

ELECTIONS, DEMOCRATIZATION,
AND HUMAN RIGHTS
IN AZERBAIJAN

HEARING
BEFORE THE
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COOPERATION IN EUROPE

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RIGHTS IN AZERBEIJAN**

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ELECTIONS, DEMOCRATIZATION AND HUMAN RIGHTS IN AZERBAIJAN

THURSDAY, MAY 25, 2000

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,
WASHINGTON, DC

The Commission met in 2255 Rayburn House Office Building, Washington, DC, at 2:00 p.m., the Honorable Christopher H. Smith, Chairman, presiding.

Commissioners present: Hon. Christopher H. Smith, Chairman; Hon. Frank R. Wolf; Hon. Joseph R. Pitts.

Witnesses present: Ambassador Daniel Fried, Principal Deputy, Special Advisor to the Secretary of State for the New Independent States, U.S. Department of State; Clifford Bond, Office Director for Caucasus and Central Asian Affairs, U.S. Department of State; Hafiz Pashayev, Ambassador of Azerbaijan; Shahin Aliev, Director of the Legislative and Legal Expertise Issues in the Office of the President; Abulfaz Elchibey, Chairman, Azerbaijan Popular Front; Isa Gambar, Chairman, Mussavat Party; Rasul Guliev, Co-Chairman, Azerbaijan Democratic Party; Nazim Imanov, Deputy Chairman, National Independence Party of Azerbaijan; Dr. Audrey Altstadt, Associate Professor, University of Massachusetts, Amherst; and Cathy Fitzpatrick, Executive Director, International League for Human Rights

OPENING STATEMENT OF HON. CHRISTOPHER H. SMITH, CHAIRMAN

Mr. SMITH. The Helsinki Commission will come to order. I welcome all of our guests and witnesses to this hearing, "Elections, Democracy and Human Rights in Azerbaijan." This is the latest in a series of hearings the Commission has been holding on the countries of Central Asia and the Caucasus, with more to follow.

Today the Commission is focusing on Azerbaijan because of the critically important elections coming up. In November, Azerbaijani voters will elect a new legislature.

Observation missions from the OSCE's Office for Democratic Institutions and Human Rights (ODIHR), which monitored the 1995 and 1998 parliamentary and presidential elections, concluded that they did not meet OSCE standards. Council of Europe observers gave a harsh assessment to the first round of the local elections in December 1999, though they noted improvements in the second round.

The conduct of November's elections will help define the country's political orientation and its international reputation. Is Azerbaijan developing toward Western-style electoral democracy or are Soviet patterns of controlled elections still prevalent?

Unfortunately, to judge by OSCE verdicts on many recent elections, the latter pattern seems dominant throughout much of the former USSR. The assessment of Azerbaijan's November election will also help to determine whether the country is admitted to the Council of Europe, where it currently has Special Guest status.

Domestically, the election offers an historic opportunity for the consolidation of Azerbaijani society. The legacy of Azerbaijan's recent elections has been deep distrust between the government of President Aliev and opposition parties. While opposition parties function in Azerbaijan, publish their newspapers and are represented in Parliament, they face various constraints.

With the election approaching fast, opposition parties have reacted with skepticism to assurances from the government that the election will be free and fair. It is essential for the future development of Azerbaijan's democracy and for the legitimacy of its leadership that November's election is free and fair and the results are accepted by society as a whole.

We are well aware that the last dozen years have been turbulent for Azerbaijan. The reestablishment of independence has been accompanied by the tragic Nagorno-Karabakh, the loss of territory and massive refugee problems. Moreover, Azerbaijan is in an extraordinarily complex region of the world, at the crossroads of civilizations and competing empires, some of which to this day harbor hopes of influencing, if not controlling, the country.

Obviously, these are not the most favorable circumstances to overcome the legacy of Soviet rule. Nevertheless, if I may quote Ambassador Nelson Ledsky of the National Democratic Institute or NDI, "Azerbaijan is a country where democracy is both necessary and possible."

That is a sentiment I fully support. The purpose of this hearing is to publicize the issues surrounding the election in a country with so much promise and such strategic and economic importance for the United States.

Finally, I know that today Azerbaijan is celebrating its independence day. I congratulate you, the country of Azerbaijan, and the Commission congratulates you, and wish to express the hope that the November election will strengthen your independence.

To discuss Azerbaijan's election, democratization and human rights, we have assembled an extremely qualified group of witnesses. Speaking on behalf of the State Department we have Ambassador Daniel Fried. A career Foreign Service Officer, Ambassador Fried has only recently finished his tour in Poland. In fact, he took up his new position as Special Deputy Assistant to the Secretary of State for the New Independent States only on May 8.

That has not given him very much time to acquaint himself with his new set of responsibilities, and we are very appreciative of his willingness to come here and present his testimony today. From 1993 to 1997 the Ambassador was Staff Director at the National Security Council and special Assistant to the President and Senior Director for Central and Eastern Europe. Previously, he served in the Soviet Union, Yugoslavia and Poland.

The Ambassador is accompanied by Clifford Bond, the State Department's Office Director for Central Asia and the Caucasus since 1998. A Minister Counselor, Mr. Bond is a Career Foreign Service Officer whose foreign postings have included Belgrade, Stockholm, Prague and Moscow.

He was a Special Advisor to the Coordinator for Support to East European Democracies and was Deputy Director of the Office of Independent States and Commonwealth Affairs.

I yield to my friend and colleague, Mr. Pitts, for any opening comments he may have.

Mr. PITTS. Thank you, Mr. Chairman. I'm sorry I'm late. I don't have any opening comments, but would just like to say I'm looking forward to hearing the witnesses today.

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

**TESTIMONY OF AMBASSADOR DANIEL FRIED,
PRINCIPAL DEPUTY, SPECIAL ADVISOR TO THE SECRETARY
OF STATE FOR THE NEW INDEPENDENT STATES,
U.S. DEPARTMENT OF STATE**

Amb. FRIED. Mr. Chairman, it is an honor to be here today representing the Administration at this hearing. I appreciate the opportunity to discuss recent developments in Azerbaijan.

The United States seeks development of modern democratic political and economic institutions in that country and the strengthening of Azerbaijan's sovereignty, independence and territorial integrity.

With its vast hydrocarbon resources and its geo-strategic position on east-west trade routes, Azerbaijan stands a strong chance of becoming a vital hub for the transport of Caspian Basin energy resources to world markets. To promote our interests in Azerbaijan, the United States has established the following priority policy goals, and I'm going to list them (not necessarily in order of importance):

1. Promoting regional stability and cooperation, particularly long-term stability in the Caucasus, will require a peaceful resolution of the Nagorno-Karabakh conflict.
2. Broadening our cooperation with Azerbaijan to counter global threats, including terrorism, drug trafficking and proliferation of weapons of mass destruction.
3. Supporting development of Azerbaijan's energy resources. By promoting the development of Caspian energy resources and multiple commercially viable east-west pipelines, we look to improve regional cooperation and advance Azerbaijan's independence and prosperity.
4. Strengthening Azerbaijan's commitment to democracy, human rights and the rule of law.

Mr. Chairman, we firmly believe that creation of a truly participatory democracy is key to Azerbaijan's long term stability. Sir, you said it, and I fully concur in your characterization. Democracy is not an adjunct to American interests in that country. It is a principal interest.

We have achieved some progress on these goals to high level and broad engagement with Azerbaijan. Bilateral assistance programs funded by Congress can help advance these goals as well.

Unfortunately, Section 907 of the Freedom Support Act does limit our ability to provide such assistance to Azerbaijan, and is a serious irritant in our bilateral relations and our ability to advance our agenda. For these reasons, the Administration continues to advocate repeal of these restrictions.

Our engagement with Azerbaijan has begun to bear fruit in the key area of democracy and human rights. Much more needs to be done, but the last 2 years have seen a set of some incremental improvements in the human rights field in Azerbaijan. Let me review a few developments where there has been progress and end with the elections where we are in the middle of a process now.

Media Freedoms: The government does still tightly control radio and television broadcasting, but print media has enjoyed much greater freedom in recent years.

Religious Freedom: President Aliyev's public commitment to religious freedom has resulted in tangible progress in the protection of religious expression.

Independent Judiciary: Azerbaijan does not have an independent judiciary or judges, in our judgment. With the 1998 democracy cave-out for Section 907, we have been able to expand our effort in this important area.

Elections: Mr. Chairman, as you said, none of Azerbaijan's elections since 1993 have met international standards. A consistent problem is the government's failure to report results judged credible by domestic and independent observers.

On the positive side, the government agreed to register the remaining unregistered opposition party, the Azerbaijan Democratic Party, earlier this year. Parliamentary elections are now scheduled for November.

The United States is engaging all elements of the political spectrum, including the government, opposition and NGOs, to use these elections to advance democracy. Our message has been and remains clear, Azerbaijan's long-term stability and its integration into the Euro-Atlantic community depends on action now to build democratic institutions and civil society.

We believe there are realistic and achievable steps the government can take to correct the past election irregularities, and to ensure that these elections are conducted in a free, fair and transparent manner.

First, the government should bring its legislation governing conduct of parliamentary elections into accordance with international standards. OSCE's ODIHR has made proposals in this regard and is very much at work. Of course, we all picked up today's press release which describes where we are as of the moment.

Second, the government should continue work with the OSCE's ODIHR and opposition to ensure that the composition of the Central Electoral Commission (CEC) and lower level commissions will be balanced, representative and ensure the fair conduct of the elections.

Third, the government should allow opposition groups to demonstrate peacefully in locations accessible to the public. We welcome the decision by the Mayor of Baku to permit a peaceful political demonstration on May 20 in the central part of the capital.

Four, the government should allow for fair and equal media coverage for all groups participating in the elections.

Five, the government should commit itself to publishing election results in a timely manner.

Mr. Chairman, democratic traditions and respect for human rights are in reality going to take time and be the result of a process. Azerbaijan continues to suffer from the heavy legacy of 70 years of Soviet Communism. Our dialogue with the government, however, is intended to advance this process, and we believe it has been productive.

We want to move forward. We want to recognize what progress has occurred, while urging the government to meet all the international commitments that it has assumed as a participating state in such bodies as the OSCE.

We are prepared to provide additional assistance to the government and non-governmental organizations in Azerbaijan to support parliamentary elections carried out in accordance with Azerbaijan's commitments.

With the support of Congress in general, and the committee in particular, we will continue to work with the Government of Azerbaijan and Azerbaijani society on democratic reforms, respect for human rights, and other priority issues.

Mr. Chairman, as you rightfully said, I am at something of a disadvantage, since I am the person in this room who probably knows the least about Azerbaijan. In my defense, I will say that I do know something about post-Communist dynamics, and I used to know the Soviet Union. I'm glad that knowledge now is of historical interest, frankly. However, bearing that in mind, Cliff Bond, our Director, is with me, also Ambassador Escadero was good enough to send us one of his best people, Craig Dicker from the Embassy who is a fluent Azeri speaker, who has frequent, almost daily contact with all segments of Azeri society, including with the opposition, and brings an on-the-ground perspective which, I think, is very useful to our purposes.

Mr. Chairman, I am happy—We are happy to answer all of your questions.

Mr. SMITH. Thank you very much, Mr. Ambassador. I think you know much more than you are saying, and given your background, I know you will be a very quick study on the situation in Azerbaijan.

Let me just ask you, you did reference in your testimony the recent May 24 press release issued by ODIHR. We have a one-pager that suggests that the ODIHR will publish soon comments on the draft parliamentary election law.

While this draft marks progress compared to the existing law, significant improvements are necessary in certain areas such as the registration of candidates. Have you been apprised in any greater detail as to what that other commentary looks like? Can you elaborate on what ODIHR has found?

Mr. BOND. Yes. I spoke with Peter Eicher of ODIHR earlier today before this meeting. ODIHR did not want to get into the specifics.

One of their concerns is the selection of members of the CEC and how that reflects various political elements in the society, both the opposition, the government and independent people.

They have made some proposals. They have provided a framework that the government is considering now, and they are encouraging the government and the opposition to try and reach an agreement along those lines.

Their representative left this week. He is going to be returning to Baku next week, and he is hoping that they can move forward on the process at that time.

Mr. SMITH. If you could keep us apprised, and we will try through our contacts as well.

Let me ask you about the State Department Country Reports and Human Rights Practices. This report suggested that there were political prisoners in Azerbaijan.

Could you give us the number of what the best estimates are? We do note that Saturday President Aliyev signed a decree pardoning 91 people, including 12 political prisoners. Were those prisoners on our list or are they bona fide prisoners, as far as we know? What are the details about that?

Amb. FRIED. In our human rights report we identified 50 persons as political prisoners. Now there are various definitions of political prisoners. Depending on how wide the definition is, that number could go up and down.

Now I should say, as a matter of record, we think the right number is zero political prisoners, and it is unfortunate that there are any. The number is going down. We expect it to go down. However, we believe that none of the 12 people that they pardoned recently were included in our list of the 50.

So while they may be included on other lists, they were not on our list, and I can give you—

Mr. BOND. The information we have on the 12 of 91 is that they were involved in a treason trial a few years ago and are just being released from prison. As Dan said, they were not on our human rights list of political prisoners.

Mr. SMITH. Were any of those on our list?

Mr. BOND. Of the 91, no.

Mr. SMITH. No, but were any of those that are on our list right now released with this pardoning?

Mr. BOND. No.

Amb. FRIED. Not with this. None of the 12.

Mr. BOND. I should add, too, that the Embassy is now updating that list and should have a new figure shortly.

Mr. SMITH. Do we have any expectation that some or all of those prisoners will be released anytime soon?

Mr. BOND. They are being released, and we expect the number to be lower when we finish the count we're making.

Amb. FRIED. None of the 12 were released, but we think the number we share with you and your staff, Mr. Chairman, will be lower than 50.

Mr. SMITH. On May 11, Reporters Without Borders issued a press release criticizing Azerbaijan and some of the other countries for fining opposition media.

The organization, which defends freedom of the press, as we all know, noted the rising number of libel trials in Azerbaijan since the new media decree came into force in February of this year. In fact, they described that decree as amounting to a reintroduction of censorship.

What is your sense on that issue?

Amb. FRIED. Actually, according to our information, the trends here are improving. In late 1998 and early '99 there were 19 libel cases that we were tracking. Since passage of the new law, we are aware of only two cases of libel being brought against the media.

So in fact, in this case, the trends are favorable. Again, this is according to what we've got. Now, when we're discussing media freedom, there is a difference between the electronic media and the print media. Generally speaking, the print media is in better shape. It is freer and operates in a different environment.

Mr. BOND. Just maybe to say something more broadly on the media law itself, we did see the media law that was approved earlier this year to be of limited improvements, and particularly concerning press and print media where licensing requirements and some other controls were ended. But we continue to have concerns about the details of that law as it affects things like broadcasting, as it affects things like the libel laws which could be used to intimidate reporters and impose a sense of self-censorship on them. So we do have concerns.

Mr. SMITH. The *Monitor* has been closed down. What do you think of this? Have we responded at all to the government about its closing of the weekly newspaper?

Mr. BOND. The *Monitor* is one of three papers closed for tax reasons. The owners of those papers have claimed that this was a politically motivated action. Our Embassy has looked into it.

They have also spoken to a range of other press and media people who, frankly, have some concerns that this may have been politically motivated. However, they also explain that there is not a broad crackdown going on in Azerbaijan and that, in fact, there is still a number of—more than 100 journals that are actively engaged in the press.

Mr. SMITH. It may be a very disturbing trend. Elsewhere in that part of the world, we are seeing an attack on media by using tax laws and laws of that nature. Serbia does it. Many countries are employing that tactic.

Our hope is that we could convey to the government that that is not acceptable. Until proven otherwise, there's just too much of a pattern emerging of a way of shutting down opposition media.

Amb. FRIED. I don't have much enthusiasm for the tactic at all, but as far as we can tell, the action which you cited was not part of the trend. Other similar actions have not followed it. We are watching that very closely.

I'm not speaking to the future. I can't guarantee that, but so far at least, we have not noticed this as part of a broad crackdown. We are watching it.

Mr. BOND. We are also making the point that any sort of intimidation, whether it's use of tax laws or libel laws, to try and censor or otherwise muzzle the press is just unacceptable. It's not consistent with the commitments that Azerbaijan has as a participating State in the OSCE.

Mr. SMITH. It's an issue we are going to follow very carefully also. Obviously, we believe as you do, that the ability to get one's message out, unfettered, is absolutely essential.

I don't like some press I get, and I'm sure the Administration doesn't like some press it gets, but it's a check and a balance that is worth its weight in gold.

Did you say three papers have been shut down using that tactic?

Amb. FRIED. Yes.

Mr. DICKER. Those three papers—All three of them are owned and controlled by the same person.

Mr. SMITH. But they have been critical of the government?

Mr. DICKER. Yes.

Mr. SMITH. One final question, then I will yield to my good friend, Mr. Pitts.

The take of the Department on Mr. Panakhov of the CEC?

Mr. BOND. Well, we don't know a lot about Mr. Panakhov. I think most people saw the replacement of the current head of the CEC as a positive action. That gentleman presided over the badly flawed elections since 1993, and so while we don't really know what influence Mr. Panakhov is going to have on the CEC, we hope it will be positive.

