

DEMOCRATIZATION AND HUMAN RIGHTS IN KAZAKSTAN

HEARING BEFORE THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE ONE HUNDRED SIXTH CONGRESS FIRST SESSION

MAY 6, 1999

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**DEMOCRATIZATION AND
HUMAN RIGHTS
IN KAZAKSTAN**

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HUMAN RIGHTS
IN KAZAKSTAN

THURSDAY, MAY 6, 1999

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The Commission met at 10:00 a.m. in room 485, Russell Senate Office Building, Hon. Christopher H. Smith, Chairman of the Commission, presiding.

Commission Members present: Hon. Christopher H. Smith; Hon. Steny H. Hoyer; Hon. Michael P. Forbes; and Hon. Benjamin L. Cardin.

Witnesses: Ross L. Wilson, Principal Deputy to the Ambassador-at-Large and Special Advisor to the Secretary of State for the NIS; Bolat Nurgaliev, Ambassador from the Republic of Kazakstan to the United States; Akezhan Kazhegeldin, Chairman, National Republican Party of Kazakstan; Yevgenyi Zhovtis, Director, Kazakstan International Bureau for Human Rights and Justice; Pyotr Svoik, Co-Chair, Azamat; Dr. Martha Brill Olcott, Senior Associate, Carnegie Endowment for International Peace.

OPENING STATEMENT OF HON. CHRISTOPHER H. SMITH,
CHAIRMAN

Mr. SMITH. The Commission will come to order. I want to welcome all of you to this morning's Helsinki Commission hearing. The subject of our hearing is the status of democratization and human rights in Kazakstan. It has been some time since the Commission has held hearings on Central Asia. To some extent, that is because other OSCE countries—especially the former Yugoslavia—have been so wracked by conflict that the Commission has naturally devoted a great deal of attention to them. As a matter of fact, I just left from over on the House side a briefing by the Administration on Kosovo, the military, and the refugee situation. Everybody is obviously preoccupied with that. At the same time, the security situation in Central Asia has 'normalized' somewhat with the end of the hostilities in Tajikistan and the signing of the peace accord there in 1997.

Unfortunately, the absence of war and open conflict does not necessarily result in stability. The bombings in Tashkent in February demonstrate that even in the most tightly run, repressive environments, acts of large-scale violence are possible. Nor does a superficially peaceful environment—where it exists—necessarily provide reason for op-

timism about the development of democracy. While the entire post-Soviet space has witnessed the emergence of very strong executive leadership, Central Asia has stood out because of the rise of super-presidents, who overshadow all other institutions of government and who give every indication of intending to remain in office forever. With some exceptions, the elections that have taken place in Central Asian countries have been not elections but carefully staged contests to create a facade of democracy while ensuring the continued control of those in power.

The Helsinki Commission hopes to have another hearing later this year on the general situation in Central Asia. Today, we are focusing on Kazakhstan for two reasons: first, the country only last January held a presidential election, almost 2 years ahead of schedule. The OSCE's Office of Democratic Institutions and Human Rights, using unusually strong language, criticized the conduct of the election as "far short" of meeting OSCE commitments. More broadly, however, developments in Kazakhstan over the last few years have disappointed those who hoped that authoritarianism was not inevitable for Central Asia. With respect to democratization, Kazakhstan's reputation in the earlier part of this decade was much better than it is today. We want to understand what has gone wrong, why, and what can be done about it.

This hearing examines the situation in Kazakhstan in the aftermath of a deeply flawed presidential election and looks ahead to future developments—specifically, the parliamentary and local elections scheduled for October of this year. President Nazarbayev has said these elections will be democratic. We will hear from our witnesses how seriously we should take such assurances. And I hope they will not be restrained about offering suggestions as to what the United States can do to help improve Kazakhstan's implementation of its OSCE commitments.

I would like to recognize my good friend from New York, fellow Commissioner Mr. Forbes, and ask if he has any opening comments.

Mr. FORBES. No, Mr. Chairman.

Mr. SMITH. We have three panels. Let me welcome our first witness, Ross Wilson. Mr. Wilson assumed the position of the Principal Deputy to the Ambassador-at-Large and Special Advisor to the Secretary of State for the NIS on June 30, 1997. Since entering the Foreign Service in 1979, he has served twice as an economic officer at the U.S. Embassy in Moscow, as well as in Prague and Melbourne, where he served as U.S. Consul General. Mr. Wilson was Deputy Executive Secretary of the State Department from 1992 to 1994 and Special Assistant to the Under Secretary of State from 1990 to 1992. Mr. Wilson, we welcome you and look forward to your testimony.

**TESTIMONY OF ROSS L. WILSON, PRINCIPAL DEPUTY TO THE
AMBASSADOR-AT-LARGE AND SPECIAL ADVISOR TO THE
SECRETARY OF STATE FOR THE NIS**

Mr. WILSON. Thank you very much, Mr. Chairman. It is an honor to be here again and to be able to discuss recent developments in Kazakhstan and U.S. policy toward that country.

I would like to make some brief remarks and ask that my full statement be made a part of the record.

Mr. SMITH. Without objection, your full statement will be made a part of the record.

Mr. WILSON. Mr. Chairman, the United States has a number of high priority objectives in our relations with Kazakstan. One is stopping the proliferation of weapons of mass destruction, other dangerous armaments and related technologies. Another is augmenting global energy supplies, helping to develop a strong market economy and supporting U.S. business.

Because cooperation among the states in the region is so important, we want to facilitate, where we can, their efforts to work together on energy, on security, trade, water, environmental, and other issues. And we promote democracy, respect for fundamental human rights, and the rule of law.

The United States has consistently sought, under Republican and Democratic Administrations since Kazakstan achieved independence in 1991, to pursue all these objectives. Despite recent setbacks on the democracy front that I will come back to in a moment, our efforts have borne fruit.

Kazakstan surrendered its nuclear weapons, acceded to the Non-Proliferation Treaty as a non-nuclear weapon state, and closed the world's largest nuclear weapons test site at Semipalatinsk.

It has peaceful relations with its neighbors, participates in the Central Asian Peacekeeping Battalion, and wants to play a more active role in NATO's Partnership for Peace.

U.S. energy firms are developing the country's massive oil and gas potential. Kazakstan's success in weathering the regional financial crisis and the large volume of foreign investment it has garnered reflect significant progress toward building a prosperous and strong market economy.

High-level engagement with Kazakstan has been essential to our success in these and other areas. Our assistance programs, generously funded by Congress, have been no less important.

Kazakstan has been a major beneficiary of Cooperative Threat Reduction programs. We continue to work with it to close nuclear test tunnels, eliminate SS-18 infrastructure, dismantle the biological weapons production infrastructure at Stepnogorsk, and redirect weapons of mass destruction expertise to peaceful civilian research.

We have provided foreign military financing for the purchase of equipment to enhance the ability of Kazakstan's armed forces to participate in Partnership for Peace exercises and peacekeeping operations.

Our economic assistance focuses on privatization, establishing financial markets, banking reform, fiscal reform, and legal infrastructure issues.

Democracy-building programs are at the heart of our assistance to Kazakstan. We support the development of NGOs, have helped independent television and radio stations, and brought thousands of Kazakstanis to the United States for study and professional training so that they can see market democracy in action.

All of these issues—democratization, market reform, non-proliferation, energy development, and regional cooperation—are important, indeed critical to Kazakstan's prosperity, stability and independence, and to its integration into Euro-Atlantic and global structures.

On January 10, Kazakstan held a presidential election that the OSCE determined fell far short of Kazakstan's OSCE and other international commitments. This finding was no surprise. On short

notice, the election date was advanced by more than 2 years, giving candidates little time to organize campaigns. The government used a restrictive electoral law to limit the field of candidates, and candidates received unequal access to the media.

Opposition figures were beaten, shot at, arrested—arrested for the crime of attending a political meeting—and convicted. Independent newspapers and media organizations were, in many cases, bought out by allies of President Nazarbayev, denied access to publishing and broadcasting facilities, harassed by the authorities, instructed on what to report and not to report, and even firebombed.

Local and parliamentary elections expected this fall, as you referred to, Mr. Chairman, will again test Kazakhstan's democracy. We have discussed this with Kazakstani authorities. Our message: Kazakstan must work now to build democracy and foster greater respect for fundamental human rights principles, including its commitments to the OSCE.

First, it should bring its legislation on elections, NGOs and media into accord with international standards.

Second, it should schedule elections far enough in advance to give parties and candidates time to prepare effective campaigns.

Third, registration of new parties and NGOs should be promptly carried out in order to ensure broad participation in the elections, including by candidates and groups critical of the government.

Fourth, it should broaden the central and local election commissions to include non-governmental representatives.

Kazakstan's record on this agenda has been mixed. In recently passed election legislation, the provision that bars those convicted of administrative offenses from running for office was retained—despite the strong advice of the OSCE and the United States.

One new opposition political party, an opposition NGO, and a local opposition movement in Almaty were registered, but these groups still face problems. No Kazakstani government official has engaged with us or with the OSCE on reforming the electoral commission structure.

Media freedom has not improved. The government and its allies continue to exercise control over the mass media. Surviving opposition publications face government harassment, have difficulty being published, and often cannot get distributed. Journalists report continued pressure not to criticize President Nazarbayev or his initiatives.

Mr. Chairman, these are just some of the concerns that the United States has about democracy and human rights in Kazakhstan. The State Department's human rights report for 1998 details a number of others. Frankly, there will be no overnight conversion to democracy in Kazakhstan, any more than there will be instant success on any of our other objectives. But progress, we believe, toward democracy is essential if Kazakhstan is to complete the transition from closed Soviet autocracy to an open market democracy that is fully connected with the outside world. With the support of Congress, we will continue to work toward these ends and to advance the other goals and objectives we have with Kazakhstan. Thank you very much.

Mr. SMITH. Thank you very much, Mr. Wilson, for your testimony and, again, for the insights you have provided to us. Let me ask a couple of opening questions.

Until several years ago, as you know, Kazakstan seemed to be a relatively progressive Central Asian country and President Nazarbayev a relatively progressive leader. Was that simply an illusion, or were we making a comparison with places like Uzbekistan, where it was more repressive. Or have things really deteriorated, in your view?

Mr. WILSON. I think it is fair to say that Kazakstan has been one of the new independent states that has been more successful in its transition from Soviet autocracy and from its Soviet legacy toward the kind of future that we would like to see.

It has made a great deal of progress on economic reform, and I referred to some of those issues. It has made progress and been very cooperative with us on non-proliferation issues, on energy issues, and on other matters.

Politically, there has been a wider scope of opportunity for citizens to exercise their human rights. There has been significantly wider scope permitted to non-governmental organizations. There are some 3,000, or over 3,000, non-governmental organizations, and over 600 that our Embassy is in touch with and knows are active in taking part in the life of the country.

I think we always had concerns, and have had concerns, from the very beginning about issues of democratization and human rights. We think back to the kinds of things that this Administration said at the time of the 1995 Referendum, and about the process and the way that that process was conducted.

There are some changes, though, that I think have taken place, some of which I alluded to. One change that I did not allude to has been the establishment, I think for the first time, of a real opposition in Kazakstan—or the beginning of the establishment of a real opposition. Some of those representatives are here today. That is a change from the previous situation. The government, for reasons that probably it knows best, has decided to react in certain ways.

Kazakstani expectations, the expectations of the people of that country, have been raised by the progress that the country has made over the last 7 or 8 years. I think, also, I would add, Mr. Chairman, that with the passage of 8 years our standards have increased. Where we might have been somewhat more tolerant of lapses or forgiving of problems and difficulties that Kazakstan and other countries faced in the first few years after they achieved independence, after the passage of 8 years we began to set a somewhat higher standard as, frankly, we should.

Mr. SMITH. Mr. Forbes?

Mr. FORBES. Thank you, Mr. Chairman. I would like just to follow up a moment, you cited some good news—I think is the best way to paraphrase it—about economic progress being made in Kazakstan. Obviously, we cannot—as a nation, the United States cannot force democracy down the throats of anybody who is unwilling to accept this precious form of government, but one way we can influence them, obviously, is in the pocketbook, and I would like to just pick up on your notation that they have made some economic progress, which seemed to me maybe they are more sensitive on the economic front than they have ever been. Do you think that that is a feasible option that the United States, at some point, consider—if our diplomatic efforts are not prevailing—that the United States think about some kind of economic approach?

Mr. WILSON. I think, broadly, we would have serious reservations about going down that road. The assistance that we provide to Kazakhstan is, in the first instance, designed to support and advance American interest, not as a gift to Kazakhstan. A significant portion of our assistance is specifically aimed at promoting democratization from the grassroots, from the bottom up, in that country, and I think it is very much in our interest that that assistance be continued.

You are quite right, no country can be forced to become democratic. We think there is a substantial aspiration among the people of Kazakhstan to have a more democratic government, and that is reflected in the support that is given to a number of the figures that are here today and others, who have attempted to be an independent voice, who have attempted to advocate for democratic principles.

What we must do, what we have done and we must continue to do, is work as best we can on the margins with the government, to encourage it as we have. We have provided advice and assistance in redrafting the electoral law that I referred to, redrafting the media law, redrafting legislation with respect to NGOs. Some of our advice is taken into account, some of it is not.

I think this is an issue we have to be patient with, we have to continue to work hard on it. It would be wrong, it would be counter-productive to single out democracy as the only or the number one priority with respect to that country. We have a number of other interests as well. Likewise, it would be wrong to ignore democracy. And for that reason, I think it is important that we focus on it. It is important that Congress, as in this hearing this morning, focus attention on it as well.

Mr. FORBES. If I may, Mr. Chairman, I would just like to follow up on the growing concern that many in the Congress have that in Central Asia we are not really being as successful in the promotion in democracy, I think, as all of us would like.

Has the Department been taking a pretty hard look at that and evaluating or re-evaluating some of our approaches? And maybe you could just share with the Commission some of the senses the Department may have as to why we are not gaining a foothold, why we are not more successful in promoting democracy in that region.

Mr. WILSON. The issues are very much on our agenda with these countries. I do not know the specific number for Central Asia, but in the years 1999-2000, we face 17 rounds of elections, presidential and parliamentary elections, throughout the new independent states of the former Soviet Union. That is a serious challenge for us. It is a serious challenge for these countries as they continue to make progress.

I think a second point I would make is we must be cognizant of the almost overwhelming Soviet legacy that these countries come out of. It would have been wrong-and I certainly would not have been one to argue 6 or 7 years ago-that these countries are going to make an immediate leap from Soviet autocracy to full free and fair elections, to full respect for fundamental human rights, to a complete Western-style respect for the rule of law. Those things take time. A lot of our efforts in all of these countries are really aimed at long-term development and assisting in ways that reflect a generational change that at the end of the day must take place in all these countries as old Soviet-era leaders and that generation passes from the scene, that a new

generation is aware of market economics, is aware of democratic principles and will be more committed to it than those who are trying to make this very difficult transition.

Mr. FORBES. Thank you, Mr. Wilson. Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much, Mr. Forbes. Let me ask a couple of final, follow-up questions. President Nazarbayev has said that he wants to be president for life. Recently, he told the Carnegie Foundation that none of the OSCE observers saw any violations at the January 10th election, a statement which is absurd. As we all know, he also would not allow Mr. Kazhegeldin—who is here today—to register as a presidential candidate. Nazarbayev wants to be president for life, and so he keeps the opposition out. When observers who have great track records of honesty issue their reports, he completely disses those reports and says they did not see any violations. That certainly portends a very negative future, I would suggest.

How do we respond to that diplomatically, and what do you think the Congress ought to be doing in tandem with the Administration to present a we-are-not-buying-that kind of attitude? What would you suggest we do, and what do you make of that?

Mr. WILSON. Let me say parenthetically, Mr. Chairman, I personally am not aware of a statement that he made of an intention to be president for life. It may have happened, and if there is such a statement, I would be interested in knowing a little bit more about it.

What we have said to the government of Kazakhstan and directly to President Nazarbayev is that the conduct of the presidential election, and the campaign-the run-up to that election in January-caused damage, was a setback to U.S.-Kazakstani relations. We have said that this damage needs to be repaired. We have talked about ways in which it could be repaired, including with respect to some of the specific steps that I enumerated in my opening remarks.

I think it must be clear to him and to other senior officials of the Kazakstani government the importance that we attach to these issues. We believe we must just continue to work on that, we must continue to work on him, and continue to work on the long-term transition issues that I referred to earlier.

With respect to Congress, I think it is critically important that Congress focus attention on these issues, as you are doing this morning; that members of Congress visit Kazakhstan and discuss not just our interest in non-proliferation issues, energy issues, regional cooperation issues, but also discuss and convey from the Legislative Branch the importance that Congress and that the American people attach to these issues.

Mr. SMITH. I appreciate that, and I thank you for your excellent testimony. I look forward to working with you, and I believe that this is really just the beginning of a greater focus on Central Asian countries like Kazakhstan. Obviously, there is a great deal of interest, but we need to have more hearings like this, more legislative proposals that will focus on it. I know that the Department has not ignored it, and that is good, nor will we. So, thank you very much.

I would like to ask a question of our second witness, if he would make his way to the witness table. We are pleased to have the Ambassador of Kazakhstan to the United States, Bolat Nurgaliev. Ambassador Nurgaliev has had a distinguished diplomatic career. He took up his duties in Washington in March 1996 after serving as Deputy

Minister of Foreign Affairs from 1994 to 1996. Previously, he had been Counselor and then Director of the Ministry's International Security and Arms Control Department. Before that, Ambassador Nurgaliev had served in diplomatic posts in Soviet embassies in India and Pakistan. Mr. Ambassador, thank you for being here. We look forward to your testimony.

**TESTIMONY OF HIS EXCELLENCY BOLAT NURGALIEV,
AMBASSADOR OF KAZAKSTAN TO THE UNITED STATES**

Amb. NURGALIEV. Thank you, Mr. Chairman. Ladies and gentlemen, good morning. I would like to thank the Commission and Chairman Christopher Smith for inviting me to share with you Kazakhstan's progress of our democratization efforts.

Kazakhstan takes seriously its obligations to meet the OSCE standards as we continue our integration into the global democratic community. We also value our close democratic and economic partnership with the United States Government, and I fully subscribe to the items which were put by Principal Deputy Ross Wilson when he referred to our cooperation in his testimony.

Just as President Nursultan Nazarbayev was honored to participate in NATO's 50th anniversary less than 2 weeks ago, we take great pride in our 7-year-old membership in the OSCE. For a young democracy like ours, the OSCE provides success to the collective expertise of some of the world's older, more experienced democracies. Our interaction with the OSCE has been strengthened with the January opening of the OSCE branch office in Almaty and the Memorandum of Understanding signed in December 1998. OSCE technical assistance programs are proceeding this year through the ODIHR in six areas, including interactions and the participation of women in politics. We continue to learn from the OSCE even while we may not agree on every issue nor accept each suggestion as we create our own path to democracy.

We believe that our accomplishments in building a democracy provides solid evidence of our commitment to strengthen our still young political and social democratic institutions.

When Kazakhstan became independent a little over 7 years ago, we inherited troublesome legacies from the Soviet system, including an exhausted, inefficient economy; the absence of any democratic institutions resulting from centuries of subjugation; the world's fourth largest nuclear arsenal; and two enormous environmental disasters-the desiccation of the Aral Sea and the 470 nuclear tests at Semipalatinsk.

There was no experience with political compromise, no understanding how a free press functioned or how opposing political views and parties could co-exist. We lacked a business ethic of individual initiative and a vibrant civil society. In 7 years, we have had to construct every reform from the ground up carefully and deliberately.

With a complex ethnic dynamic of over 100 nationalities, our first priority has been to maintain ethnic harmony and a stable environment in which democracy has been able to take root.

We have worked hard to avoid the type of ethnic and religious conflict that, sadly, we see now in Kosovo. We have replaced decades of religious oppression with a guarantee of religious freedom for all

our peoples, whether they practice Islam, Orthodoxy, Judaism or another faith. We have ensured that our sizable ethnic minorities enjoy equal rights and full political participation by basing citizenship solely on residency and granting constitutional status to the Russian language.

This ethnic harmony is perhaps our proudest achievement. It underpins all that we have been able to accomplish, and we will be vigilant in ensuring that it continues.

