in Idaho. A great deal of pressure was put on their families in Uzbekistan to get them to return. He said the human rights situation has got worse and that Freedom House rates Uzbekistan as among the worst three regimes in the world in that respect.
28. Cross-examined, Mr Murray said that Uzbekistan separated from the Soviet Union in 1991 but is run by essentially the same regime now, as it was in Soviet times. For example, the President is the same person.
29. Asked how the Protestant evangelical churches got a foothold, Mr Murray said that the early nineties were a period of apparent liberalisation in economic and religious terms and they were able to establish themselves then. The Russian Orthodox and

Roman Catholic churches are longer established. Asked why they should be left alone, given the distrust of independent thought in a totalitarian State which seems to regard the manifestation of beliefs as so concerning, Mr Murray said they adopt a “quietest” course and take care not to upset the regime. They do not proselytise. He was not saying there is no antagonism, but in general being a member of the Roman Catholic or Russian Orthodox church would not produce a fear of persecution.

30. Mr Murray said the current exit visa system is similar to that which was in force in 1996 and is effectively unchanged since Soviet times. He was asked what it was that would give rise to the authorities being suspicious of the appellant if she were to return. He said that having been illegally out of the country was in itself a crime and would be considered as showing that the appellant was not a good patriot.
31. Mr Murray was asked about the targeting of family members. He said it was common for pressure to be applied in that way. He gave the example of the Rector of the University of Samarkand who was dismissed in a purge of ethnic Tajiks in 2003. He said that many students demonstrated about the dismissal and within days their parents were all sacked from their jobs. He described this as a capricious attack on family members which was typical of State control. He said that, on the other hand, there were baffling times when it does not happen. He is fearful for his own partner’s family because she is living with him and he has written a book about the regime. He said that, in such a capricious state, persecution of families as punishment happens a lot. He said that this is more likely to happen to politicians than because of religion, but seldom happens in respect of criminal activity. He said that being a Baptist, or a Jehovah’s Witness, was considered the equivalent of political dissent.
32. He was asked how he knew about the two asylum seekers from Germany. He said that in 2001 a Swedish delegation had visited Uzbekistan to see whether it was possible for them to return failed asylum seekers. He, and the German Ambassador, held a meeting with the delegation (he explained the Swedes have no embassy in Uzbekistan). He was told about the two by the German Ambassador. He was told that one of them was still in jail two years later. The other had been beaten and released. He had no details about why two were returned. There was some discussion about the Andijan refugees in America, and what had happened to give rise to their flight. Mr Murray said there had been a confused situation which seemed to have been caused by the arrest of twenty businessmen charged with Islamist extremism. The grievances were then expressed because of high utility prices, the closure of the borders, and high unemployment. He explained that Andijan relies on cross border trade. He said the expression of the grievances gave rise to the shooting of people which went on for 2 or 3 days. People fled because of the immediate risk to life. He regarded the recent situation in Uzbekistan as a deteriorating one, following a revolution in Georgia. He said the regime decided that the best way to avoid a similar thing happening in Uzbekistan was to crack down even harder. The situation generally has been deteriorating since 2001. He considered that the Andijan massacre was a sufficiently serious even that it could have led to a revolution.
33. Asked why the Government did not just make the religions they did not like illegal, Mr Murray said there was a reluctance to go back on legislation that had been passed, but he did not rule out the possibility. He said the Government is making it very

difficult for Baptist churches to operate. He had met a Baptist minister in Uzbekistan who said the religion is growing, but Mr Murray thinks he is wrong. He said the new Bill, which provides for a ban on the discussion of religious views outside church buildings, has not yet been published as law. It has been published as a Bill, but as no Government Bill was voted on between 2000 and 2004, and on occasions Parliament does not appear to have known that it has voted a bill through, he did not think there was any doubt that it would become law. The driving force behind the Bill is the Ministry of the Interior, and it is primarily targeted at Islam. He said Islam is the predominant religion which the authorities are keen to keep within State-controlled places of worship. Mr Deller asked him why, if the measures were primarily against fundamentalist Islam, he thought that the law would in practice be used against minority Christian faiths. Mr Murray said that almost any law that could be used for harassment and extortion, would be. He said it was something else with which to blackmail Baptists. That also happens with generic criminal activity because the police are more interested in extorting money than bringing people to court.

34. He was asked about Uzbekistan's standing and its alliances. Mr Murray said the omens are poor. Uzbekistan had an alliance with the United States which used to have an airbase there. Last year it switched its allegiance to concentrate on Russia and China. He said this was partly motivated by gas contracts, but also because of US pressure about human rights issues. In relation to the banning of news organisations, and general hostility to human rights organisations, Mr Murray said there was no hope on the horizon. The country has expelled NGOs which were involved in development and relief work; more than a hundred had been asked to leave including the Peace Corps.
35. Mr Murray said that most of his information comes from first hand dealings with Uzbeks. Whilst Ambassador, he did a great deal of talking and has been able to continue many of his contacts in private life. He said that Human Rights Watch have their own people in Uzbekistan but getting information is not easy. Information has to be smuggled out.
36. In re-examination Mr Pievsky referred to two laws which had recently been introduced. They are referred to in the US Department of State "International Religious Freedom Report 2006: Uzbekistan", published on 15 September 2006. One, passed in December 2005, increased the fines for repeat offences or violations of the law on religious activities such as illegal meetings, processions and ceremonies. The second, passed in June 2006, was to punish illegal production, storage, import or distribution of materials of religious content. Mr Murray said that neither of those were the Bill he had referred to, which was a yet further provision.
37. In answer to questions from the panel, Mr Murray said that the population of Uzbekistan is said to be 27 million but he thinks that it is 22 million. He said that more than 20 million are Muslims. Whilst the majority of people would describe themselves as Muslim, he said that, out of more than 100 of his friends, he only knows one who does not drink vodka. He described it as a local form of Islam.
38. Mr Murray said, in part 7 of his report (it does not have paragraph numbers), that the appellant *would* be the target for sexual assault and rape, being a female Baptist. It was put to him that this implied a near certainty. He said he did not mean to say that

all female Baptists are sexually assaulted, but that being returned after a long absence the appellant almost certainly would be. She would be likely to be. He commented that when an attractive woman is seen by the police they will find an excuse. It was put to him that many of the police would feel that this was morally wrong, to which he responded that there may be a few who think that way but in general they are extraordinarily venal. He referred to the UN Special Rapporteur on torture and his 2002/3 report in which he said they found torture was widespread and systematic. He said "If you have not been there, it is difficult to understand how widespread and common it is".

39. Mr Murray was asked whether there were circumstances when a passport would be renewed out of country and he said that if a person was closely connected to the regime anything is possible, but he or she would need to be very well connected. Embassies have the ability to do it and, for example, sons and daughters of ministers who are here as students would have their passports renewed. He did not think a person's religion is shown on the passport, although ethnicity is. It was also put to him that the law seems to give a right to practise one's religion within the confines of premises, and that if one practised one's religion quietly there would be no problems. Mr Murray said that is not necessarily so. He said there have been recent cases of beatings of Baptists who were not proselytising. Behaving lawfully is not necessarily a protection from the authorities. He said that when he lived in Uzbekistan there was a registered Baptist church at the bottom of the Residence garden but it was still frequently raided. He said the expression "discussion of religion" is a quotation from the Minister of the Interior, who introduced the Bill.
40. Mr Murray acknowledged that his departure from the FCO was "angry". He said he does not now get any information directly from the FCO to keep him up to date. He said it is dangerous to telephone, but he gets a lot of email information from Uzbekistan. He said he is regarded as an expert and was recently the keynote speaker at a Central Eurasian Studies conference in Michigan. He said that is an organisation of American Professors who study Central Asia. The fact he was invited as a keynote speaker was an acceptance of his continuing expertise. He said he had recently had a meeting with an Uzbek opposition leader (Mohammed Salih), who is in exile and normally to be found in Turkey. He occasionally meets members of the current regime privately in London. He continues to develop, and keep up his contacts, in order to campaign. Asked whether the reference to 'campaign' suggested he had an agenda and may not be entirely objective, he said "I am a strong believer in human rights". Asked why members of the regime may be speaking to him, in view of his book and his attitude, he said that things may change and those people realise that is possible. Other regimes have been toppled. He said that many Uzbeks accept him as a good-hearted, friendly, party through whom they can communicate with each other. He gave as an example a leader of the Sunshine Coalition who is now in prison in Uzbekistan and whose treatment has been subject to complaint. Ten months ago Mr Murray had dinner with him in Washington, the day before he returned to Uzbekistan. The man had been trying to broker agreements on a reform agenda and Mr Murray had been involved in trying to facilitate agreement. Finally, he said that when he and the British Government parted company and ended their relationship the FCO took great care to say that they do not have any disagreement with Mr Murray's views on human rights. He said the Secretary of State said as much in Parliament.