Mr. SMITH. Thank you. Yes, please.

Mr. DICKER. He's an academic.

Mr. SMITH. Come right to the microphone, just so we can hear.

Mr. DICKER. He's an academic. He's a physicist. The people I've spoken to over the past week or so have said that he is more or less an apolitical person, and I've spoken to a wide array of people, and they are relatively pleased with his appointment.

So he has worked for an international paper, Azerbaijan International. He has been heading the international bureau of the CEC for the past several years, and he's widely respected by a wide array of people.

Mr. SMITH. Thank you, Mr. Pitts?

Mr. PITTS. Thank you, Mr. Chairman.

Mr. Ambassador, we were all pleased at the high-level attention paid by President Aliyev to religious liberty last December with his statements and so forth. However, concerns about some of the bureaucratic obstacles to registration and free religious expression, such as the importation of literature, remain.

In your opinion, has the Azeri Government taken any steps to address the root of the problem, such as the religion law or arbitrary bureaucratic decisions regarding the registration of religious groups?

Amb. FRIED. Well, as you know, in November President Aliyev made a public commitment with respect to protection of religious liberty. Following that commitment, our Embassy noticed a number of specific actions which remedied very concrete problems which we had been concerned about.

Some workers who had been fired earlier for religious beliefs were reinstated, and three religious groups were registered after a long period where, frankly, they had been stonewalled. So we did see some positive, concrete, verifiable steps. However, bureaucratic problems remain.

We have noticed that most of the problems since November have involved one government office, the Religious Affairs Department, and as you characterize it, you used the characterization of arbitrary bureaucratic obstacles, and I think in the Embassy's view, as I understand it, that kind of problem has been associated with this one bureau.

They know of our concern, yes, sir.

Mr. PITTS. Are there any moves that you know of to change the law concerning registration of these religious groups?

Amb. FRIED. No. We don't think moves are underway. The problems of which I'm aware relate to the bureaucratic implementation of the law, not with the law itself, but I'm not giving you a studied response. I'm giving you what my state of knowledge is. I can look into that.

Mr. PITTS. When President Aliyev was here in 1997, he signed a memorandum about the problems of the elections. I think there have been a couple of elections since then. What is our Administration's reaction to these last few elections?

Amb. FRIED. Sir, as I said in my testimony, unfortunately, none of the elections held in Azerbaijan fully measure up to international standards. I wish I could give you a different kind of reply, but we call it as we see it.

That is why the upcoming elections later this year, are of such critical importance. We are focused on them. There is a process underway to make sure that these do meet international standards.

We support the efforts of the OSCE to work with the government, with the opposition, with society at large to produce a credible environment in which these elections can take place. We think that is important, both because of democratic values in the abstract and because of our larger interests in Azerbaijan.

Mr. PITTS. Can you be specific as to the types of irregularities that you were unhappy with?

Amb. FRIED. My understanding is the biggest single problem, if you could identify it, was in the credibility of the reporting of results, which is why so much effort now is being devoted to the composition and procedures for the Central Electoral Commission.

The OSCE is working on this first, and then on the election law. Now there were lots of other problems. Elections are associated with a free media, and we would like to see progress here as well, but if I had to put one specific electoral problem at the top of the list, it would be that. That is the subject of the discussions that are ongoing now.

So we are in real time here.

Mr. PITTS. Okay.

Mr. SMITH. Would the gentleman yield?

Mr. PITTS. Yes.

Mr. SMITH. Mr. Ambassador, some American NGOs have been discussing a project involving a parallel vote count at territorial election commissions in the November election.

What is the Department's view of that project?

Amb. FRIED. Sounds like a good idea. We've been talking to the NGOs. We think that there is much merit.

In general—and I'm not speaking of Poland but of my other experience in central and eastern Europe—when credible, serious NGOs work with the government, with the OSCE, you are more apt in the end to have a credible process.

So my own instincts, if I can speak in those terms, is to work very closely with the NGOs, especially the ones with some experience in working in a post-Communist environment. We think it's a good idea. We are going to work with them.

Mr. SMITH. Thank you.

Mr. PITTS. That concludes my line of questioning. Thank you.

Mr. SMITH. Religious groups have reported that Azerbaijan officials are using the 1996 amendments to the religion law to forbid the printing of religious publications within Azerbaijan and to block imports from passing through customs.

One shipment held up for years is a four-ton consignment of New Testaments in the Azeri language. These actions constitute violations of Azerbaijan's commitments to the Vienna Concluding Document to allow religious groups to freely import literature in the language of their choice.

Has the State Department conveyed these concerns to the Azerbaijan Government? Mr. Bond?

Mr. BOND. We regularly raise these sort of cases and that one in particular. In response to Mr. Pitts as well, I can say that, when we have raised our concerns about religion, it's been of the systemic as well as the individual cases.

Mr. SMITH. With regard to this specific Bible shipment, what has the response been? What do they say?

Mr. DICKER. To my knowledge, they say that this has actually been released, and to my knowledge, as of today or as of yesterday, there is only one piece of religious documentation or religious literature which has been seized and is still held by the government, and that's a video.

So as far as I know, almost everything has been released.

Mr. BOND. We can confirm that with the Embassy and get back to you.

Mr. SMITH. If you could. And by "held up," maybe perhaps they are not allowing it to come in, and it is held up at the border. If you could get back to us with the details.

Amb. FRIED. We will.

Mr. SMITH. Why do you think Azerbaijan authorities are so reluctant to allow demonstrations in Baku?

Amb. FRIED. It's hard for me to speak for—well, impossible for me to represent the views of the Azerbaijan Government. I was pleased—We were all pleased that the demonstration—that a peaceful political demonstration took place in Baku on May 20.

Now we all have heard the government's explanations why the previous demonstration was broken up. Without getting too much into the past, I'm glad the second one took place well. I think it's important that the government—The more the government is seen as acting in good faith in the direction of greater—in the direction of deepening democracy, the more credible it will be, the better our bilateral relations will be, and the better Azerbaijan's prospects will be of integrating with the Western community.

That's how I would answer it. I don't want to speak for the government.

Mr. SMITH. Regarding President Kocharian and his cabinet, do you think that his consolidation of power leads to a greater prospect of negotiations on Nagorno-Karabakh? Is there a window of opportunity here?

Amb. FRIED. There may be. I certainly hope so. Were there less stability in Yerevan, the chances would go down. So I don't want to be too optimistic and then have to come back 3 weeks later or a month later and tell you nothing happened. But we certainly hope so.

I can't emphasize too much the importance of a fair resolution to the future of the region.

Mr. SMITH. Mr. Bond?

Mr. BOND. No. I'd just add to what Dan said: to resolve Nagorno-Karabakh is going to require politicians who have a consolidated political position, support that's based on democracy and legitimacy, and therefore, it is in the interest of both Azerbaijan and Armenia to, as you suggested, to consolidate the democratic and constitutional process.

Mr. SMITH. With regard to some recent statements by Russian Generals, General Ivashov said that NATO and the U.S. have had some successes with regards to Georgia and Azerbaijan. I quote, "while recognizing the right of any country to choose its allies, Russia reserves the right to take countermeasure, including military ones, to protect Russian interests."

That sounds very provocative, to say the least. How is that being read by the Department?

Amb. FRIED. I appreciate the opportunity to answer, Mr. Chairman. We believe that the sovereignty, genuine independence of all the countries emerging from the break-up of the Soviet Union is a major, critical element of European and Eurasian security.

We take these issues very seriously. President Clinton has said that he hopes Russia learns to define its greatness in terms of what it can contribute to the world, not in terms of its ability to project intimidating force. I'm paraphrasing, not quoting.

This is—We believe and hope that Russia's relations with its neighbors will be based on genuine mutual advantage, trade, good neighborly relations, and not on elements that characterized most of the 20th Century.

We have excellent relations with Azerbaijan. We also have problems which we have been discussing. But we look at Azerbaijan on many levels, and this is one of them.

Mr. SMITH. Thank you. Mr. Pitts?

Mr. PITTS. Mr. Ambassador, back to the Central Election Commission, various formulas have been suggested for staffing the CEC. Does the State Department have any view on which way would be the fairest, the most appropriate?

Amb. FRIED. I don't think it's wise for the State Department or for Washington, however you define it, to get into the specifics. As a general rule, what the OSCE, the Azerbaijani society, including the opposition and the government, agree to is very likely going to be something we can support.

There is not an American formula in this, and I don't think it would be wise to try to inject one. The credibility of the process is important. There may be several ways to arrive at a credible process, and that's the key.

Mr. PITTS. Another question: Opposition parties have suggested that Azerbaijan offers an example of a former Soviet Union republic where the head of state is trying to create virtually a family dynasty. What's your reaction to that suggestion?

Amb. FRIED. Individuals are less important to us than the democratic process. We are going to work with whatever government a genuinely democratic process gives us, and we'll work with them based on what they do.

Individuals are not—Individuals chosen by a democratic process will be able to work with us to the degree that the process is democratic. To the degree that it isn't, it will be somewhat harder. So that's the best I can do.

Mr. PITTS. Back to the statement of the Russian general, did you see that statement as a threat to Azerbaijan or Georgia or a challenge to the United States? How do you characterize that?

Amb. FRIED. I would characterize that sort of a statement as unfortunate. I wouldn't necessarily dignify it or raise it to the level of a threat.

Mr. PITTS. Thank you. Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much, Mr. Pitts. I want to thank our good friends from the State Department for your excellent testimony and the insights you've provided today. We look forward to working with you as we move forward, and I do want to thank you again.

Amb. FRIED. Thank you very much, Mr. Chairman.

Mr. SMITH. I'd like to welcome our second panel to the witness table. Our next witness will be Hafiz Pashayev, Azerbaijan's first Ambassador to the United States. A physicist by training, Ambassador Pashayev took up his post in Washington in February 1993.

Before embarking on his diplomatic assignment, Ambassador Pashayev was the Director of the Metal Physics Laboratory in the Physics Institute of Azerbaijan's Academy of Sciences and taught physics at Baku State University. He is the author of more than 120 books and articles.

Accompanying Ambassador Pashayev is Shahin Aliev. He is the Director of the Legislative and Legal Expertise Issues in the Office of the President. Mr. Aliev was a Professor in the Law Department at Azerbaijan's State University and was Deputy Director of Parliament's Legal Department.

He has been directly involved in the drafting of the laws on the Central Election Commission and the election, as well as in discussions on the laws with the OSCE.

Mr. Ambassador, both of you, welcome to the Commission.

**TESTIMONY OF HAFIZ PASHAYEV,
AMBASSADOR OF AZERBAIJAN TO THE UNITED STATES**

Amb. PASHAYEV. Thank you, Mr. Chairman. I would like to add that I have some more help here in this hall today. We have other visitors from the President's office in Baku. This is Fuad Alesqerov. He is head of Administrative Office, and Rauf Husseyinov, deputy of the International Relations Department. Mubariz Gurbanly is representing the Yeni Azerbaijan Party. He is a Member of Parliament.

Mr. Chairman, it is an honor to appear here today when you hold hearings on Azerbaijan. I consider this Helsinki Commission hearing as an experience which can have a very positive influence on the democracy building process, especially if the position is impartial and the criticism constructive.

Azerbaijan is a secular Muslim country of eight million people. During its long, long history, Azerbaijan has only known 11 years of true independence, the last 9 since the fall of the Soviet Union. For hundreds of years the word, as well as practice, of democracy was a totally alien concept in Azerbaijan.

With the collapse of the Soviet Union, we have been struggling to promote democracy in Azerbaijan. If I were to summarize that progress today, it would be as follows: Steady but incomplete.

Steady in that improvements occur with every election and every year; steady in the abolition of censorship and the death penalty; steady in the growth of a free press and a multitude of opposition and indepen-

dent media; steady in the enactment of laws protecting individual liberties; steady in registering more than 30 human rights NGOs, more than 30 trade unions, 20 women's NGOs; and steady in the growth of transparency in business transactions. But perhaps most of all, steady in the sense of a growing confidence in the sovereignty and independence of Azerbaijan, as well as its government stability which, of course, is the foundation for all the other freedoms and rights mentioned above.

Yet our democracy building efforts are incomplete. We have had irregularities in our elections. Our judiciary has become more independent, but we have not yet developed a completely independent judicial system. At times our local police still exceeds their authority. Business transactions are often clouded by the old Soviet system of doing business.

Finally, we are still grappling with the proper balance between personal freedom and order in society. However, considering where Azerbaijan was in 1991 when we restored independence and where we are today, no objective observer could deny that we have made real, substantial progress.

As happens in human events, one cannot understand the present without considering the past, and my country's past has not been a particularly easy one. It took political courage to establish a pro-Western policy, democratic norms, and stability during a time of war and transition from Communism.

A lack of understanding about Azerbaijan's past and current geopolitical situation, in my opinion, causes the greatest misunderstanding among Americans about the progress we have achieved and the commitment we have made toward democracy. At times, we even feel that as America assesses our efforts, perfection is the enemy of the good.

There seems insufficient attention to the unresolved conflict that left Azerbaijan with nearly 1 million refugees and displaced persons and about 20 percent of our land occupied because of Armenian aggression.

As I have already mentioned, our path toward democracy is complicated not only by external threats, open and covert, but also because of the history of Soviet culture. It is not immediately attuned to the habits of democracy.

It is against this background that I would like to discuss broad trends in our democratization and some specific comments regarding elections, freedom of religion, and freedom of the press.

Since restoring our independence in 1991, we have been struggling to implement democratic norms of behavior. We have held three presidential, one parliamentary and one local election. These were not perfect elections, as many Western observers, including Helsinki Commission, were quick to point out, but they were important milestones on our way to a true democracy.

I am reminded of our first elections when the head of a family would show up to vote for all members of his household. Such a practice does not meet normal democratic standards, but it is understandable, given our history and culture. While there were some irregularities in the last presidential election, no one doubts that President Aliyev received the overwhelming majority of the votes, as has been shown by many scientific polls, one conducted under the auspices of U.S. State Department since the election.

While much discussion occurred in America regarding irregularities in the first municipal election, the runoff elections generally received high marks, but virtually no publicity in the U.S.

A Council of Europe report said these were the first local elections since independence, and I am quoting, "indicating the country's commitment to continuing with democratic reforms at the local level and were simply the first steps toward the establishment of a fully developed system of local democracy." End of quote.

Azerbaijan strongly protects freedom of religion. Today more than 200 religious groups freely exercise their activity in Azerbaijan. Not so long ago, Azerbaijan had several cases involving religious freedom. These cases did not involve the mainstream religious organizations of Muslim, Jewish and Christian, but rather concerned some smaller religious groups.

Small or not, President Aliyev personally intervened in these cases and resolved them in favor of religious liberty. Subsequently, he has made his position in favor of religious freedom clear.

The President on November 8, 1999, publicly reaffirmed Azerbaijan's commitment to religious freedom with a statement specifically saying, "One cannot restrict freedom of conscience and creed."

Chairman Smith of this Commission was among those who praised Azerbaijan's actions then. May I remind you, Mr. Chairman, of your own words on November 16, 1999, when you endorsed my country's policy on religious freedom, stressing, and I am quoting, that "President Aliyev's remarks signal a new dawn in Azerbaijan and that his country will become the region's beacon for religious freedom."

We in Azerbaijan appreciate the fact that you, Mr. Chairman, have recognized our progress.

Azerbaijan's commitment to freedom of religion was confirmed by the U.S. Department of State's Annual Report on International Religious Freedom for 1999, which states, "The Constitution allows persons of all faiths to practice their religion, without restriction, and the government respects this provision in practice."

Azerbaijan has made significant progress in allowing freedom of press. Right now there are literally scores of newspapers in Azerbaijan, and they are generally granted traditional press freedoms. It is also worth mentioning that 65 percent of the media are established by political parties and their organizations. Twenty percent are independent, and only about 15 percent belong to the state.

With the abolishment of censorship by a Presidential order in 1998, there is certainly no restriction left on the right of free speech. But don't take my word for it. According to the Council of Europe, there are approximately 350 newspapers, 100 magazines, around 30 press agencies and several dozen television companies registered in Azerbaijan.

Some critics complain about government domination of the national television channel, but there is a number of private channels in my country expressing a variety of political views. I believe the views that will be expressed today by the leaders of the opposition parties have appeared more than once and freely in Azerbaijani media. The fact remains that freedom of the press is alive in Azerbaijan.

In sum, Mr. Chairman, Azerbaijan has not reached perfection by a long shot, but we believe that in the face of difficult circumstances, we have made a promising beginning. Further proof of Azerbaijan's steady progress toward a full democracy is contained in the unanimous deci-

sion made by the Political Affairs Committee of the Council of Europe Parliamentary Assembly to approve the recent report of Mr. Jacques Baumel of France on Azerbaijan's request for membership of the Council of Europe.

In his opinion, "The Assembly considers that Azerbaijan has a democratic, pluralistic society in which human rights and the rule of law are respected, and in accordance with Article 4 of the Statute of the Council of Europe, is able and willing to continue the democratic reforms initiated in order to bring its entire legislation and practice into conformity with the principles and standards of the Council of Europe."