Other significant accomplishments in the first 7 years of independence have included becoming the first state in the world to completely eliminate its nuclear arsenal; establishing Kazakhstan as a bulwark of moderation and stability, an active participant in the war against extremism terrorism, and religious fundamentalism; developing our vast energy resources and working with the United States and other countries to provide a network of multiple transport routes; conducting Kazakhstan's first contested presidential election in January with four candidates; promoting a vibrant civil society with over 2,000 NGOs, the most in Central Asia; and encouraging the participation of independent election observers by precisely defining their rights in the proposed election law.

We have been making steady progress in implementing the bold and detailed democratization program outlined by President Nursultan Nazarbayev last September. In particular, we anticipate that 1999 will mark a major step forward in our transition to a multi-party democracy. In direct response to the OSCE recommendation, candidate filing fees for president and parliament are reduced by 90 percent and 50 percent, respectively. Ten new seats in the lower chamber of the parliament, Majilis, out of 77, will be selected by national party vote under our new system of proportional representation. This will provide a powerful incentive for all political parties to campaign actively across the country. While different forms of proportional representation have long been used in the West, this will be its first usage in Central Asia. In designing our system, we greatly benefitted from the OSCE's advice and expertise.

As we prepare for October's Majilis election, the Central Election Commission, the CEC, will provide our 14 political parties with training programs and technical assistance. The CEC will repeat the successful voter education program it introduced in the January presidential election, which was commended by the OSCE Election Assessment Mission. The Mission also cited the redesigned ballots and improved recording protocols consistent with the OSCE/ODIHR recommendations.

We anticipate that the OSCE and other international organizations will help train our political parties in organizing and conducting national campaigns. We also expect the OSCE to send an extensive monitoring team to observe the October Majilis election. We are inviting other international organizations to provide observers, all of whom will be joined by domestic observers. Over 6,000 observers participated in January's presidential election, and registered only a few irregularities.

We are committed to build on our already strong record of civil society. We expect new legislation to be enacted soon to streamline and simplify the NGO registration process. We are expanding our efforts to eliminate all vestiges of discrimination against women and provide full gender equality.

In conclusion, Mr. Chairman, I wish to emphasize that our commitment to both the free market and democracy is unwavering. While some nations have responded to the economic crisis that has swept the region by slowing their reform efforts, Kazakhstan has remained steadfast. We believe that economic and political reform must proceed simultaneously, and that one cannot succeed without the other.

The government of Kazakhstan recognizes that much remains to be done and that we have a long way to go, and that like every other democracy, we still have imperfections. Our democracy is, and will continue to be, a work in progress for many years to come. But as President Nursultan Nazarbayev has said recently in Washington, We have only just begun the journey that your Founding Fathers embarked on over 200 years ago. Measured by any objective historical standard, the pace of our development and our transformation to date has been truly extraordinary”.

I look forward to continuing our dialogue with you and now welcome your questions. I am submitting the full text of my testimony.

Mr. SMITH. Without objection, your complete statement will be included in the record, and I want to thank you very much for your testimony.

I would like to ask our Ranking Democrat, Mr. Hoyer, the gentleman from Maryland, if he has an opening statement or anything he would like to say.

Mr. HOYER. Mr. Chairman, I apologize for being late. We were being briefed by the State Department and the Defense Department on Kosovo. I did have an opportunity to talk to Secretary Wilson outside briefly before I came in. Mr. Ambassador, I thank you for being here. I have an opening statement, Mr. Chairman, and I would like that included in the record at this time.

Mr. SMITH. Without objection.

Mr. HOYER. Thank you very much.

Mr. SMITH. Thank you very much, Mr. Hoyer. Let me ask a few opening questions and then yield to Mr. Hoyer for any questions he might have.

I mentioned earlier to Mr. Wilson that we have seen reports—as a matter of fact, it was in the *Financial Times*—that President Nazarbayev said during the campaign that he would like to be president for the rest of his life, which kind of puts a crimp in our ideas about democracy and raises a red flag as to how democratization might proceed if that be the case. He also made the following statement to the Carnegie Endowment last month—and this is his quote: “Not one of the 1500 observers saw any violations in the January 10th election.”

You have stressed in your statement today—and we certainly appreciate that statement—that there is a benefit from OSCE advice and dialogue. You have stressed your cooperation with the OSCE/ODIHR on election reform. Perhaps you could tell us then—and I ask this in good faith and candor—why did Kazakhstan not contact the ODIHR on the election law? Why did it not take seriously the statements made by its election observers that there were infractions? Also, could you tell us why you have retained the ban for running on people who have been fined for minor offenses?

Amb. NURGALIEV. Thank you, Mr. Chairman. Referring to the statement which is attributed to the Financial Times, I am not aware of anything which will be substantiating this claim.

Our constitution does stipulate the procedures for that, there are certain provisions, and they are absolutely clear about this issue.

We, as I said in my testimony, attach very great significance, and we are very attentive listeners to what the OSCE and ODIHR are telling us to do in order to improve the procedures and the regulatory norms. Among these recommendations which were submitted by the assessment mission, the government and the parliament accepted some, after careful consideration, and the list is pretty long. If the Commission is interested, I would like to provide you in written form line-by-line, point-by-point, what has been suggested and what has been accepted and what has not been accepted, and the explanation as to why and under what context the parliament decided not to include these specific recommendations into the new draft of the election law.

As for the issue of administrative violations, I will say that one of the standards of the OSCE is the rule of law, and we take this very seriously. This law is not applied selectively, it was the case at the time of the presidential elections in January, and the same, I think, will be in the future.

When this particular provision was discussed, the parliamentarians felt that the candidates for the particular positions like president, MP, the member of the district level legislative assembly, have to show higher standards than ordinary citizens in their being an example of law-abiding, responsible behavior. That is why this particular provision has been troubling—there was a decision to let it stay in the current text.

Mr. SMITH. Mr. Ambassador, do you not think the electorate, the people, have the ability and the intellectual capacity to decide if a candidate is worthy of support? If he or she has a criminal background—especially when minor offenses could be used as a way of keeping people off the ballot—should that not be left up to the electorate as a campaign issue? See, the fear that we have is that minor infractions could be used to clear the way for the incumbent, for the office-holder, to keep his office. Very often—perhaps if it is a major breaking of the law, that might be one thing; but we are talking about things that certainly do not rise to that level. Now the situation in Kazakhstan looks very suspicious to us. Looking at the whole issue regarding the treatment of Mr. Kazhegeldin, who will be speaking very shortly—he may have had a shot at winning, perhaps not. Perhaps he would have received just a significant number of ballots; but he was kept off the ballot. It is developments such as these that raise the question, “Are the elections being rigged?” No democracy worth its salt can call itself a democracy if such devices keep people from participating.

Amb. NURGALIEV. Mr. Chairman, right now there are three restrictions on the candidates, the reasons why they can be disqualified. One, if there is corruption issue and the person is under investigation or has been convicted for corruption. Number two is the administrative violation, and administrative violation is only in the case when it was punished by the court. It is not for jaywalking. And some people were trying to over-simplify saying that suppose you cross the street on the red light, that is administrative violation. That

is not the case. Only when there is considerable investigation and the proper hearing in the court, and that is how it is decided. And the third restriction is when a person is convicted for criminal offense. So, these are the three which are applied.

There was a very thorough discussion about this-and, again, I will repeat what I have said-the law-abiding citizen is the only criteria which is applied. There are no other things which would be at issue. I am not going to-because the devil is in the details as far as this particular case is concerned. I am ready to provide the Commission with a full record of all the summons which were issued to Mr. Kazhegeldin, and how he replied, and what were the efforts of the government, the judiciary, and other branches of the society to bring this case under the proper resolution under the existing law.

Mr. SMITH. We would appreciate that; but, again, I tell you that we view this with great concern—and that is with a capital “C.” We have seen this before. It is one way of circumventing democratic norms. The rule of law has to be absolutely transparent and equally applied. Not to do so raises legitimate concerns that the mere charge of having been convicted of something might be used to jeopardize a person’s candidacy.

Mr. Forbes, or Mr. Hoyer, do you have any questions?

Mr. HOYER. I am going to pass on questions. Mr. Ambassador, I appreciate your being here. I would echo the Chairman’s comments, however. I have read your statement. It expresses a commitment by Kazakhstan to both economic reform and political openness and democracy. Clearly, that cannot be accomplished in a unitary system. It is the concern of this country-and I might say OSCE-and I appreciate the comments you made about your participation in OSCE. Kazakhstan has been a positive member of the OSCE, and I know will continue to do so, but I must emphasize that the perception of most of the signatory states to OSCE is that there is not an open democracy, that there is not free access of candidates to participate in elections freely, openly, in a contested fashion, that there is not access to media as is necessary in a free and open democracy, and that it is the intention of the president to constrict, and not open, as your statement would reflect, political participation. You are clearly an emerging democracy. You rightfully point out that there are problems that you confront and you can be proud of certain aspects of the progress you have made over the last 7 years.

On the other hand, as you make that transition, it will be important, I think, for OSCE to agree with your observations with reference to the progress that you are making. I think that will be good for Kazakhstan and good for your very positive role in the international community. You rightfully observe in your statement pride in the progress you have made with respect to the denuclearization of Kazakhstan, a very positive effort, and we appreciate that.

Mr. Chairman, I look forward to hearing other witnesses that we have, and I know that we are going to have to leave here probably in about 20 minutes, so I am not going to ask any questions.

Thank you very much, Mr. Ambassador.

Mr. FORBES. Just a brief statement, Mr. Chairman, if I might. Mr. Ambassador, I join my colleagues, first of all, in our tremendous appreciation for your appearance here today, and I share their concerns. And we do appreciate, frankly, the potential, the tremendous poten-

tial that exists and great advances that have been made particularly on the economic side over the last several years. I would align myself with the concerns that the Chairman and Mr. Hoyer have both expressed, the idea of controlling access to the media for certain candidates, the restrictive electoral law, and advancing the election some 2 years I think certainly posed some very critical and important problems that have really had the Commission and those of us here today expressing these concerns, that truly democracy is not reflected in those kinds of actions. And we would just hope and pray that the advances on the economic side would be equaled by advances on the side of democracy. And I believe that there is an effort by many in Kazakstan to promote democracy, and we would just hope that as we move to the elections this fall, that there would be more of an openness and the law changed, if that is what needs to be done, to allow as many candidates to participate as possible. And I thank the Chairman.

Mr. SMITH. Thank you, Mr. Forbes, I appreciate that. I do have a couple of follow-up questions. The submissions you indicated you would make available to us—we would appreciate receiving them, if you would, Mr. Ambassador.

On May 5, President Nazarbayev called for greater media freedom. Kazakstan's Ministry of Justice has been sued for its refusal to register *Respublika*, the newspaper of the Republican People's Party. Considering that all necessary documents were submitted last August, can you explain why the Ministry has not registered the newspaper?

Amb. NURGALIEV. Mr. Chairman, I am not aware of the details of this, they just came to my knowledge. I will inquire from Astana and will give you full explanation as to what were the reasons for the decision on this particular case.

Mr. SMITH. Also, could you report later about the following case—unless you have the information now: On Monday, Radio Liberty reported that a Kazak journalist by the name of Kasim Bierkov was arrested by the National Security Committee in Almaty and taken to a psychiatric clinic. He is suspected of having written slogans on buildings and fences that denounce President Nazarbayev. Could you get back to us on that information as well, unless you have information relevant to it now.

Amb. NURGALIEV. This is a case which I have knowledge about. I believe that in every country, vandalism is not something which is approved. If somebody is desecrating the walls of an official building with graffiti, the inevitable punishment should follow. This is not the case of political dissent or anything, it is just the way we see it, an act of hooliganism for which this particular person, whatever his profession, again applying the same unselective treatment under existing law has been apprehended.

Mr. SMITH. Ambassador Nurgaliev, thank you very much for your testimony, and please get back to us as quickly as possible. We do look forward to reading what you submit to this Commission.

Amb. NURGALIEV. Thank you, Mr. Chairman. I would like to say that I greatly appreciate this opportunity to share with you our views. I do appreciate the advice and the concerns because we consider them the concerns of true friends with whom we will have a lot of things to do in the future. Thank you.

Mr. SMITH. Thank you very much, Mr. Ambassador.

I now welcome our third panel, and ask them to make their way to the witness table. We have three citizens of Kazakhstan who will provide their perspective on the situation and prospects for opposition political activity, as well as the overall observance of human rights.

First is Akezhan Kazhegeldin. A former member of parliament, he was First Deputy Chairman of Kazakhstan's Cabinet of Ministers and then Prime Minister of Kazakhstan from October 1994 to September 1997. Mr. Kazhegeldin has been President of the Industrialists and Entrepreneurs Association of Kazakhstan. He is currently the Chairman of the National Republican Party of Kazakhstan. Last November, Kazakhstan's Supreme Court upheld lower court rulings barring him from running for president.

Second, we have Pyotr Svoik. From 1990 to 1993, he was Secretary of the Committee on Economic Reform, Budget and Finance of Kazakhstan's Legislature. From January 1993 to August 1994, Mr. Svoik chaired Kazakhstan's State Committee on Anti-Monopoly Policy; and for 2 years after that, he chaired the State Committee on Pricing and Anti-Monopoly Policy. Since January 1996, he has been the Chairman of Kazakhstan's Socialist Party; and in April 1996, he became one of the chairmen of the movement Azamat.

Third, we are pleased to welcome Mr. Yevgenyi Zhovtis. A geologist by training, he is now also a lawyer. Since 1994, he has been the Director of the Kazakhstan International Bureau on Human Rights and Rule of Law. Mr. Zhovtis is also a member of the Council of Experts attached to the official Commission on Human Rights, under President Nazarbayev. In 1999, he became Chairman of the Board of Directors of the Soros Foundation in Kazakhstan.

**TESTIMONY OF AKEZHAN KAZHEGELDIN, CHAIRMAN,
THE NATIONAL REPUBLICAN PARTY OF KAZAKSTAN AND
FORMER PRIME MINISTER OF KAZAKSTAN**

Mr. KAZHEGELDIN. Good morning, ladies and gentlemen. Mr. Chairman, Members of the Committee, I would like to thank you for inviting me to testify before this committee of the most influential parliament in the world.

To be precise and brief, I will continue in Russian.

Mr. Chairman, I have familiarized myself with the deep analysis published recently in the Congressional Record of the recent presidential election in my country, and I would like to express my admiration by your understanding of the process and the issues of the election in Kazakhstan.

I would like to subscribe to the conclusions offered here by the representative of the Department of State, and I also subscribe to the comments of the OSCE to the fact that the latest elections in Kazakhstan were not democratic, and they were not open and free.

My country has yet to adopt a full-fledged election law, and all elections that have taken place in Kazakhstan so far have taken place on the strength of a presidential decree on elections.

The changes that were made in the Spring of 1998 whereby individuals convicted of administrative violations are prevented from running for political office were made specifically for the purpose of preventing opposition from competing against the powers that be.

The violation that I am guilty of, from the perspective of the Kazak government, is that I personally attended a meeting of the NGO calling for a fair election.

We people who are committed to the democratic development of Kazakhstan are thankful to the involvement of the U.S. Government. Those who are here now are familiar with the fact that in his statement on November 25 of 1998, the Department of State criticized strongly the recent decision of the Supreme Court of Kazakhstan.

I would also like to thank Vice President Al Gore and Ambassador Sestunovich for their own personal efforts to make sure that the authorities in Kazakhstan allow participation in the elections of all those wishing to participate.

I believe it is very fair that the latest presidential election in Kazakhstan was recognized as not free. Unless a new election law that would meet the international standards is adopted in Kazakhstan, no future election in Kazakhstan will ever be free.

Here is what I would like to call your attention to. We understand that the U.S. taxpayers' money is not going to buy democracy for Kazakhstan. However, we do not have any alternative sources that would inform our society. The newspaper Republik has been waiting for its registration for 9 months now. The Kazak national television is controlled by Nazarbayev's family. And against this background, the Voice of America and Radio Liberty have been reducing their air time.

The American people, the U.S. Congress, and the U.S. Government have vastly contributed to the extinction of the former dictatorship that once ruled that part of the world. However, our people still need a lot of education and enlightenment, and our democrats are in dire need of information support.

We would appreciate attention being given to an effort to increase the air time of the radio stations I have mentioned, and it would also be very helpful if the Voice of America opened a bureau in Almaty or perhaps another Central Asian capital.

The Kazakhstan government has voluntarily signed two agreements with the U.S. Government on democratic and strategic partnership, and it was a voluntary choice that Kazakhstan made when it joined the OSCE.

I would recommend the U.S. Government to demand that the Kazak government, which is a partner of the U.S. Government of its own choice, live up to its own commitments.

Two messages that I have heard here today cause me to be concerned. One is that democracy takes a long time to evolve, and the other one is that democracy can follow its own unique path. I do not think it is possible to be a little bit free. One can be free or not free. Also, who is there to measure the length of the road that democracy needs to travel. The most important thing is to start moving on that road. Unfortunately, we in Kazakhstan are having a hard time starting that movement.

The only thing we want is to be able to live, work, travel, and express our thoughts freely. We want to have a strong parliament, one that is capable of controlling the authorities. We want to have independent media that will be in a position to tell the population the truth. And we want to have a truly independent judiciary so that we can take our issues with our own judges rather than have to come all the way to the United States and have to discuss these issues with the U.S. Congress committee.

Many believe that Kazakhstan has only come so far from the Middle Ages and cannot yet be a democratic country. We believe that is a mistake. Kazaks are a nomadic people, and Kazaks have always

elected their leaders. We do not have any alternatives to democracy. Kazakstan being a multi-ethnic society, any alternative to democracy would be societal.

A question has been asked here, if any economic action can be taken to make sure that democracy is achieved. The first thing I have to say is that the Kazak authorities should not be isolated. The U.S. should continue its cooperation with Kazakstan. However, it is within America's ability to gently prod the Kazak government, the Kazak authorities, towards building democracy. And my understanding is that it has nothing to do with something like export of democracy. Thank you.

Mr. SMITH. Thank you very much, Mr. Prime Minister. We do appreciate your testimony. I would like to ask Mr. Zhovtis to be next.

**TESTIMONY OF YEVGENYI ZHOVTIS,
CHAIRMAN OF THE BOARD OF DIRECTORS OF
THE SOROS FOUNDATION IN KAZAKSTAN**

Mr. ZHOVTIS. Mr. Chairman, Members of the Commission, ladies and gentlemen, I would like to thank you for inviting me to testify before this distinguished audience. In this testimony, I will speak in English to keep a short time.

In this testimony, I will focus on how basic political rights and civil liberties are exercised, and on difficulties which accompany the development of an open democratic society and the rule of law in the country.

Kazakstan is a typical example of a post-Soviet post-totalitarian state, part of the Soviet Union, which acquired independence in 1991. As with most former Soviet Republics, the communist bureaucracy still has its grip on power in Kazakstan. Having exchanged communist ideology for democratic phraseology, it has in fact preserved the typical Soviet style of administering government and society, and relies on essentially Soviet institutions.

It remains doubtful whether an open and effective market economy can be built in this environment. The political system and the style of interaction between the authorities and society remain unreformed, acquiring an even more authoritarian character.

After Kazakstan gained independence in 1991, its government undertook several liberalizing measures by both adopting and implementing new legislation. During 1991 to 1994, the new Kazak Constitution and a number of laws were adopted. They created a limited environment for exercising basic political rights and civil liberties. Such political liberalization was primarily allowed because of the desire of the political leaders that the country be viewed as a developing democracy by the international community and global economic powers, so that it could attract more investments and international support during a period of difficult social and economic transition.

During that time, new opposition parties and movements, independent mass media, multiple public organizations, and a relatively competent Parliament appeared in Kazakstan, and I agree with the representative of the U.S. State Department. But it seems that by the end of 1994, Kazak authorities learned the unspoken rules of international relations, according to which the economic and geopolitical interests of democratic industrial nations have more value than human rights and democracy in general. In order to explain occasional

violations of human rights, they began referring to the period of transition, historical and ethnic peculiarities, the grave heritage of communist rule, and they found that the international community was willing to accept these inadequate explanations.

1995-1998 was a time of recoil from the political liberalization of the first years of independence. After adoption of the new Kazak Constitution, power was largely concentrated in the hands of the President and his administration. The Parliament became a pro forma institution, having no real control over the executive branch. The judicial system remained unreformed and, to a certain extent, corrupt. As a result of the tender of TV and radio frequencies, independent radio and TV were practically eliminated. Several new laws limited the rights of citizens to elect and to be elected, on their freedom of association and peaceful assembly, et cetera.