Objective Evidence - General

41. Both before us, and the Adjudicator, the appellant produced a substantial amount of documentation. In addition, the respondent produced a bundle. We indicated that we expected the parties to expressly refer to those parts of the bundles upon which they relied either in submissions or, in the appellant's case, in his skeleton argument. We did not wish either party to later criticise this determination on the basis that we had omitted to deal with a significant piece of evidence to which we had not been expressly referred.

The Appellant's Objective Evidence

42. The Human Rights Watch World Report 2006 starts by saying that Uzbekistan's disastrous human rights record worsened further in 2005 after a Government massacre of demonstrators in Andijan in May 2005. It said this:-

"The Government committed major violations of the rights to freedom of religion, expression, association, and assembly, and such abuses only increased after the May massacre. Uzbekistan has no independent judiciary, and torture is widespread in both pre-trial and post-conviction facilities. The Government continues its practice of controlling, intimidating, and arbitrarily suspending or interfering with the work of civil society groups, the media, human rights activists, and opposition political parties. In particular, repression against independent journalists, human rights defenders, and opposition members increased this year. Government declarations of human rights reform, such as an announcement that the Government will abolish the death penalty and the President's declaration of support for Habeas Corpus, had no practical impact."

Under the heading "Religious Persecution" Human Rights Watch said:-

"For years the Government has imprisoned on "fundamentalism" charges individuals whose peaceful Islamic beliefs, practices, and affiliations fell outside strict government controls. Approximately 7,000 people are believed to have been imprisoned since the Government's campaign against independent Islam began in the mid-1990s. The Government justifies this campaign by referring to the "war on terror," failing to distinguish between those who advocate violence and those who peacefully express their religious beliefs; it used the May 2005 events in Andijan to give new validation to the campaign. By November, Human Rights Watch had documented 194 religious believers convicted in 2005 with at least 69 more awaiting trial; the true numbers are believed to be much higher.

Conditions in Uzbekistan's prisons are poor, and religious and political prisoners suffer particularly harsh treatment. According to testimony by relatives, prisoners are forced to sign statements begging President Islam Karimov for forgiveness, renouncing their faith, and incriminating themselves as terrorists. Prisoners who refuse are punished with beatings, time in punishment cells, and even new criminal prosecutions."

The report said that the Government has made no visible progress on ending the use of torture. Human Rights Watch received credible allegations of torture during investigations in pre-trial custody as well as in prisons and reports that police use torture and other illegal means to coerce statements and confessions from detainees. Defence lawyers are prevented from visiting clients, which would be a safeguard against torture in pre-trial detention. Courts ignore claims that confessions were obtained under torture and accept the confessions into evidence. In trials of religious believers, defendants are routinely sentenced to long prison terms based solely or predominantly on such confessions.

43. Earlier, in October 2003, Human Rights Watch wrote an open letter to the United States Commission on International Religious Freedom asking that Uzbekistan (and Turkmenistan) should be designated 'countries of particular concern' under the terms of the International Religious Freedom Act. The letter gives two pages of reasoning in relation to Uzbekistan. The bulk of the reasoning dealt with the Government's treatment of Muslims who practised Islam outside Government-controlled institutions. It discussed Muslims who have peacefully expressed their religious beliefs and who, as a result, are tortured and ill-treated. It dealt with a number of individuals who have been seriously mistreated in prison as a result of their religious beliefs and activities and to the extent that those who may associate with religious prisoners are also punished. There was reference to an individual who died in pre-trial custody, apparently from torture, after being detained by the National Security Service some days earlier on suspicion of belonging to a banned, but non-violent, Islamic organisation. The last third of the second page dealt with minority religions and referred to seven occasions on which Christian groups were prevented from gathering due to police raids; three members of Christian groups who were fined for religious activity; two Christian groups who were denied registration; two Christians who were detained, one being beaten; and seven Christians who were imprisoned, six for leading or attending religious gatherings at private homes and one for inciting religious hatred. No distinction was drawn between different Christian denominations. Finally, the report dealt with Hare Krishnas who had been fined, prevented from gathering and had their literature confiscated. They are said to fear wearing saris due to the ban on religious dress.

US Department of State, Country Reports of Human Rights Practises 2005: Uzbekistan (Published 8.3.2006)

44. This report started by saying "The Government's human rights record, already poor, worsened considerably during the year". It referred to routine and systematic torture and abuse of detainees by the security forces, restricted freedom of assembly and association and blocked registration of any religious congregations, societal discrimination against ethnic Uzbek Christians, persistent societal discrimination against women. At page 25 of 26 it is said that the law prohibits employment and discrimination on the basis of ethnicity or national origin and said, "*However, Russians and other minorities frequently complained about limited job opportunities. Senior positions in the Government, bureaucracy and business generally were reserved for ethnic Uzbeks, although there were numerous exceptions*". It described the population as being mainly Uzbek but with significant numbers of Russians, Tajiks, Tartars and Kazakhs, together with ethnic Koreans, Meskhetian Turks and Germans. The report referred to an increase in arbitrary arrest and detention,

sometimes on falsified charges during the course of the previous year. It referred to routine and systematic torture, beatings and other mistreatment of detainees to obtain confessions and a continuing insufficient protection against arbitrary arrest and detention which often takes place in order to extort bribes. On page 4 of the report it said "As in previous years, there are reports that police beat Jehovah's Witnesses". At page 15, under the heading "Freedom of Religion", the report said this:

"While the law provides for freedom of religion and separation of church and State, in practice the Government restricted religious activity. The law treats all religious groups equally; however, the Government supported the country's Muslim heritage by funding an Islamic university and providing logistical support for citizens' participation in the Hajj. The Government sought to promote what it considered a moderate version of Islam through the control and financing of the Muslim Board of Uzbekistan (the Muftiate), which in turn controls the Islamic hierarchy, the content of imams' sermons, and published Islamic materials. A small number of unofficial, independent mosques were allowed to operate under the watch of official imams.

The law requires all religious groups and congregations to register and provides strict and burdensome registration criteria, including a requirement that each group present a list of at least 100 national citizen members to the local branches of the Ministry of Justice. This and numerous other provisions, such as a requirement that a congregation already have a valid legal address, enabled the Government to find technical grounds for denying a group's registration petition, such as grammatical errors in a group's charter. This suppressed the activities of Muslims who sought to worship outside the system of State-sponsored mosques, as well as members of unregistered Christian churches and other groups.

Any religious service conducted by an unregistered religious organisation is illegal. Police occasionally broke up meetings of unregistered groups. Members of some Christian evangelical congregations were detained during the year and occasionally beaten by authorities. Religious groups are prohibited from forming political parties and social movements."