In his conclusions, the Council of Europe rapporteur states, quote, "Since the first free elections, Azerbaijan has made considerable progress toward the building of a democratic state in keeping with Council of Europe principles, and has substantially shown its commitment to democracy. The reforms which have been initiated, and which the Rapporteur considers irreversible, constitute a solid basis for a pluralistic State that is governed by the rule of law and shows due regard for human rights and fundamental freedoms."

Over the past decade, we have achieved a steadily growing confidence in the sovereignty and independence of Azerbaijan, and its government stability which, of course, is the foundation of all the other freedoms and rights mentioned above. As we have consolidated our independence, we have advanced our democracy. Nevertheless, we cannot do it alone. We need your support and your help.

For years, Azerbaijanis have considered the United States the world's greatest democracy. Yet until recently America could not help implement the elections because of the ban on assistance to Azerbaijan contained in Section 907 of the Freedom Support Act.

This provision of law was enacted in 1992 by Armenian-American lobby groups as part of their war effort against Azerbaijan. For several years, Azerbaijan's one million refugees could not even receive American humanitarian assistance. Yet never did an American Congressional Committee even hold hearings on the violation of human rights of hundreds of thousands of Azerbaijanis deprived of their homes by Armenian aggression.

While we were able to carve out an exception from the ban on for democracy building in 1998, that meant that the first 7 years of Azerbaijani democracy had to be constructed without American assistance.

As far as upcoming parliamentary elections are concerned, I would like to emphasize my government's determination to work with the opposition for the sake of future democracy, and not to please foreign observers.

The government is in constant contact with the OSCE Office of Democratic Institutions and Human Rights, a representative of which has been in Baku in recent days and will come next week. We believe that these consultations will lead toward a consensus of all who care about my people's future, erasing any concerns about the democratic nature of the process.

I would also like to mention that Section 907 still prohibits American assistance in the promotion of education, which is a foundation of democracy.

Given the facts of Azerbaijan's struggle to fully implement its democracy, one could conclude that either the glass is half-full or half-empty. Our critics, of course, always say the glass is half-empty. But I am an optimist. I say the glass is half-full, and well on its way to becoming full.

I believe that by having improvement every time an election is held, we demonstrate not only our commitment to promoting democracy but also our potential for further growth.

We have chosen a difficult and rocky path to democracy. It is a hard road to follow, but we are determined to do so. We look forward to working with you, and we would appreciate any assistance, any constructive engagement from the established democracies.

Mr. Chairman, I would like to thank you also for interest in Azerbaijan, and as a sign of interest I would mention recent press release you issued as a result of my individual visits with you and your fellow Commissioners. It shows that you have great interest, and I am thankful for that.

I would also ask you, Mr. Chairman, to put on the record some materials which we will submit later. Thank you.

Mr. SMITH. Thank you very much, Mr. Ambassador. Without objection, we will include those additional materials that you would like to have as part of the record.

This Commission, Democrat and Republican, cares deeply about the refugees. I have expressed it in the past, but it was a very timely intervention on your part. So I do appreciate you raising that as forcefully as you did.

You said that you stand willing to work with the opposition, not to please foreign observers. Our Commission staff probably could fall under the rubric of foreign observers, because we do deploy observers at elections. Our only reason for being in any country is to ensure that there is no vote tampering, there are no lies or deceit. Any election anywhere carries with it the potential for fraud.

The hope is very simple. These observers are to ensure complete and total transparency and that there is a free and fair election in that country. There is no other agenda, plain and simple. It's not a matter of trying to please an observer. It's trying to ensure that there is fairness to the maximum degree possible.

Amb. PASHAYEV. Mr. Chairman, my point was just to show the degree of understanding which we have about the necessity of democracy in Azerbaijan.

Mr. SMITH. We do have a vote. We must break shortly and then come back. I hope, Mr. Pitts, you can come back, because this is an extremely important hearing, and some of our other Commissioners are actually in markup right now in the Appropriations Committee and elsewhere for bills that will be on the floor shortly, but they are here in spirit.

Mr. Aliev, you may want to speak to this as well. I have in mind the press release that we were speaking about earlier with our Ambassador and State Department personnel about some progress. Can you give our Commission any of the details? Where are some of the remaining difficulties regarding that? Mr. Aliev?

**TESTIMONY OF SHAHIN ALIEV,
DIRECTOR OF THE LEGISLATIVE AND LEGAL EXPERTISE
ISSUES IN THE OFFICE OF THE PRESIDENT**

Mr. ALIEV. Thank you, Mr. Chairman. It is a big honor for me to participate in this meeting, and I am glad that this meeting is devoted to such a serious issue as elections for my country.

Of course, elections are a problem not only for Azerbaijan, but for all Newly Independent States of the CIS [Commonwealth of Independent States]. 70 years of Soviet legacy could not disappear in merely 10 years.

I cannot find in the Newly Independent States of the CIS any country where elections are based 100 percent on OSCE standards. For this, one only needs to compare the different OSCE reports concerning the election in Russia, Ukraine, Georgia, Armenia and Azerbaijan.

Concerning our cooperation with OSCE, I want to say that my country, I want to say this with the full responsibility, is the most open country for cooperation with the international organizations in the Commonwealth of Independent States.

We cooperate with all international organizations that have an interest in my country, including IFES and NDI. That is why we send all drafts of all laws about elections to the experts at OSCE, to NDI, to IFES and to other organizations.

Concerning the CEC law, I want to clarify several issues, several questions. First, we agreed with the OSCE about four conditions for reformation of the CEC.

The first condition is that one-third of the members of the CEC must represent the political majority in the Parliament. One-third of members of the CEC must represent the neutral members of the Parliament, and one-third of the members of the CEC must represent the political minority in the Parliament.

Another condition is that the members of the CEC which was nominated by the independent members of the Parliament must be agreed with the political majority and political minority, and all these members on the CEC which represent the neutral members of the Parliament must be lawyers.

Mr. SMITH. On that point, if you could yield for one second. The opposition parties claim that the independents are actually aligned with and supportive of President Aliyev. So I mean, could not six independents be found that were truly bona fide independents?

Mr. ALIEV. Okay. Thank you for this question. It is a very interesting question, because everybody asks it.

Of course, Azerbaijan society is not so politicized as in the United States or like in France or Germany. All members of all political parties in Azerbaijan total approximately 300,000 maximum, 400,000, not more.

That is why it is our mentality that during the election, especially an election which is based on a majoritarian system, the people vote for candidates that are respectable in Azerbaijan society—famous writers, famous scientists, famous artists, famous painters, and this kind of person exists in the Parliament. But of course, nobody can be 100 percent neutral in this world—nobody.

Somebody has sympathy with the government party. Somebody has sympathy to the opposition party, but rare it is that people are independent; because during the election we cannot find any political party that supports its people openly or not openly. They elected themselves.

Can I clarify another three conditions of OSCE concerning the CEC? Do I have time for it?

Mr. SMITH. Yes. As crisp and as succinct as you can be, because we have three more panels.

Mr. ALIEV. Okay, thank you. Another condition is that all decisions in the CEC must be adopted by two-thirds majority—two-third majority, because in a former time we had a simple majority.

The fourth condition is that the Chairman of the CEC must represent the political majority in the Parliament, and the Secretary of the CEC must represent the political minority.

We agreed about three principles which I mentioned with the OSCE. One thing which we discussed was the Chairman and Secretary, because we wanted to avoid the situation in the future when the work of the CEC will be blocked, because no Chairman and no Secretary has a better right for commission decision. But in future, if possible, if one-third minority and one-third neutral members of the CEC vote, a decision could be adopted, but the Chairman which represents the government party will refuse to sign it. This is theoretically possible, and in this case a commission will not have possibility to work.

Ambassador Escadero, U.S. Ambassador in Azerbaijan, had the meeting with the head of our office, with me, and with the Vice Chairman of the Central Election Commission, and he proposed a compromise on this question.

He proposed that the Chairman should represent the political majority. One secretary must represent the political minority, and another secretary must represent the neutral members of the CEC. It is one solution, and that is why Nikolay Vulchanov, the OSCE expert, will come to Azerbaijan next Wednesday and will discuss this fourth condition.

About another third condition we are in 100 percent agreement.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you. We do have a vote. Because time is of the essence, I'm going to ask Michael if he will just receive the testimony which I, and my fellow Commissioners, will review upon our return. Some members of our future panels have to catch flights, unfortunately.

I just want to ask if you could just reconfirm, Mr. Aliev, what you just said, that the government has agreed that both the government and the opposition must both agree on the six neutrals. Did I understand that correctly?

Mr. ALIEV. Yes. Before the drafting of the law regarding the CEC, we had a roundtable with the political parties, with the opposition, with all political parties that are represented in the Parliament, and in this meeting the OSCE experts participated also.

In this roundtable we had no agreement with the political parties about this one-third, one-third, one-third. But during the last visit in Azerbaijan, Nikolay Vulchanov met with the political parties, and he said to us after this meeting that for main political parties agreed with this principle except for one political party.

Mr. SMITH. Let me just ask you a question and ask you if you would respond. Again, I'll read it when I get back.

That is the question of Mr. Sadadin, the driver for General Moseyev, who was sentenced in December to 15 years in jail for treason. As you know, you heard earlier, our own State Department keeps track of the number of people that we believe to be bona fide political prisoners, and this Commission joins the Department in asking for their release.

We understand that many human rights organizations are starting a campaign to free him, claiming that his confessions and statements to people who testified against him were extorted by torture.

Can you provide the Helsinki Commission information about this case?

Mr. ALIEV. Yes, of course. Mr. Sadadin passed the Presidential amnesty commission.

Mr. SMITH. This is so important, I think we will return right after the vote. There's two votes in succession, and then we will reconvene the hearing.

Mr. PITTS. Could I just make one statement before I go? I wanted to say thank you to the Ambassador. He has always been very responsive when we have requested that he meet with us and hear of the concerns that we raise. We appreciate the attention of the President to the religious liberty issues, his public statement on this issue, and the progress that has been made.

I wonder if you could convey to the President the need to pay close attention to the bureaucratic problems with the Religious Affairs Department, the problem of the law that may be causing some bureaucratic problems. If you could convey that to the President, it would be very much appreciated.

Amb. PASHAYEV. Certainly, Congressman. I will do that, and you know, as everywhere, we have bureaucratic difficulties. But as you mentioned very kindly, we try very much to meet all your concerns, and I think now we have a much better situation.

Mr. PITTS. Thank you. I'm going to have to go vote, and I'll be back.
[Recess.]

Mr. WOLF. Welcome. Mr. Smith was detained on the House floor with some business for the next 20 or 30 minutes and just asked me to fill in. Welcome, Mr. Ambassador. It's good to see you again. He asked me to finish with some questions that he was asking.

The last question he gave me in the note was: He said please ask to confirm what was said by the government, that the government has agreed that there would be the government and the opposition representatives, but how would they agree on the six neutrals?

Sometimes neutrals could be pro-government. and how would you do it? Would there be a way that the government and the opposition could come together to agree on the six?

Amb. PASHAYEV. It's maybe the hardest question right now under discussion. I will maybe ask Mr. Aliev to answer to this question, because he is personally involved in this process.

Mr. ALIEV. Thank you, Mr. Chairman. Regarding six neutral members of the CEC, the draft of the law about the changes of the CEC law are prepared. It passed the Parliament on second reading, and in this draft of the law there is a mechanism for agreement about the neutral members of the CEC.

The interested bodies—which means the political majority in the Parliament and political minority in the Parliament—if they have serious arguments which prove that a person will not be independent in the CEC, these neutral members—this neutral candidate for the membership of the CEC must not be nominated. The President will not nominate him or the Parliament will not elect him.

Amb. PASHAYEV. There should be consensus on a candidate.

Mr. WOLF. So that the six will certainly—In essence, the opposition or the government would have a veto over the six?

Amb. PASHAYEV. Yes.

Mr. WOLF. If anyone at the opposition didn't agree or the government didn't agree, they would—

Amb. PASHAYEV. Yes, sir. They will not nominate.

Mr. WOLF. The other question Mr. Smith wanted me to ask was: Do you think the opposition parties which have been demonstrating to change the election laws have good reasons to be skeptical when Azerbaijan's authorities offer assurances that they want to hold a good election?

Mr. ALIEV. Thank you, Mr. Chairman. The situation with new election law is not so simple. The law involves Parliamentary elections, and this law was sent for expert opinion, to NDI, to IFES and to the OSCE.

Before the demonstration, we think that we will receive the expert opinions from all these three organizations, implement all the recommendations in the draft of the law, and only after will it be sent to the Parliament. But you know that in Baku there was a demonstration, and during this demonstration, opposition parties demanded to adopt new election law, the parliamentary election law.

That is why we must send this draft to the Parliament only with implementation of the IFES recommendations, because until this day we didn't receive any recommendation from NDI and from OSCE. But OSCE experts promised us that at the beginning of the next week they will send their recommendation to us, and it will be implemented in the law.

Mr. WOLF. Well, what about their feeling that they have reasons to be skeptical, based on past experiences?

Mr. ALIEV. Yes. Of course, any draft of the law can be criticized, because if the former law on presidential elections included approximately 60 articles, the new law on the parliamentary elections includes approximately 90 articles. In the case of presidential election law, the present draft contains three times more articles than the former law.

It's possible to criticize any law, but the main thing is that the Azerbaijan Government is open to any discussion with anybody who has serious recommendations for the improvement of the draft of the law, and we will do it; because this draft was passed by the Parliament only in the first reading, and between the first reading and second reading this draft will change.

Amb. PASHAYEV. Mr. Chairman, if I can add, actually, we have already some experience during these previous elections when both sides were arguing about certain provisions of law, and experience says that in the end they are coming to some agreement. In this case, I think in this law, actually, we are seeing some good signs.

I would mention, for example, we have already almost agreed on the composition of Central Election Committee. Also it's been a longstanding demand of the opposition to replace the chairman of the Central Election Committee, and that has been done.

So the process, I think, it is going in the right direction.

Mr. WOLF. Okay. Before I go, I guess the comment would be: I have several times met with some of your opposition people who have felt very skeptical.

Secondly, many Communist countries in the past had constitutions and election laws that, when you looked at them on the face, they sounded very good; but the personnel—the people in it—really made the policy. So they often corrupted what sounded very good and read very well.

So that was the basis of Mr. Smith's question. His other question was: The election law of Parliament is considering calls for increasing the amount individual candidates and political blocs must pay to register very dramatically.

Amb. PASHAYEV. This question is also under extensive discussion, and maybe Mr. Aliev will provide details of that.

Mr. ALIEV. Yes, of course. It exists in the law, and I can explain why it's necessary. In Azerbaijan we have 40 political parties, and all individual candidates that run in electoral districts, and each political party that wants to participate in the election must get money from the budget for the election.

That is the main purpose of this law, like in Russia, like in Ukraine, like in any other independent state of the Commonwealth is to provide for participation in the elections, for the political parties which have real social basis in the society, and these political parties will not pay their own money, because before the registration each candidate and each political party must open at the bank a special election account, and it will be for money which come to this election account from legal entities, from the physical persons which want to support these individual candidates or political parties.

In any case, though, our budget is not so big to support during the election 40 political parties. We will have problems.

Mr. WOLF. Okay. With that, Mr. Ambassador, we thank you. I'm sorry, I apologize.

Mr. PITTS. Mr. Ambassador, last week at an international conference in Baku—I think it was on refugees and development—Radio Liberty reported that President Aliyev spoke out against some Azerbaijani officials who were blocking distribution of humanitarian aide to refugees.

Could you explain a little bit more about what he alleged and what measures are being taken to address that?

Amb. PASHAYEV. Thank you for this question. During the last visit of President Aliyev to Washington in February of this year, at Johns Hopkins University he was asked the same question: Why do humanitarian organizations sometimes meet with difficulties in bringing goods and products to help refugees?

President Aliyev's answer was that we should eliminate all barriers to humanitarian assistance. And you're right. In this last conference in Baku on the current situation with assistance to refugees, he himself personally raised this question and instructed all customs and other entities and government to be extremely careful with all humanitarian agencies that are coming to help people, and otherwise it would be easy for them to reject any further assistance.

So I think, after his remarks, I believe the situation will get better.

Mr. PITTS. President Aliyev has appointed Sudaba Hassanova to be the Chairman of the Azerbaijan Supreme Court, I understand. When she was Minister of Justice, she said in Parliament that, and I'm quoting here—Quote: "The opposition should be strangled in its cradle."

Do you think the opposition parties can expect an impartial administration of justice from the Supreme Court under her leadership?

Amb. PASHAYEV. As far as I know, she was not a Member of Parliament.

Mr. PITTS. No.

Amb. PASHAYEV. I am not familiar with that particular statement from her, but I know about different cases, when many people were dissatisfied—for example, with the process of registration of legal entities or persons—some organizations.

But I had the opportunity to address personally these difficulties with her, and I would say that she was almost always very receptive, and we solved many difficult issues together. But now she has this position in the Supreme Court. I think that she is very noble and very knowledgeable, very decent, a professional lawyer and scholar. I don't think that we would expect any problem.

Mr. PITTS. One final question: Opposition parties complain that local officials in Azerbaijan forbid the opposition legislators to meet with their constituents, and party leaders are not able to organize meetings with members in their regions.

Is the government doing anything to prohibit such restrictions on legal, political activities so that nothing like that will happen in an election campaign? Any opposition in a political campaign must organize.