These alarming tendencies, this backtracking from democratic development reached its peak during the 1998-1999 presidential election campaign, which was severely criticized by democratic nations and international organizations.

Defining the status of basic human rights and freedoms, it should be noted that in general the theory and practice of legal regulation still follows the Soviet model. Laws concerning basic rights and freedoms are usually drafted by the President and its Cabinet, and then forwarded to the Parliament for adoption. The drafts are not published and not presented for the public discussion. Publication of the 1995 draft of the Kazak Constitution and its adoption in a national referendum, as well as the recent publication of the Mass Media Regulation were exceptions to this rule. We have neither the tradition nor the current practice of political debates over proposed legislation that concern basic human rights and freedoms. Even the draft of the new election law, which had already been passed by the Lower House of the Parliament, the Majilis, has not been published, and its text was not accessible until quite recently. Such practice deprives citizens of any opportunity to have their say in passing laws, and denies political parties and movements and other public organizations any influence on public opinion with regard to government legislative projects.

Besides, although the Kazak Constitution guarantees basic human rights and freedoms, the second level of legislation—laws, decrees, et cetera—significantly limit these rights.

I will briefly discuss the present status of individual human rights and freedoms.

Freedom of movement. Kazak laws still require a so-called exit permit or exit visa. This means that even if a Kazak citizen has a travel passport and no specific travel restrictions due to criminal charges, he still cannot freely leave the country. Extensive paperwork and an invitation from abroad is required to apply for an exit visa. The exit visa is valid for 9 months or one year, and it is not free of charge. Though the permit is rarely denied, the sole existence of this procedure directly infringes on freedom of movement.

Though the Kazak Constitution does not require Soviet-style registration, a very similar requirement, registration at the place of residence, still exists. The Visa and Registration Office of the Ministry of Internal Affairs implements this registration.

The problem of political and other refugees is especially disquieting. Despite the existing, but practically non-working, Kazak law on granting political asylum and the law on migration, which establishes refugee status, the Kazak authorities sometimes extradite asylum seekers. In 1995, three representatives of Uzbek opposition were handed over to Uzbek authorities. As a result, representatives of the Uzbek opposition no longer seek asylum on the territory of Kazakhstan and Russia, but try to escape to Sweden, Turkey, et cetera. This year, three representatives of the Uigur diaspora from the Xinjiang Uigur Autonomous Region in China were extradited to China, where they may face the death penalty. Presently, several other ethnic Uigurs, who migrated from China to Kazakhstan, find themselves in a similarly dangerous situation.

Freedom of speech and press. Although free expression of one's opinions is not being formally persecuted in legal theory or in practice, the tendencies are nevertheless worrisome. Only this February, Madel Ismailov, Chairman of the Workers' Movement, was released from prison after having served a one-year term. The sentence had been given for the crime of insulting the honor and dignity of the President. According to the Criminal Code of Kazakhstan, this is a criminal offense. His whole crime was just one offensive word aimed at the President. For one word, one year of prison.

In 1998 and 1999, new laws on national security and classified materials were adopted. As a result, the probability that a citizen may face criminal charges for expressing his or her opinion has dramatically risen. For example, information about the health and private life of the President and his family has become classified. National security is now understood as protection of national interests. This means protecting the cumulative political, economic, social and other needs of the Republic of Kazakhstan, which are essential for the state's capacity to insure constitutional human rights of its citizens, the values of Kazak society, and fundamental social institutions. This wording is vague, and the monopoly of interpretation belongs to the executive branch of the government. It is therefore evident, that it will be up to the state security authorities to determine whether national interests are threatened and therefore whether they should take legal action against a citizen for spreading critical information or expressing a dissident opinion. This will become an effective mechanism of limiting the freedom of speech. The draft of the Mass Media Law, prepared by the Ministry of Culture, Information and National Concord and published in April 1999 is a further corroboration that such mechanisms are being developed. According to this draft, the Ministry serves as a media regulatory authority, which can suspend without trial any publication or broadcaster for activities that subvert national security. According to the same draft, all mass media as well as information agencies must be registered with the above-mentioned Ministry. This way, all media is subjected to strict control. The Parliament will consider this draft law later this month.

Freedom of conscience. Although freedom of conscience is mainly observed, early this year the same Ministry came up with a draft law on religious associations. This draft law is similar to the analogous law adopted by the State Duma of Russia, and it provides the same limitations for new religious denominations. The need for a certification by local authorities that a certain religious community has been

present on a certain territory for not less than 10 years, et cetera. Though this draft law has not been brought before the Parliament, the threat that freedom of conscience may be restricted still persists. At present, the public prosecutor's office is inspecting documentation and religious practice of several denominations, including Jehovah's Witnesses.

Freedom of association. Under present law, non-governmental public organizations must register with the Department of Justice. To be engaged in creation and activities of a non-registered public association is a criminal offense. In turn, the Ministry of Justice and its local offices refuse or delay registration of those political parties, movements and public organizations, which may be suspected of opposing the existing regime.

Under present Kazak Constitution and the Civil Code of Kazakhstan, trade unions cannot receive assistance from abroad under the threat of criminal persecution. As a result, assistance that had been previously rendered by the AFL-CIO and international trade union organizations was forced to stop.

Freedom of peaceful assemblies, including those which criticize the government. In Kazakhstan, freedom of peaceful assemblies—meetings, demonstrations, or marches—is severely restricted. Present legislation regulates all forms of this kind of civil action, including pickets and hunger strikes. Any of these actions requires permission of the authorities, which is difficult to obtain, especially in the provinces.

In my presentation, I did not touch upon the illegal methods of investigation, and so on.

It is impossible to build a working economy and an affluent state without democratizing public life, without openly discussing the challenges that Kazakhstan faces on the road to independence and democracy. To achieve these goals, one needs a responsible and accountable government, a competent, freely and fairly elected Parliament, and an independent and impartial court of law. The international community should be interested in an independent and democratic Kazakhstan. We have to hope that it will help our country in this respect, and that the United States will play its role here as well. Thank you for your attention.

Mr. SMITH. Mr. Zhovtis, thank you very much for your testimony. I regret we will have to pause and stand in recess for about 15 or 20 minutes. There is a vote on the Floor.

Mr. Hoyer, did you want to—

Mr. HOYER. I will not be able to come back, and I apologize for that. I would like to comment to all three witnesses, but particularly to Mr. Kazhegeldin, I would hope very much that you make this case between now and the first part of July, and that you would plan to come to St. Petersburg. St. Petersburg, as you know, will be the meeting of the Parliamentary Assembly from July 5 through July 9 in St. Petersburg. I think it will be very important that you raise this case there. I know Mr. Smith will be heading our delegation, and I will be obviously in attendance as an officer of the Parliamentary Assembly, but it has been very useful throughout the history of OSCE, that matters such as this in terms of democratization and opening and meeting of Helsinki principles be brought to the attention of the in-

ternational bodies and discussed in those fora. That has been one of the strengths of the OSCE process, and I would hope that you would pursue that. Thank you very much, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Hoyer. I will get into this a little bit later, but very briefly I think it is very important that you elaborate on what you were charged with, and that is speaking to an unauthorized non-governmental organization. Frankly, this action makes a farce of the idea that somebody is being disqualified because he or she has committed some offense. It certainly doesn't rise to the level of being a grave offense, and I think the message that we have to convey to your country, Kazakhstan, is that that is totally unacceptable, being out of the norms of any OSCE understandings, and we will continue to pursue that. That is a mere ploy used to disqualify people from participation, and, again, that is unacceptable.

We will return in about 15 or 20 minutes. The hearing stands in recess.

[Recess.]

Mr. FORBES. [Presiding] The hearing will come back to order. Mr. Svoik.

TESTIMONY OF PYOTR SVOIK, CHAIRMAN OF THE MOVEMENT AZAMAT

Mr. SVOIK. The early elections of the President held in January 1999 were criticized in the U.S. and the OSCE as a departure from democratic principles. In April the Parliament of Kazakhstan approved a new law on elections, drafted by the Administration. The law preserves virtually unchanged the main methods which are used by the executive power to attain the results it needs for itself.

Without condoning this government policy, it is worth noting that the government is pressured to do this by the sharp downturn in the economic situation. It is natural that, experiencing serious and ever increasing difficulties in the collection of taxes, the payment of debts on its obligations, and the prevention of inflation, the government fears a complete loss of control in the country in the event that, in addition to severe economic problems, it also has to contend with a radically opposed parliament.

The official reasons for the economic downturn in Kazakhstan attribute it entirely to the world financial crisis, the fall in prices of natural resources, and the devaluation of the ruble in Russia. However, these factors only exacerbated severe internal problems that had accumulated over a 10-year period of market reform. The essence of these problems is that in its present condition the Kazak economy is neither a market economy nor is it stable.

This imbalance has been compensated by a hasty sell-off of property rights in major natural resource deposits, export complexes, energy and communications enterprises, and by the receipt of foreign credits. With such imbalances, the Kazak economy has been turned into a powder keg for several years now, and the fuse underneath it was ignited as early as the beginning of last year, when three factors occurred simultaneously: a decline in the receipt of dollars from privatization activities, a fall in receipts from exports, and the due dates of various loans extended on favorable conditions.

Kazakhstan today is a country that is rapidly losing economic, cultural, and general humanitarian potential, has small population living on a vast Eurasian territory, which is a crossroads of various geo-

political, economic, ideological, and religious interests of many leading countries of the world. The only change to keep Kazakhstan under control is to join all internal political and public resources in implementing a political liberalization and economic stabilization plan. Such a plan needs to be developed in advance, have a scientific basis, enough financing and organizational resources for its implementation, and be understood and supported by the general public. This can only be accomplished if supported by other countries, namely, Kazakhstan's allies, which can draw in outside resources, and the guarantees and monitoring by international organizations.

To build up on that, I believe that between them—the OSCE, the U.S. Congress, the Department of State, the World Bank and the IMF—have just enough power and leverage if a concept for a system reform were to be formulated for Kazakhstan, to make sure that this reform is in fact implemented and bring very early positive results.

And two more specific comments. A few days ago, the Kazak Parliament did in fact adopt a new election law. However, it is very unfortunate because this new election law is probably as far from the OSCE election standards as the older legislation, and I believe that the pending Parliamentary election will be just as far a cry from the OSCE standards as the recent presidential election. However, provided there is enough good will shown, there is a possibility—and Mr. Nazarbayev certainly has enough power—to ensure that the parliamentary election is closer to multi-candidate competitive election.

There is only a very limited list of demands, if formulated and presented appropriately, and if acted upon, could make the forthcoming parliamentary elections democratic elections, and it is only a matter of formulating and presenting these demands.

One thing that is probably even more important than elections, although it is difficult to overestimate the importance of elections, I believe that the Kazak government needs to be immediately restructured, and not so much in terms of personalities and individuals and the line-up of the government as conceptually.

The government representing the executive branch should incorporate in its program not only elements of economic reform, not only an economic program, but also specific steps aimed at building—at laying down the foundation of a law-based democratic society. The executive branch itself should incorporate in its program efforts towards rule of law and democracy.

And I do not believe that this will be a case of interference in the internal affairs of Kazakhstan because if we take the World Bank, for instance—this, of course, being an economic partnership between the World Bank and Kazakhstan—I believe that if the World Bank not just concentrated on the economic efforts being taken by the Kazak government on the restructuring of the economy of the Kazak government, but also focused on certain political changes that would help along the economic objectives that the Kazak government is trying to accomplish, that it would just be a case of a professional approach of an economic entity, one that understands that unless there are certain fundamental political changes, the economic ends it is seeking to accomplish are unobtainable. Thank you.

Mr. FORBES. Thank you. We've been joined by Commissioner Cardin. We will proceed now with a round of questions, if we might.

For Mr. Kazhegeldin, if you would, sir, why do you think it is that President Nazarbayev refused to allow you to register as a presidential candidate, and do you think it has something to do with him being concerned about winning only by 55 or 60 percent, or is he afraid of losing what many would think would be a fair election?

Mr. KAZHEGELDIN. One problem that Nazarbayev has with his policies is that he, in fact, has never run in a free election. I believe he was afraid that he might lose, and he made sure that he did not have to deal with that risk.

Mr. FORBES. Since last fall, you have been spending, obviously, a lot of time in Washington, meeting with various U.S. Government officials, Members of Congress, and others influential in Kazakhstan. What is it—and I noted in your comments that you were a little concerned about references, I think, made earlier today about pursuing economic leverage as a way to convince the President to pursue political reforms. Noting your concern on how economic leverage might be used, what suggestions, based on the many meetings you have had, would you suggest the United States—and particularly the United States Congress—might do to try to expedite political reforms in Kazakhstan?

Mr. KAZHEGELDIN. I indeed have tried to call the attention of the American eagle to my small country. You, the United States, have a huge responsibility to bear, being the leaders of the world, and we, too, cannot be just sitting on our hands, waiting for our turn. That is why we have been trying to draw some of your attention.

I was involved in the building of an independent financial system in the Republic of Kazakhstan, and our main partner was the United States. The United States provided funding for our economic programs and it was also instrumental in obtaining funding from the World Bank, the EBRD, and the IBRD.

As far as I am concerned, it is an absolute truth that these three institutions should change their perspective of the reform in Kazakhstan. Unless there is political competition, there can be no economic competition. This is something that the U.S. understands very well, and the U.S. in fact can do more than it seems it can do.

The policies of Kazakhstan should be changed, and I believe that violations of human rights can no longer be seen as an internal affair of any country, no matter which.

Mr. FORBES. I would like to also pose that same question to our other two panelists. Mr. Zhovtis? The question again being, what do you believe the United States—particularly the United States Congress—could be doing to expedite political reform?

Mr. ZHOVTIS. I think one thing the U.S. can do is realize that the existing system of institutions operating in Kazakhstan and the entire relationship between the authorities and the rest of society is still very much Soviet-style.

This is not just a case of a number of violations of human rights, this is a case of systems reform. Everything, starting from legislation to the implementation or execution of laws, requires drastic and immediate change.

What the U.S. Congress can do, along with the OSCE, on a parallel basis with the OSCE, is demand that the legislation of Kazakhstan be brought in line with international standards and the implementation of legislation be also brought in line with the international standards.

Mr. FORBES. Mr. Svoik. I know you mentioned, Mr. Svoik, about the World Bank. Could you elaborate maybe on that, and other approaches you think that we might be taking?

Mr. SVOIK. One thing the U.S. could, and probably should, do is to stop deceiving itself into thinking that the economic reform that has been implemented—right in the middle of being implemented in Kazakhstan—with the advice of the World Bank and funding of the IMF, is being successful. The reform has been a complete fiasco, disaster.

Also, I think it would be very helpful if the U.S. understood that the actual word that was used, decertification—used figuratively—both in terms of the production capabilities and in terms of the exodus of people in Kazakhstan is, in fact, very dangerous, given the fact that Kazakhstan is surrounded by what I would refer to as “problem” countries, such as Russia, China, and many Islamic nations, and Kazakhstan, in the face of that, has been losing both its production capabilities and its people.

I believe there is an easy to understand and not so difficult to work, to put into specific wording, a connection between what the World companies, the World Bank, the USAID, are doing in Kazakhstan, and I believe that if these organizations and entities were to formulate specifically what needs to be done by the political entities in Kazakhstan and by their financial and economic counterparts in Kazakhstan, they would then each contribute, make a contribution, put a brick into the construction of the foundation of a democratic society in Kazakhstan.

I am not going to go into great detail on that because I appreciate your time, however, I will just say it in one sentence, but I could explain and substantiate very convincingly that the pension reform that is currently being implemented in Kazakhstan with funding from the World Bank must, in fact, be accompanied by certain changes in the judiciary, in the legal system and in the political system in Kazakhstan, if only for the sake of successful completion of that pension reform. Unless these changes occur, the pension reform is not going to be successful.

Mr. FORBES. Thank you. Commissioner Cardin.

Mr. CARDIN. Thank you, Mr. Chairman. And let me thank all of our guests for being here. I can assure you that our Commission is very interested in the concerns of your country. And it is a legitimate concern under the Helsinki Final Act. As you know, each member state has not only the right, but the obligation to raise human rights issues in other member states.

I want to follow up on the questions from Mr. Forbes. We know of the problems in regards to freedom of the press and freedom of assembly, and the problems you had in your most recent election, which certainly does not measure up to international standards. And I would agree with the comment that was made by you that these are structural problems that need to be addressed. These are not just specific issues, but need a more comprehensive approach.

The country is a young country as far as democratic principles are concerned, and it takes some patience sometimes in trying to develop these structural reforms. On the other hand, we cannot just ignore the human rights problems that are occurring.

I guess my question to you, following up with Mr. Forbes', relates to the fact that the OSCE Assembly, Parliamentary Assembly, will shortly be meeting in St. Petersburg. The United States delegation

will be represented at those meetings. We, as Commissioners, need to determine how we can best use that opportunity in order to move forward on the areas of interest to our delegation.

My question is, how would you like to see the United States delegation deal with the problems in your country at that meeting, mindful that sometimes raising these issues among member states can be constructive and other times it may not be so constructive. I would at least like to give you an opportunity to give your views as to how you would like to see our delegation use the opportunity in St. Petersburg to move forward with these issues. And I invite anyone to respond.

Mr. KAZHEGELDIN. With your permission, can I try and answer that question. As my colleague, Svoik, has just informed us, a very unfortunate development occurred a few days when what in fact was an old presidential decree was adopted and now has the legal strength of a law, election law.

There can be no free election unless there is proper legislation that provides for free election. And the stubbornness and the obstinacy of the Kazak government that it has put into preventing a free and fair election law from being passed to us is an indication that the Kazak authorities are not prepared to democratize Kazakstan.

What we would like the OSCE to be and to do is to, first, be very exacting and place specific demands and also be consistent because this is what the Kazak society expects from the OSCE. And this is the reason why we are here. Thank you.

Mr. SVOIK. I believe that whether or not United States wants it to be the case, it does share some responsibility for what is happening in Kazakstan, and I believe that it should use powerful and energetic language in formulating this responsibility.

What exactly I believe the U.S. delegation could try and accomplish at those meetings, one thing is it could try and get from the Kazak officials specific answers as to why they have not lived up to certain commitments that they took in the past. In particular, about 18 months ago President Clinton and President Nazarbayev signed a document on strategic partnership between the two countries, and that document in particular contained a paragraph which expressed commitment on behalf of Kazakstan towards the conducting of a fair and free election, and the U.S. delegation could try and obtain answers as to why that particular commitment has never been implemented, and why other standards that Kazakstan has agreed to, standards of the OSCE and those proposed by the U.S., have never been translated into reality.

Another thing the U.S. delegation could try and do is demand that the election legislation in Kazakstan be enhanced and incorporate certain provisions that would prevent mass scale rigging and falsification of election returns in Kazakstan, and the creation in Kazakstan of a government whose program will include both economic elements and political transformation, political changes, a government whose stated official program will provide both economic reform and political reform.

Mr. CARDIN. I'm curious whether you think it would be useful to have an OSCE delegation visit your country and work—we have done other delegations that have been very useful at times. Obviously, a lot depends on how receptive the country is to the delegation, but has there been an OSCE delegation visit, and do you think that would be useful?

Mr. SVOIK. There has been a visit by an OSCE delegation to Kazakhstan, and we believe that definitely such visits should continue. I believe that such visits should continue, and I have another suggestion that I hope might be useful. There is an OSCE mission in Kazakhstan. I think it would greatly benefit from including on its staff—not necessarily on its staff—involving in its efforts some locals within the same mandate that the OSCE mission has, but basing on their knowledge of specifics and the culture could greatly contribute to the achieving of the OSCE purposes and objectives in Kazakhstan.

Mr. CARDIN. I know that Mr. Hoyer has invited you to participate in St. Petersburg. I hope that we will have an opportunity to continue this discussion at the Parliamentary Assembly at St. Petersburg. Thank you.

Mr. FORBES. Mr. Kazhegeldin, I understand that criminal charges—specifically, tax evasion—have been leveled against you. Could you please explain the basis of these charges, and what are the possible consequences?

Mr. KAZHEGELDIN. My problem is that I do not have access to the media in Kazakhstan, so what I do is I usually publish my tax return on the Internet. Another problem which is an extension of this one is that apparently the Kazak Attorney General does not have access to the Internet. However, bearing in mind what happened to me during the campaign before the election, I believe that the authorities of Kazakhstan can pretty much do whatever they may come up with in their minds, whatever they decide to. However, President Nazarbayev is certainly aware of what the international community attitude is towards the developments in my country.