There was reference to 125 members of an unregistered Baptist church in Surkhandarya province being detained and questioned and to two Baptist pastors, and four church members, being arrested after a raid on their church in Tashkent in June 2005. On page 16 there is a paragraph setting out the difficulties in registration. It said the number of registered religious congregations increased by 32 to 2,201 of which 2,016 were Muslim (i.e. 185 were not). It said that local authorities continued to block the registration, or re-registration, of evangelical Christian congregations in six provinces and that registration was denied to the Pentecostal church in Chirchiq. The Emmanuel church in Nukus, the only registered Protestant church in the city, was deregistered. A Protestant non-denominational church ministering to the international community has been unable to obtain registration for several years, at least in part because it could not meet the legal requirement for a minimum of 100 members who are citizens of the country. Out of eleven Jehovah's Witnesses churches in the country, only two are registered. It is said that police routinely question, search and arbitrarily fine individual Jehovah's Witnesses throughout the

country. Their meetings were disrupted during the year and 200 church members arrested, although most were released soon afterwards. The report says that the overwhelming majority of those arrested were suspected HT members [HT is a banned extremist Islamist political organisation called Hizb-ut-Tahrir] but the Government also arrested members of Tabligh, an Islamic group with origins in South Asia. Others arrested were those who the Government broadly labelled 'Wahhabi'. It reported that prisoners suspected of Islamic extremism are not allowed to practise their religion freely in prison, and not allowed a Koran.

45. At page 17 of the report it is said that Christians who tried to convert Muslims, or who had among their congregation members of traditionally Muslim ethnic groups, often faced official harassment, legal action or, in some cases, mistreatment. There was reference to a number of Jehovah's Witnesses who have been arrested and fined large sums for proselytising and disseminating literature. There was reference to the police staging raids on unregistered Christian congregations on Good Friday. There was reference to police confiscating over 1,000 officially approved religious booklets from Baptists who belonged to an unregistered congregation in Tashkent on March 6. The report said that seven members were detained and questioned for six hours before being released. The Government provides a State religious censor who has to approve all religious literature and, whilst discouragement and official blocking of the production or import of Christian literature in the Uzbek language occurs, Bibles are available in many other languages. The Government has taken no action on an OSCE Expert Panel Report in 2003 which recommended lifting the bans on proselytising and private religious instruction.

US Department of State "International Religious Freedom Report 2006: Uzbekistan (Published 15.9.2006)

46. This report said that there was a decline in the status of religious freedom during the period covered by the report and that a number of minority religious groups "including congregations of a variety of Christian denominations" had difficulty in satisfying the strict registration requirements. It said that Protestant groups with ethnic Uzbek members reported operating in a climate of harassment and fear. However, it also went on to say:-

"The Government continued its campaign against unauthorized Islamic groups suspected of extremist sentiments or activities, arresting numerous alleged members of these groups and sentencing them to lengthy jail terms."

It also said,

"The Government generally did not interfere with worshippers attending sanctioned mosques and granted approvals for new Islamic print, audio, and video materials. A small but growing number of underground mosques operated under the close scrutiny of religious authorities and the security services."

The report said,

"The generally tolerant relationship among religious groups in society contributed to religious freedom; however, neighbours, family, and employers

often continued to pressure ethnic Uzbek Christians, especially recent converts and residents of smaller communities.”

Under the heading “Status of Religious Freedom” there was reference to the legal equality of religious denominations and the Government’s support for the country’s Muslim heritage, as was referred to in the main US State Department report. There was reference to the two new legal provisions, to which Mr Murray referred, and the requirement for registration and a minimum number of citizen members. The report said that, at 30 June 2006, there were 182 registered minority religious groups, which included 59 Korean Christians, 36 Russian Orthodox, 23 Baptist, 21 Pentecostal (“Full Gospel”), 10 Seventh Day Adventist, 8 Jewish, 5 Roman Catholic, 6 Baha’i, 3 Lutheran, 4 “New Apostolic”, 2 Jehovah’s Witnesses, 1 Krishna Consciousness group, 1 Temple of Buddah, 1 Christian “Voice of God” church and 1 Armenian Apostolic.

47. There was reference, at page 16 of the report, to a court in Karakalpakstan rejecting an appeal by the Emmanuel church of Nukus to overturn an earlier Ministry of Justice decision to close the church. It was said that among the reasons was a charge that the church members were promoting Christianity to children without their parents’ permission. There had at one time been approximately twenty Protestant churches in that region and this was the last to close. The same paragraph says that local authorities continue to pressure Baptist churches associated with the International Council of Churches of Evangelical Christians/Baptists, a denomination that rejects registration on principle. The local authorities were said to demand the registration of their congregations.
48. We were particularly taken to an account of an event in June 2005 when 24 Gospel Pentecostal church members in Tashkent were taken into custody, and several credible media outlets reported that they were verbally and physically abused, threatened with rape and interrogated for several days. This was said to be under the guise of the investigation of the murder of an American citizen who belonged to the church. Government authorities harassed church members for allowing ethnic Uzbeks into their congregation. The report referred to some 160 congregants from the former Emmanuel Full Gospel church in Nukus who were celebrating Easter in a local hotel when 50 policemen stormed the premises and arrested eight of them, including the pastor. Many of the congregation including children, were threatened into signing statements renouncing their faith and after hours of questioning the church members were released without charge or fine. The caretaker of the same church in Nukus was attacked by the police. He was beaten, and his arm broken, in an attempt to intimidate the leaders of the church into relinquishing the property to the Government.
49. In April 2006 there were co-ordinated raids on the homes of Jehovah’s Witnesses on their holy day. 500 people or more were detained. Some were beaten, and women threatened with rape. Most were released within a day. A pastor in Andijan went into hiding in 2006 for fear of arrest. It is said that he faces between ten and twenty years in prison if found guilty of treason charges. No further details were given. Mr Pievsky drew our attention to the references to Baptists who worship privately being told they are breaking the law, imprisoned and fined; to Baptist copies of religious texts in the

Uzbek language being confiscated, and to members of any unregistered church being liable to detention.

International Helsinki Federation for Human Rights

50. The International Helsinki Federation for Human Rights report, "Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2006 (Events of 2005): Uzbekistan", was published on 1 May 2006. It agreed with the reports we have already referred to that the human rights situation deteriorated in 2005. It referred to the Andijan massacre and its aftermath. It referred to a massive crackdown, following years of repression of opposition and civil society. It said this could be seen in the context of recent political upheavals in Kyrgyzstan, Ukraine and Georgia which have put the Karimof administration in fear of a broad democratic movement developing in Uzbekistan. US/Uzbek relations have cooled and the US has been requested to withdraw its troops from the country. The European Union imposed sanctions on Uzbekistan, apparently arising out of the Andijan massacre. The report referred to little progress being made in combating torture and ill-treatment by law enforcement officials and described the practice as widespread. In relation to freedom of religion and religious tolerance the report said that:

"As in previous years, minority religious communities faced repression such as raids, interrogation and fines and some reports indicated the situation worsened in the aftermath of the Andijan events. Among others, Protestants and Jehovah's Witnesses communities reported growing harassment during the second half of the year."

There was reference to three Jehovah's Witnesses being convicted and heavily fined. They were found guilty of attending meetings at an unregistered religious organisation. The section also indicated that the Government is continuing a long-standing campaign against independent Muslims and has imprisoned thousands of Muslims who practise their faith outside State-controlled institutions. It said that the Government does not make any distinction between those who advocate violent methods, and those who peacefully express their views.