Amb. PASHAYEV. I would say overall all political parties and politically active individuals, have all opportunities to meet anybody everywhere in Azerbaijan. If you will give me some particular cases, I will look into that, and maybe I will come back to you with this.

Mr. PITTS. All right. Thank you very much, Mr. Ambassador.

Mr. WOLF. Thank you. Mr. Smith also wanted me to thank you, and said that he will also have additional questions.

Mr. ALIEV. I am sorry, Mr. Chairman, because I had no chance to answer the previous question of Mr. Smith before he left this meeting, about the political prisoners. If you allow me, I want to answer.

Mr. WOLF. Sure, go right ahead.

Mr. ALIEV. Mr. Smith asked about Mr. Sadadinov whose name was included in the report of the rapporteur of the Council of Europe, Mr. Cliff White. His name is in his report.

Mr. Sadadinov took part in one terrorist act in Azerbaijan. That is why now he is in prison, but not long ago he appealed to the Amnesty Commission under the President, and Amnesty will be applied.

Mr. SMITH. I'm sorry I missed your answer, but I will get it.

Mr. PITTS. He just started.

Mr. ALIEV. I just answered your question about political prisoners. But I wanted to say this about the definition of political prisoners:

If we will look at all trials in connection with all these persons, all the proceedings continue from 3 months to 6 months to a year. If the cases were simple, they would not take so long. They are not simple cases. They are thorough investigations with the participation of the prosecutor, with the participation of the advocate, and all the persons referred to as political prisoners. They have criminal responsibility which exists in our criminal court.

Of course, all articles which apply to these persons are different, but all these cases are criminal cases. Thank you.

Mr. SMITH. I want to thank both of our very distinguished panelists. Mr. Ambassador, thank you, and I appreciate the conversations we have had in the past, and I hope we continue that dialogue in the future. Mr. Aliev, thank you.

Mr. ALIEV. Thank you very much.

Mr. SMITH. I'd like to ask our third panel if they would make their way to the witness table. This panel offers a wide spectrum of Azerbaijan's leading opposition parties.

First is Nazim Imanov of Azerbaijan's National Independence Party. Etibar Mamedov, Chairman of the Party, could not attend, and so he sent his most trusted representative. An economist, Professor Imanov has been a Member of Parliament since 1995. Unfortunately, he cannot remain to answer questions, because he has to return immediately to Azerbaijan, but we are pleased that he could come, and look forward to his comments.

Then I will introduce the others after he has concluded his statement. Mr. Imanov, if you could begin, and then I will introduce your fellow panelists, because I know you have to go.

**TESTIMONY OF NAZIM IMANOV,
NATIONAL INDEPENDENCE PARTY OF AZERBAIJAN**

Mr. IMANOV. Mr. Chairman, ladies and gentlemen, thank you very much for this opportunity. Allow me, first, to thank the United States Congress for its attention to human rights issues worldwide, and to express the hope that this hearing will become another strong element of partnership between Azerbaijan and United States in the area of democracy and respect for human rights.

We in the National Independence Party of Azerbaijan assume that these United States Congressional hearings will promote renewed U.S. assistance to Azerbaijan in strengthening its democratic institutions.

This year is crucial for Azerbaijan's democracy, as is indicated in the letter you sent to the participants in this hearing. If the parliamentary elections of November 5, 2000, follow the tradition established by our country's decade of independence, then citizens of Azerbaijan will be forced to wait a long time for a new opportunity for positive and peaceful historical change.

By the way, this unfortunate tradition comprises not only Azerbaijan's domestic problems, but also an international problem, the tradition of extremely moderate international reaction to election fraud.

If citizens cannot exercise their formal right to change their government in free and fair elections, then democratic political activism and participation fade out. This creates favorable conditions for different sorts of authoritarian rule or dictatorship.

The lack of government accountability to the Parliament and the lack of transparency in the government undermine economic growth. Both these trends are clearly visible in present day Azerbaijan. Voter turnout is declining dramatically year after year, and foreign investors are leaving the country almost in a rush, because Azerbaijan's corruption index is just the same as Nigeria's and Indonesia's.

Economic devastation and inefficiency are becoming an imminent result of the lack of democratic guarantees for property rights, government transparency, and political freedom. Our party views strongly protected property rights and economic freedoms as the most reliable and lasting basis for democratic institutions in Azerbaijan.

Irregularities in the 1998 presidential elections where the Chairman of our party, Mr. Etibar Mamedov, was the main opponent to Mr. Heidar Aliyev, are described very well in the 1999 Human Rights Report of the U.S. Department of State. The results of voting polling stations, the

only true legal evidence of the current president's real electoral performance, have not been made public so far, although the legal deadline for publishing these reports were ten days after the end of voting.

By the way, seven members of our party are still imprisoned, because they took part in a rally protesting the non-publication of official protocols by polling stations.

Courts do not accept any appeals by the opposition about election irregularities. This is just one element showing the real status of the judiciary in Azerbaijan. There are many more examples from other areas which prove that courts in Azerbaijan enjoy no independence from the executive power.

It is worth noting here that the election fraud in 1998 took place just a year after Heidar Aliyev's visit to Washington, D.C., where the two presidents signed a joint statement. In that official document, President Clinton welcomed President Aliyev's commitment to hold free and fair elections.

Despite all mistakes of the past, the people of our country still maintain their belief in the potential of democracy. The parliamentary elections of 2000 will be a final test not only for the strength of this belief, but also for the reputation of democratic countries among ordinary Azerbaijani voters.

The National Independence Party of Azerbaijan will do its best to mobilize voters in this crucial year. However, we need good laws and proper implementation to ensure that votes will be counted and people will be heard.

The issue of democratization should not become a pretext for sanctions against Azerbaijani state, because such sanctions, just like Section 907, would make all people in Azerbaijan suffer and would have no effect on the government.

The combined efforts of democrats in Azerbaijan and in the West with respect to sovereignty, independence and other fundamental achievements of the Azerbaijani nation—this is what we really need for democratic prosperity in our country.

In conclusion, I would like to draw your attention to one recent publication. Last week the official Xalq Qezeti newspaper in Azerbaijan wrote that you, Mr. Christopher Smith—that Mr. Christopher Smith was summoning opposition parties to instruct them about the composition of the new Parliament which will play an important role in future government changes.

Of course, the National Independence Party of Azerbaijan does not share such perception of the current event, as you can feel from this presentation.

Thank you very much for your attention.

Mr. SMITH. Mr. Imanov, thank you very much for your testimony. Regrettably, you do have to leave. I couldn't agree with you more. That is a total misrepresentation of how I feel as Chairman and as this Commission feels with regard to our proceedings and the entire process.

The OSCE seeks to help member states to be transparent, open and to hold free and fair elections. That is something to which all of us have agreed to, and if any of us fall short of that, well, friends don't let friends cheat on elections.

So I think it's very important that you've made that clarification, and I do appreciate that.

Mr. IMANOV. Thank you very much, Mr. Chairman, for these remarks. Unfortunately, I must leave.

Mr. SMITH. I understand. Thank you, Mr. Imanov.

Let me introduce our other opposition party members who are here, beginning with Abulfaz Elchibey, former President of Azerbaijan and now Chairman of the Popular Front Party. An Orientalist by training, he served time in prison during the Soviet era for his dissident, nationalist activity.

A founder of the Popular Front in the late 1980s, he was its Chairman and in June 1992 became Azerbaijan's first democratically elected president. In June of 1993, he left Baku when his government was overthrown. He returned in 1997. He is a Co-Chairman of the Democratic Congress.

Next we have Isa Gambar, Chairman of the Mussavat Party. Mr. Gambar is a historian by training. He was also a founder of the Popular Front and served as Deputy Chairman from 1991 to 1992.

A Member of Parliament from 1990 to 1995, he was Speaker of the Parliament from 1992 to 1993 and Acting President of Azerbaijan in May to June of 1992. Mr. Gambar is today Co-Chairman of the Democratic Congress.

Our next witness is Rasul Guliev, Co-Chairman of the Azerbaijan Democratic Party. He was General Manager of an oil refinery and was named Vice President of the State Oil Company in 1992 and Deputy Prime Minister in 1993.

Mr. Guliev was a Member of Parliament from 1990 to 1997, and Speaker from 1993 to September of '96 when he resigned. He left Azerbaijan and became an opposition politician. Mr. Guliev is President of the Rasul Guliev Foundation for Ecology and Democracy.

We are very delighted to have you here, and look forward to your testimony.

**TESTIMONY OF ABULFAZ ELCHIBEY,
FORMER PRESIDENT AND CURRENTLY CHAIRMAN, AZER-
BAIJAN POPULAR FRONT**

Mr. ELCHIBEY. Thank you very much.

Dear ladies and gentlemen, dear Chairman, dear Members of Congress. This is the first time that I am in the United States of America, a country looked upon by many as a bastion of freedom and democracy.

The United States is a superpower that took upon itself the responsibility to defend and support democracy and freedom in the world and to help resolve conflicts among and even within states. The present Administration has reiterated that objective as well.

It is not an easy task. Besides laws, conventions and political endeavors, there should always be in politics ethical values such as justice and honesty, values that have been shaped throughout history and are our common heritage.

I believe that in its main political actions, the United States is governed by these underlying values and will not abandon its global role of defending freedom and democracy worldwide. In general United States policy has been effective, and that is why democrats in Azerbaijan and in the world consider the United States to be their best ally.

Unfortunately, U.S. policy toward any country—and here I want to speak about my country, Azerbaijan—is not shaped by one factor and dimension only.

U.S.–Azerbaijan relations, even when based on the right premises, are also influenced, sometimes strongly, by corporate interests, by group interests, by individual people who deviate from the ethical principles of U.S. foreign policy. Sometimes that is the case even with appointed U.S. representatives.

Whether an individual is himself a democrat matters a lot in politics. If one looks, for example, at the rotating chairmanship of the OSCE, one will see that the OSCE attitude toward democracy in Azerbaijan changes from year to year, depending on who and what country is at the helm.

Sometimes there is no congruity between U.S. political principles and the interests of the oil companies. This creates an unhealthy situation in which democratic politicians are pressured from two conflicting sides. Such was the situation when the oil companies were pushing for a pipeline through Iran, while the U.S. Government and we, the democrats in Azerbaijan, were supporting the Baku-Ceyhan pipeline route.

The oil companies were taking revenues into consideration. We took into consideration our national interests, regional cooperation, and long term strategic policies.

I did not come here to criticize U.S. policy. Each country should run its own foreign policy according to the will of its own people. What I want to stress is that in issues such as security, independence, territorial integrity, freedom, and democracy in Azerbaijan, there should not be any ambiguity in U.S. policy.

The people of Azerbaijan are carefully listening to what the United States says, and we ask you to clearly articulate your positions.

When we return to Azerbaijan, our constituents will ask us: Does the United States support the democrats in Azerbaijan? What should we tell them?

The U.S. took a tough position against dictators such as Milosevic and Lukashenko. What is the U.S. position toward Heidar Aliyev? If all the elections in Azerbaijan since 1993 have been declared by independent international observers to be undemocratic and unfree, but 15 out of 120 Members of Parliament are from the opposition because this is the whim of Mr. Aliyev, does it mean that Azerbaijan is a democracy? We do not think so.

Each time we wanted to boycott the elections because of unfair election laws, the U.S. was telling us, go and participate, it is a good learning experience, monitor the violations.

We did go. We monitored the violations. We did it several times. The violations were monstrous. Sometimes we were consoled that in Uzbekistan it is even worse. We do not want to be compared to Uzbekistan. We would like to be compared to Estonia, for example. Why not to the Czech Republic?

It is true that having a few deputies in Parliament has some advantages, because they can say some words of truth. But they cannot have any influence on policy, nor can they pass any legislation. On the other hand, by agreeing to go to the elections and sending our people to the Parliament, we give the present government a legitimacy it does not deserve.

This time, at the eve of the November 2000 Parliamentary elections, we will do everything that is in our power to change the law on the Central Electoral Committee, the law on elections, and we will make sure that our candidates are registered and that the votes are honestly counted at the polling places.

We would like to know whether you are supporting free and democratic elections in Azerbaijan. Are you supporting the democrats?

When the democrats in Azerbaijan see the vacillation of the U.S. or of the West's policy toward democracy in Azerbaijan—and let me assure you here that the majority of people in Azerbaijan are democrats—they feel hopeless, abandoned, and suspect the Western democracies of cynicism.

If people in Azerbaijan will become disillusioned, they may turn toward the two neighbors who are doing everything in their power to attract and pressure them, Russia or Iran. Believe me, that will be good neither for democracy in Azerbaijan nor for the United States.

There are issues universally considered not to be internal matters of any given countries. Such issues are, among others, human rights, terrorism, narco-traffic, and also democracy.

I strongly believe that democracy in Azerbaijan will have stronger ramifications than just bringing freedom and prosperity to our citizens.

Look at the map. We are the largest state in the Caucasus. We are mostly a Muslim population, both Shiite and Sunni, but a secular state with both Asian and European traditions. We lived through democratic governments, for short periods, it is true, from 1918 to 1920 and during 1992-'93.

We had a democratic mass movement of the Popular Front of 1988 which survives until today in the form of several democratic parties. We have democratic traditions, democratic intellectuals, and our youth thinks in a modern, democratic way, and Azeris are well educated people.

Our people know so much about democracy that it reminds me of the anecdote about a Soviet dissident who was distributing blank leaflets. "Are you crazy?" he was asked. "Why don't you write something on these leaflets?" "Why should I write anything?" he replied, "Everybody knows everything anyhow."

We are known and respected for our religious and ethnic tolerance. We lived with Armenians side by side for centuries, and the recent war was in no way a religious war. It was a territorial war instigated and provoked first by the Soviet Union and later by Russia.

I am proud that it was during our Popular Front government that we passed the first, most tolerant law on minorities in the former Soviet Union.

We can be a bulwark, an example, a center from which democracy can radiate to Central Asia. Turkmenistan, Uzbekistan, Kazakhstan, and even Kyrgystan are on a dangerous path not only toward full dictatorships, but in the last periods they have been reinforcing their links with Moscow and with the Commonwealth of Independent States.

Already in 1992-93, Azerbaijan as a Turkic language speaking nation, and the only democracy among Muslim nations in the former Soviet Union, as a more economically developed nation, started to be a magnet for democrats in Central Asia. Unfortunately, our government was overthrown by a coup, and many Central Asian democrats are today either in prison or have emigrated abroad.

Of course, Turkey, a free market and democratic state, is also a very important state as an example, but since it did not go through the Communist and Soviet experience, it is more distant from the Central Asia republics than is Azerbaijan.

If you look at the map again, you will see how close Azerbaijan is to Chechnya. You will see that Azerbaijan has a long common border with the Russian Federation in Dagestan. If the war in Chechnya, which is not an internal matter of Russia but a genocide of a nation, is not stopped immediately, there is a danger that other conflicts and wars may erupt in the North Caucasus. The Caucasus is indivisible.

The North and the South are closely connected by culture, tradition and multiple links built throughout the centuries. Let me repeat: Azerbaijan is the largest state in the Caucasus.

A democratic Azerbaijan with its people supporting its government, which is not the case today, may be a strong deterrent to Russia, if it is planning new expansion in the Caucasus. It is the only state in which there are no Russian troops. This is also one achievement of our government of which we are very proud.

In my short remarks, I mentioned only some key issues. I am more than willing to answer all questions and discuss all issues, including such important issues as the return of the occupied territories to Azerbaijan and the unjust imposition of Section 907, the issue of refugees in Azerbaijan, our willingness to join NATO structures as the only guarantee of our security, and others.

Let me finish by saying that we are very grateful for the support given thus far by the U.S. Congress, by the U.S. Government, by U.S. non-governmental organizations, and by the individual people to the democrats in Azerbaijan.

That support was very important and useful for us. Because of that support, some political parties were registered, some newspapers were not closed, some people were released from jail.

I also believe that the effectiveness of this support could be increased manifold, if you apply even more pressure on the present Government of Azerbaijan to adopt democratic election laws.

We, on our part, will do everything in our power to do so, and I hope we will unite our forces to see soon a democratic Azerbaijan which will be beneficial to the people of Azerbaijan, to the Caucasus, to Central Asia, and also to the United States.

Thank you very much for your attention.

Mr. SMITH. Mr. Elchibey, we thank you very much for that statement. In a few moments we will all be posing some questions. So we do thank you. Mr. Gambar.

Mr. ELCHIBEY. Just one, two statements. We have, I think, just a minute. Just a minute.

Once again, I would like to thank you for raising the problem of Azerbaijani democracy here in the U.S. Congress, the Helsinki Commission. I just want to also stress that the Azerbaijan ambassador, Mr. Pashayev, was appointed by the Popular Front government, yet he was scared to shake my hand and say hello to me, and it's clear why.

All those freedoms of the media and political parties and a multiparty system were introduced by the Popular Front but the current government is trying to take the credit today. It's clear that our government was overthrown, and a dictatorship was introduced, and they intended to strangle democracy.

Now the person who said that is the Chairman of the Supreme Court, and it's clear to us why. Those independents mentioned as candidates for the CEC, before they were elected as the members of Parliament, were on the list of Heidar Aliyev and they were defending Heidar Aliyev's position publicly. Suddenly they turned out to be independents. This is false, completely false.