Also, President Nazarbayev is perfectly familiar with the Kazak tradition, and he knows that he is not the only Kazak person around, and I think that everything will be just fine eventually.

Mr. FORBES. Are you considering returning to Kazakhstan, and what circumstances and guarantees would you need to get home, and how can you lead an opposition party, I think, is a fair question—how can you lead an opposition party in Kazakhstan from abroad?

Mr. KAZHEGELDIN. I was in Kazakhstan 2 weeks ago. I had not notified the government that I was going to visit, though. And sometime ago sort of a dialogue emerged between the Kazak government and myself, the dialogue that we conducted with the press. Our party was registered, unfortunately, only very recently, 60 days ago, and its regional branches have yet to be registered.

Also, democracy in Kazakhstan and the opposition need resources. Any resistance activity needs resources. We need international contacts, and as soon as I have done everything that I need to do to properly organize the opposition movement in my country, I will go back. And I think that what will happen to me personally will be an indication of the path that my country will be on. I am not into hero stuff, but I do not think it takes to be a hero to live in one's own country. We will definitely work in our own country.

Mr. FORBES. If your country is allowed to participate in the upcoming parliamentary and local elections, if you would share with us what you think the prospects might be for participation in those elections.

And I would ask that also, Mr. Zhovtis, you said earlier this week you said you would not be in the party's list of candidates. And if you could explain to us why you decided not to be.

Mr. KAZHEGELDIN. I cannot run for political office because I am still under the previous ban which is in effect because the election legislation has not been changed. The same is true of Mr. Svoik, who, too, cannot run. But we do need a podium in the parliament. Even a powerless parliament that has no rights can still do a lot to promote democracy. That is exactly why a new election law, a fair election law, has not been passed, because the regime fears that opposition will penetrate the parliament, and will enjoy the protection of the constitution to a much higher extent than now. And that fear, I believe, is very obvious.

Mr. FORBES. Mr. Zhovtis, up until several years ago—and, actually, I think this is a question that I think a lot of you have already addressed—until several years ago, Kazakstan seemed to be a relatively progressive Central Asian country, and President Nazarbayev a relatively progressive leader. Was that just simply an illusion, or was it the product of comparisons with much more repressive Uzbekistan and Turkmenistan, and what went wrong, if I may ask, if that was just an illusion?

Mr. ZHOVTIS. It was not a 100 percent illusion. I think it is true that the post-Communist elite did in fact want to join the international community and do that while looking as a country that had embarked on a road towards democracy. However, what happened later was that because they failed to get rid of the Soviet institutions of the old Soviet mechanism of controlling society, of managing society, they eventually, after a relatively short period of time, were sucked back into the old ways and became what they are now.

Within 3 years, things happened that we have witnessed—that is that after some movement towards liberalization and certain democratic improvements, because no structural changes occurred, the regime fell back into the old authoritarian lap and became an authoritarian regime that fears democracy and is there to perpetuate itself.

Mr. FORBES. Thank you. One final question, if I could address it in general to the panel and those of you who want to remark on it. We have talked about the lack of change in some areas in the government. I wonder if you could comment on the judicial system, on the courts and, for the record, if you could give us some insights of the status of reform in the judicial system and in the courts.

Mr. ZHOVTIS. Unfortunately, this is the most painful issue because the lack of an independent judiciary basically jeopardizes any effort at democratic change. The legal reform that was announced once has been virtually a disaster. The judiciary is obviously controlled by the executive, and at all levels of the judiciary judges see themselves as government officials who report to the respective local or regional governments.

There is lack of funding, too, which has resulted in a considerable amount of corruption. The conclusion is that at this point Kazakstan does not have an independent judiciary, and in some ways the judiciary that it has is even more improper and more inadequate than the judiciary in the Soviet Union.

I know that the USAID is currently beginning to assist Kazakstan in implementing a legal reform, in particular the criminal segment of the legal reform, and I believe that the State Department and the U.S. Congress could be instrumental in that as well.

Mr. FORBES. Thank you very much. I appreciate the panel's time and attention. I found your comments to be extremely helpful and insightful and, on behalf of all the members of the Commission, I thank the panel for being here today.

Finally, we are delighted to have here—and I appreciate the tremendous patience of—Dr. Martha Brill Olcott. She is probably one of the leading academic specialists on Central Asia, having studied the region for over 30 years. Martha Olcott is currently a Professor of International Relations at Colgate University in the great state of New York, and a Senior Associate at the Carnegie Endowment for International Peace here in Washington. She served as a special consultant to Acting Secretary of State Eagleburger and is a director of the Central Asian American Enterprise Fund. Dr. Olcott is the author of *The Kazaks* and *The New States of Central Asia*, and is currently finishing a book on state-building in Kazakstan. Thank you very much for your patience, and we appreciate very much your being here, Dr. Olcott.

**TESTIMONY OF DR. MARTHA BRILL OLCOTT, DIRECTOR,
CENTRAL ASIAN AMERICAN ENTERPRISE FUND**

Dr. OLCOTT. Mr. Chairman, thank you very much for the opportunity to testify, and I would like to ask that my written remarks be entered into the record. My goal in testifying is not to describe events on the ground, that has been admirably done by those from the region in all the testimony that we have heard this morning.

My purpose, rather, is to draw on the lessons of a long career in studying the region, to highlight the consequences of Kazakstan government's failure to follow through on the early promise that they showed in the area of democratization.

I would like to summarize and then expand on two basic points in my written testimony, history and patience, two things that we have heard a lot about this morning. First, about history. I dispute the notion that Kazakstan was particularly unprepared for democratization, and I am troubled especially by the frequent claim that Kazakstan's Asian traditions undermine a successful transfer of democratic ideals to that country.

More than anything else, this attitude serves the ruling elite, a ruling elite which is unwilling to share power—and this is a point I expand on in my written testimony. This attitude has also penetrated to U.S. policy-making circles. The speaker from the State Department this morning once again reminded us of the ill-suited nature of these post-Soviet societies for change and the need for patience in this regard, the expectation that this could take several generations. This, I would argue, shows that the region's rulers are socializing us, and not just we are socializing them.

As a long-term student of the region, I do not see Kazakstan's culture or history as inhibiting democratization and, in fact, the rulers in Kyrgyzstan have pointed to a similar history and used their historical interpretation as a way to defend their commitment—sometimes flawed—to democratization. So history is always capable of multiple interpretation, and the one that is currently being offered by the regime in Kazakstan suits their purposes rather, I think, than the goal of true history.

As a political scientist, I have real trouble accepting the notion of generational transfer of authoritarian ideals, that because a place lived 70 or 100 years without democracy, a new generation is going to find it more difficult to become democratic.

We, in the U.S., do not have different conditions of naturalization for citizens depending upon what their country of origin. We assume that one test will suffice for all, regardless of his or her background. And I would say that the successful democratization efforts post-war Germany and Japan speak to what can be done, albeit in extreme circumstances, when there is a strong commitment to democratize and democratize quickly. Those two experiments have been very, very successful. We have seen little or no backsliding in these countries.

In this regard, as a regional expert, I can testify to the fact that Kazakhstan's population was receptive to democratic reform in 1989 and through 1991, and there is absolutely no reason why the Soviet history of Kazakhstan should have created different kinds of democratization processes or a slower road to democracy in Kazakhstan than in Kyrgyzstan or in Georgia or in Ukraine. These are the three countries that I would point to as having been in similar stages at the beginning of independence.

The second issue is one of patience. Should we be patient? Will the Kazak people be patient? This argument about patience was a point in common in both Mr. Wilson's testimony and that of Ambassador Nurgaliev. I personally believe that there has to be a much faster timetable for democratic reform than our first speakers did today. If anything, I would even argue that it should be faster than our third panel of speakers said, for two reasons, one relating to the nature of the transition in Kazakhstan and the other relating to the nature of the democratization process more generally.

As to the latter, it is a mistake to confuse liberalization and democratization. They are not synonymous. We have seen liberalization in Kazakhstan in the last year or so, but we have seen very little democratization. Liberalization need not lead to democracy. Iran, under the Shah, is a very good example of a failed liberalization program.

Non-democratic institutions take on their own life, and they are very difficult to reform. Generational change will certainly bring to power a group of people who understand the market, but this next generation need not be a group of people that support democratic reform. Unless something occurs quickly, unless we see more democratic elections to parliament or democratic elections in local government or direct election of Hakhim, the generation that replaces Nazarbayev will certainly derive from the current elite. These will be people who have benefitted disproportionately from the current economic reforms, and there is no reason to believe that their fear of the masses will be any less keen.

Kazakhstan desperately needs to create institutions, political institutions that will allow popular dissatisfaction to be expressed. These dissatisfactions are keen and they are growing. It is especially important given the multi-national nature of the Kazak state and the growing sense of exclusion of non-Kazaks from government. It is also important given the growing inequalities that have been created by the current economic development policies. These inequalities exist leaving aside the correctness or incorrectness of the current strategy. And if the current strategy succeeds, it will be a *very* gradual success.

In the interim, we have seen the creation of a new urban and an educated poor, and new classes of population have joined the unemployed. These people, as well as the Kazak population more generally, must be given some sense of political empowerment to help compensate them for their loss of economic empowerment. The absence of a visible opposition, restrictions on the current opposition, will cause this dissatisfaction to be expressed in non-democratic ways, and this will make it much harder for the U.S. to pursue our other interest in the region, the interest in energy that Mr. Wilson said had to be balanced with the interest of democratization. This will cause the Kazak government to spend even more money on repression than it is now, and it is hard to find published figures on what they are spending. One hears rumors about the growing expenditures on their repressive mechanisms. But what we face is a situation where more will be spent on repression than on social welfare, or at least as much money should go for social welfare will go to repression.

It is important in this regard for the U.S. to realize that the democratization process in Kazakhstan will be easier to achieve than the process of economic reform. In the context of Kazakhstan, it is easier to create a free press, to create the infrastructure necessary for free and fair elections, than it is to achieve a rapid growth in the standard of living of the population which has been suffering from the current inflation and the current economic dislocation.

What can the U.S. do? I would say that what we can do is continue many of our current policies and pursue them even more emphatically, to push for the upcoming parliamentary elections to meet OSCE standards, to press harder for a judiciary system, to press for local election of Hakhims. At the same time, however, we must change our rhetoric. We must make clear that the U.S. does not believe that some cultures are more capable of sustaining democratic reforms than others, and we must really assert that the Kazak government has no historic excuse for lagging in this regard.

For all the talk of how bad the old USSR was, we tend to forget that it did some things right as well. It left Kazakhstan with most of the social preconditions of democracy, even though it left it without a history of democracy in the Soviet period. It had far more of the social preconditions of democracy than virtually all other previous colonial societies. This is true of many of the post-Soviet states.

Kazakhstan had universal literacy plus a well educated population. The overwhelming majority had secondary, even complete secondary, education, and there was more than an insignificant minority with a college education. It left the population with a significant elite that was well distributed geographically and multi-ethnic, and it left them with an urbanized population. In this environment, there is no excuse for saying that the population is not suited to democratic development. Thank you.

Mr. FORBES. Thank you, Dr. Olcott, and of course the text of your full statement will be made part of the record.

Central Asian presidents, it appears, have concluded that the United States' strategic and economic interests in the region and fear of Islamic fundamentalism will keep Washington from pressing these staunchly secular capitals too hard on human rights. Do you think that they assume that there is no negative consequences for holding bad elections and, if so, are they right?

Dr. OLCOTT. I think they do assume that there are no negative consequences for holding bad elections, and it is true that the Administration has given the Kazaks a good scolding after the past presidential elections, but there have been no costs worse than that. And so I think that they will continue to hold bad elections unless pressure makes it really unpleasant for them. They will continue to hold bad elections unless we can convince them that it is their own interest in terms of the stability of their country to hold good elections. And this, I think, is a more difficult task. I think that what we require is to begin re-socializing the top elite to try to bring to them more examples of where failure to democratize has led to short-lived rulers, or at least short terms in office, and to create a picture of instability to come. Instead, I think we see a limitless—we see a passive population and a long horizon of their passivity.

And as we know from the late 1980s, populations can become radicalized and mobilized very, very quickly, and it is certainly not beyond the realm of possibility that the population of several CIS states will become rapidly radicalized in the next few years.

Mr. FORBES. Mr. Svoik mentioned World Bank involvement to try to help move reforms along. What kind of sanctions are possible, or even feasible, Dr. Olcott?

Dr. OLCOTT. I think the one thing that we have always been reluctant to do, and it is a big step, is to tie economic guarantees, to democratization. I think we should still go in with all the legal restructuring in the economy as well as in political life, but we are reluctant to do things like, say that OPIC or Ex-Im Bank guarantees should be linked to democratization. If we made that kind of move, I think we would find that the opposition of President Nazarbayev to free and fair elections would begin to be lessened.

I suspect we would not find that these elections were models of democracy, but I think that he would move further, faster towards these kinds of goals. But this points up a basic tension between our energy policy and our policies towards democratization. I think in the energy realm, we make a critical mistake to believe that landlocked oil producing states can retain, successfully retain their investments if there is major instability. States that do not have ports, I would argue, have to be stable in order for an oil sector to prove profitable for Western investors. So, I think the risk in linkage is much less than the Administration might suspect.

Mr. FORBES. Commissioner Cardin.

Mr. CARDIN. Thank you for being here. We appreciate very much your observations, they are certainly very helpful to us.

If the United States were to consider exercising some of the sanctions or penalties or actions that you have referred to, what type of regional support or international support do you think we would have for that type of action? Normally, it is much more effective when it is the United States working in conjunction with either the United Nations, or OSCE, or some other forum, in order to point out that this is not just one nation's view, but it is the view of a collection of states, that change must be made more rapid and more definitive.

What type of international or regional support would we have if we were to hold up guarantees or to use our leverage in some of the monetary issues affecting this area? Would we get support?

Dr. OLCOTT. It is hard to see how much support you would get given the competitive nature of the energy business, but I think that certainly the OSCE is the most appropriate forum for trying to get that support because the same tensions that exist between those in the energy sector and democracy builders in the U.S. exists in other countries. So I would press in that forum for some of our allies—

Mr. CARDIN. But I think we would find that there are other member states' record is worse than we have here, and I understand the point that you raised earlier on comparable states. Don't we run a real risk here?

Dr. OLCOTT. I think if you could get some of the Western European states to agree that there really is the threshold—it is much more important that Germany and England agree than Uzbekistan and Turkmenistan as member states of the OSCE—so I don't know that you would get OSCE standards—I mean, I don't know that you could get OSCE to make formal resolution, but the whole thing would be to build alliances with other OSCE member states.

But, obviously, on these questions, the U.S. is always the one that has to take the lead or else no one else does.

Mr. CARDIN. Well, Kazakstan is certainly not in the headlines like Kosovo is today. In Kosovo, we are obviously having a real serious problem of ethnic minorities. I am curious as to your view whether there is a problem in Kazakstan as relates to Russian minorities. There has been some reports that there could be some interest in certain areas acceding to Russia. Is there any serious problem with the Russian minorities, or other minorities, as far as the stability of the state itself?

Dr. OLCOTT. I think that there are three levels of the problem. One, is the risks of ethnic cleansing in Kazakstan and serious separatist movements, which I would say, no, there really isn't.

Second is the question of the political role of these minorities and their level of dissatisfaction, and that, I think, is significant. The fact that you have had nearly 2 million people leave Kazakstan since the late 1980s speaks to the sense of the lack of empowerment of the Russian population. But there has not been a tradition of inter-ethnic violence in Kazakstan, and there is no reason to assume that you have another Kosovo in the making.

And that takes us to the third level, which is the question of human rights and individual political rights of these people. And in the non-democratic environment in Kazakstan, the sense of political disempowerment among non-Kazaks is increasing faster than the sense of political disempowerment among Kazaks, but both groups feel that they are disempowered. The ethnic Kazaks are able to make better use of family, kin—ties, regional ties, access to people in the economy, traditionally, than are Russians. That does not mean that there are not exceptions. And so I think the level of dissatisfaction is growing among ethnic Russians, and much will depend upon changes if language usage laws are implemented. If Russian leaves public life, that will certainly increase the dissatisfaction of ethnic Russians, but it is liable to take the form of their leaving the country for good, which is taking a valuable group out of the country rather than provoking ethnic violence. But there is always a capacity in Kazakstan to create, to spark inter-ethnic violence, if you want to, which makes it potentially a dangerous setting, but it is not one, I think, that is on the edge of some sort of major civil unrest.

Mr. CARDIN. So there is no government policy that is overtly discriminating against the Russian minorities?

Dr. OLCOTT. Again, it is not overt discrimination, but the Russians see it as covert discrimination because of the implementation of language legislation. Russians—and this has been sustained in a variety of studies—tend to perceive their exclusion as ethnically-based rather than simply economic, when they lose their jobs in a government cut-back of some sort.

Mr. CARDIN. The language restrictions would be very serious. Is that going to prevent the Russians from being able to use their language?

Dr. OLCOTT. Russians will be able to use their language in private life, including in private business, and there are still Russian language schools, but when the language law gets implemented in its fullest—and they have postponed that several times—you will have to be fluent in Kazak in order to function in government posts. But there is a sense on the part of Russians, as the percent of Kazaks in government increases, as the percent of Kazaks in the legislature increases, that they have been pushed out, and that is part of the reason why they are leaving the country. Still, it is important to note that when interviews that have been done and surveys that have been done of emigres from Kazakstan, and potential emigres, economic reasons were generally listed in first place.

Mr. CARDIN. So the way that the Russian minority will express themselves is by leaving the country. You do not see that as being a destabilizing influence on the country itself, as far as the geographical integrity?

Dr. OLCOTT. Not unless someone comes in from the outside and tries to destabilize it. The potential for them being a destabilizing influence is there, and an outside actor, classically Russia—there is no other outside actor who would do it—would be capable of using this population to destabilize a situation. Russia has not done this to date. The fear is always a different nationalistic regime could pursue different policies in Kazakstan.

Mr. CARDIN. Thank you.

Mr. FORBES. After the January election, you wrote an article strongly criticizing the Administration's approach in Kazakstan. The State Department, of course, says it is difficult to cut aid programs since they are designed to benefit the United States as well. Have you thought about what specific programs you might cut or change in regard to the way we deal with Kazakstan?

Dr. OLCOTT. Again, I would place—it is more what I would add rather than what I would subtract. I would place increased attention on democracy building in Kazakstan. I think if I had—in terms of a criticism of the State Department, if I had known some of the strong statements that were made at the very last minute that were not publicized until after the election, I would have softened my words somewhat.

So, I think it is incumbent on U.S. policymakers to make public statements of criticism. It should not just be that we are only privately criticizing people, we have to be doing it more publicly as well, especially in a setting like Kazakstan, where the president is very sensitive to international criticism, and it would serve us well. But I think, in general, upping the money we spend for working with non-governmental groups, with the press, would be well served. I also think that money in the social welfare sector, health care money should really be increased as well, because I think at the same time we do

have to realize that the process of change is going to be slow, and we have to help Kazakhstan make the transition to providing enough of a social welfare net to keep the place going for a while.

One thing that I see is most of our policies there are still agency-specific or office-specific, and there is not much coordination between the democracy builders and what they see on the ground, and some of the people working in education reform and what they see on the ground. The pension reform, which Mr. Svoik talked about very critically, that is a good example of a policy that was done in isolation from an awareness of what the base of pension-payers was going to be like. So, we put a lot of money into helping that go forward, and we are likely to continue to, but the number of potential pensioners contributing to the system and what they are going to contribute is really going to be much less than these expectations. So, more linkage between all the thousands of people out there working would do as much to improve policy as spending more money on some of these projects.

Mr. FORBES. You have touched somewhat on just the general situation in Central Asia. Assuming Kazakhstan is, as we believe, an increasingly repressive country, and President Nazarbayev intends to remain in office forever, Kazakhstan is still more liberal than Uzbekistan or Turkmenistan, and maybe you could comment a little bit about why is that the case, and what would you believe are the main factors determining the relative liberalism or repression of regimes in Central Asia in general.