Annual Report of the United States Commission on International Religious Freedom, May 2006

51. This report has a section on Uzbekistan which started by saying that fundamental human rights, including the freedom of religion or belief, had been under assault since independence in 1992. It referred to the restrictive laws on religion, severely limiting the ability of religious communities to function, in order to facilitate the Uzbek Government's exercise of a high degree of control over religious communities, as well as the approved manner in which the Islamic religion is practised. It referred to continuing crackdowns on Muslim individuals, groups and mosques that do not conform to Government prescribed practices. That has resulted in the imprisonment of thousands of people. It noted that torture continues to be widespread and that in 2003 the UN's special rapporteur on torture concluded that torture or similar ill-treatment is systematic and the pervasive, persistent nature of torture throughout the investigative process cannot be denied. It said that, even after the publication of that report, a reliance on the use of torture has not significantly decreased. In Mr

Pievsky's skeleton he referred to that part of the report which said that local authorities continue to block the registration or re-registration of numerous Protestant Christian congregations in the country and, that arrest of Protestants have occurred, along with detention in psychiatric hospitals, severe beatings, sentences to labour camps, raids on churches, interrupted services and confiscated Bibles. In so doing he did not refer to the several paragraphs about the difficulties faced by various Muslim denominations including Wahhabi and Hizb-ut-Tahrir, including, on page 173:-

"As with Muslims, members of Protestant and other minority religious groups have been arrested, sometimes on spurious drug or other charges."

There was reference to the Government modifying the country's criminal and administrative codes to introduce heavier fines for repeated violations of rules on religious meetings in December 2005. The Commission recommended that Uzbekistan be named as 'a country of particular concern' because of its severe violations of religious freedom which were described as systematic, ongoing and egregious. The previous year Uzbekistan was only on a watch list. The recommendation that Uzbekistan be regarded as of particular concern ties in with the Keston Institute submission to the United Nations Committee Against Torture (undated). The Keston Institute, based in Oxford, was founded to defend religious liberty in post-Communist and Communist countries. In its submission it referred to a number of case histories. The first has already been referred to earlier. The pastor of the Full Gospel Church in Nukus was arrested in 1999; books were confiscated. He was arrested with two church colleagues and all were arrested, tied up, beaten on the soles of their feet and deprived of food for three days. On an earlier occasion he had been forcibly detained in a psychiatric hospital, in 1997. He was reportedly in receipt of death threats and, in September 1997, sentenced to two years forced labour for holding unsanctioned meetings (but in fact was allowed to live at home). Second the pastor of the Full Gospel Church in Bukhara was arrested in 1999 and sentenced to five years in prison on drugs charges and for spreading extremist propaganda. He claims the drugs were planted on him. Third, the pastor of the Full Gospel Church in Tashkent was arrested and sentenced in 1999 by a district court to one year in prison on charges of missionary activity. The report notes his church has repeatedly been denied official registration. Fourth, the police raided an unregistered church, the Baptist congregation in Karshi, where they detained, beat and imprisoned many of the congregants including women and teenagers. Maltreatment was reported.

International Christian Concern Country Report, July 2003

52. This report notes that missionary activity and proselytising are illegal and says that raids and prosecutions of Christians were common between 1998 and 2003. It mentions Adventist Christians going on trial in Karakalpakstan in July 2002. In March 2003, it is said that Christian groups in the same region were being forced to meet secretly due to increasing pressure on the non-Muslim community. There is a report in December 2002 of two Pentecostal Christians being taken into custody and tortured by police in an attempt to get them to confess to studying the Bible together. The organisation, International Christian Concern, is (from its name) clearly a

Christian organisation. It does not deal with difficulties faced by other religious minorities.

Christian Science Monitor

53. The Monitor, in November 2003, reported the President of the International Religious Freedom Watch (based in Virginia) as saying that, for evangelical Protestants in particular, life has recently been getting worse. It then referred to a number of incidents such as a judge ordering the burning of 211 copies of a Baptist magazine confiscated by customs officials, ten Baptist women being detained overnight accused of Wahhabism and reports of attempts to suppress independent Protestant churches. This report started by saying, "This is not a good time to be a Protestant Christian or a devout Muslim in Uzbekistan". It also referred to the official Uzbek view that "Harsh policies are necessary to prevent the country from being taken over by Muslim fanatics".

Stop Violence Against Women, 28 January 2004

54. This organisation, based in Minnesota, reports on the women of Uzbekistan's ethnic minority groups who, it says, experience shared particular hardships, with ethnic Russians combating lingering anti-Russian sentiment. It says that ethnic Russians are experiencing official discrimination, such as restrictions on Russian political parties, refusal to grant dual citizenship and the refusal to grant official language status to the Russian language. It suggests that ethnic Russians have limited access to Government and private sector jobs and that some have responded by relying on Moscow to pressure Uzbekistan or by emigrating to Russia. The report says that ethnic minorities who are also Muslim have suffered under the Government's brutal crackdown which began in 1997. It sets out a number of ways in which that manifests itself, including the expulsion of students wearing Islamic attire, girls wearing the hijab and Soviet style hate rallies at which neighbours are assembled to denounce such Muslim women and mothers as 'enemies of the people'.

Worldnet Daily, July 1 2005

55. This report, which concluded by saying "for regular updates on the persecuted church, sign up for Voice of the Martyrs free monthly newsletter", describes the author as a "freelance writer and founder and director of Joy Junction, New Mexico's largest emergency homeless centre". It deals with a member of a Pentecostal church in Tashkent who was allegedly tortured in police custody. He was a 19 year old, tortured by both police officers and cell mates, in an attempt to pressure him to abandon his Christian faith. He underwent several beatings, suffering broken ribs, and had needles inserted under his fingernails for twelve days. He had been arrested, and accused of the murder of a US citizen who worked the Pentecostal church in Tashkent. It is said that a Tashkent pastor, and another church member, had earlier been similarly treated. It seems that although the 19 year old was originally arrested on suspicion of murder, his problems arose once the authorities discovered he was a Christian.

Assist News Service, Tuesday December 30 2005

56. This service is run by “Gospel for Asia”, a missionary organisation based in California. In December it reported that there has been an increase in the physical and psychological violence against Christians in order to force them to renounce their faith. The article concluded by saying that an estimated 200 million Christians worldwide suffer interrogation, arrest and even death for their faith in Christ, with another 200 to 400 million facing discrimination and alienation.

Human Rights Without Frontiers

57. This organisation produced a chronology of events from January to June 2006 which refers to the beating of a pastor in Andijan in December 2005 and the breaking of the arm of the church caretaker, (referred to in the US State Department report and elsewhere), on 30 April 2006. It also set out a number of other incidents of a similar nature. Nothing is said about the nature of the organisation.

Ferghana.ru Information Agency Article, 30 August 2006

58. A brief item reports the police breaking up an evangelical seminar in Termez. It is said that some of those arrested were soon released, but six left in detention including a Ukrainian who was on a visit to Uzbekistan. The source of the information is said to be the “Christian Megaportal in Uzbekistan”.

The Barnabas Fund

59. The Barnabas Fund UK had an item on the internet dated 1 September 2006. This brief report also referred to the Ukrainian national who was detained. It also referred to “a well-known church leader and evangelist, Sergui Hripunof” who was given a week to leave the country with his wife and children. The report said this is the second incident of the deportation of a church leader from Uzbekistan in a month. It did not give the nationality of Mr Hripunof but, as he has been deported, he is presumably not an Uzbek. The report also dealt with the increase in fines for unregistered religious activity, and referred to an incident in August when a group of Uzbek Christians were arrested in Surkhandarya. The item did not say anything about the Barnabas Fund but concludes with a request for prayers and support for Uzbek Christians. It attributed the increase in anti-Christian activity to the fifteenth anniversary of Uzbekistan’s independence on 1 September.