American experts who worked in Azerbaijan know that very well. We also believe that you trust your experts, and we exchanged views with them, and they also agree with us that those independents are not independents at all.

I would like to thank you once again.

Mr. SMITH. Thank you very much. Mr. Gambar.

**TESTIMONY OF ISA GAMBAR, FORMER PARLIAMENT SPEAKER
AND CURRENTLY CHAIRMAN, MUSSAVAT PARTY**

Mr. GAMBAR. Dear Mr. Chairman, dear members of the Commission, dear participants in the hearings, let me first, Mr. Chairman, thank you for inviting me to testify at this hearing which I consider significant for the development of democracy in Azerbaijan, as it passes through a difficult and important period.

As an Azerbaijani politician, from a moral perspective, it is not easy for me to speak about my country's problems in front of the legislative body of a foreign country.

In all likelihood, it is not pleasant for you to constantly hear about the negative state of human rights and lack of democratic progress in countries like mine. But if we are all convinced that the issue of human rights is not merely a matter of the internal affairs of any given country and that regimes which refuse to guarantee the rights of its citizens to decide their own destiny should not enjoy the trust of the international community, then I believe our presence here is justified and important.

I do not intend to add to the evidence that clearly demonstrates that violations of civil and political rights in my country are commonplace. You have enough information with respect to this from the annual human rights reports of the State Department, OSCE and Human Rights Watch.

These reports, I believe, are objective and well prepared. However, I must stress that these and other reports do not fully disclose the actual scale of human rights violations. Under the current regime, the country is being plunged into a moral, political and economic crisis which could lead to either the triumph of despotism over democracy or a highly destructive social explosion.

"Give me time," says the head of the present regime to Western leaders, adding that democracy cannot be established overnight. He gains their empathy and thereby more time but, unfortunately, this additional time is only being used to further subdue the people of the country to the rule of one person and his family.

In the field of democracy and human rights, we are step by step falling to the level of a former Soviet Republic but with a level of corruption which could not have been even imagined during Leonid Brezhnev's time.

Following the recent municipal elections, it became even more apparent that a one-party regime has been established. This regime fully controls all organs of power and pledges allegiance only to itself.

The democratic laws on personal and political rights adopted in 1992 and 1993 by the then-democratically elected government are now being systematically changed to restrict our freedoms and replacing the functions of the judiciary with executive authorities.

The values of independence, self-governance and a free market economy, enthusiastically embraced by our society in the early Nineties, are now being questioned. Increasing numbers of people feel less like citizens of our country and more like subjects of a great and unseen Big Brother, like that found in Orwell's novel.

"There is corruption everywhere," the leader of the current regime loves to point out time and time again. "There are no free elections anywhere" and "capitalism has always amounted to stealing."

These are the main postulates of the ideology enshrined by the current regime, an ideology which, unfortunately, can with time come to dominate the thinking of the people.

The warm receptions received by pro-Western dictators on the green lawns of the white houses of the Western world and in the villas of the captains of multinational corporations have also served to bolster this ideology and the hold it has over the people.

To justify this almost unlimited authority while still responding to the demands of the international democratic community, the authorities are forced to conduct elections. However, observers from the U.S., the OSCE, the Council of Europe and elsewhere have stated that all the elections carried out in our country over the past 5 years have not met international standards.

It is worth pointing out that, to our ears, the wording of such statements can be confusing and unclear. To date, we have yet to hear a more precise, direct and clear position coming from the organizations represented by these Western observers. In the meantime, the regime has been perfecting new irregularities for the next elections.

As you are well aware, all members of election commissions are appointed by the President and, therefore, dependent on him. The falsification of elections begins with the process of registering political parties and individual candidates.

Another major point at which elections are falsified takes place during the vote counting process. During the last elections in 1999, new "energy saving" technologies were applied. Now the authorities do not even take the trouble to deal with falsified electoral ballots.

Local polling commissions send their signed empty protocols to the Central Election Commission where they are completed in accordance with the desires of the head of the present regime. The courts, totally under the control of the President, refuse to even consider complaints lodged by excluded or defeated candidates.

In addition, the President pardons bureaucrats who committed violations of the election laws. By doing so, the bureaucrats are not only not being punished, but are exempt from punishment for these violations in the future.

The Mussavat Party, the oldest party in the country, declared Azerbaijan independent for the first time back in 1918. This party, which I represent here, was prohibited by the Central Election Commission from participating in elections in 1995. We have information that the regime again intends to ban Mussavat from this year's elections. The party is simply too independent and popular to justify the risk.

Fortunately, the present regime's efforts to suppress the democratic movement in Azerbaijan have so far failed. Only with the moral support of the international community do the country's democratic forces continue to defend the freedoms and the rights gained by the people during the movement for independence in the early 1990s.

Recognizing its responsibility to maintain stability in the country, the democratic opposition has preferred to carry out its struggle within the framework of peaceful actions and protests. The main aim of our struggle for democracy is to first change electoral legislation, in particular, to ensure that electoral commissions are independent and free from outside influence.

We will not retreat from our goals, because there is no place to retreat to nor is there anybody else who can do this job for us. If the upcoming Parliamentary elections are held according to the old scenario, then there will be a deepening crisis in all the spheres of public life mentioned earlier, and we may end up with a destroyed or dying country.

A lot has been written about Azerbaijan's natural wealth and strategic geographic location, but I would like to emphasize the strategic importance of Azerbaijani democracy.

Peace and stability in the South Caucasus is dependent on the strength and reality of the independence of Azerbaijan, Armenia and Georgia, on the end of aggressive policies in the region, on the resolution of the region's conflicts within the parameters of international principles and, first of all, the development of democracy and human rights in these countries.

A democratic Azerbaijan could be an attractive example for other Muslim countries of the former Soviet Union and those of the Middle East which are in the process of searching for the best mode for development. An Azerbaijan where people enjoy freedom of religion and conscience could become a reliable stronghold against religious intolerance and extremism. These challenges cannot be answered through enlightened despotism, but only through pluralistic democracy.

Let me again return to the elections. We claim that today resolution of all the problems of Azerbaijan depend on free and fair elections, but they are also important regarding honest Azerbaijani-American relations.

We call on the United States of America and today, in this place, especially on you who have been elected in free and fair elections to morally support the aspiration of our people to form a government which is accountable to its people. If we will succeed, both of our countries as well as the world at large will be the winners.

Thank you for your attention.

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

Mr. Wolf, Commissioner Wolf.

Mr. WOLF. I am going to leave, and I don't want my leaving to be viewed as disinterest. I have another meeting.

I did want to make a couple of comments. One, I appreciate your participation in holding these hearings.

Secondly, I personally, speaking for myself, am very sympathetic to the opposition.

Thirdly, I think it was a mistake for President Clinton to have met with President Aliyev when he did.

Fourthly, I think the Clinton Administration should speak out more with regard to democracy.

Fifth, there have been major human rights violations of this government.

Sixth, the poor people of your country, and there are so many, need help. I think democracy and free and fair elections will help bring it.

Lastly, speaking only for myself, I personally wish you very well.

Mr. SMITH. Thank you, Commissioner.

I'd like to welcome our next speaker, Mr. Guliev and ask him if he would present his testimony.

**TESTIMONY OF RASUL GULIEV,
FORMER PARLIAMENT SPEAKER AND CURRENTLY CO-CHAIRMAN,
AZERBAIJAN DEMOCRATIC PARTY**

Mr. GULIEV. Mr. Chairman and members of the Helsinki Commission, first, I want to express my appreciation on behalf of the Azerbaijan Democratic Party and the thousands of Azeri citizens who support the ADP for holding these hearings around a topic that is crucially important for the future fate of the Azerbaijani nation.

During the past several years I have met with many Members of Congress seeking Congressional hearings about the situation in Azerbaijan. All have agreed that more needs to be done to educate U.S. policy makers about the true situation in Azerbaijan, and that hearings by the Helsinki Commission would be an important step in raising awareness about what is happening today in Azerbaijan. I am grateful to you, Mr. Chairman, and to your colleagues who have worked to make today's hearings a reality.

Today I would like to paint a picture for you in words of what life is like in Azerbaijan, how Heidar Aliyev came to power and maintains his stranglehold on power. I would like to tell you about the living conditions of the Azeri people, about the situation with respect to political prisoners, corruption and bribery, about barriers to achieving democracy and respect for human rights in Azerbaijan, and about issues around the upcoming parliamentary elections.

I would like to ask my complete statement be made part of the hearing record, and I will summarize it for you now.

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

Mr. GULIEV. Thank you. When Azerbaijan secured its independence from the Soviet Union in 1991, we had great hopes that democracy would be established in our nation. Unfortunately, the former KGB ruler of Azerbaijan, Heidar Aliyev, took over our country in a 1993 coup and has increased his firm grip on power in the years since.

We do not have separation of powers in Azerbaijan such as you enjoy in the United States. There is no independent parliament, judiciary, or local government in Azerbaijan. All are appointed and under the absolute control of Heidar Aliyev.

The Chairman of the police, prosecutors, heads of administrative offices, even presidents and department chairs of universities, are all appointed by Heidar Aliyev. In summary, no position exists in Azerbaijan that can express its own will or to which citizens can gain appointment through elections. The right to elect and be elected in Azerbaijan has been totally seized.

Out of a population of 7 million people, two million have been forced to leave to find employment to support their families, and more than one million are internally displaced persons who live in deplorable conditions in refugee camps because of the aggression by Armenia over Nagorno-Karabakh and neighboring territories within Azerbaijan.

In this regard, I want to make a small digression. On behalf of the Azerbaijan Democratic Party and all Azeri people, I want to appeal one more time to the U.S. Congress to abolish Section 907 of the Freedom Support Act which prohibits U.S. aid to Azerbaijan. A nation that has been subjected to aggression by another state should not and must not be treated so unfairly.

In Azerbaijan, in the midst of rich natural resources, there are extreme levels of poverty. Human rights abuses have been documented by international organizations and by the U.S. State Department. They include suppression of the opposition and the media, and beatings and arrests of opposition leaders, journalists, and their relatives.

There has been a series of falsified elections since the coup that brought the Aliyev regime to power in 1993. Parliamentary elections in 1995, presidential elections in 1998 and, most recently, municipal elections held in December of 1999 have all been falsified and failed to meet international standards, as has been documented by international elections observers.

The representative of the government, Mr. Shahin Aliyev, in his statement said that none of the elections conducted in the countries of the former Soviet Union were 100 percent fair, and he mentioned as an example elections in Russia, Ukraine, and Georgia. But there is a very simple indicator of whether elections are democratic. They either correspond or do not correspond to OSCE standards.

In all of the above-mentioned countries, those elections corresponded to OSCE standards, which was documented by foreign observers, and in Azerbaijan they did not correspond.

Now a fourth election is on the horizon. The next round of parliamentary elections is due to be held in November, and we have grave concerns that this election, too, will be falsified. A major issue continues to be the control of the Central Election Committee by the Aliyev regime.

The repressive program of the Aliyev regime has posed enormous barriers to the people's ability to realize democracy. He brought back into usage from Stalin's days the term "enemy of the state." There is not one leader with an opposing view who has not been called "enemy of the state" by Heidar Aliyev.

From 1993 to the present day, thousands of innocent people have been subjected to Aliyev's investigations, including being sent to prison where they have ended up in isolation and subjected to torment and torture. The persecutions and repressions of citizens work like a conveyor belt: Charge with a fictitious crime, investigation, isolation, torture, trial, prison.

When there is no more room in the prisons, amnesty is declared with a decree from the President, room for new prisoners is created, and the first stage of the conveyor belt restarts.

Today it is no secret that in Azerbaijan thousands of innocent people have been arrested under false accusations, such as threatening the life of the President, participation in terrorist acts, or embezzlement of the nation's property. These are the standard charges used to throw innocent citizens into prison.

While the death penalty has been officially abandoned in Azerbaijan, many prisoners have died mysteriously in prisons, either because of torture or because medical help was withheld from them.

This situation, coupled with the inability of suspect citizens to find jobs, has caused more than two million Azeris out of a population of 7 million to leave the country. They are now scattered over many countries of the world.

The resistance of the people against the anti-democratic system has been weakened because of the fact that such a large proportion of our citizens have been forced to leave their country.

Another barrier to the achievement of democracy in Azerbaijan is the fact that there is no middle class that can struggle for the right of freedom of the people. Why? Because the level of corruption and bribery in Azerbaijan is so high, now fourth among all countries of the world, that the ruling regime is enriched and lives in extreme wealth, while the rest of the population lives at a level of poverty and beggary.

A familiar argument made by the Aliyev regime is the thesis that it took the United States 200 years to achieve democracy. I wonder what he means when he says 200 years? Maybe he thinks that free and fair elections in America have been conducted only since the 1990s? In my opinion, regardless of any excuses, falsification of elections has no connection with democracy.

In his testimony, Ambassador Pashayev said that victory of Mr. Aliyev was not in doubt, at least because numerous scientific polls were showing that he was ahead in the polls. But the only poll which counts is the election itself, and they were falsified.

Some commentators, in trying to note a positive step toward democracy of the Aliyev regime, point to the abolition of censorship. Although censorship was formerly abolished just prior to the fall 1998 Presidential elections, it was informally reinstated after those elections.

The government has a monopoly on materials necessary for publishing newspapers, including the paper itself and the print materials. In addition, groundless accusations have been brought against independent newspapers and individual journalists by the government.

They have been brought to trial, and Presidentially controlled courts have leveled astronomical fines against them that have effectively put them out of business. Pressure and repression against journalists is a regular occurrence in Azerbaijan.

Television and radio channels in Azerbaijan are also under the control of the government. Transmission by opposition members is not allowed. So, in effect, the Aliyev regime has converted television and radio into a means of propaganda against opposition forces and those struggling for democracy. One relatively independent SARA Television channel attempted to operate in Azerbaijan, but it was shut down by the government after only 3 months.

The next round of parliamentary elections is due to be held this coming November. In order for these elections to be free and fair and to reflect the real will of the people, agreement on two election laws is essential.

Time is running out, as these laws are being considered by the presidentially controlled Parliament this month for discussion and confirmation, and the Parliament is scheduled to adjourn in the next several weeks.

The importance of the relationship of these laws to the issue of free and fair elections cannot be overstated. The Central Election Committee is currently controlled by the government, and the fact that Heidar Aliyev will not agree to a Central Election Committee that has the confidence of those wishing to participate proves again that he wants to cheat the people of his own nation and the whole world society as well.

According to my knowledge, and contrary to Mr. Shahin Aliev's statement, none of the four major opposition parties agreed to composition of Central Election Committees suggested by the government.

Both laws create huge barriers to the parties and persons he does not want to participate in the elections, and both create opportunities for falsifying the results of the elections again.

Just today we learned that OSCE noted that neither of these laws corresponds to international standards, and that they should adopt new laws that take into consideration the opinion of the opposition. This is welcome news.

What specifically do we need with regard to the upcoming elections? We want approval of election laws and a Central Election Committee that will enable the citizens of the country to express their ideas freely and independently.

We want television and radio to be independent and to allocate transmission time so that the views of the opposition can be aired.

We want an end to repression and fictitious criminal cases against those who stand in opposition to the current regime.

We want the number of international observers to be increased sufficiently and for their opinion to be respected.

We want elections held in Azerbaijan to be free and fair. We firmly believe that U.S. interest in Azerbaijan such as energy security issues, putting an end to the spread of Islamic fundamentalism in the territories of the former Soviet Union depend on the establishment of democracy in Azerbaijan. If we can achieve this with your help, I assure you that within a very short time Azerbaijan will become the stimulator of democracy in the Middle East and Central Asia.

Mr. Chairman and members of the Helsinki Commission, the real problem for the achievement of democracy in Azerbaijan is not the 70 years of the Communist regime. Rather it is the fact that for the last 7 years the Aliyev regime has done everything possible to destroy the opposition. But despite that fact, not only has the opposition been able to survive, but also to continue its struggle for democracy ever more vigorously.

This fact itself shows the desire of the Azeri people for democracy and the possibility for its rapid achievement. We are doing all we can in this struggle, and we ask for your help.

Thank you very much, and Mr. Guliev will be happy to answer your questions.

Mr. SMITH. Thank you very much, Mr. Guliev. Let me ask a couple of questions of our distinguished panel.

What would be your assessment of the ODIHR efforts to broker the best possible outcome for the upcoming elections? Do you feel that they are negotiating or at least facilitating effectively?

Mr. GAMBAR. Mr. Chairman, the most important issue here is the composition of the Central Election Commission. If the Central Election Commission is balanced and evenly represented by the authorities and the opposition, then we believe that this election may be truly free and fair. That's the most important issue pending now.

Mr. GULIEV. First, I would like to express my gratitude again for holding these hearings, and we know that we are taking your time. But these questions are so important for the future fate of Azerbaijan nation that we ask you not to pay attention to the time.

The second point which I want to make is that after hearing the statements by the government of Azerbaijan, I came to the conclusion that they have no intention of holding free and fair elections.

The third point which I want to make, is that it is impossible to improve the election laws which were presented by the government to the Parliament. These draft laws cannot be improved. New ones should be presented.