Dr. OLCOTT. I think Kazakhstan is more liberal than Uzbekistan or Turkmenistan for a number of reasons. It is much more like Kyrgyzstan and even like Ukraine than it is like Uzbekistan or Turkmenistan. In part, the nature of the population is multi-ethnic. There is a very large Russian minority and other European minority there. Russia has always been the more appropriate neighborhood to look at, if you lived in Kazakhstan, than is Uzbekistan or Turkmenistan. Culturally, they think of themselves that their lives should not be appreciably different, they have been influenced by media from Russia.

In both Kazakhstan and Kyrgyzstan there was an understanding of what the Gorbachev reforms could bring to the country at the elite level and at the whole white collar level in society. Kazakhstan is an industrialized, a highly industrialized society, and so the pattern of employment also changed the way media was received and the kind of messages people took from it.

I think it is unfortunate that increasingly Nazarbayev is telling us that we should be comparing his country to Uzbekistan and not Turkmenistan, and that they become more of a model for him.

Culturally, the Kazaks people as nomads, they have always been a frontier people between these civilizations, and have taken a lot from all the neighboring civilizations. To say they were more assimilated to Russia implies something negative, but they certainly were more Europeanized. European society just penetrated much more deeply in Kazakhstan than in any of the other Central Asian states. That is why, for me, Kazakhstan is a failed democracy and not an autocratic society that has not begun democratization.

They have made a conscious move away from democracy as they perceive an ability to get away with doing it. They can, and should be, a pluralistic society. It is in their history. It is in their culture. And they certainly had a population that was prepared to be pluralistic. They had the best media in Central Asia, by far, the most sophisticated me-

dia. They are capable of a vibrant free press. They are capable of an independent judiciary. Parties are much harder to develop. But all these other things would stimulate opposition and allow alternative candidates to come forward.

The parliament was prorogued, the first parliament. Instinctively, the Kazaks, even with a Soviet-elected parliament, knew how to have a parliament behave like a parliament, how to use it to criticize the government, to have political debate. They did not do as well passing laws in every case, but they understood what debate is in a free society. And all this is what they are clamping down on, and that is very sad.

Mr. FORBES. Last summer, President Nazarbayev's daughter married the son of President Akaev of Kyrgyzstan. The marriage appeared to many observers to formalize a dynastic alliance and perhaps even the attempted establishment of royal families. What are the political consequences of this alliance, Doctor, and what are the implications for regional democratization?

Dr. OLCOTT. I think, and I have been sharply criticized for implying that these young people did not marry for love—that even if these people married for love, it has real advantages to Kazakhstan in particular. Although the two states show no sign of becoming fused, and the two regimes have been able to pursue their own national interests vis-a-vis one another, it still makes it harder for Akaev to criticize Nazarbayev in public forums. It would still make it more difficult for the Kyrgyz to refuse personal requests such as ones to arrest opposition on their territory. This level of family ties is a delicate subject. It is one that intuitively you know what requests you cannot make, and what requests you cannot refuse. And I would say, in general, the whole process of moving away from democracy reinforces President Akaev's more negative tendencies rather than his more positive ones, and it makes it harder for him to do what I think he would do, which is retain and sustain democracy in Kyrgyzstan. It is very hard for a tiny state, a poor state, to be the only democratic state in the region, and when your in-law is pressing you, it just makes it that much harder.

That marriage can be used for positive goals as well. Those two states together could make a much more powerful example for Uzbekistan, and Uzbekistan is the one I think we really have to watch. They have to deal with the transfer of authority from President Karimov and institutionalize succession, or else we are going to have a mess in Uzbekistan and a mess that will extend to all the border countries, which are the other four remaining Central Asian states.

Mr. FORBES. Thank you, Doctor. I have just one final question. Do you think the countries that do not observe basic OSCE commitments on democratization and human rights should remain members of OSCE, and are there any countries in Central Asia now whose membership in OSCE should be reconsidered?

Dr. OLCOTT. Thank you for asking that question. I think that the OSCE members should have to maintain commitments to basic human rights. I think they have to be making steady progress towards democratizing, and I certainly have trouble with the notion of Uzbekistan, Turkmenistan, and Tajikistan as OSCE members, given their political records, and especially Turkmenistan and Uzbekistan (Tajikistan is a confusing place at this point). I think if people were drummed out of the OSCE, or found wanting and had to leave the OSCE because they failed to maintain some sort of threshold of democratization, it would do a lot to people like Presidents Akaev and Nazarbayev to get them to take more seriously their commitments.

This is something that President Nazarbayev would not want, to be asked to leave, and I think that that is a very strong positive incentive to get somebody who is capable of seeing through more democratic reform, is capable of a higher risk threshold, if there was something in it for him.

Mr. CARDIN. Would the Chairman yield?

Mr. FORBES. Certainly.

Mr. CARDIN. I share your passion for these changes taking place. I would very much support reforms that you are talking about. I have concern, though, with politicizing the OSCE on challenging membership based upon our interpretation of progress being made.

In recent years, our delegation has been as strong as any delegation of OSCE in criticizing Turkey on their human rights records, and yet if there was a genuine fear that that could lead to the expulsion of Turkey, there may very well be OSCE members, for other reasons, who may follow that line of reasoning, and we would politicize the process to the point that it may challenge the effectiveness of the OSCE process. So, I have some concern about your response of allowing subjective determinations on progress being the determinative factor of membership in OSCE.

Dr. OLCOTT. The problem is we have to find some forum in which we could say that being a democratic society is a goal in Europe. These societies were admitted to the OSCE automatically when the Soviet Union broke up, and they have had a situation in which there has been no—if I say strong pressure, that is an exaggeration—there has been pressure to democratize, but there has been a tremendously inconsistent message sent to them.

Mr. CARDIN. There may have been a mistake made on original membership, but they are now members. There is a big difference between taking away a membership and giving a membership.

Dr. OLCOTT. I am not sure that you would ever wind up taking it away if you could get enough votes to introduce some standards. What you want to do is not push them out, but encourage them to change. And it would be—I do not see a forum other than the OSCE that is capable of offering that kind of incentive to people. So, I think the key is how one begins to incentivize democratization in these places because they are going to pay the price of their failure to democratize more than we are.

Mr. CARDIN. This might be an academic discussion because I think OSCE works by consensus on this. I am not so sure that this is a viable option under any scenario, but it is an interesting discussion.

Mr. FORBES. I would just add to Mr. Cardin's comment, I think that OSCE has a well established and enviable record of having highlighted in regions and in countries where we saw no democracy, but through its good works has really encouraged democracy even in very small increments. So, I would have to align myself with the comments of Mr. Cardin.

Dr. Olcott, let me thank you again for lending your valuable expertise to the Commission today at this hearing. We do appreciate your insights, and I found them to be extremely helpful to me, and I thank you for your patience in this very long hearing.

Dr. OLCOTT. It was my pleasure.

Mr. FORBES. Thank you very much. The hearing is adjourned.

[Whereupon, the hearing was adjourned at 1:00 p.m.]

[Written inserts follow.]

OPENING STATEMENT OF HON. STENY H. HOYER**DEMOCRATIZATION AND HUMAN RIGHTS IN KAZAKSTAN****MAY 6, 1999**

Mr. Chairman, I want to commend you for holding this important hearing. In the last few years, Central Asia and the Caucasus have come to the forefront of international politics. The region's geostrategic significance, vast energy reserves and pipeline schemes, as well as unresolved conflicts, the danger of Islamic fundamentalism and media spin about a new "great game" among the world's leading powers have drawn the attention of governments, geostrategists and op-ed writers. In the last few years, probably every thinktank in Washington has held at least one conference on the region. Most of these forums concentrate on oil and gas and how to transport them; the Helsinki Commission's focus, however, is on human rights and democratization.

Experience has shown that, unfortunately, mineral and energy wealth often coincide with undeveloped or repressive political systems. This is certainly the case in central Asia. Despite their formal acceptance of OSCE commitments on democratization, Central Asian leaders have tried to consolidate their own power and eliminate their rivals, rather than build an open political system in which all contenders can compete for the highest office.

Chairman Smith and Co-Chairman Campbell have already outlined the main reasons for concern about developments in Kazakstan. I would like to look ahead to the parliamentary and local elections this fall. After all, the purpose of this hearing is not merely to criticize Kazakstan's observance of OSCE's commitments, but to see how their efforts can be improved.

Here are some examples: the OSCE's Office of Democratic Institutions and Human Rights reports that Kazakstan officials have not conferred, as they promised to do, with OSCE experts about the election law. The draft presented to parliament retains the notorious provision barring anyone who has been fined or found guilty of a minor administrative offense from running for office. If that law is not liberalized, President Nazarbayev's pledge to hold democratic elections will lose all credibility.

I also look for reassurance from Ambassador Nurgaliev about media openness. On May 3, journalists in Almaty strongly criticized the new draft law on mass media. Kazakstan's authorities have determinedly curtailed freedom of expression, and unless that changes for the better, President Nazarbayev's claims of building democracy, even if slowly, will ring hollow.

Moreover, in a classic case of terrible timing, Radio Liberty reported on Monday that Kazakstan state security officials arrested a reporter returning from Astana to Almaty and placed him in a psychiatric institution. The reporter is apparently suspected of writing anti-Nazarbayev and pro-Kazhegeldin slogans on walls. Now, I hope this story is not true. Since the Soviet Union collapsed, this is the first time I have heard of putting dissidents or opposition supporters in psychiatric hospitals, except in Turkmenistan. This Soviet practice was justly condemned all over the world, and I hope Ambassador Nurgaliev can give us good news on this score.

In brief, Mr. Chairman, with the elections coming up, Kazakstan

has a chance to take its OSCE commitments seriously and improve its image, which has been severely damaged. The country has the opportunity to get back on the right track. Otherwise, all the public relations firms in the world will not be able to salvage its reputation. And discontent will surely grow inside Kazakstan.

**PREPARED STATEMENT OF ROSS WILSON, PRINCIPAL
DEPUTY SPECIAL ADVISER TO THE SECRETARY OF STATE
FOR THE NEW INDEPENDENT STATES**

MAY 6, 1999

DEMOCRACY AND U.S. RELATIONS WITH KAZAKHSTAN

Mr. Chairman, it is an honor to represent the Administration at this hearing to discuss recent developments in Kazakhstan and U.S. policy toward that country.

Mr. Chairman, the United States has a number of high priority objectives in our relations with Kazakhstan.

First, we have cooperated closely with Kazakhstan in our global effort to stop the proliferation of weapons of mass destruction (WMD), other dangerous armaments and related technologies. We helped dismantle Kazakhstan's WMD infrastructure, redirect former WMD scientists to peaceful activities, and develop safer and more secure storage of nuclear materials and spent fuels.

Second, we have sought to augment global energy supplies and help U.S. business by developing Kazakhstan's energy resources. By securing access for these resources to world markets through east-west pipelines, particularly the Caspian Pipeline Consortium (CPC) pipeline to the Black Sea, we aim to ensure that their exploitation advances Kazakhstan's independence and prosperity.

Third, we want to see Kazakhstan develop a strong market economy. It is a rich country, and not just in energy. Markets, entrepreneurship and foreign investment will enable Kazakhstan to make effective use of the wealth its energy, other resources and human capital can produce.

Fourth, because cooperation among states in the region is so important, we want to facilitate their efforts to work together -- on energy, security, trade, water, environmental and other issues. As the largest Central Asian state geographically, Kazakhstan is central to this effort.

Fifth, we have promoted democracy, respect for fundamental human rights and the rule of law. A country that respects its people will also provide a hospitable climate for foreign investors, respect its non-proliferation commitments, work peaceably with its neighbors and so forth.

The United States has consistently sought—under Republican and Democratic administrations since Kazakhstan achieved independence in 1991 -- to pursue all of these objectives. Over the past seven years and despite recent setbacks on the democracy front that I will come back to, these policies have borne fruit.

Kazakhstan surrendered its nuclear weapons, acceded to the Non-Proliferation Treaty as a non-nuclear weapon state, and worked with us and others to close the world's largest nuclear weapons test site at Semipalatinsk.

Kazakhstan was a founding contributor to Central Asia's forum for regional military cooperation -- the Central Asian Peacekeeping Battalion (CENTRASBAT). It has peaceful relations with all of its neighbors. President Nazarbayev took part in the summit last month of the Euro-Atlantic Partnership Council and wants to play a more active role in NATO's Partnership for Peace.

U.S. energy firms are developing Kazakhstan's massive oil and gas potential. Groundbreaking on the CPC oil export pipeline will take place in just over one week. Kazakhstan's success in weathering the regional financial crisis and the large volume of foreign investment it has garnered reflect significant progress toward building a prosperous market economy.

High-level and broad engagement with Kazakhstan has been essential to our success in these and other areas. In the seven years since independence, the United States has established close relations with Kazakhstan. This has been greatly facilitated by the bilateral Joint Commission that Vice President Gore co-chairs with President Nazarbayev.

Our assistance programs, generously funded by Congress, have been no less important a tool in advancing U.S. interests in Kazakhstan. Kazakhstan has been a major beneficiary of Cooperative Threat Reduction (CTR) programs. We worked with the government safely to remove 600 kilograms of weapons-useable uranium to safe storage in the United States. We continue to work with it to close nuclear test tunnels, eliminate SS-18 infrastructure, dismantle the biological weapons production infrastructure at Stepnogorsk, and redirect WMD expertise to peaceful civilian research.

We have provided Foreign Military Financing for the purchase of equipment to enhance the ability of Kazakhstan's armed forces to participate alongside NATO forces in Partnership for Peace exercises and peacekeeping operations. This will facilitate cooperation and integration into Euro-Atlantic institutions.

Our economic assistance focuses on structural economic reform to engender growth and development. This has included support for privatization of small, medium and "blue chip" enterprises; establishment of financial markets and banking reform; fiscal reform; and the development of an appropriate legal infrastructure for commercial activities.

Democracy-building programs are at the heart of our assistance to Kazakhstan. To increase citizen participation, we support the development of NGOs, including lawyers' and judges' associations, women's organizations, and business and trade councils. We have helped independent television and radio stations become viable alternatives for informing an educated and politically active population. We have brought thousands of Kazakhstanis to the United States for study and professional training so that they, and the younger generation in particular, can see market democracy in action.

All of these issues—democratization, market reform, non-proliferation, energy development and regional cooperation -- are important, indeed critical to Kazakhstan's long-term prosperity, stability and independence, and to its integration into Euro-Atlantic and global structures.

On January 10, Kazakhstan held a presidential election that the OSCE determined fell far short of Kazakhstan's OSCE and other international commitments. This finding was no surprise. On short notice, the election date was advanced by more than two years, giving candidates little time to organize campaigns. The government used a restrictive electoral law to limit the field of candidates, and candidates received unequal access to the media.

The period before and during the presidential campaign was difficult. Opposition figures were beaten, shot at, arrested—for attending a political meeting—and convicted. Independent newspapers and media organizations were, in many cases, bought out by Nazarbayev allies, denied access to publishing and broadcasting facilities, harassed by the authorities, instructed on what to report and not to report, and even firebombed.

Local and parliamentary elections expected this fall will again test Kazakhstan's democracy and observance of fundamental human rights. As we did before the election, the United States has remained intensively engaged with the Kazakhstani government on democracy issues. Our message has been clear: Long-term stability depends on action now to build democracy, and Kazakhstan must, we think, work to build it and foster greater respect for fundamental human rights principles, including its commitments to the OSCE.

There are realistic, achievable steps the government can take.

First, it should promptly bring its legislation on elections, non-governmental organizations (NGOs) and the media into accordance with international standards.

Second, it should schedule elections far enough in advance to give parties and candidates adequate time to prepare effective campaigns.

Third, registration of new parties and NGOs should be promptly carried out in order to ensure broad participation in the elections, including by candidates and groups critical of the government.

Fourth, it should broaden the central and local election commissions to include non-governmental representatives.

Kazakhstan's record on this agenda has been mixed.

In recently passed election legislation, the provision that bars those convicted of administrative offenses from running for office was retained -- despite the strong advice of the OSCE and the United States. This provision was used during the presidential campaign to disqualify opposition leaders guilty of nothing more than attending political meetings and demonstrations not sanctioned by the government.

One new opposition political party, the Republican People's Party, and the opposition NGO For Fair Elections received national registration on March 1. But so far regional authorities have registered only four out of fifteen branches of the Republican People's Party. Almaty municipal authorities registered another opposition movement, Orleu (Progress), but its congress was interfered with -- on the pretext of alleged fire code violations. No Kazakhstani government official has engaged on reforming the electoral commission structure.

Media freedom has not improved. The government and its allies continue to exercise control over the mass media. Surviving opposition publications face government harassment, have difficulty being published and often cannot get distributed. Journalists report continued pressure not to criticize President Nazarbayev or his initiatives.

Freedom of association is hindered by complicated registration requirements for organizations and political parties. Freedom of assembly is sometimes restricted. Organizations must apply for official permits prior to staging a demonstration (most are granted), and some organizers of unsanctioned demonstrations have been arrested and fined or imprisoned.

Mr. Chairman, these are just some of the concerns that the United States has about democracy and human rights in Kazakhstan. The State Department's human rights report for 1998 details many other issues. Frankly, there will be no overnight conversion to democracy -- any more than there will be instant success in any other of our objectives. But progress toward democracy is essential if Kazakhstan is to complete the transition from closed Soviet autocracy to an open market democracy that is fully connected to the outside world. With the support of Congress, we will continue to work toward these ends and to advance the other goals and objectives we have in Kazakhstan.

**TESTIMONY OF H.E. BOLAT NURGALIYEV,
AMBASSADOR OF THE REPUBLIC OF KAZAKHSTAN**

MAY 6, 1999

I would like to thank the Commission and Chairman Christopher Smith for inviting me to share with you Kazakhstan's approach to democracy and the progress of our democratization efforts.

As an OSCE member state, Kazakhstan takes seriously its obligations to meet the OSCE standards as we continue our integration into the global democratic community united by a shared commitment to democratic principles, the free market, and international cooperation. We also value our close democratic and economic partnership with the United States government. We have benefited from joint efforts in such areas as the non-proliferation of weapons of mass destruction, the development of multiple transit routes for Caspian energy, and the promotion of a favorable investment climate for American companies involved in a wide variety of projects in Kazakhstan.

Just as President Nursultan Nazarbayev was honored to participate in the Euro-Atlantic Partnership Council meeting on NATO's 50th Anniversary less than two weeks ago, we also take great pride in our seven-year-old membership in the OSCE. For a young democracy like ours, which lacks a history of established democratic institutions, participation in the OSCE is particularly important. It provides access to the collective expertise of some of the world's older, more experienced democracies. As we pursue our own road to democracy, the OSCE functions as a valuable resource. For example, this year, we are implementing an entirely new proportional representation system in the October election of the lower chamber of Parliament—the Majilis—the first time such a system has been used in Central Asia. Since proportional representation systems operate differently in various countries, we have benefited from the OSCE's input and advice in designing the details of our own formula.

Our close and effective interaction with the OSCE has been further strengthened with the January opening of the OSCE branch office in Almaty and the Memorandum of Understanding signed in December 1998. This lays the groundwork for detailed technical assistance through the ODIHR in areas ranging from election assistance, to promoting the participation of women in politics, to building a dialogue on civil society—which all reflect and reinforce the bold and comprehensive seven-point democratization plan announced by President Nursultan Nazarbayev last September. Six specific technical assistance seminars by the ODIHR are planned for 1999 in Kazakhstan, some of which are already underway. We continue to rely on and learn from the OSCE, and benefit from its technical expertise, even while we may not agree on every issue, nor accept each and every specific suggestion as we design and create our own path to democracy. We believe that our accomplishments in building a democracy from the ground up these past seven years provides solid evidence of our openness to learn from other democracies with longer histories and our commitment to strengthen our still-young political and social democratic institutions.

I would like now to review some of our achievements in democratization and protecting human rights since our independence in 1991, the obstacles we have had to overcome, and our current democratization initiatives.

KAZAKHSTAN'S INDEPENDENCE AND ITS SOVIET LEGACY

When Kazakhstan became independent a little over seven years ago, we inherited troublesome legacies from the Soviet system, including:

- An exhausted, inefficient economy with an anachronistic infrastructure from a top-down, command system;
- The absence of any democratic institutions, resulting from centuries of subjugation by dictatorships;
- The world's fourth largest nuclear arsenal; and,
- two enormous environmental disasters—the desiccation of the Aral Sea and the 470 nuclear tests at Semipalatinsk—both of which inflicted on our people an unprecedented level of health and environmental damage.