Bosnews Life – 3 September 2006

60. This report, from an organisation about which nothing is known save that it is based in Budapest, was found on a website called www.Christianpersecution.info. It refers to the deterioration reported by the Barnabas Fund in relation to 1 September celebrations of Uzbekistan’s independence. It also referred to the deportation of Sergui Hripunof and the increased fines for unregistered religious activity. A later report (11 September 2006) from the same source, reported the release of six men who had been detained around 1 September, including a Ukrainian national on holiday. It said that other Christians arrested at the same time, including some

women and children, had been beaten before they were released and that some of the women had been sexually abused. It said that this is “the first report of this in modern church history in Uzbekistan”. It also said that two of the men had received burns to their skin, having had their hands and feet held in buckets of quicklime. The report also dealt with the deportation of Victoria Khripunova of “Tashkent embattled Bethany Baptist church” on 5 September. The report also said:-

“It comes as Western diplomats are seeking to re-establish relations with Uzbekistan and its perceived autocratic President Islam Karimof, whom critics say does not allow “an independent religion” such as Christianity, apparently for fear it could undermine his powerbase in the Islamic nation.”

We observe that it does not refer to the fact that many of the laws were aimed at the Muslim religion.

Forum 18

61. Forum 18 is one of the sources relied upon by Mr Murray. There is considerable reference to their materials in Mr Pievsky’s skeleton argument. He described Forum 18 as an organisation devoted to monitoring issues relevant to Article 18 of the Universal Declaration of Human Rights, the Article guaranteeing freedom of religion. It is also said to monitor human rights abuses worldwide. The organisation is based in Norway. The mission statement on its website says that it is a Christian initiative which is independent of any one church or religious group. Its independence is said to be safeguarded by a board whose members are Protestant, Orthodox and Catholic Christians, and who are responsible for matters of policy and fund-raising. It claims that Forum 18 is an instrument to promote the implementation of Article 18 and concentrates upon growth in open breaches of religious freedom, especially situations where the lives of individuals or groups are threatened, and where the right to gather based upon belief is threatened. It says that it is committed to religious freedom for all on the basis of Article 18.
62. The first report was dated 26 March 2003. It dealt with a series of raids in Karakalpakstan. In particular there was reference to a private house being raided, for a second time, where two ethnic Kazakh Protestants were talking. Also to a separate raid in December 2002 when two men were taken to a police station, tortured and an attempt made to force them to sign a statement to the effect that they had been preaching to each other. They were later sentenced to five days imprisonment. Two women were detained for 27 hours in February 2003, following a raid on an apartment in Khojali. Whilst in custody, it is said they were insulted for being Christians, and were accused of being Wahhabis, illogical as that may be.
63. In an item dated 26 March 2004, there is a report of an Uzbek lawyer based in Tashkent who had his licence to practise cancelled. He believed that this is because he defended believers. It is said that he has represented Pentecostals, Baptists and Adventists and was working to regain the registration taken from a Baptist church in February. Whilst local officials in the Department of Justice Administration in Tashkent denied that was the reason for him losing his licence, no other satisfactory reason has been forthcoming. On 21 April 2004 there was a report of 11 Protestants in Nukus, the capital of Karakalpakstan, being arrested and pressured to renounce

their faith and convert to Islam. They were said to be members of the local “Church of Christ”. The local prosecutor said they were members of an unregistered religious organisation. Others were fined for holding religious meetings in private. Six people were fined for offences under the administrative code.

64. On 7 July 2004, Forum 18 reported that the secret police in Urgench interrogated two Baptists and beat one of them. The authorities said this was because their activity was illegal, their church having lost its registered status. On 30 September 2004 there was a report of secret police raiding a prayer meeting at the Greater Grace church in Samarkand. The authorities said this was unregistered religious activity. The church claimed it had been prevented from registering, whereas the authorities said that their statute did not comply with the law. During the course of the detentions several police officers referred to themselves as Muslims and said that there was “no need for any Christian churches or other faiths in Uzbekistan”.
65. Forum 18’s Central Asia correspondent claimed that on 16 August 2005 he was unjustifiably detained, and deported from Uzbekistan. The article disclosed that he had been detained on arrival at Tashkent airport because his name was on a list of undesirable persons. He observed that he had previously entered Uzbekistan since the date it was said that his name first appeared on that list. The correspondent is a Russian national called Igor Rotar. His by-line appears on all the Forum 18 articles to which we have been referred.
66. On 14 March 2006 there was an account of the interrogation of 40 Protestants over a period of 18 days. They had been found in a café and were asked to admit that they were in an unauthorised religious meeting. At around the same time, 9 Pentecostals at a social gathering where there was legal religious literature, had the literature confiscated and fines imposed. One person, a Protestant visiting from Tashkent, was accused of missionary activity, which is illegal. Her passport was taken. She was relieved of the equivalent of 138 Euros as security, the article claimed illegally.
67. On 19 April 2006 it was reported that the country’s Jehovah’s Witnesses suffered raids, mass detentions and rape threats on their holy day, 12 April, on which they commemorate the death of Jesus. It was said that the raids were particularly severe that year, with one witness being beaten by the police and suffering a brain haemorrhage and severe concussion. Female Witnesses were threatened with rape. This was said to be despite assurances from the country’s Religious Affairs Committee that the Government would not attack the commemorations. On 19 May 2006 Forum 18 referred to a number of issues, including the detention of a group of Protestants following a police raid on a private flat. The owner was fined. There is reference to a Korean preacher being accused of conducting “illegal” missionary “activity” to attract the local population to the Christian religion. In Tashkent higher education students who had been detained during the raid on a private flat were threatened with expulsion from their institution because of their faith.
68. On 30 July 2006, Forum 18 referred to proceedings having been started against a Protestant in Uzbekistan, for offences which carry up to three years imprisonment as a punishment if proved. It was said that all he had done was to fail to conceal his religious convictions and to speak to fellow believers about religious matters. In the

province of Karakalpakstan there are no registered Protestant churches, which effectively means all Protestant activity is illegal, according to Forum 18. On 21 August 2006, Forum 18 reported the proposed increase in fines and prison sentences for attempting to share religious belief with others and, on 5 September 2006, that the Ferghana Jehovah's Witness community lost its registration leaving only one registered Jehovah's Witness community in Uzbekistan. On 6 September 2006, Forum 18 reported a "massive armed police and secret police raid" on a Protestant summer camp where twenty church members were detained and many of them beaten. It is said that most were freed within 24 hours but five were held until 4 September, and one remained in detention (two days later). Some were fined whereas a Ukrainian visitor, Uri Stefanko, is to be deported. There was a report of Victoria Khripunova, from Tashkent's Bethany Baptist church, being deported on 5 September. This has been reported elsewhere. It is said that the deportation of Victoria Khripunova was in order to target her husband who is an Uzbek citizen and the church's pastor. If so, it was successful because he left voluntarily with his wife. Forum 18 said that, if Stefanko is deported, that would make a total of seven deportations from Uzbekistan, in retaliation for religious activity, during the year.

The Respondent's Objective Evidence

69. On the 30 August 2006, the website of Radio Free Europe reported that a third group of Uzbek refugees were preparing to return home from the United States. These are some of the people who had fled Uzbekistan following the incidents in Andijan in May 2005. They had initially gone to Kyrgyzstan, were granted United Nations refugee status, and resettled in Idaho. A group of 12 went home in July 2006 followed by a further 41 in the middle of August. The report said that 150 Andijan refugees were resettled to the United States in 2005. It is said that among those planning to return are relatives of Akram Yoldashev, the purported leader of a radical religious group which the Uzbek authorities blame for the Andijan uprising. Only four or five Uzbeks have decided not to return. [Www.dialoguz.com](http://www.dialoguz.com) reported on the Freedom House compilation of the most dictatorial regimes in the world, published on 6 September. The report included, referring to Uzbekistan;

"The Government's repression of members of the political opposition and of Muslims not affiliated with state-sanctioned religious institutions intensified following a series of deadly bombings in Tashkent in February 1999."