There is a draft law presented to the Parliament by international organizations. It is possible to work on that draft law, not on the draft presented by the government. So that's the way to proceed when it comes to the adoption of the laws on Central Election Committee and election law.

Mr. ELCHIBEY. The struggle for democracy demands courageous efforts, and unfortunately, I haven't seen those courageous efforts on the part of the ODIHR representatives. They are trying to please the government and opposition, and sometimes it's not possible to please both sides.

Either you support democracy and you are for democracy or you are not. You should be for democracy, and promote democracy. Thank you.

Mr. PITTS. The question on the Central Election Commission, which seems to be the key for fair elections, is about transparent elections: If the government has six members and the opposition has six members, and both sides have to agree on the independent commission, as you responded or someone responded to Congressman Wolf, if you have veto power over the six members, would that satisfy you?

Mr. GULIEV. First, I do not agree with the point of view that the Central Election Committee is the main problem. I believe that all commissions, including regional commissions and all others, play a great role during those elections, too.

The unfortunate fact is that the government intends to falsify the election. It's their purpose, and they will try to do everything to achieve their purpose. Of course, we will be happy to have the right to veto any of those six independent members who were suggested.

We will be happy with any additional—Let's say even if we veto only one person, that's—you know, we will be glad to have that, too. But that's not the real problem. The problem is that we are not granted this right.

When it comes to the regional election commissions, local election commissions, it is possible that the opposition won't have a single member in those commissions, and these are very key issues; because they prepare the protocols and then send them to the Central Election Committee.

I want to assure you that the government is not really thinking about the fairness of the elections. They might think about appointing some of their members and giving some small part to the opposition, but these members of the opposition will also be appointed by Heidar Aliyev.

We will do everything inside Azerbaijan in our struggle for free and fair elections. Nevertheless, again we are asking for your help on those issues, to bring about democracy in Azerbaijan.

If Heidar Aliyev is not afraid of free and fair elections, let the OSCE compose the Central Election Committee, if he is so sure that he will win the election, that his party will win the elections.

Mr. PITTS. May I hear from the others on a response to my question?

Mr. ELCHIBEY. The idea of the proposal is that both sides will be able to veto six independent members of the Central Election Committee. I think, for the mutual understanding between the government and the opposition, I think this is the best possible scenario, in our evaluation.

Mr. PITTS. Thank you.

Mr. GAMBAR. I came to Washington three days ago. I arrived here three days ago. While I was listening to the Azerbaijan Ambassador to United States and other Azerbaijan representatives, I thought that I left Azerbaijan not three days ago but maybe 3, 4 years ago, and the democracy is rapidly developing there and flowering.

Just three days ago the OSCE/ODIHR representative Nikolay Vulchanov very sadly told me that none of their proposals were accepted, and they were all rejected by the Government of Azerbaijan; and he was very sad about that. But today the representatives of the Azerbaijani Government indicated that the OSCE—or the ODIHR proposals were accepted.

It's not coincidental that Vulchanov asked me to send him an E-mail after these hearings.

Mr. PITTS. Thank you.

Mr. SMITH. Thank you very much, Commissioner Pitts. You noted the State Department and the State Department witnesses today made it clear that there is a list of political prisoners.

Does each of your parties maintain a list of political prisoners and, if you do, could you provide that list to our Commission so we can look at it and see what we can do on their behalf? Mr. Gambar?

Mr. GAMBAR. Of course, we have a list of political prisoners, and I will submit the letter and the statement from one of the political prisoners to your Commission personally to you and Mr. Ochs. This is a statement from Faraj Guliev.

Representatives of the Azerbaijani Government were telling you in 1998 that there is no censorship in Azerbaijan, and we demanded the abolishment of the political censorship.

In other words, Heidar Aliyev released a decree about the abolition of political censorship, and since the Government of Azerbaijan was denying that there is political censorship and after it abolished the political censorship, then we asked them the question, "what then did you abolish if you didn't have censorship?"

Today the Government of Azerbaijan has made promises and committed itself to release the political prisoners. So they are making these commitments to the Council of Europe, but they're telling the Azerbaijani people that, we don't have any political prisoners in Azerbaijan.

Just several days ago, Mr. Aliyev pardoned about 90 prisoners, and among them, unfortunately, were no political prisoners. There are several criteria for how you are assessing who is a political prisoner and who is not, but taking into consideration all criteria, we have more than 100 political prisoners in our country.

Mr. PITTS. Do any of you have family members who are political prisoners?

Mr. GAMBAR. My close relative was arrested in 1997, and his name was also mentioned in the State Department 1998 Annual Human Rights Report. Of course, all the charges were fabricated—Fakhraddin Bagirov. And last year Heidar Aliyev decided to release him one year before his sentence was to end.

Thank you very much for these excellent questions, because in Azerbaijan, sometimes when the government cannot directly harass the political leaders, they harass their relatives.

Mr. PITTS. What were the charges against your family members?

Mr. GAMBAR. He was detained in a police station. They put a gun on the table and said that this is your gun, without any proof, any evidence that this gun belonged to him.

Mr. GULIEV. I just wanted to say that with respect to this question that the number of 55 political prisoners is another lie of the Government of Azerbaijan. I just think that the United States Embassy when they refer to that number of 55 political prisoners are using the list which was given to them by the Government of Azerbaijan. They didn't do their independent research on that question.

About ten relatives of mine are in prison, and maybe 150 people were jailed who had any connection with me during the years I worked in Azerbaijan, and the only reason that they were put into prison was to compel them to make statements against me.

When Mr. Elchibey was the President of Azerbaijan, the total number of prisoners in Azerbaijan was about 6,000. Today there are about 100,000 prisoners in Azerbaijan, and using his conveyor belt Mr. Aliyev is putting the people of Azerbaijan into those prisons.

So what happened during those years? Did all the people of Azerbaijan become criminals? How do we explain the fact that the Russian Federation which has a population of about 150 million people, has about 900,000 prisoners, and Azerbaijan, such a small country, has more than 100,000 prisoners?

This applies not only to political prisoners but generally. I do not agree with the statement that Azerbaijan is making some steps toward the democracy. Where are those steps?

If we compare those steps with respect to democracy, in 1989 Azerbaijan was much closer to democracy than now. When it came to the questions of religious freedoms, it seems like before 1999 there were no religious freedoms in Azerbaijan, and Heidar Aliyev granted those freedoms to the religious minority. That's not the case.

That exists in the constitution, and Mr. Elchibey is saying that during—even during Soviet time there was religious freedom. I don't believe that, when it was said that—

Mr. ELCHIBEY. I'm sorry. I didn't say during the Soviet days there was religious freedom. I just wanted to correct that. There was no religious freedom during the Soviet days.

I was myself a political dissident and arrested in the 1970s, and I know what the vicious Communist days were. These freedoms were given to religious and ethnic minorities in a decree released by me as the President of Azerbaijan in 1992.

During all the Soviet days, all during the Soviet days all the ancient mosques, synagogues and churches were turned into warehouses, except for just a few. When we came to power, we adopted a decision to transfer all those mosques, synagogues and churches turned by the Communist government into warehouses to the people of the Azerbaijan Republic, and to believers.

From the special Presidential fund, we allocated one million rubles to the mosques, one million rubles to the synagogues, and one million rubles to the church, and I personally monitored how this money was spent.

If you allow me, I just want to make a very brief statement about political prisoners. Heidar Aliyev made a commitment to release political prisoners. Then he says we don't have political prisoners. So what is his commitment? If there are no political prisoners, why are you committing yourself to their release?

You know, this is a strategy. Sign whatever you need to sign, and then do whatever you want to do. I want to emphasize one more important issue here. Thousands and thousands of people have left Azerbaijan, because there is a danger to their lives because they may be arrested, and there is a well-founded fear of persecution, and they have fled our country.

Among them are 500 members of the Popular Front Party of Azerbaijan. The government's representatives claim that these political prisoners are not really political; they are criminals. Yes, of course, you can say that, if you put a gun and bullets in their pockets and then fabricate charges against them and call them criminals.

The Popular Front members in Azerbaijan are intimidated by police, who tell them "shut up, we'll put marijuana in your pocket and we'll arrest you, so behave yourself."

Sometimes some prisoners serve only one-third of their term in prison, and that's the law. But this law does not apply to political prisoners. That law does not apply to the members of the Popular Front and others.

Mr. Aleskarov, who is sitting here, the head of the Presidential office for law enforcement, says, "no, we cannot do that for political prisoners." My brother's son is in prison. He was sentenced to 3 years imprisonment, and on the basis of the law after 2 years, he should be pardoned or released. Nevertheless, 2 years have passed, and he was not pardoned.

I'm not here to defend and advocate for the release of my brother's son. I am here to advocate and to defend all the political prisoners, and all of them should be released immediately. There are other political party members, Garandun Mutali. He also was not pardoned. He is also in jail, and it doesn't matter whether two-thirds of his term has already passed; they claim that he didn't really behave well in prison and that's why he should stay there.

Mr. PITTS. One final question on religious liberty. President Aliyev publicly stated that people have the right to choose their own religion. If they want to convert, that is a private matter. Do you agree with that position? Do you have any problem with free speech for religious believers or what some people call missionary activity? What's your position?

Mr. GULIEV. Well, first, nobody in Azerbaijan had a problem with respect to that question. Even Heidar Aliyev doesn't have a problem with respect to that question. He divides people on a different basis, whether they are his enemies or not his enemies.

Well, among those who are his enemies, there could be one representative, for example, of that religious minority, and then the issue is raised. Otherwise, this is not an issue in Azerbaijan.

Again, when it comes to the attitudes of Mr. Aliyev toward religion, it's just the attitude of a 50-year member of the Communist Party.

Mr. SMITH. Would you take the microphone, please.

Mr. GAMBAR. There is truly religious tolerance in Azerbaijan, and historically the people of different ethnic and minorities did live in Azerbaijan in peace and prosperity.

For example, my name is Isaiah, which is the name of the Christian prophet. That does not cause me any problems being the Azerbaijani President. There are people whose name is Moses.

What is important is the peaceful coexistence of different religious and ethnic groups. Of course, religious freedom and freedom of belief, those are, no doubt, the most important freedoms.

There were also unfortunate cases when some sects in the West conducted some violent activities or there are some sects that advocate mass suicide so they can rejoin the Lord.

Of course, Azerbaijan should learn from the experiences of the West with this issue, how to deal with these issues.

Mr. SMITH. In the early 1980s, I think it was '82, at my first hearing on Romania, we learned, and it was amplified at subsequent hearings, that Nicolae Ceausecu had declared that there would no longer be any more political prisoners, that every prisoner who would be incarcerated and tortured because of his or her beliefs would be done so on some criminal pretext, and everyone saw through what they were trying to do against Father George Kalchu and many others.

So we do hope that we're sophisticated enough to see through the pretext of arresting people and planting evidence or suggesting that somehow there's a criminal aspect to it, when it's merely political harassment.

Let me also point out that the Commission again invites each party here, the opposition parties, to the greatest extent possible, to provide us with a list of the names of political prisoners, as much information as you think appropriate, so that we and our Embassy and our Commission working within the OSCE Parliamentary Assembly and all the other organs of the OSCE can really promote the freedom and liberation of those who have been unjustly accused and incarcerated.

I personally will be raising the issue of political prisoners at the OSCE Parliamentary Assembly that is slated for Bucharest during the July 4 week. My hope is that we can bring a real sharp spotlight on this issue.

I think Mr. Pitts raises an excellent point, because regrettably, Azerbaijan is not unique in this. Very often the higher profile politician or spokesman or spokeswoman isn't the target, but the family members are. It's a way of injuring or trying to stifle dissent and opposition.

So that's something that needs to be raised very aggressively, and I plan on doing it. I know I'll have many friends on the Commission joining me.

Let me also point out that Catherine Fitzpatrick points out in her testimony that will follow, that the independent lawyers are in for a very rough go, and perhaps some of you very briefly might want to comment.

Whether it be Helsinki monitors or lawyers trying to use the system legitimately to get a fair defense, targeting lawyers who are defense attorneys and the like is a way of doing great injustice to the rule of law. You might want to touch on that, which she will be amplifying much more during her testimony, whether or not that is your experience as well.

Mr. ELCHIBEY. Can I ask a question? What will happen to those who are indicted on criminal charges but with a political motive, and they fled to Russia, to Turkey, to Europe, to other countries? What will happen to these people who are not physically in jail in Azerbaijan, but face an indictment on the criminal charges which has a political motive? How can we defend those who are in exile for that reason?

There is an enormous degree of pressure on their families, and they always pressure the family members of those who are in exile. There are many people who are in exile.

Mr. SMITH. The more information you can provide us on that, the more useful it will be for us.

Mr. GULIEV. If that was the final question, I just wanted to make a small comment.

With respect to the question of freedom of speech, democracy and so on in Azerbaijan, I just want to bring to your consideration the fact that now we are being recorded by the initiative of our Embassy.

I just want to make a prediction about which part of these hearings will be shown on Azerbaijani TV.

First, based on the order by which people were seated—representatives of the government and the Embassy were seated in the first row, and the opposition in the next—they will say that they really have no respect in the U.S. Congress for Azerbaijan's opposition. That will be the comment on Azerbaijani TV, and I am predicting now what they will be saying.

Secondly, for example, the representatives of the State Department or somebody after that was making a statement and a small portion of the statement was saying that there are some positive steps toward democracy. Only this part will be shown on Azerbaijan TV.

After that, there will be comments about how much the U.S. Congress respects the first man in the world, Mr. Heidar Aliyev, and how they support him.

I just wanted you to know this from the beginning.

Mr. SMITH. I will put a request in, and Ambassador Pashayev is still here, to get the copies of what is carried on television when this tape, which is, as you pointed out, being produced. Is it Reuters on contract? PBS is on contract to the Embassy to see what that reporting is, and that could be the subject of a subsequent hearing.

We all know that manipulation of media and sound bites, even in a free country, can be a problem, but where there is total control of the media, it becomes a propaganda tool.

Hopefully, what comes out of this hearing can penetrate the less than free media in Azerbaijan since we are focusing on political prisoners, a free and transparent election process, and the fact that there has been a lack of it in a profound way in the past.

Frankly, I will make that request to the Ambassador, because I would really like to see it. I know that members of the Commission would like to see it. We will make it a big issue. I thank you for the heads-up. Perhaps I should have anticipated it.

Mr. GULIEV. I understood your point. When you said that you will have that tape, it just came to my mind that maybe you would like to show this tape to the people of Azerbaijan about what really happened at these hearings. But how are you going to broadcast it in Azerbaijan? There is no independent TV station.

One more sentence, and that's all. When they say that there is no censorship in Azeri media, I just want to say that Hitler was made Hitler from 1923 to 1930 by the radio stations in Germany, not by the printed media—not by newspapers, or other printed media.

Right now we cannot compare the effect which television has with that of the printed media. So when they say that there is no censorship, I really am surprised by people believing that. Thank you.

Mr. PITTS. Are any of the media fined for criticizing the government?

Mr. GULIEV. First of all, one TV station which was criticizing the government was shut down. Some private television stations were subjected to such strong economic pressure that they ceased activities. Also we should take into account that only a small proportion of people in Azerbaijan can watch those private TV stations, and the state TV stations are praising Mr. Aliyev all the time and saying what a genius he is, and they are all accusing those people sitting at this table of being enemies of state.

Mr. GAMBAR. I also want to add here, of course, there are newspapers that are criticizing the Heidar Aliyev government, and some of them are harshly criticizing him, and they are really popular in the country; for example, the *Yeni Mussavat* newspaper, but there are also taboos on some issues and subjects.

For example, scandals about corruption are causing a lot of trouble. In '98 and '99 *Mussavat*, *Azadly*a and some other newspapers were fined for such reports.

It was also mentioned that *The Monitor* magazine was intimidated through the tax issue, and all this intimidation and harassment of the media are always done illegally, not on the basis of the law. But you are absolutely right. There is no independent TV in Azerbaijan, completely independent TV stations, and this is a very serious obstacle in defending human rights, holding free and fair elections, and in the general democratization of the country.

Mr. SMITH. I want to thank our three very fine witnesses, and just say how much we respect you and appreciate your coming here. We will be following the election process very carefully, I can assure you, using every means possible to do what we can to make it free and fair.

We will be ratcheting up significantly our call for release of all political prisoners, and I would add, if there is any retaliation, direct or indirect, to you or to family members as a result of appearing here, I can assure you that I will do everything humanly possible legislatively on the floor of the House. I know I'll be joined by colleagues on both sides of

the aisle, at the OSCE Parliamentary Assembly in Bucharest, and in any other fora that is appropriate to promote the freedom of those who have been unjustly imprisoned.

I will be following, along with my colleagues, very carefully. I again make the appeal to not only the Ambassador from Azerbaijan to this country but also our own Embassy personnel to track and monitor exactly how this hearing is covered as a textbook case of media censorship or the lack of it. I don't think it's a frivolous request, frankly.

I remember being in Nicaragua on a bipartisan delegation and seeing how our delegation was treated by the Sandinistas at the time. It was absolutely atrocious. It gave many of us insight as to what the opposition faced every day to see how our words were manipulated in a fashion that became unrecognizable when they were finally printed in the paper and broadcast.