There was no experience with political accommodation and compromise, no understanding how a free press functioned or how opposing political views and parties could coexist. We lacked a strong business ethic that promoted individual initiative and entrepreneurial growth and a vibrant civil society. We have had to construct every reform from the ground up.

In implementing our reform efforts, we have been guided by two basic principles:

- That economic and political reform must proceed together simultaneously; and
- That the pace of change must be deliberate—and not abrupt.

KAZAKHSTAN'S ACHIEVEMENTS IN SEVEN YEARS

With a complex ethnic dynamic of over 100 nationalities, our first priority has been to maintain harmony among all our peoples to create an environment in which democracy has been able to take root and flourish. Sadly, we know from the conflicts in Kosovo and in other parts of the world of the terrible dangers and potentially violent consequences of inter-ethnic and inter-religious conflicts. We have worked hard to avoid ethnic clashes by our commitment to ensure freedom of religion for all our diverse peoples—whether they practice Islam, Orthodoxy, Judaism or another faith. We have also ensured that our substantial ethnic communities enjoy full rights by basing citizenship solely on residency and ensuring that the Russian language has Constitutional status.

This ethnic harmony is perhaps our proudest achievement because it is the underpinning of all that we have been able to accomplish. Ensuring that all our peoples live in mutual respect and harmony will continue to receive our closest ongoing attention.

Other significant accomplishments in the first seven years of independence have included:

- Becoming the first state in the world to completely eliminate a nuclear arsenal—a courageous step we were able to take in partnership with the US with some \$172 million in assistance allocated under Congress' Nunn-Lugar legislation.

- Establishing Kazakhstan as a bulwark of moderation and stability, an active participant in the war against forces of extremism of all kinds, whether religious fundamentalism or political terrorism.
- Conducting Kazakhstan's first contested presidential election in January with 4 candidates.
- Making the transition from a single state-sanctioned political party to a multi-party democracy with the registration now of fourteen diverse political parties.
- Promoting a vibrant civil society with over 2,000 NGOs – the most in Central Asia.
- Creating a market economy with an extensive privatization program, reduction in inflation from 3000 percent to below 10 percent, and one of the region's leaders in attracting direct foreign investment.

These achievements have laid the groundwork for a continued, ambitious effort to further democratize our politics and open our society. President Nursultan Nazarbayev has outlined a comprehensive program of democratization with seven major objectives:

- To open up the electoral process
- To encourage the formation of independent political parties
- To expand powers of Parliament
- To foster the growth of civil society
- To deepen the independence of the Judiciary
- To ensure freedom of the Press
- To enable women to become fully engaged participants in political, social and economic life.

Under this program, we have taken the following important steps related to electoral issues:

We have responded promptly to the OSCE recommendation to reduce candidate filing fees for president and parliament by 90% and 50% respectively.

We have encouraged the participation of independent election observers by precisely defining their rights in the proposed election law.

The proposed election law also provides that the members of district-level election commissions will be appointed by the Central Election Commission at the recommendation of the local governor.

We are also acting in other important areas, including:

- Improving legislation on NGOs to make it easier for them to operate and adopting a new charities law to allow NGOs to receive private funding;
- Expanding economic opportunities for women through new entrepreneurship loan programs; and
- Mounting an aggressive attack on corruption under tough new anti-corruption legislation enacted last year.

THE SIGNIFICANCE OF 1999 FOR CONTINUED DEMOCRATIZATION

Nothing will be as critical to our democratization efforts as the operation of multiple independent political parties and we anticipate that 1999 will mark a major step forward in their development.

In October we will hold elections to the Parliament. With 10 new seats (out of 77) to be selected by national party vote under our new system of proportional representation, the 14 independent political parties now registered in Kazakhstan have a powerful incentive to campaign actively. In 2000 we will begin moving toward the direct election of governors, Akims.

To fully equip our young parties with the necessary tools to compete and campaign, the Central Election Commission (CEC) will provide them with training programs and technical assistance. The CEC will also ensure that domestic as well as international observers fully participate in the election.

We welcome the assistance of the OSCE (in addition to NDI, IFES and other international organizations) to help train our new political parties in organizing and conducting national campaigns. In addition, we expect that the OSCE will send an extensive monitoring team to observe the October Majilis election. We are inviting other international organizations to provide observers to confirm that the election is an example of free and fair and open balloting. This will be in addition to our domestic observers. In January's Presidential election we had over 6,000 observers who noted only limited irregularities. The Central Election Commission will also repeat the successful voter education program it introduced in the January Presidential election, which was commended by the OSCE 1999 Election Assessment Mission. The Mission also noted that the CEC had redesigned ballots and improved protocols for vote recording based on OSCE/ODIHR recommendations.

There are other ways that international NGOs are serving as vital participants in our democratization process. With the help of IFES, for example, we will be introducing a civic education program in the secondary schools to help educate future generations to the opportunities and responsibilities that go with democracy. This is an essential part of the difficult process of building a democracy where there are no historical roots or antecedents.

We are committed to build on our already strong record of civil society which dates back to the emergence of one of the Soviet Union's first NGOs, Nevada-Semipalatinsk, formed in 1987 as a successful lobby against Soviet nuclear testing. It has now become the basis of one of our fourteen political parties. We expect new legislation to be enacted soon to streamline and simplify the NGO registration process. Similarly, a new charities law will make it easier for NGOs to receive private funding, so that all Kazakhstanis can benefit from the activities of a wide variety of NGOs. One leading US observer, Scott Horton, a lawyer and President of the International League for Human Rights, noted just last week at a conference at Columbia University that Kazakhstan has made "solid progress on this score. And a visitor to Almaty today is quickly aware of a strong sense of freedom of expression and of a great number of civic organizations: religious, social, professional, academic and so forth."

IV. CONCLUSION

In conclusion, Mr. Chairman, I wish to emphasize that our commitment to both the free market and democracy is unwavering. The Government of Kazakhstan recognizes that much remains to be done and that we have long way to go, and that like every other democracy, we still have imperfections. Our democracy is, and will continue to be, a work in progress for many years to come. But, as President Nursultan Nazarbayev has said recently in Washington, “we have only just begun the journey that your Founding Fathers embarked on over 200 years ago.” Measured by any objective historical standard, the pace of our development and our transformation to date has been truly remarkable.

I look forward to continuing our dialogue with you and now welcome your questions.

Thank You.

**PREPARED STATEMENT OF AKEZHAN KAZHEGELDIN,
CHAIRMAN, NATIONAL REPUBLICAN PARTY OF KAZAKHSTAN**

MAY 6, 1999

Mr. Chairman, Members of the Committee, I would like to thank you for inviting me to testify before this distinguished committee.

Mr. Chairman, I recently read your very thoughtful statement in the Congressional Record about my country's presidential elections, and I wish to commend you on your insights and understanding of the process and problems of elections in Kazakhstan. Your assessments of the challenges of democratization and the need for political, social, economic reform and human rights are correct.

Democracy still eludes us. Our president not only called surprise elections two years before the due date to throw his opposition off guard, but he extended the presidential term from five to seven years, and unconstitutionally repealed the age restriction on candidates, allowing himself to run again, in violation of the Constitution. These actions were carried out by the office of president with impunity, an impunity resulting from the dismissal of the two preceding Kazakhstani parliaments and a revision of the Constitution. As it now stands, our Constitution can not sufficiently protect the people against presidential authoritarianism. The sitting president can manipulate the parliament and pass self-serving legislation at will. We, the Kazakhstani democrats, are guilty of having allowed this situation to develop. However, the West must also bear some responsibility because it remained silent and did not speak out forcefully for the cause of democracy in Kazakhstan.

To outsiders, President Nazarbayev may appear to be a popular leader, but that is a thin veneer that conceals serious underlying problems. The most telling evidence that this is a leader who fears his own people was his decision last fall to call surprise elections. By advancing the elections by nearly two years, the regime sought to prevent opposition candidates from organizing viable campaigns. In addition, charges were trumped up to keep me or any other popular opponent from contesting President Nazarbayev's election. I was charged with attending an unauthorized meeting of the movement "For Free Elections," as well as with disclosing "state secrets," and evading taxes. I testify before this committee that these charges were and are false. The documentation I am submitting along with this testimony will demonstrate that they were brought to bear only in order to bar my return to my country and prevent me from running in the presidential elections.

As you yourself have observed, Mr. Chairman, we cannot rely on any of the Kazakhstani government's statistics concerning either voter turnout or the actual vote count. The numbers have been cooked; and they leave a terrible taste in one's mouth. The only mystery in the January 10 elections held in Kazakhstan was the size of Nazarbayev's landslide victory. The Kazakh Administration exercises a sophisticated form of control over election committees. For example, a school principal may be appointed as a chairman of a local electoral commission, and teachers are nominated as members, so they are professionally dependent on the commission chair.

The elections were moved up because Nazarbayev simply did not want to run on the dismal record of his stewardship of our national economy. It has been deteriorating since 1998, and all indications are that it will be in very serious trouble by the end of 2000, when the elections were originally scheduled to be held. So with the stroke of his pen, Nazarbaev's regime decreed early elections, and then with another stroke he disqualified me, his only serious rival, on the absurd charge of speaking to an unregistered political organization called "The Movement For Free Elections." Perhaps it was that name which was so threatening. The mere thought of free elections strikes terror in the heart of any tyrant.

We in the democracy movement are very grateful for the strong support the American government has shown us. On November 25, 1998, the State Department condemned the decision of the Kazakhstani Supreme Court upholding the Central Electoral Commission's ruling which barred my registration as a candidate in the January 10 presidential election. The State Department spokesman, Mr. Rubin, said "the decree... contravenes international commitments that Kazakhstan assumed as a participating state in the OSCE and ...follows a patter of harassment of independent media and opposition political figures...." Mr. Rubin also declared "The conduct of this election has set back the process of democratization in Kazakhstan."

I wish to personally thank Vice President Albert Gore for his phone call to Mr. Nazarbayev asking that I be permitted to run for president. Sadly, I must report to you that the very next day after that call, Mr. Nazarbayev's puppet supreme court disqualified my candidacy. Not only was I barred from running, but some critics and opponents of the regime were briefly jailed because they protested Nazarbayev's unfair election practices. These decent people can not participate in elections. They include the leader of the pensioners' movement, Ms. Savostina, the leader of the ecological movement, Mr. Eleusizov and a former minister of my cabinet, Mr. Svoik, who is present in this room. The election itself was condemned both from Washington and by the OSCE as well as by Human Rights Watch as unfair, and they all refused to recognize it.

I wish to endorse wholeheartedly the words of Ambassador Stephen Sestanovich, who has said that the January elections "fell far short of Kazakhstan's international obligations and commitments." He pointed out that "the formation of democratic political institutions is essential because they are the long term guarantor of stability and prosperity."

The United States and the OSCE called for democratic reforms to repair the damage that has been done to their relations with Kazakhstan, but so far we have seen no sign of change. There is no Election Law that meets either international norms or OSCE standards. Instead, the parliament accepted the presidential decree regulating elections, arbitrary and undemocratic as it is, without either question or comment. Yet this decree is full of provisions designed to bar candidates such as myself from running on mere technicalities.

We can only hope that you are serious about your determination to be persistent in pushing for adherence to clear standards of democratic practice, improving the climate for elections and strengthening freedom at the grass roots level. I urge the United States Govern-

ment, the Congress and the OSCE to demand review of this draft law and to help guarantee that Kazakhstani elections are fully free and fair. If the law is not fundamentally revised, the elections should not be recognized by the Western community.

The Republican National Party of Kazakhstan, which I chair, were finally registered by the government on March 1, 1999 for a period of only one year. However, three important questions remain unanswered:

- First, will we be able to field candidates in the next election, and under what conditions,
- Second, will President Nazarbayev allow us access to the media he controls or allow the emergence of free media, and,
- Third, will the next parliament have any real power or just be a rubber stamp legislature

The separation of powers exists on paper but not in practice in Kazakhstan. There are no truly independent branches of government, notwithstanding what the Constitution promises. The judiciary is controlled by the president himself, who until March 8, 1999 was Chairman of the Supreme Judiciary Council. Now he has appointed another person as Chairman of the Judiciary Council to serve in his stead. Nothing has changed. He appoints most mayors and governors by issuing decrees which are then approved by his rubber-stamp parliament. He has promulgated and largely ignored two constitutions and dissolved two parliaments. Now that he has a parliament which is more pliable and to his liking, he largely ignores it. He has amassed power unto himself over all institutions of government This is a textbook definition of authoritarianism.

There are no independent newspapers or radio stations in Kazakhstan today with the exception of one or two. Newspapers must have a government-issued permit to publish. Last August, more than eight months ago, a group of us wanted to start a newspaper called The Republic. We applied to the Department of Justice for registration. According to the law, the process should take three days, but so far all we have gotten is endless delay. The government even refuses to tell us why it has failed to act. We appealed to the court, but it refused to consider our appeal.

The Nazarbaev regime is testing the waters for the introduction of even harsher censorship. A letter by some of the country's most reactionary professors has been published in the media, demanding the introduction of wide ranging censorship. It calls upon the government to introduce quotas for Kazakh and Russian broadcasting. In specific, this letter demands that Kazakh language radio and TV programming be given preference over Russian language programming in both public and private broadcasting on an 80-20 ratio. In language that sounds like nothing less than Stalin era demagoguery, it attacks the Russian speaking media and Western culture, and calls for the establishment of a state run censorship committee which would pre-screen all radio and TV broadcasting. It highlights the practices of China and Saudi Arabia as models for Kazakhstan. This is a sure prescription for ethnic strife in a country where ethnic Kazakhs enjoy only a slim majority. If implemented, the recommendations of these

pro-regime professors will trigger further mass migrations of the skilled and educated urban population from my country, and may even lead to the kind of ethnic violence that the world has witnessed in horror over the last few weeks in Kosovo.

Kazakhstanis are deprived of what Americans take for granted as basic rights. Our people do not enjoy freedom of speech, freedom of the press, freedom of religion, freedom of assembly, freedom to petition for redress of grievances. Try it and you can land in jail. Without basic rights, we lack the privilege of calling ourselves a democracy.

Repressive governments may keep the lid on dissent as well as ethnic and national rivalries for a while, but the only lasting antidote to such conflicts is democratic institutions that provide the means for resolving disputes, protecting minority rights and making government accountable. In the absence of freedom of press, leaflets and political graffiti appear. In the absence of free and fair elections, a hated leader may be removed by a bullet. Democracy is the only formula for national stability, which is essential to creating an environment hospitable to foreign investment, trade and tourism and those are far preferable to government-to government assistance.

As we witnessed earlier this month, government policies caused an abrupt drop in the value of Kazakhstan's national currency, an indication that both its own citizens as well as foreigners lack confidence in our economy under its current and inefficient management.

Lack of the rule of law remains an acute problem in my country. New criminal codes and procedures that were promulgated only last year look good on the books, but they are widely ignored by the courts and police. It is not unusual for a person to be arrested, not to be told of the charges against him or her, not to be informed of their rights, kept from their lawyer for prolonged periods, and held months or even years without trial in subhuman conditions. Pre-trial detention, which should be reserved for unusual circumstances, such as prevention of flight or public danger from violent criminals, has become the norm. Even those suspected of committing non-violent crimes for the first time are held for extended periods, and to make matters worse, they are thrown in with aggressive, violent criminals. Compounding the situation is the serious lack of adequate food, health care and medication in the prisons and jails.

Such treatment can be compared to the international definitions of torture and the denigrating treatment and punishment that is banned by the UN Declaration Against Torture. There is no valid excuse for such conduct.

The Kazakhstan International Bureau for Human Rights and Rule of Law estimates that more than six of every thousand Kazakhs is currently in custody, and over 20% of those have not been convicted of any crime. Restrictions on the right of the state to detain and hold citizens under investigation are flagrantly ignored. Sadly, Kazakhstan still retains ugly remnants of the old Soviet legal system which puts the interests of the state above those of the individual.

I am aware, Mr. Chairman, of America's particular concerns about stability throughout Central Asia and the impact of the growing threats of Islamic extremism, narcotics trafficking and the development and spread of weapons of mass destruction.

Radical Islamic movements are fed by corruption, repression and the failure to meet basic citizen needs by existing governments. These forces are neither more able nor more interested in offering the fun-

damental services or the democracy and human rights which people crave, but they prey on the loss of hope among the citizenry and use it to take over.

Kazakhstan can easily become a fertile breeding ground for extremists if the present trends are permitted to continue. And if Islamic or nationalist extremism, fed by desperation, raises its head, the Russian minority may be in jeopardy. Discrimination against the Russian citizens of Kazakhstan may breed extreme nationalism, which might ally itself with chauvinist/nationalist movements in Russia proper. Under that scenario, neighboring Russia, as weak as it may seem, is still powerful enough to march across Kazakhstan's northern borders to protect ethnic Russians and Russian-speakers in my country. And today's Kazakhstani leaders, lacking military experience, will not lead the fight, rifle in hand, against such an invasion. Moreover, with only 16 million inhabitants, barely over half of them ethnic Kazakhs, there won't be enough soldiers to stand against the Russians.

Mr. Chairman, I have come to warn today, that the policies of the current government of Kazakhstan are endangering the territorial integrity of my country. They lead to hatred and popular despair. The specter of Yugoslavia may start haunting the steppes of Central Asia. Irresponsible leaders tend to manipulate desperate masses through virulent nationalism, as Slobodan Milosevic has shown. Once that happens, all bets are off. Radical nationalism is a witch's brew, which tends to poison both the brewer and the drinker.

The United States has poured over a billion and a half dollars into our region during this decade to promote democracy, human rights, free market economies, border security and stability. However, this investment has not been very effective. Your tax dollars so far did not buy you real democracy, institutional development, civil society, or equitable economic development—not in Kazakhstan, not yet. Instead, more investment in education and information, and in particular, international broadcasting, is necessary. Over the last several years, budgets for international broadcasting, including Voice of America and Radio Liberty, have been declining. The hours for these broadcasts are extremely limited, hardly an hour a day. The people of my generation were motivated to get rid of communist propaganda by listening to Western broadcasters, such as VOA and Radio Liberty. We understood a lot, but slept little. However, today, the quality leaves much to be desired. Some of the correspondents and stringers are part of the ruling establishment. I am calling on the US government to rekindle the fire of international broadcasting we remember from the earlier decades. More hours on the air and more focused broadcasting promoting democracy and the rule of law are essential. Otherwise, the West will be called upon later to spend more on refugee resettlement and humanitarian assistance.

One persistent problem has been endemic corruption in law enforcement and government. You have seen it portrayed in the international media most vividly in Russia, but many other countries throughout the region suffer as well, particularly Kazakhstan. Too many of our police are not fighting crime but are themselves the criminals. In other words, they are the problem, not the solution. Bribery is the norm for too many of our police, government officials and judges. Moreover, corruption in the justice system results in the guilty and

the corrupt walking free, while the innocent rot in jails. The bureaucracy itself has become the breeding ground of corruption. As they say, the fish rots from the head. President Nazarbaev's own daughter, Dariga, is the head of the principal broadcasting and media company which controls most of the airtime in the republic. His nephew is the Minister of Media, and controls the press. His son-in-law is the head of much feared tax police. Thus, glasnost (openness) in Kazakhstan has failed. The media is denied its role as society's immune system, and the opposition can be destroyed using not only quasi-legal, but also fiscally punitive means.

Mr. Chairman, the very health of our citizens is declining. So is education. There has been a steady diminution of public health services amid growing affliction. Our educational system is deteriorating through neglect, which threatens a brain drain as our young people decide to seek opportunity elsewhere.

The governments of the United States and Kazakhstan has signed twice in 1994 and 1997 a Charter on Democratic Partnership and a Charter for Strategic Partnership, in which Kazakhstan committed itself to democratization, the rule of law, respect for human rights, economic reform and strategic partnership. Tragically, the hopes that these agreements kindled have not been fulfilled.

Kazakhstan's need for direct foreign investment is your opportunity to make a contribution to the people of Kazakhstan and the future of our region, but this is a castle built on quicksand.

Central Asia may be a land of opportunity for foreign investors and traders, but you must not let the lure of commercial deals blind you to the underlying problems in these countries. Human rights activists in Central Asian countries had complained that your Embassy is ignoring their concerns because too much emphasis on freedom and democracy might offend the government officials who make the commercial deals. However, I am pleased to report that in recent months that American diplomats in Almaty are exhibiting renewed concern for human rights.