The same report refers to the aftermath of the violence in Andijan in May 2005, when the BBC closed its bureau in Tashkent. That followed continued Government harassment since reporting the violence. There was also mention of the deportation of Igor Rotar, from Forum 18, in August. A correspondent from Radio Free Europe/Radio Liberty was sentenced to six months for slandering a State official. The report went on to say:-

"The Government permits the existence of certain mainstream religions, including approved Muslim and Jewish communities, as well as the Russian Orthodox church and some other Christian denominations. However, the activities of other congregations are restricted through legislation that requires all religious groups to comply with burdensome state-registration criteria. Involvement in religious activities carried out by

unregistered groups is punishable by fines or imprisonment, and meetings held by such groups have been raided and participants interrogated and arrested. The 1998 Law on Freedom of Conscience and Religious Organisations prohibits activities including proselytising and private religious instruction, and requires groups to obtain a licence to publish or distribute materials.

The Government exercises strict control over Islamic worship, including the content of imams' sermons, and is suspicious and intolerant of followers of Muslim organisations not sanctioned by the state. Many members of such groups have been arrested or imprisoned on charges of anti-constitutional activities, often under the pretext of the Government's fight against militant Islamists. Muslim prisoners are frequently tortured for their religious convictions or to compel them to renounce their beliefs. According to Forum 18 the authorities followed the wave of 2004 suicide bomb attacks with a new crackdown against religious Muslims, as well as believers of other faiths, including Protestants and Jehovah's Witnesses. This policy of repression accelerated after the May 2005 killings in Andijan; Human Rights Watch documented 190 religious believers convicted by November 2005."

There is mention of the Makhalla Committees referred to by Mr Murray. It said:-

"Open and free private discussion is limited by the Makhalla Committees, traditional neighbourhood organisations that the Government has turned into an official system for public surveillance and control. According to Human Rights Watch, Makhalla Committee members went door-to-door to tell all residents not to speak with journalists or foreigners about the 2005 Andijan killings."

There was evidence that the judiciary is subservient to the President who appoints all judges and can remove them from office at any time. There was also evidence that police routinely physically abuse and torture suspects to extract confessions which are accepted by judges as evidence, and often serve as the basis for convictions. There was reference to law enforcement authorities, reportedly often, planting narcotics, weapons and banned religious literature on suspected members of Islamic groups, or political opponents, to justify their arrest. There was reference to racial and ethnic discrimination being prohibited by law but the belief that senior positions in Government and business are reserved for ethnic Uzbeks being widespread. The report referred to the Government severely limiting freedom of residence and movement within the country and across borders. It said that there are restrictions on foreign travel, including the use of a system of exit visas, which are often issued selectively. It said that permission is required from local authorities to move to a new city, and permission is rarely granted for people wishing to move to Tashkent.

70. The 2005 US Department of State Country Report on Human Rights Practices had a section on freedom of movement. It dealt with internal movement and movement abroad. It said this:-

"The Government required citizens to obtain exit visas for foreign travel or emigration, and while it generally granted these routinely, local officials often

demanded a small bribe. In the past, authorities did not require an exit visa for travel to most countries of the former Soviet Union; however, during the year the Government introduced a new registration system requiring citizens to obtain a special stamp from local authorities in their place of residence in order to leave the country. Citizens continued generally to be able to travel to neighbouring states, and the new stamp requirement was not uniformly enforced.”

There was reference to travel to Afghanistan and events following Andijan. The section concluded:-

“Emigration and repatriation were restricted in that the law does not provide for dual citizenship. In practice, returning Uzbek citizens had to prove to authorities that they did not acquire foreign citizenship while abroad, or face prosecution. However in practice, Uzbek citizens often possessed dual citizenship and travelled without issue.”

Assessment of the Expert and Objective Evidence

71. We have some concern about Mr Murray’s evidence. He is in an unusual position and it has given us cause to reflect on the weight which we should give to his opinion. We say that for this reason. Mr Murray has produced a short statement which is entirely unsourced. He has given evidence during the course of which he gave an indication in general terms as to some of the sources which he relies upon. In one aspect, the return of the German failed asylum seekers, there was express source, namely the German Ambassador. Having said that his report was unsourced, we acknowledge that he is not an expert of an academic nature who relies upon the reports of others for their information. Rather, he had been the United Kingdom’s Ambassador in Uzbekistan for two years or so and is therefore a person who has had an exceptional opportunity to observe and obtain information. We also acknowledge that, the Uzbekistan Government having ejected much of the foreign press, and many NGOs, there is limited opportunity for obtaining information about what is going on there. It must be acknowledged that Mr Murray’s career did not come to a conventional end and he himself described his parting with the FCO as ‘angry’. There was a great deal in the national press and the media generally about his departure from both Tashkent and the FCO. He accepts that he does not receive up-to-date information from the FCO, he having left Tashkent in 2004. During the course of his departure he left his wife and now has an Uzbek partner. We do not know her status in the United Kingdom and Mr Murray has expressed concern as to how the Uzbeks may treat her family both because she is associating with him, and is outside the country, and also because he has written a critical book about the Uzbek regime. In the course of telling us about the way in which the appellant may be treated upon return, and the way in which he gets his information from both current members of the regime and opposition parties, and previous contacts from his days in Tashkent, he told us that this information is valuable to him in “his campaign”. Challenged about “his campaign”, he simply said he is a great believer in human rights. We are left with the impression that although Mr Murray is in a unique position to assist us about Uzbekistan, he also has interests of his own which may effect, consciously or otherwise, the interpretation which he puts on facts and events. We have therefore decided that although the factual incidents of which he speaks are likely to be reliable, we should treat with some circumspection his interpretation of them. That is

not to say that we reject all his interpretation out of hand. We are fortunate in this case that there is also a great deal of background evidence from other sources.

72. The other background evidence was voluminous. We have tried during the course of our summary of it to give an indication as to the nature of each source. We have done that because we are conscious that some sources are reporting from a particular point of view and are not necessarily wholly objective. It is apparent that very many of the short reports came from evangelical Christian organisations. If their reports were read alone one would be left with the impression that the Uzbek laws controlling religion were aimed at controlling the Christian churches, whereas the reality is, as Mr Murray said, that the laws were actually introduced with a view to attempting to control Muslim fundamentalism. They are used against non-registered Muslim religious establishments, as well as Christian ones. We do not say that in order to suggest that the Uzbek regime is any more tolerant than it might otherwise appear but simply to show that it is intolerant of a great deal more than just evangelical Christians.
73. There are really three issues which concern the appellant and which may all be of general interest for country guidance purposes. The first is the way in which a person who has been out of the country for some time may be treated on return. Mr Murray described a system of exit visas and that was confirmed by the US State Department report. It is said by Mr Murray that all young person's passports expire on their twenty first birthday. He said this was so that they would have to return to Uzbekistan and, in order to ensure that happens embassies do not renew passports. His evidence was that the embassies can renew passports, and do so for the most favoured, such as the sons and daughters of ministers. We accept that passports expire when the holder becomes 21 although there is no evidence other than Mr Murray's unsupported assertion. We have no reason to doubt that part of his evidence.
74. We are not satisfied that it is not possible to obtain a passport renewal outside Uzbekistan. We say that because the appellant's husband has recently returned there and he will in all probability have had to obtain some form of travel document. He arrived with the appellant in 1996. We have not been told of any difficulty on his part. Although it is said that his father was in the KGB, and his grandfather before him, there is no reason to suppose that he is among that very small group of people that Mr Murray says can get their passports renewed. The fact that he has returned undermines Mr Murray's assertion that it is not possible to get documentation. We accept he may not have been issued with an actual passport but that does not matter. It is the fact he was in possession of an official document that enabled him to return, apparently without difficulty, which is important. His return also detracts very considerably from Mr Murray's evidence, and the appellant's mother-in-law's assertion, that there is severe punishment for those who do return, having stayed away beyond the end of their exit visa. The appellant is still in communication with her mother-in-law and we have no doubt that if her former husband had been charged, or even imprisoned, as a result of returning after a long absence, she would have heard about it and we would have been told. We find there is no satisfactory evidence that it is not possible to obtain a travel document (whether it be a renewed passport or some other form of documentation). Nor is there any satisfactory evidence to show that a returnee is likely to be punished for having been out of the

country for longer than was permitted. We will deal later with the question of whether a long absence may give rise to questioning, and if so, the likely consequences of that.