So I really will be following this, and my colleagues on the Commission, and I look forward to seeing how this hearing is handled.

I thank you very much for being here.

For our final panel, we invited Dr. Audrey Altstadt and Catherine Fitzpatrick. Dr. Altstadt is a professor of history at the University of Massachusetts at Amherst.

I'd like to ask you to keep it down, please.

A specialist on Azerbaijan, she is the author of "The Azerbaijani Turks: Power and Identity Under Russian Rule" and has written many articles on Azerbaijani history and contemporary politics. Dr. Altstadt has also been a consultant on Azerbaijan for the U.S. Government and private sector, and President of the American Association for Central Asian Research.

Catherine Fitzpatrick has been the Executive Director of the International League for Human Rights since October 1997, and is the League's Main Representative at the United Nations. From 1996 to '97 she directed the Central/East European and FSU program of the Committee to Protect Journalists.

Previously, she was a consultant to human rights and other projects for various foundations, and from 1981 to 1990 directed research for Helsinki Watch. She has also translated into English several dozen works, including books by Boris Yeltsin and Eduard Shevardnadze.

Dr. Altstadt, if you could begin. Thank you.

**TESTIMONY OF DR. AUDREY ALTSTADT,
UNIVERSITY OF MASSACHUSETTS, AMHERST**

Ms. ALTSTADT. Mr. Chairman, thank you for the opportunity to make this presentation.

The Republic of Azerbaijan has today a seemingly paradoxical configuration of political forces. It is a constitutional state with a multi-party political system, on the one hand, and has an authoritarian government, on the other.

As parliamentary elections approach this November, Azerbaijan is posed at a crossroads in its modern political life. It will either fulfill its commitment to free and fair elections and, thereby, strengthen its basis for democracy, or it will fall short of internationally recognized standards of fairness and transparency, and thus risk perpetuating the old legacies of authoritarian rule.

In the former case, Azerbaijan will enjoy a Parliament whose legitimacy is not in doubt and whose authority is firm. The republic will be better equipped to face the inevitable political transitions of the coming decade.

The latter course would weaken those democratic foundations that are now in place, undermining Azerbaijan's domestic peace and damaging its international reputation.

What are these democratic foundations? First is the multi-party system which we've heard about and which you've seen a portion of today. A majority of the opposition parties are moderate, secular parties whose programs are framed in terms of democratic concepts.

A second element is Azerbaijan's constitution, adopted in November of 1995, which guarantees basic political and human rights, provides for the division into three branches of government and separation of powers among them. There is not, however, an obvious system of checks and balances.

There is no office of vice president. So that, if a President dies in office or becomes incapacitated, the Speaker of the National Assembly becomes Acting President, thus joining the power of the two branches of government in a single individual, thereby violating the principle of separation of powers.

Despite such shortcomings, Azerbaijan's constitution creates a legal framework within which challenges to government actions can and do occur. The importance of this fact, I think, should not be underestimated. It is a major advance on the path to creating a genuine rule of law state, which is the foundation of democracy. Progress toward this end, however, has been impeded by the behavior of Azerbaijan's government.

Azerbaijan's government can be characterized as authoritarian. It engages in censorship, repression of its opposition, arrest of members of political opposition groups, holding some without trial, others without needed medical treatment. The police used extreme violence against the opposition's demonstration of April 29.

Finally, it must be noted, inside and outside government, corruption is rife, with bribery taking place on massive, astonishing scale that paralyzes economic development and drives out young men and women looking for better ways to make a living.

If the policy at the top of government were one of zero tolerance, corruption simply could not exist on such a scale as it does. This government has the power to stop it.

Azerbaijan may be authoritarian, but it is not, I think, totalitarian. This difference is the gap between the reformable and the stagnant. This government could use its power to move the entire state in the direction of reform, and that would be a momentous demonstration of a commitment to the rule of law.

It is a great opportunity to show a genuine commitment to democratization. A second such opportunity involves Azerbaijan's parliamentary election coming up this November. This election is likely to be viewed in the West as an important demonstration of the present government's actual commitment to the substance of democracy and not merely to the language of democracy which, of course, everyone now uses.

If Azerbaijan's third major election under an Aliyev presidency is flawed, as were the two previous elections, we may find what we call with respect to American baseball terminology a "three strikes and you're out" response.

There may be a sense, in other words, in the United States and perhaps in other democracies that Azerbaijan is a country not moving toward democracy and perhaps not able to move toward democracy. This would be an unfortunate conclusion and not one borne out entirely by Azerbaijan's own political past.

The present configuration in Azerbaijan's politics is a manifestation of two legacies. The first is a totalitarian Soviet legacy, which we know well. The second is a native, secular modernist tradition begun in the 19th Century with a brief experience of republican self-government from May 1918 until the Red Army's invasion in April of 1920.

The memory of that period has been rediscovered, not merely in the 10 years of independence but during more than 20 years of effort by Azerbaijan's intellectual leaders. Writers, poets, academicians and professors worked to recover the knowledge of this aspect of Azerbaijan's own modern history, in part as a means of reviving democratic values among their contemporaries.

Those same people moved into politics in the late 1980s and formed the first anti-Communist movements. One can see in successive documents of the Popular Front movement a clear understanding of personal freedom, of rights and responsibilities of citizenship, of the importance of open debate within the body politic and of a state, based on the consent of the governed.

In short, the early leaders of the opposition expressed the complex concept of liberty, personal rights within the framework of law. Some of the founders of that early movement are active in politics today, and three of them lead the three major parties that emerged from the Popular Front movement, the party of the Popular Front, the National Independence Party, and the Yeni Mussavat Party. Two of them have spoken to you today.

Possible U.S. responses within this environment: In the long term, I think that one of the most valuable contributions that the United States could make would be to assist Azerbaijan in its ambitions for civic education. As we've already heard, Section 907 makes that presently very difficult, if not impossible. But we know from our own history that democracy depends upon an informed citizenry.

In the near term, representatives of the United States can show consistent and unambiguous support in both word and in action for the pillars of the democratic system and not merely for the rhetoric of a democratic polity.

Among those tenets that should be most immediately supported by representatives of the United States in Azerbaijan are: (1) an end to corruption, and an end to it, first of all, within government; (2) no imprisonment without cause; (3) the right to assemble peaceably, to speak freely even when speaking criticism of the government and its rulers; (4) a free press, even when it criticizes the government; (5) respect for political parties and their legitimate oppositional activities, and free and fair election process. Finally, number six and most fundamental, an absolute respect for the rule of law and insistence on the supremacy of law, and the establishment of an independent judiciary.

In offering such assistance, the United States should present itself not as the teacher or the master, but rather as a long time and very experienced student of the problem of building democracy.

In closing, Mr. Chairman, I would suggest that the United States support democratization in Azerbaijan in a way that reflects the best of American values, that combination of rights and responsibilities that constitutes the idea of liberty built on the bedrock of the rule of law. These are the precisely the things that must be destroyed by a totalitarian regime, but they are the best hope of the democratic state.

Mr. SMITH. Dr. Altstadt, thank you very much for your excellent testimony. Ms. Fitzpatrick.

**TESTIMONY OF CATHY FITZPATRICK,
EXECUTIVE DIRECTOR, INTERNATIONAL LEAGUE FOR HUMAN
RIGHTS**

Ms. FITZPATRICK. Thank you, Mr. Chairman. I appreciate your vigilance on these issues in this region very much with your series of hearings, and I'd like to enter the full text of my testimony into the record.

Mr. SMITH. Without objection, it will be part of the record.

Ms. FITZPATRICK. The League has long been concerned about the development of democracy and human rights in Azerbaijan. We've maintained a special focus on this strategically located, oil rich former Soviet Republic which we would like to see avoid many of the tragedies that Nigeria witnessed in recent years.

We see the establishment and protection of a vibrant civil society in Azerbaijan, with significant U.S. Government and private support, as an important factor in resolving both persistent regional problems like Nagorno-Karabakh, and as a part of creating stability in the Caucasus in general, especially at a time when the entire region has been affected by Russia's prosecution of the war in Chechnya.

The League has two partner organizations in Azerbaijan: The Association of Lawyers of Azerbaijan, which has been registered by the authorities, and the Azerbaijani Advocates Association, which has been denied registration by the authorities. We have other colleagues among human rights activists and lawyers. Our President and Board members and staff frequently travel to Azerbaijan to provide our support to our colleagues there.

We anticipate that, as with the presidential elections, there may be some changes in the electoral code, possibly some access to the Commission, electoral commission, possibly some access to state media; but it will not add up to genuinely free and fair elections.

Even if democratic elections were to be held, we couldn't really expect the to fully bring about democracy unless due diligence is exercised now far before elections regarding civil and political rights issues. These make up the nuts and bolts not only of the electoral process, but they are ultimately the sustainable checks and balances on power. So freedom of speech, association assembly, an independent bar that can vigorously protect these rights—those are what we have been emphasizing.

We've paid a great deal of attention to establishing an independent, fee-paid, private bar in Azerbaijan, free of interference by the Minister of Justice and other government agencies, and we feel this should be the centerpiece of any democratic reform program supported by the United States.

This institution of a fee-paid bar, which is also required to subsidize pro bono work, is sometimes overlooked. It's not so well protected in international law and treaties, but it is something that's a cornerstone of U.S. democracy.

So we've stressed the importance of placing reform of the bar and independence of the bar above other types of projects that you see in the region, like reform of the criminal justice system as a whole or judge and police training. We feel that, as in the words of A.J. Libeling, "freedom of the press belongs to him who owns one," something that certainly applies to Azerbaijan, and only a private bar can ensure the rule of law. Our own history illustrates that.

In Azerbaijan, there's been an uphill struggle in breaking away from the state-sponsored bar, which is called the Collegium. It's a Soviet era body, really unchanged. It continues to regulate the bar.

In the last 3 years there has been a struggle. Partially, a private bar emerged, then was put out of business. Really, it was a matter of jealousy from the Justice Minister, which was mentioned in a previous panel, and other officials.

It was when this bar began seriously to protect civil rights that it fell under attack. The Collegium is able to control the bar, because they confiscate lawyers' fees, a healthy percentage of the fees, in any event, and very little is left over.

Faced with this enormous power of the state's machinery and pervasive judicial corruption, which is another factor, often the best a lawyer can do is just resort to technicalities when he's trying to defend a client. That's why lawyers have been dubbed musicians at a funeral. You need them for the ceremony, but they can really no longer do anything for you.

Indicative of the situation is the fact that the bar in Azerbaijan has only 500 members or attorneys, trial attorneys, and of these only 20 are estimated to be authentically independent enough to defend a political client such as some of the gentlemen we've had testify today.

So given the country's population, given the level of repression in this country, this is a severe shortage. Really, it's the curb on not only the free market but on the licensing procedures that's led to that situation.

Under pressure from U.S. Government and from the Council of Europe, finally a new law on advocates was passed in January 2000. Unfortunately, it's a step backward, and the irony is the hastiness with which this and some of the other laws were passed under Council of Europe pressure.

I'm afraid it's going to come back to haunt us when they prove insufficient to really implement and enforce human rights. This new law on advocates says the Collegium of Advocates remains the main regulatory body, and any individuals who are not members of the Collegium can't engage in legal activities.

Just to spell out the way it works, there's a qualification commission or credentialing commission. Six of the nine members are chosen by the executive branch, the President, and by the Judicial branch, which is under the pressure of the Presidential administration.

It's no accident that the chair of the Collegium was also on the Central Electoral Commission, which is this body now being hotly contested for again.

We have underlined other weaknesses in the law, but basically what it comes down to is haste and a lack of public discussion of this law. We discovered that the Council of Europe, in fact, did not provide its approval of the draft law, which is something claimed by the Government of Azerbaijan. It appears the text of the draft law which the Council had was not the same one presented later to the Parliament. There was a switcheroo there.

In general, the government hasn't really encouraged public support and discussion and accountability about these draft laws.

In our work, we've singled out one case. Aslan Ismailov was a prominent attorney/former judge, and we've had to stress only this one man, because he's the one who is willing to go on the record.

We have many others who have not been willing to name names, their own names or name their colleagues' names, who are under this same kind of pressure. The retaliation factor is too great for them to go on the record.

Aslan Ismailov and some of his fellow attorneys came to the United States in 1999 at our invitation. Their trip overlapped with a visit by the Minister of Justice, and the disconnect between what the independent lawyers were saying and the official Justice officials was so great that there was some backlash when Mr. Ismailov returned. He was expelled from the bar.

The connection between his trip and the expulsion has been denied by officials, and we have been in a war of facts ever since then, trying to reinstate Mr. Aslan Ismailov.

We have provided copious information to your staff, Congressman, about this. It's a very complicated case, but what it boils down to is arbitrary licensing procedures, punishment for taking outspoken positions.

It's important to note the U.S. Ambassador did intervene on this case repeatedly, but he was not able to fully restore the man's license. So we urge the new Ambassador that will be confirmed to Baku from the U.S. to continue to raise Mr. Aslan Ismailov's case, and for Members of Congress to keep it on their screen.

I want to just touch briefly on some of the other human rights issue that have already been discussed by our colleagues and by members of the opposition. First, this question of right of association, registering of NGOs.

We had a long battle for about 3 years trying to register, first of all, these legal groups and other NGOs and parties. Finally, our affiliate, the Association of Lawyers of Azerbaijan, was registered in February 2000 after the Council of Europe quietly intervened, after the U.S. Ambassador intervened. But the reason was not only because of that intervention, but because Aslan Ismailov, again this disbarred lawyer, was informed by the Justice Minister that, if he would remove his name from the membership list, this group would have a little easier time. So he did, for the sake of his colleagues, and he founded another group, and that group hasn't been registered.

So the democratic party, the trade union journalists—there's scores of groups that have now been registered, but it's only at political discretion. What we are concerned about is what was given by political discretion could just as easily be taken away.

Looking at the demonstrations, it's true that after the 1998 Presidential elections, there were regulations curbing these kinds of mass rallies. April 29, as you know, there was a large demonstration, and a very brutal backlash. Nearly 20,000 people took part, and scores were beaten and arrested and sentenced to severe terms.

What is now being put out for our consumption is the news about the May 20 demonstration. I want to note that only 4,000 people appeared at that demonstration, and it took place without incident. But there was less participation, because so much intimidation had taken place the month before.

There was a permit given for this rally, but in our view there is unwarranted praise being showed now on President Aliyev for doing really what he should do as a normal course of affairs, allow people to seek redress of their grievances and peaceful assembly.

We do want to note that in this region in the last 15 years we have noticed the correlation that when people come out on the streets, it's usually a symptom of a bad situation with freedom of media. The people are unable to express themselves on TV and in the printed media. So they have to come out on the streets.

It also means that there is not enough legal protection in the courts for them. So that they have to seek redress through physical appearance in the public square.

Again, with the Council of Europe membership, it's the old Red Square joke, that the Soviet and American Ambassadors would argue, and the American would say, "Well, we have freedom. Our people can demonstrate in front of the White House." And the Soviet Ambassador would say, "Well, our people can demonstrate on Red Square, too." And the American Ambassador would say, "But what happens to them after they demonstrate? Do they have freedom after they demonstrate?"

So that's the question we have to ask both about elections, because the trend has been to punish people after elections, and now we also have to ask this about the Council of Europe membership.

Let me just finish then with the question of the media. The case of Monitor has been mentioned. I do want to stress that the way in which—and this is a pattern in the region with other transition states. The way in which the authorities have attacked the media is through libel suits and criminal libel suits, which means you go to jail for insulting a public official.

We feel such a law has no business being on the books. This is not the standard—It's not just an American First Amendment issue of *Times v. Sullivan*. It's a European standard. The European Court of Human Rights has also ruled in *Lingons v. Austria* that you should not go to jail if you insult an official. It should be handled as a civil case.

The TV station that was shut down was mentioned, SARA-TV. I also want to point out a typical pattern for this region. Three years, 2 years, 1 year before an election, whether in Kiev, Almaty, Minsk, shut down the local cable TV station, local commercial stations, and then everybody forgets about them by the time elections roll around. Then the game becomes not restoring the owned and operated opposition media, totally private. The game becomes access to state media. So again that's a point we make to ODIHR and OSCE, how important is restoring the opposition owned media.

On the issue of Monitor: Again, I want to stress, this was a printing press, not just a publication; and that printing press was used for about 30 other publications. It was shut down over an insult issue again.

There was a demand that the editor run a retraction, which he did, but he also ran an editorial saying he was under pressure to run the retraction, and then the retaliation was swift, again using tax authorities. We find this a very suspicious move that really needs to be investigated by our Embassy and others.

First of all, there is a newly constituted Ministry of Taxation. It took over from what was called the State Tax Inspection. It opened up its first case, number 000001, and it was precisely against Monitor. So we are concerned about that indication that it was politically motivated, and we are also concerned about all those zeroes, because that means that they are anticipating lots of other cases down the line.

This Monitor—Again, it's not just some little tabloid paper. Forty-three tons of newsprint were unlawfully seized by Customs. They are facing a \$23,000 fine; that's more than their annual budget.

So I would submit that, if this magazine and its other fellow publications were so insignificant and if this were such an aberration, as some have noted today, they wouldn't need to close these publications. The fact that they closed them means that they are fearful of their influence.