Without democracy, Western foreign investment is jeopardy. And when Western oil companies build model villages for their workers, they are not safe against the background of widespread poverty and desperation. Oil companies have built tennis courts which cost a million dollars. But only the Kazakhstani elite plays there. One large tobacco company has repaired the President's garage. I am wondering how many children could be cured of TB or how many computer education classrooms could be equipped with these funds. I understand that it is Kazakh bureaucrats who force Western companies to waste money in such a way, and that your managers are as sorry about it as I am.

One of the best things you can do to protect these investments is to defend human rights and promote democracy. Your companies also need to make sure that the benefits of foreign investment in Kazakhstan find their way to the ordinary people and do not go to line the pockets of the power elites and their friends.

I am sure you have often felt here in the Congress that the Executive Branch resents your looking over its shoulder, but nothing could be healthier, and my country needs a meddling parliament that knows how to ask smart questions. I commend you and want to follow your example.

Mr. Chairman, Kazakhstan is a large country. It is the size of Western Europe and is home to more than 100 ethnic groups. We have great natural resources, particularly oil, but they can be at once a blessing and a curse. Do not be blinded by the alluring gleam of our black gold or you will not see the tarnished society our government would like to hide. The West's thirst for oil must not blind it to its moral and practical responsibility to promote democracy, human rights and a free market economy. A tolerance for autocratic regimes cannot be excused by that thirst. Unfettered and unregulated exploitation breeds ecological disasters and exerts a corrupting influence.

My friends and I are trying to help that society, we are collecting money to install medical equipment to help cancer and TB patients, to develop computer literacy. The current government is preventing us from conducting even such humanitarian activities.

Mr. Chairman, the Kazakhstani authorities, including the President, have retroactively accused me of divulging "state secrets"—our budget figures. In that, they took a leaf from a Soviet-era criminal practice which was used by the KGB to suppress dissidents. They also are falsely accusing me of tax evasion. I guess even Kazakhstan is undergoing modernization. But all of this is being done for one purpose only—to prevent me from returning to my home country, to prevent my participation in presidential and parliamentary elections. All these materials are posted on my Internet site and my lawyer has the originals.

The people of Kazakhstan today need the right to chose, to make decisions. That includes the right to choose their own lifestyle, to determine their own life goals, and, yes, to participate in the free and fair election of all branches of government from top to bottom, the right to change the regime and to control the political power. First and foremost, we need a viable parliament. That means a parliament that can effectively oversee public spending, economic development and commerce as this Congress does.

Mr. Chairman, the people of Kazakhstan, the ordinary people, are very grateful for the support that you, your colleagues and the American government and American people have given our struggle for freedom and democracy. I am especially personally appreciative of the assistance extended towards me and my colleagues in our efforts, and I look forward to working with you in the future to achieve our common goals.

TESTIMONY OF PYOTR SVOIK, CO-CHAIR, "AZAMAT"
**ON THE POLITICAL AND ECONOMIC SITUATION IN
KAZAKHSTAN AFTER THE PRESIDENTIAL ELECTIONS AND
BEFORE THE PARLIAMENTARY ELECTIONS**

The early elections of the President held in January 1999 were criticized in the U.S. and the OSCE as a departure from democratic principles. In April the Parliament of Kazakhstan approved a new law on elections, drafted by the Administration. The law preserves virtually unchanged the main methods which are used by the executive power to attain the results it needs for itself. Specifically:

1. The exclusion from the ballot "undesirable" candidates who have been prosecuted in the past for insignificant infractions. Such prosecutions are conducted in violation of the current Constitution and use as the basis the no longer valid Administrative Code of the Kazakh SSR, without due process, without a record of the proceedings, and without an opportunity for counsel or witnesses.
2. Excessively high fees for the registration of candidates—more than a thousand dollars, which is significantly more than the annual income of the average citizen. The only people who have this kind of money to spend in Kazakhstan are the ones controlled by or connected to the government.
3. The dependence of the electoral commissions on the local government. The law gives the right to local government representatives to select the members of electoral commissions. The local government appoints people depending on them administratively or financially as directors of the electoral commissions, and selects people in a similar state of dependence on the directors as commission members.
4. The absence of independent control over the activities of the electoral commissions. The law support external observers only in letter; no provisions for practical provisions to control the electoral procedure are included.

Without condoning this government policy, it is worth noting that the government is pressured to do this by the sharp downturn in the economic situation. It is natural that, experiencing serious and ever increasing difficulties in the collection of taxes, the payment of debts on its obligations, and the prevention of inflation, the government fears a complete loss of control in the country in the event that, in addition to severe economic problems, it also has to contend with a radically opposed parliament.

The official reasons for the economic downturn in Kazakhstan attribute it entirely to the world financial crisis, the fall in prices of natural resources, and the devaluation of the ruble in Russia. However, these factors only exacerbated severe internal problems that had accumulated over a ten-year period of market reform. The essence of these problems is that in its present condition the Kazakh economy is neither a market economy, nor is it stable.

There are three major economic distortions leading Kazakhstan to a financial collapse.

1. The general manufacturing capabilities of the country are insufficient. The gross domestic product (GDP) reached only about 20 million dollars (less than half of what it was in the Soviet time), which is grossly insufficient for such a large country. The main part of this product is expended on consumption; investment in development is practically non-existent.

Such economic potential, speaking financially, does not make it possible to support an adequate government structure, to protect the borders, or to maintain transportation and communication systems.

2. Budget deficit. Tax collection is extremely low (about 12 -14 percent of GDP), while the cost is inordinately high to maintain the current bureaucratic apparatus, the law enforcement and the military, and fiscal agencies, significantly exceeding all social spending and other budgetary items. In all, budgetary expenditures (after accounting for hidden deficits in the budgets of local governments) tend to be twice the amount of tax collections.

3. The continued deficit in the country's balance of payments. Throughout all recent years, Kazakhstan has been importing consumer goods at a 1.3 to 1.5 billion dollars more than its exports of oil, metals and other resources.

This imbalance has been compensated by a hasty sell-off of property rights in major natural resource deposits, export complexes, energy and communications enterprises, and by the receipt of foreign credits. With such imbalances, the Kazakh economy has been turned into a powder keg for several years now, and the fuse underneath it was ignited as early as the beginning of last year, when three factors occurred simultaneously: a decline in the receipt of dollars from privatization activities, a fall in receipts from exports, and the due dates of various loans extended on favorable conditions.

The government acknowledged the severity of the situation only recently. This can be explained by the fact that the government persists in its inability to look economic realities in the eye, and by the fact that in the autumn and winter the government was completely occupied by the early reelection of the President. If one asks, "Why did this disproportion come to be?", then the true answer is that all the market reforms in Kazakhshtan were turned into efforts at radically transforming the economy alone, without affecting the political system.

The undemocratic electoral legislation is only the visible tip of the iceberg. In Kazakhstan there are not many political institutions, in the absence of which it is practically impossible to speak of a modern market economy. In particular, the legal system is not capable of fighting corruption and is unable to guarantee the right of private property, fair competition and protection against monopoly. Parliament plays no independent role and is controlled entirely by the executive branch. Political parties and labor unions operate outside the system and do not play a serious role. The instruments of mass media have no opportunity to adequately reflect what is going on.

The reality is such that Kazakhstan has entered into a period of severe deficit in financial and other resources, along with obviously insufficient social stability and the sort of political system that does not develop, but rather stifles the remaining economic potential. The upcoming parliamentary elections may be called future-forming inasmuch as, after them, the President is to be reelected only after seven

years and the parliament after five to six years. However, it could happen that the Kazakh stability faults as soon as in two or three years.

If, in the parliamentary elections, the government simply reelects itself (note that the new law was drafted exactly that), the political lid on the Kazakh pressure cooker of economic, social and international problems will be shut for a long time. Possibly, the pressure cooker will not stand the overheating, the top will blow off, and we will quickly arrive in a state of general instability. More likely, given the Kazakhstan history, the decline will continue under a heavy lid, with a loss of the most [politically] active part of the general public, and a decline in economic and cultural potential, including a weakening of the government. The finale in both of these scenarios is the same: Kazakhstan will once and for all become a problem territory, a polygon of drug trafficking, terrorism and extremism, a wasteland for the proliferation of Chinese hegemony and Islamic fundamentalism, and a stimulant for activation of the nationalistic forces in Russia.

What can be done to turn this tide of events? It is no illusion that the problem can be solved by relatively simple methods, namely, through the conduct of truly fair elections. The partial, trumped-up, and nonsystematic democratization of the current government is even more dangerous than the existing authoritarianism. Thus, we may surely predict a negative result of the anticipated transition from appointment to elections of lower level local representatives in the year 2000, which the government is planning after the holding of "manageable" elections in the new Parliament. This will only add to the conflict and opposition in a system of power lacking realistic opportunities for the solution of local problems.

All the same, one must account for the obvious insufficiency of resources to support the democratic reform in the existing political system. The government is in obvious need of public help, but it does not want that help and fears it. The opportunities for mass media, NGOs, political parties, and individual opposition leaders, are also obviously inadequate. The political forces in Kazakhstan are weak and polarized, and dialog between them and the administration is non-existent. The main problem of the government is the absence of public trust. On the other hand, the general public today also unable to manifest its will.

Kazakhstan today is a country that is rapidly losing economic, cultural, and general humanitarian potential, has small population living on a vast Eurasian territory, which is a crossroads of various geopolitical, economic, ideological, and religious interests of many leading countries of the world. The only chance to keep Kazakhstan under control is to join all internal political and public resources in implementing a political liberalization and economic stabilization plan. Such a plan needs to be developed in advance, have a scientific basis, enough financing and organizational resources for its implementation, and be understood and supported by the general public.

This can only be accomplished if supported by other countries, namely, Kazakhstan's allies, which can draw in outside resources, and the guarantees and monitoring by international organizations.

We believe that the United States has the key role in this process. We also believe that this is not only about the responsibility for the future of our country (which in many ways is considered an impor-

tant player), but also about the responsibility for the unsuccessful past reforms. During the first years of country's independence, the Kazakh president's advisors included representatives of many different countries and several countries, one after another, were used as 'models' for Kazakhstan's development. Still, the United States has been clearly the leader in this respect from the very start and in recent years has been above the competition all together. All important economic and social reforms have been implemented based on direct recommendations or in consultation with the World Bank and the International Monetary Fund (IMF) and have been financed by these organizations.

The government of Kazakhstan was repeatedly praised for its leadership in radical economic reforms. We were the first to abandon government subsidies in the utilities sector, introduce medical insurance, and implement a social security reform. Finally, it is the recommendations of the World Bank and the IMF that form the basis for our country's monetary policy. Little praise, however, can be given to the results of the reforms. They are a failure organizationally; their economic effect is negative; and, most importantly, they resulted in undermining our general public's trust in the market economy and in the good faith of our overseas partners.

It should be noted that these results were predicted by some, because it is impossible to implement modern free market mechanisms in an archaic political system environment. When the World Bank demonstrates an amazing persistence in promoting its economic reforms and, at the same time, displays complete indifference to the formation of the independent judiciary, a multi-partisan political system, and the right of the Parliament to control the executive branch, it should be held responsible for the spread of corruption that has become the leading problem in Kazakhstan today.

In conclusion, we would like to address the most important things that may take the country out of its current crisis. President Nazarbayev today enjoys unchallenged power in the country. He has sufficient authority to start and implement a systematic democratization process. However, such process needs to be backed up by clear goals, resources, guarantees, and, most importantly, the unshakable political will of our overseas partners. Currently everyone's focus is on the upcoming parliamentary elections. The law that has been recently adopted does not help make the elections honest and competitive, but the President has all that's necessary to prevent a negative outcome, and he needs all the support he can get.

In addition, we believe that a speedy government restructuring is needed, where the leading representatives of major Kazakh political movements are included in the government to restore the general public and the business community trust in our political system. The new government must immediately begin consulting international organizations on a joint action plan that would not only ensure the economic stabilization, but also improve on the current legal, regulatory, and parliamentary systems, as well as help form local governments that enjoy free elections and real authority.

**WRITTEN TESTIMONY OF YEVGENYI ZHOVTIS
AT THE HEARINGS OF THE COMMISSION ON SECURITY AND
COOPERATION IN EUROPE**

MAY 6, 1999

Mr. Chairman, Ladies and Gentlemen,

My task is difficult to accomplish within 5 to 7 minutes. I will give an overview of the current human rights situation in Kazakhstan, and the development and future of democracy in my country. In this presentation, I will focus on how political rights and civil liberties are exercised, and on difficulties which accompany the development of an open democratic society and the rule of law.

Kazakhstan is a typical example of a post-Soviet post-totalitarian state—part of the Soviet Union, which acquired independence in 1991. As with most former Soviet Republics, the communist bureaucracy still has its grip on power in Kazakhstan. Having exchanged communist ideology for democratic phraseology, it has in fact preserved the typical Soviet style of administering government and society, and relies on essentially Soviet institutions.

It remains doubtful whether an open and effective market economy can be built in this environment. The political system and the style of interaction between the authorities and society remain unreformed, acquiring an even more authoritarian character.

After Kazakhstan gained independence in 1991, its government undertook several liberalizing measures, by both adopting and implementing new legislation. During 1991-1994, the new Kazakh Constitution and a number of laws were adopted. They created a limited environment for exercising basic political rights and civil liberties, including freedom of speech, freedom to exchange information, freedom of the press, association, and peaceful assembly, election legislation, freedom of movement, etc. Such political liberalization was primarily allowed because of the desire of the political leaders that the country be viewed as a developing democracy by the international community and global economic powers, so that it could attract more investments and international support during a period of difficult social and economic transition.

During that time, new opposition parties and movements, independent mass media, multiple public organizations, and a relatively competent Parliament appeared in Kazakhstan.

But it seems that by the end of 1994, Kazakh authorities learned the unspoken rules of international relations, according to which the economic and geopolitical interests of democratic industrial nations have more value than human rights and democracy in general. In order to explain occasional violations of human rights, they began referring to the period of transition, historical and ethnic peculiarities, the grave heritage of communist rule, and they found that the international community was willing to accept these inadequate explanations.

1995-1998 was a time of recoil from the political liberalization of the first years of independence. After adoption of the new Kazakh Constitution, power was largely concentrated in the hands of the President and his administration. The Parliament became an *pro forma* institution, having no real control over the executive branch. The judicial system remained unreformed and to a certain extent corrupt.

As a result of the tender of TV and radio frequencies, independent radio and TV were practically eliminated. Several new laws limited the rights of citizens to elect and to be elected, on their freedom of association and peaceful assembly, etc.

These alarming tendencies, this backtracking from democratic development reached its peak during the 1998–1999 presidential election campaign, which was severely criticized by democratic nations and international organizations.

Defining the status of basic human rights and freedoms, it should be noted that in general the theory and practice of legal regulation still follows the Soviet model. Laws concerning basic rights and freedoms are usually drafted by the President and its Cabinet, and then forwarded to the Parliament for adoption. The drafts are not published and not presented for the public discussion (Publication of the 1995 draft of the Kazakh Constitution and its adoption in a national referendum, as well as the recent publication of the Mass Media Regulation were exceptions to this rule). We have neither the tradition nor the current practice of political debates over proposed legislation that concern basic human rights and freedoms. Even the draft of the new election law, which had already been passed by the Lower House of the Parliament (The Majilis), has not been published, and its text was not accessible until quite recently. Such practice deprives citizens of any opportunity to have their say in passing laws, and denies political parties and movements and other public organizations any influence on public opinion with regard to government legislative projects.

Besides, although the Kazakh Constitution guarantees basic human rights and freedoms, the second level of legislation – laws, decrees, etc.—significantly limit these rights. Further and larger encroachments on these rights occur in lower levels of legal regulation, in interpretative acts and regulations as well as in the practical application of law.

I will briefly discuss the present status of individual human rights and freedoms.

FREEDOM OF MOVEMENT

Kazakh laws still require a so-called exit permits or exit visas. This means that even if a Kazakh citizen has a travel passport and no specific travel restrictions due to criminal charges, he still cannot freely leave the country. Extensive paperwork and an invitation from abroad is required to apply for an exit visa. The exit visa is valid for nine months or one year, and it is not free of charge. Though the permit is rarely denied, the sole existence of this procedure directly infringes on freedom of movement.

Though the Kazakh Constitution does not require Soviet-style “registration”, a very similar requirement - “registration at the place of residence” - still exists. The Visa and Registration Office of the Ministry of Internal Affairs implements this registration.

The problem of political and other refugees is especially disquieting. Despite the existing (but practically non-working) Kazakh law on granting political asylum and the law on migration, which establishes refugee status, the Kazakh authorities sometimes extradite asylum seekers. In 1995, three representatives of the Uzbek opposition were handed over to Uzbek authorities (as a result, representa-

tives of the Uzbek opposition no longer seek asylum on the territory of Kazakhstan and Russia, but try to escape to Sweden, Turkey etc.) This year three representatives of the Uigur diaspora from the Xinjiang Uigur Autonomous Region in China were extradited to China, where they may face the death penalty. Presently several other ethnic Uigurs, who migrated from China to Kazakhstan, find themselves in a similarly dangerous situation.

FREEDOM OF SPEECH AND PRESS

Although free expression of one's opinions is not being formally persecuted in legal theory or in practice, the tendencies are nevertheless worrisome. Only this February, Madel Ismailov, Chairman of the Workers' Movement, was released from prison after having served a one-year term. The sentence had been given for the crime of "insulting the honor and dignity of the President" (according to the Criminal Code of Kazakhstan, this as a criminal offense). His whole crime was one offensive word aimed at the President. For one word – one year of prison!

In 1998 and 1999, new laws on national security and classified materials were adopted. As a result, the probability that a citizen may face criminal charges for expressing his or her opinion has dramatically risen. For example, information about the health and private life of the President and his family has become classified. National security is now understood as protection of national interests. This means protecting the "cumulative political, economic, social and other needs of the Republic of Kazakhstan, which are essential for the state's capacity to insure constitutional human rights of its citizens, the values of Kazakh society, and fundamental social institutions." The wording is vague, and the monopoly of interpretation belongs to the executive branch of the government. It is therefore evident, that it will up to the state security authorities to determine whether national interests are threatened and therefore whether they should take legal action against a citizen for spreading critical information or expressing a dissident opinion. This will become an effective mechanism of limiting the freedom of speech. The draft of the Mass Media Law, prepared by the Ministry of Culture, Information and National Concord and published in April 1999 is a further corroboration that such mechanisms are being developed. According to this draft, the Ministry serves as a media regulatory authority, which can suspend without trial any publication or broadcaster for activities that "subvert national security." According to the same draft, all mass media, as well as information agencies must be registered with the above-mentioned Ministry. This way, all media is subjected to strict control. The Parliament will consider this draft law later this month.

FREEDOM OF CONSCIENCE

Although freedom of conscience is mainly observed, early this year, the same Ministry came up with a draft law on religious associations. This draft law is similar to the analogous law adopted by the State Duma of Russia, and it provides the same limitations for new religious denominations. (The need for a certification by local authorities that a certain religious community has been present on a certain territory for not less than ten years, etc.). Though this draft law has not been brought before the Parliament, the threat that freedom of con-

science may be restricted still persists. At present, the public prosecutor's office is inspecting documentation and religious practice of several denominations, including Jehovah's Witnesses.

FREEDOM OF ASSOCIATION

Under present law, non-governmental public organizations must register with the department of justice. To be engaged in creation and activities of a non-registered public association is a criminal offence. In turn, the Ministry of Justice and its local offices refuse or delay registration of those political parties, movements and public organizations, which may be suspected of opposing the existing regime. At the same time, pro-government political parties and public organizations are being registered without any delay and receive all kinds of assistance. For example, we have been informed that several educational institutions in Almaty (which are financed by the state) received an oral instruction to recruit 30-50 persons into the government-sponsored political party Otan and to render it assistance in propaganda.

Under present Kazakh Constitution and the Civil Code of Kazakhstan, trade unions cannot receive assistance from abroad under the threat of criminal persecution. As a result, assistance that had been previously rendered by the AFL-CIO and international trade union organizations was forced to stop, in violation of international regulations related to the freedom of association and worker solidarity.

FREEDOM OF PEACEFUL ASSEMBLIES, INCLUDING THOSE WHICH CRITICIZE THE GOVERNMENT.