75. The second issue arises from the fact that appellant is an ethnic Russian. The only background evidence concerning the treatment of minorities was an assertion that there is a widespread belief that the top jobs are reserved for ethnic Uzbeks. The evidence (in the respondent's evidence referred to in paragraph 69 (ante)) was that discrimination on ethnic grounds is contrary to the law. Although the Stop Violence Against Women report (paragraph 54 ante) refers to discrimination against minorities, we have not heard or read any satisfactory evidence about discrimination against ethnic minorities of a nature that would come anywhere to amounting to persecution, or serious ill-treatment that would entitle the appellant to humanitarian protection or would amount to a breach of her rights under Article 3 ECHR. There is no satisfactory evidence of serious mistreatment of ethnic minorities in Uzbekistan.
76. The third area is the question of religion and, more specifically, evangelical Christianity. Mr Murray told us that the requirements for registration of places of worship was brought about by a desire to control Islamic fundamentalism. When it was put to him that it would not therefore be used against Christians it was his observation that once a law is in place it can be used against Christians. The evidence which we have gone through in some detail shows that it is unlawful to practise one's religion anywhere other than in a registered place of worship. It is also demonstrable that registration is not made easy by the authorities, at least insofar as those religions they consider more difficult are concerned. The evidence does not indicate that mainstream mosques have any problems, nor that Jews, or Russian Orthodox or Roman Catholic Christians do. Mr Murray described them as "quietest" religions. It was his view that what the authorities wish to prevent is independent anti-Government thought which they perceive as having the potential to undermine the authority of the State.
77. It also seems that the Government forbids, or at least seriously discourages, proselytising, whether that is described as missionary activity or preaching. This may also be as a result of its desire to keep fundamentalist Muslims under control but there is no doubt from the objective material that the law is used against evangelical Christians and on at least one occasion, followers of Hare Krishna. As yet the proposed law forbidding discussion of religious beliefs outside places of worship has not been brought into effect although we accept that its proposal demonstrates a particular mindset on the part of the authorities. The authorities also maintain control over religious literature, but there does not seem to be any difficulty in getting permission for Bibles in languages other than Uzbek. This may be a result of the desire to control fundamentalist Muslims.
78. Uzbekistan itself is said to be a Muslim country in that by far the greatest majority of its population refer to themselves as Muslims. Mr Murray described it as being a particular local variant of Islam and he gave as an example the large proportion of his Muslim friends who drink alcohol. Whilst it does not seem appropriate to describe Uzbekistan as a secular State, because the President has indicated his desire to uphold Islamic tradition, it is certainly not a theocracy and it does not appear to have an official religion.

79. By far the majority of the reports of the mistreatment of Christians relate to members of evangelical denominations. Similarly, by far, problems arise when churches are not registered and, where as a consequence of failing to register or otherwise, religious meetings are held in private houses or other places that are not registered. There seems to be a degree of distrust of those who come from abroad to take part in religious activity as illustrated by the willingness to deport them. There is little doubt that there is some tendency to deregister places of worship, although Mr Murray reported at least one Baptist minister who felt that the denomination is growing within Uzbekistan (he himself doubted that was the case). He reported a raid on a registered church at the bottom of the residency garden. The background evidence also tends to show that those who are most likely to be detained are ministers and other particularly active members of congregations. Very often the outcome was little more than a fine, but there are reports of general mistreatment of an unpleasant nature, some of which arguably amounted to torture, during periods of detention.
80. Whilst we acknowledge the large amount of material that has been put before us, we observe that much of it comes from the more evangelical denominations of Christianity. It is also clear that many of the reports deal with the same incidents (for example the incidents surrounding the Emmanuel Church in Nukus and its deregistration). We therefore bear in mind that the volume of incidents is not as great as might at first appear, but that is not to say that there is no problem. The question is whether or not a person such as the appellant, a Baptist, can safely return. The background evidence does not appear to suggest that an ordinary member of an evangelical congregation would be at real risk of serious ill-treatment. (By ill-treatment, from this point in the determination, we mean either persecution, mistreatment sufficient to give rise to a grant of humanitarian protection, or inhuman or degrading treatment under the provisions of Article 3 ECHR.) That is particularly the case if a person were to join a registered church and to worship at registered premises. There is insufficient evidence of ill-treatment of ordinary members of congregations to suggest that Baptists, or others who regard spreading the word as a real part of their religion, are at real risk of persecution either. In saying that, we acknowledge that people from time to time have been accused, for example, of preaching to each other in private homes, but the background evidence suggests that in the main they are people who are members of unregistered churches. We acknowledge there may be exceptions but none sufficient to indicate a real risk.
81. There appear to be some churches which, on principle, refuse to register and by so doing effectively challenge the authorities. There is no suggestion that the appellant has been, or would be, a member of such a church. She has not said that she must join such a church and therefore we are not concerned from her point of view about that possibility. Insofar as country guidance is concerned, it seems to us that if an appellant can establish that he or she genuinely desires to belong to such a church, and to challenge overtly the laws of Uzbekistan, then more careful thought needs to be given to their claim. However difficult it may appear to comply, Uzbekistan has a legal framework which permits religious minorities to practise their religions. The motivation of a person who claims that they must join a church which insists on practising outside the legal framework must be the subject of serious scrutiny. It is possible that such a person may be able to establish a real risk of serious harm, but it will be difficult for them to do so. They will need to show that it is genuinely for

reasons of religion that they intend to behave in that way and not merely in order to establish a claim to asylum, humanitarian protection or other grounds for remaining in the United Kingdom.

82. The other category of person who may be capable of establishing that he or she would be at real risk is a pastor or other serious activist within a church. Such persons may, if they were to attempt to proselytise outside a registered place of worship, in a way which the authorities may regard as provocative or obvious, may, depending on the facts of the individual case, be able to establish that they are at real risk. Again, the genuineness of their intentions and the motivation for it will be issues that the Tribunal will wish to consider.