In Kazakhstan, freedom of peaceful assemblies (meetings, demonstrations, or marches) is severely restricted. Present legislation regulates all forms of this kind of civil action, including pickets and hunger strikes. Any of these actions requires permission of the authorities, which is difficult to obtain, especially in the provinces. The state offices for internal affairs have departments for relations with public organizations. In essence, they perform the role of political police, as they have direct assignment to be present at these actions, including closed membership meetings in the offices of public organizations. The authorities explain that this is needed to "prevent wrong-doing". Participants in non-authorized meetings, pickets or hunger strikes are liable to civil proceedings, resulting in fines or three to fifteen days in jail.

In my presentation, I did not touch upon the illegal methods of investigation, that is, torture as a means to acquire evidence, to which persons on remand are frequently subjected. I did not talk about the conditions in prisons. These serious problems require a separate analysis.

In conclusion, I would like to note that the present situation with basic human rights and liberties is characteristic not only for Kazakhstan, but for other CIS countries as well. The main causes seem to be the unreformed political system and the government's lack of political will to not only declare their intent to progress towards open society and a state governed by law, but to really do so.

It is impossible to build a working economy and an affluent state without democratizing public life, without openly discussing the challenges that Kazakhstan faces on the road to independence and de-

mocracy, and without abandoning the “command-administrative” method of regulating society. To achieve these goals, one needs a responsible and accountable government, a competent, freely and fairly elected Parliament and an independent and impartial court of law. The international community should be interested in an independent and democratic Kazakhstan. We have to hope that it will help our country in this respect, and that the United States will play its role here as well.

Thank you for your attention.

**PREPARED STATEMENT OF MARTHA BRILL OLCOTT,
CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE**

MAY 6, 1999

Mr. Chairman, thank you for the opportunity to appear before you today.

Kazakhstan is entering a critical phase of its development. The honeymoon of the independence period is ending. The transformation of state institutions will become more difficult over time. If Kazakhstan's president Nursultan Nazarbaev does not begin following through on promised democratic reforms in the next year, the country's citizens are likely to wait at least a generation before they are granted the opportunity to live in a democratic society. Failure to introduce such reforms will make Kazakhstan a less attractive and less reliable partner for the US. It is incumbent on US lawmakers to keep exerting pressure on President Nazarbaev and the government of Kazakhstan to insure the freedom of the press and to hold free and fair parliamentary elections.

TIMING

It is easier to put off democratic reforms than to successfully introduce them once they have been delayed. The timing of introducing democratic reforms is really critical. Democratic reform is not a project that is picked up and put down at will. Political institutions develop their own lives, and institutions which are designed to inhibit political competition rarely readily make way for those which encourage such competition. The necessary institutional transformation is only likely to occur if there is political will exerted from the top, or strong protest from the bottom.

To date both have been absent in Kazakhstan. Yet there is a real risk that the current state of popular apathy could become the basis of focused protest. It is difficult to know how disaffected Kazakhstan's population really is.

Certainly the fact that approximately two million people---the overwhelming majority of them Russians and other European nationalities---have left the country during the past decade speaks to the disaffection of many. Studies of recent and prospective Russian émigrés from Kazakhstan suggest that the desire to leave Kazakhstan is the result of a variety of causes, including most typically the belief that one's nationality will lead to diminished economic opportunities. However, complaints by Russians and other non-Kazakhs that they have become second class citizens are frequently encountered as well.

Ethnic Kazakhs also seem to have their fair share of complaints about how affairs in their country are being managed, and the Kazakh-dominated regions of western Kazakhstan gave Nursultan Nazarbaev his lowest majorities in the recent election.

In fact, the very conduct of this election speaks to official fears that popular displeasure would be expressed; though most local and western analysts predicted that President Nazarbaev would handily defeat any potential opponent, even former prime minister Akezhan Kazhegeldin. The highly restrictive election law insured that the Kazakh leader did not get to face several potential opponents. De-

spite all his protestations to the contrary, no serious student of Kazakhstan believes that this law could have been put forward without Nazarbaev's personal approval.

It is, of course, impossible to read the Kazakh leader's mind. Still, it is hard to believe that the election law would have been introduced if President Nazarbaev had not thought that he would have received an embarrassingly small majority, and possibly even been forced into a run-off round.

As President Nazarbaev seems frightened of facing the voters today, he is unlikely to be much happier about the prospect in six more years, when presidential elections approach once again. Similarly, if he is able to avoid being subjected to the criticisms of a democratically elected parliament today, he is no more likely to want to confront such critical voices when it is time for yet another set of parliamentary elections.

There is also little reason to hope that President Nazarbaev's retirement will serve as a stimulus for such a reform effort, either. The elite that he has empowered will not want to put their wealth and privileges at risk, as would be the case in a competitive election process. Even if the most optimistic economic development figures are realized---and the drop in oil prices during 1998 as well as the general difficulties in development of Caspian oil reserves suggest that they will not---this elite may still fear the public judgement that they have already taken more than their fair share.

Certainly, in his official statements on political institutional development President Nazarbaev is laying the groundwork for an extremely slow road to a democratic society. While the Kazakh leader invariably endorses democratic development as a goal, he always introduces the caveat that democratization of Kazakhstan must come in a way that is consistent with the Kazakhs' history and traditions.

HISTORY

Such statements by President Nazarbaev and similar discussions by Kazakhstan's elite are rather disingenuous, as their express purpose is to make the case against democratic reform rather than for it. There are two issues that are salient here. The first is what kinds of cultural and historical roots are necessary for democratic reform to succeed, while the second relates to the nature of Kazakhstan's past.

It is very difficult to know how large a role a country's history of democratic government plays in influencing its development of democratic institutions after a break of several generations. People are fond of saying that Poland, the Czech republic and Hungary are having an easier time developing democratic institutions because of their histories of independent statehood, and their earlier commitments to civic institutions. Similar claims are often made about the Baltic states as well.

One should be careful before giving too much credence to this notion of historical transference. A close look at the pre-war history of any of these countries would reveal how tenuous the commitment to democratic institutions was during these years in most of these places. What seems far more important is that the current citizens of these countries seem generally committed to advancing democratic ideals, and are therefore eager to redefine their histories in ways that create historic democratic roots for the current regimes.

By contrast, the Kazakh leaders are trying to justify their own opposition to democratic reforms by claiming an “Asian” history, which is defined as antithetical to such values. Kazakh history is certainly subject to interpretation in a variety of ways, and some of the traditional Kazakh values could certainly be construed as supportive of democratic ideals. In fact, the Kyrgyz consider many of the traditions that they have in common with the Kazakhs to be “natural” or “primitive” democracy, and they use history to explain why their country is the most democratic of the Central Asian states.

In many ways Nursultan Nazarbaev squandered the opportunity to make Kazakhstan at least as democratic as Kyrgyzstan. The prospects of democratic reform in Kazakhstan were at least as good as those of Kyrgyzstan nine years ago, when President Akaev came to power in neighboring Bishkek. If anything, Kazakhstan was better prepared for a democratic transition. It had a larger democratically oriented elite, both in absolute and relative terms, and for all the often-vocalized fears of the prospect of inter-ethnic conflict, Kazakhstan lacked the legacy of recent inter-ethnic violence that the Kyrgyz confronted.

Moreover, the argument that some cultures are more naturally disposed to democracy than others is an argument that has traditionally held little sway for many democratic activists in the US. Reconstruction efforts after World War II were predicated on the idea that democratic values can be taught to people who have had very undemocratic histories. US-led efforts at political reeducation in both Germany and Japan proved very successful, and both have become stable democracies.

US citizenship policy also explicitly rejects the idea that it takes generations to take people from autocratic societies and turn them into supporters of democratic ideals. Immigrants who come to the US are not expected to wait a generation or two before exercising political responsibility even if they come from the most non-democratic of settings. The tests of citizenship are blind to national origin.

US POLICY

If we accept the premise that there is no good reason that the Kazakh leadership cannot democratize their society, other than the fact that the elite doesn’t want to, the Clinton administration is left with the difficult task of deciding how much to pressure this potentially strategic state.

In recent months the administration’s resolve to push Kazakhstan towards democratic reforms has hardened somewhat, and official US displeasure with the conduct of the January presidential elections was quite apparent. It remains to be seen, though, whether this resolve will be translated into renewed pressure at the time of the upcoming parliamentary elections.

One thing that could mitigate against a strong US response is the fact that Kazakhstan’s election is unlikely to be the least democratic of the parliamentary elections that are slated to be held in this region. The February bombings in Uzbekistan have led to a crackdown on both secular and religious opposition in that country, making the prospects of democratic reform more distant than ever. The bombings also create a frightening specter of what frustrated political groups may be capable of. This may be one reason why Turkmenistan’s presi-

dent has decided to allow multiple candidates to contest seats in his country's legislative elections for the first time ever, but this experiment with democracy is likely to be a very tentative one.

The voters of Kazakhstan are not likely to care what goes on in neighboring states. The comparisons that they are likely to make are between how they are living now and how they lived in the past, and for the overwhelming majority of the population this is one which does not favor the government.

Developments in neighboring states should not play a critical role in evaluating US options in Kazakhstan. We should not let Nursultan Nazarbaev off the hook, but rather we should continue to pressure him to introduce more democratic legislation for regulating the media and political party development. We should also keep up the pressure on the Kazakh government to adopt democratic legislation for the conduct of upcoming parliamentary elections, and strongly urge them to make the transition from appointed to elected local officials on an explicit timetable.

WHAT LIES AHEAD

It is unclear what lies ahead if Kazakhstan does not undertake such reforms. At best the country will develop into a stable semi-autocratic regime; at worst it could be engulfed in civil war. The most probable outcome lies between the two, creating a state which seems sure to become an uncertain ally for the United States.

Unlike history, geography is not subject to reinterpretation. Given its three thousand-mile border with Russia, Kazakhstan will always have to juggle its ties to its northern neighbor with its relations with the US. The less democratic Kazakhstan is, the more attractive Russia may become to the government in Astana. If we wish to help shelter Kazakhstan from undue Russian influence, the best advice we can give is to urge its leaders to take democratic reform more seriously.

**EXECUTIVE SUMMARY, CONCLUSION, AND
RECOMMENDATIONS FROM REPORT ISSUED BY THE OSCE'S
OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN
RIGHTS**

THE REPUBLIC OF KAZAKSTAN

**PRESIDENTIAL ELECTION
10 JANUARY 1999**

EXECUTIVE SUMMARY

On 10 January 1999, approximately 8.3 million citizens over the age of 18 years were eligible to elect the President of the Republic of Kazakstan. Under the Constitution of Kazakstan, the President enjoys enormous power and the term in office of the President has been changed to last until 3 December 2006. As a result, the election of 10 January 1999 will have crucial influence on Kazakstan's political future.

On 13 October 1998 the Government of Kazakstan formally invited the Office for Democratic Institutions and Human Rights (ODIHR) of the OSCE to observe the election.

An ODIHR Needs Assessment Mission was in Kazakstan from 16 to 21 November. The Mission concluded that Kazakstan did not meet OSCE election related commitments in the pre-election process and that serious measures needed to be taken for the elections to meet the commitments. The Needs Assessment Mission questioned the possibility of ensuring the integrity of the process without postponing the election. Of particular concern were the refusal of the registration of two candidates because of minor administrative convictions; a media environment inadequate for a free electoral process; and allegations of intimidation of voters in order to secure support to the incumbent President.

Based on these findings, the ODIHR released a press statement on 3 December 1998 in which a postponement of the election was proposed. It was concluded that under the circumstances a full-scale election observation mission would not be launched. Instead, a limited election assessment mission would be sent in order to follow and report on the whole electoral process. No short-term observers would be deployed.

Despite the limited size of the election assessment mission, its activity did not substantially differ from a standard election observation mission during the pre-election period.

The OSCE/ODIHR Election Assessment Mission found that the election process fell far short of the standards to which the Republic of Kazakstan has committed itself as an OSCE participating State. The areas of concern include the following:

- **Duration of the election campaign.** The timing of the amendments to the Constitution meant that the election took place earlier than previously scheduled. The period allocated for the election campaign did not allow for sufficient preparation by all prospective candidates given the circumstances that brought about these elections.

- **Legislative framework.** The election process is governed by the Decree of the President of the Republic of Kazakhstan, Having the Force of Constitutional Law, on Elections in the Republic of Kazakhstan (hereafter referred to as the Decree on Elections). An election law adopted by the Parliament following a public debate would enhance the credibility of the election process.
- **Election commissions.** The appointment of election commissions at each level are controlled by the President and appointed local officials. The method of appointment and the makeup of the commissions do not encourage public trust in the electoral process.
- **Infringements on rights of citizens to seek public office.** Of particular concern are the amendments to the Decree on Elections, disqualifying potential candidates who had received a minor administrative sanction for an “intentional offence” during the year before registration. This new provision was used to prevent the registration of two would-be candidates.
- **Obstacles to freedoms of association and of assembly.** The rights to association and assembly are unduly restricted through legal and administrative obstacles. Legislation has been used to impede the registration of a number of groups, including political parties, and to harass those involved.
- **Campaign atmosphere.** State authorities did not behave impartially and provided support for the election campaigns of some candidates, in particular the incumbent. There was no clear dividing line between state affairs and the incumbent’s campaign. Restrictions were placed on the campaign of some of the incumbent’s competitors through administrative measures.
- **Access to the media.** Both the state-owned and private media gave a disproportionately large share of the coverage to the incumbent. In general, the OSCE/ODIHR Election Assessment Mission is concerned with the media situation in Kazakhstan.
- **Voting procedures.** The voting on election day was carried out in a calm and peaceful manner. However, there were credible reports of irregularities, including proxy voting.

The OSCE/ODIHR Election Assessment Mission found that the Central Election Commission is to be commended for:

- **Logistics.** The Central Election Commission’s plans and organisation for election day were well drafted and executed.
- **Voter education.** The Central Election Commission undertook a wide-ranging impartial voter education effort to inform the public about its rights, the biographies of candidates and the procedure to properly complete the ballot. The CEC should continue such efforts in preparation for future elections.

VIII. CONCLUSIONS

The OSCE/ODIHR Election Assessment Mission found that the election process fell far short of the standards to which the Republic of Kazakhstan is committed as an OSCE participating State. The areas of concern include the following:

Duration of the election campaign. The timing of the amendments to the Constitution meant that an election would take place earlier than previously scheduled. The period allocated for the election campaign did not allow for sufficient preparation by all prospective candidates given the circumstances that brought about these elections.

Legislative framework. The election process is governed by a Presidential Decree that falls far short of OSCE commitments. Although Parliament has been amending this Decree since it was promulgated in 1995, election legislation adopted by the Parliament following a public debate would enhance the credibility of the election process.

Election commissions. The appointment of the election commissions at each level are controlled by the President and appointed local officials. The method of appointment and the makeup of the commissions do not encourage public trust in the electoral process. The election commissions need to be more independent and representative.

Infringements on rights of citizens to seek public office. Of particular concern are the 8 May 1998 amendments to Article 4 of the Decree on Elections, disqualifying potential candidates who had received a minor administrative sanction for an "intentional offence" during the year before registration. This new provision was used to prevent the registration of two would-be candidates. The application of this article contradicts the OSCE principle contained in the 1990 Copenhagen Document that an "administrative decision against a person must be fully justifiable." In one of the two cases the 8 May 1998 amendments were applied retroactively, disqualifying a potential candidate who had an administrative sanction levied against him in early 1998. In addition, the number of signatures and the monetary fee for candidature appear high, particularly in light of the short period allocated for the campaign.

Obstacles to freedoms of association and of assembly. The rights to association and assembly are unduly restricted through legal and administrative obstacles. The legislation has been used to impede the registration of a number of groups, including political parties, and to harass those involved.

Campaign atmosphere. State authorities did not behave impartially and provided support for the election campaign of some candidates, in particular the incumbent. There was no clear dividing line between state affairs and the incumbent's campaign. For example, state bodies announced and publicised their support for the incumbent, while printed messages encouraging passengers to vote for the incumbent were distributed on some local flights of the state airline. Restrictions were placed on campaigning of some of the incumbent's competitors through administrative measures. For example, candidates had uneven access to public buildings.

Access to the media. Both the state-owned and private media gave a disproportionately large share of the coverage to the incumbent. In addition, documentary programs profiling the incumbent were added to the regular programming of one popular state-owned TV channel during the week before the election. Regular entertainment programs, such as a popular soap opera, featured election-related segments favouring the incumbent. In general, the OSCE/ODIHR Election Assessment Mission is concerned with the media situation in Kazakhstan.

Voting procedures. The voting on election day was carried out in a calm and peaceful manner. However, there were credible reports of irregularities, including proxy voting. Observers and candidates' representatives reported that the layout of polling stations did not allow for effective observation. The number of names that were added to additional voter lists appeared high, suggesting that there were deficiencies during the voter registration process.

The OSCE/ODIHR Election Assessment Mission found that the Central Election Commission is to be commended for:

Logistics. The Central Election Commission's plans and organisation for election day were well drafted and executed.

Voter Education. The Central Election Commission undertook a wide-ranging impartial voter education effort to inform the public about their rights, the biographies of candidates and the procedure to properly complete the ballot. The CEC should continue such efforts in preparation for the future elections. Another positive aspect noted by the Mission is that the CEC had improved the design of ballots and the protocols for recording the vote count at polling stations based on earlier OSCE/ODIHR recommendations.

The OSCE Office for Democratic Institutions and Human Rights appreciates the co-operation extended to the Assessment Mission by the Government of Kazakhstan and is encouraged by the commitment of the Republic of Kazakhstan, expressed at the highest level, to improve the election-related legislation and to implement recommendations of the OSCE/ODIHR Election Assessment Mission. ODIHR would like to reiterate its readiness to assist the Government of Kazakhstan in the preparation for future elections, in particular for the local and parliamentary elections scheduled to take place later in 1999. ODIHR is also looking forward to co-operating with the Government of Kazakhstan on the implementation of the Memorandum of Understanding regarding future elections and democratisation projects signed on 2 December 1998 at the OSCE Ministerial Meeting in Oslo.

IX. RECOMMENDATIONS

The OSCE/ODIHR Election Assessment Mission urges the CEC and the Government of Kazakhstan to continue to improve its legislation and to fulfil its stated intention to democratisation. The following recommendations are made in the spirit of assisting to improve the level of compliance with the 1990 OSCE Copenhagen Document. OSCE/ODIHR recommends:

- that election legislation be introduced, debated and adopted by the Parliament following a public debate.
- That the existing Decree on Elections be repealed. However, if it is incorporated into the election legislation, the Decree on Elections must be revised substantially, including in particular but not limited to the following provisions.
- that the appointment process of election commissions at all levels be reviewed. Independent, neutral persons representing various communities would add credibility to the electoral process in Kazakhstan.
- that the requirements for candidate registration for all levels be reviewed and amended. Lowering the number of signatures required and the amount of registration fee will enable a broader range of prospective candidates to be registered. Article 4 of the Decree on Elections also needs to be reviewed in light of the constitutional right to seek public office.
- that the planned amendments to the laws on registering public associations and NGOs be introduced as soon as possible. Political party registration also needs to be reviewed with consideration given to including it in an election law.
- that the division of state affairs and the campaigning of candidates, as outlined in the guidelines of the CEC, be incorporated into an election law.
- that the legal requirements on election finances be amended to include a section on donations in kind. These donations would be valued at the current market rate and be considered an expenditure of the election fund.
- that the stated intentions to ease control on the media be instituted immediately by changing the tender process for broadcast frequencies and the tax laws to ensure that private and independent media are able to operate on a competitive basis with the state media.
- that journalists be protected, while carrying out their duties, from intimidation and arbitrary punishment based on the content of their reporting.
- that paid political broadcasts and advertisements be required to carry an identifier of the sponsor so that the public will be aware of who is responsible for these announcements.
- that the CEC ensure that its guidelines on the media are complied with by incorporating an enforcement mechanism, with penalties if necessary, in the election law.
- that the CEC institute a training branch to set consistent and uniform standards so that the election commissions comply with the election law and the CEC's guidelines. The training branch would also design standard manuals and training programs.

- that the voter registration system be improved with permanent, computerised voter lists. The system should have checks against double registration and should prevent the abuse of additional lists.
- that the voter education program of the CEC be enhanced to give more information to voters about the secrecy of the vote and about special voting procedures such as advance voting, mobile voting and certificate voting. It is also recommended that the CEC develop an ongoing democracy education program in co-operation with NGOs.
- that the Government carefully review all of its OSCE commitments related to elections, in particular under the Copenhagen Document, and ensure that it bring its electoral practices into compliance with these commitments.