The Appellant's Own Claim

83. The appellant maintains that the fact the police, when arresting her sister on fabricated drugs charges, said they knew all about the appellant, whom they regarded as wealthy and living abroad, puts her at risk. There was some considerable discussion about whether this was in 2002 or 2005. The oral evidence turned out, probably, to be to the effect that the police had said this in 2002 on the occasion of the first arrest but the appellant's sister did not mention it until 2005, after she was released on payment of a bribe following the second arrest. We say 'probably' because it was extremely difficult in the medium of either English, or Russian, to get a straight answer from the appellant. Clearly some of that was a failure to understand the question, but we are not satisfied that it all was. The appellant had already demonstrated her ability to dissemble when she was asked whether her sister was a Baptist or not. Clearly she is not, but the appellant did not want to say so and she therefore took to giving a confusing and rambling answer. We believe that she was doing the same about the incident with the police. We find it impossible to interpret her witness statement as saying that the police were referring to her. The witness statement clearly meant that the police said that the appellant's sister, who was with them, was regarded as having money. The appellant was not credible on this point. We do not regard what the police said as being in any way indicative of this family being targeted, or consequently that there would be any risk to the appellant because of her membership of that family. We know remarkably little about the appellant's younger sister. She is the only member of the family that appears to have been arrested twice, and on both occasions claims that she had drugs planted on her. That is not entirely inconsistent with the way in which the police sometimes operate, as is apparent from the background evidence. That such 'evidence' is sometimes planted does not mean that people who are arrested are innocent. We contrast the ease with which the appellant's sister was released on payment of a relatively modest bribe on the second occasion, with the 10 year sentence that she said she was given on the first. In any event she now lives in Armenia, as does the appellant's eldest sister. The appellant's mother remains in Uzbekistan and there has been no suggestion that she has been targeted either as a result of the appellant's sister's activities, or any belief that the family has money.
84. The appellant is a convert to the Baptist church, it would seem from another form of Christianity. The only hint as to her religion, prior to converting to being a Baptist, was that contained in one answer in her interview. Her husband, who also converted, appears to have converted from Islam. He has returned to Uzbekistan with no

reported difficulty. He is an ethnic Uzbek. The appellant's mother-in-law seems to have been the vehicle for their conversion and, we observe, seems to visit Uzbekistan and the UK. The appellant said, in recent evidence, that her mother has been prevented from going to her church as it has been closed down, but we have not heard that she has been in any difficulty or that she has been prevented from worshipping elsewhere. The appellant's latest statement is that she worships in a private house but there is no mention of problems. We do not know her mother's denomination. So far as the appellant's religion is concerned, we are satisfied for the reasons we have given above, that she would not be at real risk on return on that account. She seems to have a close relationship with her pastor and in the United Kingdom does take part in evangelical activities but, there is nothing about her evidence which suggests to us that she would feel compelled to practise her religion in a way that would distinguish her from the average evangelical Christian in Uzbekistan. As we have said, we do not accept that they are at real risk without more. We do not suggest that there is never any risk and we acknowledge that there can be difficulties, on occasion, when practising any minority religion, or Islam in unregistered premises in Uzbekistan. The fact the appellant's mother remains there, and the appellant's ex-husband has returned (both converts to Christianity from Islam) adds to our belief that the appellant herself is not at real risk for that reason.

85. It was put in argument that the appellant would be at risk for a number of reasons which should be looked at cumulatively. We have dealt with her religion. We have already said that there is no satisfactory evidence of serious discrimination against ethnic Russians nor is there satisfactory evidence that the appellant would be in difficulty on return because she has overstayed her exit visa and currently has no valid passport. Would she come under suspicion because she has been away for so long? It has been asserted that she would. We have been shown no evidence in support of that assertion save for Mr Murray's account of the two German returnees who were detained on arrival, one of whom remains in detention. Whilst that is a reason for suggesting that the appellant may be at some risk of being detained, we note that Mr Murray knew nothing about the reason as to why the two returnees had been deported, or removed, from Germany. Nor do we know anything about why they left Uzbekistan in the first place. Whilst speculative, it is not beyond the bounds of possibility that the one who remains in detention was wanted before he left. We simply do not know. For those reasons we are satisfied that the appellant's claim cannot succeed under the Refugee Convention, that she is not entitled to humanitarian protection and that by returning her the United Kingdom would not be in breach of her rights under Article 3 ECHR.

The Appellant's Claim – Article 8 ECHR

86. The appellant has no basis under the immigration rules for remaining in the United Kingdom. Her most recent evidence sets out the private and family life which she enjoys in the United Kingdom. She is now divorced from her husband who has returned to Uzbekistan. She does not therefore enjoy any family life as such. Insofar as her private life is concerned she clearly has a great deal of support from her pastor who, she says, loves her like a daughter. She has a fulfilling and enjoyable life in her church. Her friends seem to be mostly fellow Christians and her social life is based upon her church. She has a job, although she should not be working. She is defying

the respondent and the law by carrying on working when she has been told she was no longer to do so. She is in the process of buying a flat by using her salary to pay the mortgage. We do not know whether there is any equity in it. The concept of private and family life under the European Convention is not sufficiently wide as to embrace all matters which could be described as private life. The appellant has not shown that she has any weighty private life considerations. She has made friends, enjoys going to church and is working illegally. She has expressed a wish to study law at university and is currently registered as a part-time student studying for a "Certificate in English for Legal Method". We acknowledge that during the eight years it took to consider her application for asylum, and in the time since, the appellant has developed community ties and made friends. We do not find that the elements of private life are sufficiently strong that requiring the appellant to return to Uzbekistan would breach her right to private and family life. The appellant has not established that she has sufficiently significant elements of private and family life to be worthy of protection by virtue of article 8 ECHR.

87. The most striking aspect of this case is that it took the respondent eight years to reject her claim to be recognised as a refugee. Mr Deller, acknowledging that the Court of Appeal had not disagreed with the Tribunal's description of a 3½ year delay as a public disgrace, told us this is the longest delay he had come across. Delay, however, goes to the question of proportionality. Proportionality only becomes relevant when the respondent intends to remove an appellant in such a way that there would be a breach of a protected private and family life. That is not so here. From a legal point of view it is not possible to take the delay into account when assessing the appellant's wish to remain in the United Kingdom. In saying that, we acknowledge that she has not entirely acquiesced in that delay and there have been instances of her solicitors trying to follow up the application. In the meantime she has, to some extent, established herself here, having spent a significant proportion of her mature life in the United Kingdom.
88. We have received and read the appellant's counsel's note following Huang v SSHD [2007] UKHL 11. Nothing in either the opinion, or counsel's note, has made us take a different view. We took the decision ourselves. We have not considered proportionality and therefore would not have needed to have regard to 'exceptionality'.
89. The respondent would not be in breach of the appellant's right to respect for her private and family life if he were to return her to Uzbekistan.
90. The appeal is dismissed on asylum and human rights grounds.

The appellant is not entitled to humanitarian protection.

Signed

Date

Senior Immigration Judge Mather

1. US Department of State; International Religious Freedom Report: Uzbekistan, 15/09/06 [.....]
2. Human Rights Watch World Report 2006 – Uzbekistan
3. Human Rights Watch Open Letter to US Commission on International Religious Freedom, 20/10/03
4. US Department of State; Country Reports on Human Rights Practices 2005 (08/03/2006)
5. US Department of State; International Religious Freedom Report 2006: Uzbekistan (15/09/06)
6. International Helsinki Federation for Human Rights; Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2006 (Events of 2005): Uzbekistan (01/05/2006)
7. Annual Report of the United States Commission on International Religious Freedom, May 2006
8. Keston Institute; Torture of Religious Believers in Uzbekistan:- Submission to United Nations Committee Against Torture
9. International Christian Concern, July 2003 Country Report
10. Assist News Service, 13 December 2005
11. The Christian Science Monitor, 6 November 2003
12. Stop Violence Against Women, 28 January 2004
13. Worldnet Daily, 1 July 2005 Archive
14. Human Rights Without Frontiers 'Uzbekistan: Religious Freedom Chronology of Events, January – June 2000'
15. Ferghana.ru report on Item from the Christian Megaportal, 30/08/2006
16. Barnabas Fund (UK), 1 September 2006
17. BosNews Life (on www.christian_persecution.info) 03/09/06 and 11/09/2006
18. Forum 18, Various News Items
19. Radio Free Europe Website, 30/08/2006
20. www.dialoguz.com Freedom House 'Waste of the Worst: The World's Most Repressive Societies, 2006'