So I think that no U.S. business is safe. No NGO project that's funded by USAID is safe when this kind of confiscation and violation of contract law and violation of human rights can take place. Certainly, we are a country that values *The Nation*, the *American Spectator*, the *National Inquirer*. We need to stand behind those kinds of publications as a principle in Baku.

So finally, as you note, our recommendations: the Council of Europe wields enormous influence, not always so visible. So the U.S. must use their connections in Europe with multilateral diplomacy and through OSCE to keep them on these cases, because we fear that they got the passage of laws in their harmonization exercise, but then when they get the membership, or as the political decision now has been made for Azerbaijan and Armenia to come into the Council, that we want them to stay focused.

There's some bad precedents we've seen with the Council of Europe with Russia and the war in Chechnya, with Ukraine and the death penalty, where the Council of Europe hasn't been able to muster the force to really use its teeth after the membership.

Also we want to finally—On the question of the OSCE election monitors, unless we see some more progress on some of these nuts and bolts, civil rights issues, we would not advocate sending a full-fledged observation team. We think turning back on the TV station, putting up the Baku printing press, registration of all the NGOs, parties and trade unions that seek registration—these are some of the other issues. I've also mentioned the protection of the bar.

This is something that our government must be struggling for, especially because we've put funding into this. We shouldn't leave these projects just to languish.

We do have commercial and political interests in Azerbaijan, but without the legitimization of civil society, the long term interests of both the people of Azerbaijan and the U.S. cannot be ensured.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you. Using your illustration of protesting on Red Square only to find yourself after the fact having some very terrible consequences, do you think that Azerbaijan's potential admission to the Council of Europe should wait until after the elections in the fall?

Ms. FITZPATRICK. Well, I know there's two schools of thought on that. I know even some opposition and NGO groups have wanted Azerbaijan to be brought in, but it's partly an almost romantic notion that the European Court of Human Rights will start dealing with their cases, the cases they can't get moved in their own courts.

I don't think we have the assurances from the Council of Europe that they will enforce the laws they have helped to change. So I would advocate waiting until after the election, certainly.

Mr. SMITH. Very often they are not just in opposition to the government, but at times they are at loggerheads with themselves, for very legitimate reasons. There may be a difference of positions on issues, for example.

It's been at least my observation, rightly or wrongly, that over the years—I've been in Congress 20 years, and I'll never forget. If it wasn't for the uniting behind one basic candidate in Romania, the National Salvation Front certainly was a melding of disparate elements.

It's especially true with Mrs. Chamorro's election in Nicaragua when they faced off with the Sandinistas. VERIUNO was an acronym there, and if it wasn't for that kind of—People buried the hatchet on certain things.

Do you think the opposition parties in Azerbaijan have a chance of truly being united or do you think they are more likely to be disunited?

Ms. FITZPATRICK. Well, I think the pressure should be put on the President to back off on repression, not put on the opposition to unite. I think we've seen time and again that OSCE brokers elections by creating these artificial structures of unity, and Mr. Congressman, you've rightly noted, it's not that they have differences—It's not about gun control and abortion and, you know, whether we build the new mall, you know.

These are people that are in a struggle of how close do you go to Aliyev, and how much do you compromise on principle. It's a spectrum of compromise. When we enter that game and try to force people together, we're part of the compromise.

I mean, I feel that there's been some very serious repression of some of the Presidential candidates. It kind of skews the situation. I mean in the last—we look at the last 10 years.

I can only say that OSCE is, you know, the sum of its parts. Russia is in it. The U.S. is in it, you know. A lot of different countries with different agendas are in it, but I think the U.S. certainly has the leverage to put the pressure where it is rightly put, not on these poor opposition candidates who have really had to struggle through all sorts of difficulties we can't even imagine, just to have some sort of platform. Thank you.

Ms. ALTSTADT. I think that's a good point that it's more important to put pressure on the President and the government rather than to try to pressure the opposition. However, if we take your question as meaning, since they have attempted to unite in the past and they seem to be doing that now, and how likely is that to continue, I guess I would have

to say that if we are looking at the upcoming elections for November, I think the opposition can probably maintain a certain degree of unity for a certain length of time. But it depends on how much it costs them.

If they perceive that it's going to cost them more seats to be united than to struggle on their own, then I think that unanimity may, to some degree, melt away. I think there are some parties more likely to split off earlier from a coalition than other parties.

As you point out, there are many reasons for them not to be united, that they can all agree that they would like to see themselves have a greater role and power. They are all agreed on their opposition to the current government, but there are many differences among the parties.

So a unity that lasts too long might be completely artificial. If we were to talk about unity with respect to a Presidential race, the cost now, I think, goes up. If you cannot run a candidate, then the price of remaining united, let's say, in a boycott as we saw in 1998 becomes very high. The temptation for one person who thinks he has a good chance to win to split away from a boycotting coalition is probably too tempting to pass up.

Mr. SMITH. Could you, both of you, give your professional assessment of ODIHR and how strongly they push the envelope with the government and with the President in trying to get a truly free and transparent process?

Ms. FITZPATRICK. I've been a frequent and public critic of ODIHR, as you know, Mr. Chairman, and I believe that one of its main difficulties is that the HR in its acronym has been neglected.

It has put a lot of focus on democracy, on elections, on quick and easy fixes, political brokering to get some kind of semblance of a democratic legitimacy.

They've put less focus on human rights and the nuts and bolts of civil and political liberties and legal struggle. When they have focused on human rights, it's been after an enormous disaster like Kosovo, and there they have done very well.

We'd like to see the field missions, in particular, work with ODIHR more closely to really push the envelope day to day on these cases like Aslan Ismailov and on, you know, the nitty-gritty of the civil and political rights agenda.

The other thing to note about ODIHR is that it's a staff that's small, relatively, and it tends to be vulnerable to pet projects and boutiqueing, you know. Certain countries that are willing to fund certain issues will fund a staff person, a staff line, a project. That means the sustained work, day to day, of departments broken up by regions and countries.

It's not run like the State Department. It's run by topics. The region is very murky. It could stand some reform to avoid a unification of OSCE.

Ms. ALTSTADT. I'm not familiar enough with their field work to comment.

Mr. SMITH. Let me just ask one final question, if you have any other recommendations to the Commission on what we might do. In your testimony you have discussed some things and recommendations, I think, but anything else that you would like to add before we conclude the hearing?

I do have, Ms. Fitzpatrick, one thing I thought of when you were testifying, if you don't mind answering.

Obviously, there would be many more attorneys in Azerbaijan if there were a process for allowing people to become attorneys and practice freely.

Right now, if you had to say the number, how many independent, defense minded attorneys do exist?

Ms. FITZPATRICK. Well, as I had said, I put the number at 20 sort of artificially. I mean of those who are the trial attorneys that could go to criminal court.

There's many what they call jurists. It's like an English system, a two-tier legal profession. There's probably many more dozens of jurists, but they can't go into pretrial detention.

As for any recommendation that we haven't included here, I would want to stress the importance of the new Ambassador coordinating perhaps to a greater extent than some of his predecessors with the Department of Democracy, Human Rights and Labor, with NGOs, on human rights issues, and more coordination coming from NSC which, I think, has tended to focus more on the oil, the strategic issues rather than the civil society issues.

So we'd like to see more harmonization among these different agencies and more willingness to work with local NGOs and international NGOs to design programs and to move the whole agenda along.

Mr. SMITH. Thank you.

Ms. ALTSTADT. As I've been thinking about Azerbaijan's problems over the last months and years, it has really struck me that some of the most serious and pressing problems for the population as a whole is what may be a real bifurcation in society economically.

A tremendous amount of money is pouring into the republic in relation to oil, gas and all of the Western companies that support the oil and gas infrastructure and foreign investment, and a very small number of people benefits from this tremendously. The majority of society is really having very serious economic difficulties.

I've been told recently—and this is anecdotal evidence. I'm going to Baku myself next week, and so I hope to see whether the worst of what I'm hearing is really true: people don't have money for buying bread, cheese, for bus fare; and on the other hand, international organizations, including charitable and religious organizations, have to pay bribes so they can open up their offices.

On the one hand, I think it is necessary for the people that are in the U.S. Embassy in Baku to pay a great deal of attention to the political setting, to pay attention to the opposition not as one single mass but to look at the individual parties and the individual leaders, whether or not they are simply using the rhetoric of democracy or whether they really grasp it and are committed to it, and at the same time really to look more thoroughly into this question of corruption and the way in which this is really damaging the populace as a whole.

I think if people don't have money to buy bread, cheese or bus fare to get to the polling places, then they may not be able to benefit in a significant way from the political reforms that we do hope will be carried out.

Mr. SMITH. If you discover some things you think might be helpful to the Commission from your trip, please feel free to add it to your testimony, because it would be very helpful, since it would be very timely.

Ms. ALTSTADT. Thank you.

Mr. SMITH. I want to thank both of you for your excellent testimonies and your good work, and just look forward to working with you in the future.

This hearing is adjourned, and I thank all.

[Whereupon, the hearing was adjourned at 6:10 p.m.]

**PREPARED STATEMENT OF HON. CHRISTOPHER H. SMITH,
CHAIRMAN**

Welcome to this hearing on Elections, Democracy and Human Rights in Azerbaijan. This is the latest in a series of hearings the Commission has been holding on the countries of Central Asia and the Caucasus, with more to follow.

Today the Commission is focusing on Azerbaijan because of the critically important election coming up. In November, Azerbaijani voters will elect a new legislature. Observation missions from the OSCE's Office for Democratic Institutions and Human Rights (ODIHR), which monitored the 1995 and 1998 parliamentary and presidential elections, concluded that they did not meet OSCE standards. Council of Europe observers gave a harsh assessment to the first round of the local elections in December 1999, though they noted improvements in the second round.

The conduct of November's election will help define the country's political orientation and its international reputation. Is Azerbaijan developing towards Western-style electoral democracy or are Soviet patterns of controlled elections still prevalent? Unfortunately, to judge by OSCE verdicts on many recent elections, the latter pattern seems to be dominant throughout much of the former USSR. The assessment of Azerbaijan's November election will also help determine whether the country is admitted to the Council of Europe, where it currently has Special Guest status.

Domestically, the election offers an historic opportunity for the consolidation of Azerbaijani society. The legacy of Azerbaijan's recent elections has been deep distrust between the government of President Aliev and opposition parties. While opposition parties function in Azerbaijan, publish their newspapers and are represented in parliament, they face various constraints. With the election approaching fast, opposition parties have reacted skeptically to assurances from the government that the election will be free and fair. It is essential for the future development of Azerbaijan's democracy and for the legitimacy of its leadership that November's election be free and fair and the results be accepted by society as a whole.

We are well aware that the last dozen years have been turbulent for Azerbaijan. The reestablishment of independence has been accompanied by the tragic Nagorno-Karabakh conflict, war, the loss of territory and massive refugee problems. Moreover, Azerbaijan is located in an extraordinarily complex region, at the crossroads of civilizations and competing empires, some of which to this day harbor hopes of influencing, if not controlling, the country.

Obviously, these are not the most favorable circumstances to overcome the legacy of Soviet rule. But if I may quote Ambassador Nelson Ledsky of the National Democratic Institute (NDI), "Azerbaijan is a country where democracy is both necessary and possible." That is a sentiment I support fully. The purpose of this hearing is to publicize the issues surrounding the election in a country with so much promise and such strategic and economic importance for the United States.

Finally, I know that today Azerbaijan is celebrating its independence day. I congratulate you and express the hope that the November election will strengthen your independence.

To discuss Azerbaijan's election, democratization and human rights, we have assembled an extremely qualified group of witnesses. Speaking on behalf of the State Department is Ambassador Daniel Fried. A career Foreign Service Officer, Ambassador Fried has only recently finished his tour in Poland. In fact, he took up his new position as Special Deputy Assistant to the Secretary of State for the New Independent States only on May 8. That has not given him very much time to acquaint himself with his new set of responsibilities and we appreciate his willingness to undergo this trial by fire. From 1993-1997, Ambassador Fried was Staff Director at the National Security Council and Special Assistant to the President and Senior Director for Central and Eastern Europe. Previously he served in the Soviet Union, Yugoslavia and Poland.

Ambassador Fried is accompanied by Clifford Bond, the State Department's Office Director for Central Asia and the Caucasus since 1998. A Minister Counselor, Mr. Bond is a Career Foreign Service Officer, whose foreign postings have included Belgrade, Stockholm, Prague and Moscow. He was a Special Advisor to the Coordinator for Support to East European Democracies and was Deputy Director of the Office of Independent States and Commonwealth Affairs.

Our next witness is Hafiz Pashayev, Azerbaijan's first Ambassador to the United States. A physicist by training, Ambassador Pashayev took up his post in Washington in February 1993. Before embarking on his diplomatic assignment, Ambassador Pashayev was the Director of the Metal Physics Laboratory in the Physics Institute of Azerbaijan's Academy of Sciences and taught physics at Baku State University. He is the author of more than 120 books and articles.

Accompanying Ambassador Pashayev is Shahin Aliev, the Director of the Legislative and Legal Expertise Issues in the Office of the President. Mr. Aliev was a Professor in the Law Department at Azerbaijan's State University and was Deputy Director of Parliament's Legal Department. Mr. Aliev has been directly involved in the drafting of the laws on the Central Election Commission and the election, as well as in discussions on the laws with the OSCE.

Our third panel offers a wide spectrum of Azerbaijan's leading opposition parties. First is Nazim Imanov of the Azerbaijan National Independence Party. Etibar Mamedov, Chairman of the Party, could not attend and so he sent his most trusted representative. An economist, Professor Imanov has been a Member of Parliament since 1995. Unfortunately, he cannot remain to answer questions as he must return immediately to Azerbaijan, but we are pleased he was able to come.

Next is Abulfaz Elchibey, former President of Azerbaijan and now Chairman of the Popular Front Party. An Orientalist by training, he served time in prison during the Soviet era for his dissident, nationalist activity. A founder of the Popular Front in the late 1980s, he was its Chairman and in June 1992, became Azerbaijan's first democratically elected president. In June 1993, Mr. Elchibey left Baku when his government was overthrown, returning in 1997. He is a Co-Chairman of the Democratic Congress.

Next we have Isa Gambar, Chairman of the Mussavat Party. Mr. Gambar is a historian by training. He was also one of the founders of Popular Front, and served as Deputy Chairman in 1991-1992. A Mem-

ber of Parliament from 1990-1995, he was Speaker of Parliament from 1992- 1993 and Acting President of Azerbaijan in May-June 1992. Mr. Gambar is today a Co-Chairman of the Democratic Congress.

Our next witness is Rasul Guliev, Co-Chairman of the Azerbaijan Democratic Party. He was General Manager of an oil refinery, and was named Vice President of the State Oil Company in 1992 and Deputy Prime Minister in 1993. Mr. Guliev was a member of parliament from 1990—1997, and Speaker from 1993 to September 1996, when he resigned, left Azerbaijan and became an opposition politician. Mr. Guliev is President of the Rasul Guliev Foundation for Ecology and Democracy.

For our final panel, we have invited Dr. Audrey Altstadt and Cathy Fitzpatrick. Dr. Altstadt is a Professor of History at the University of Massachusetts at Amherst. A specialist on Azerbaijan, she is the author of *The Azerbaijani Turks: Power and Identity Under Russian Rule* and has written many articles on Azerbaijani history and contemporary politics. Dr. Altstadt has also been a consultant on Azerbaijan for the U.S. Government and private sector, and President of the American Association for Central Asian Research.

Catherine Fitzpatrick has been the Executive Director of the International League for Human Rights since October 1997, and is the League's Main Representative at the United Nations. From 1996-1997, she directed the Central/East European and FSU program of the Committee to Protect Journalists. Previously, she was a consultant on human rights and other projects for various foundations and from 1981-1990, directed research for Helsinki Watch. She has also translated into English several dozen works, including books by Boris Yeltsin and Eduard Shevardnadze

**PREPARED STATEMENT OF
HON. BEN NIGHTHORSE-CAMPBELL, CO-CHAIRMAN**

Mr. Chairman, let me commend you on holding this hearing on developments in Azerbaijan, a very important country for strategic and economic reasons. The United States has serious interests in Azerbaijan and the entire Caucasus. These interests are not only economic or related to oil - but involve the security and human dimensions of the OSCE, including democratic development, was well.

Moreover, I believe what happens in Azerbaijan will have powerful repercussions outside the country. As the Helsinki Commission has heard in testimony in several previous hearings on Central Asia, the overall trend in that region has unfortunately been towards increasing repression, while elections have fallen far short of OSCE standards. Azerbaijan, which is also a Muslim country, has the opportunity to create a different model of development and pave the way for Central Asian states to move towards democracy. I have no doubt that Central Asian leaders and opposition movements alike are watching with keen interest what happens in Baku.

I regret that government-opposition relations in Azerbaijan have been so strained. It is unfortunate that opposition parties feel it necessary to organize demonstrations to influence the passage of a law governing elections that determine who represents the people. Such decisions should be made through the legislative process. But if the legislative process is viewed as unfair, people have the right to demonstrate, and governments have the obligation to respect the right to freedom of assembly. The April 29 rally resulted in scores getting arrested and injured. On May 20, thankfully, the opposition's demonstration proceeded peacefully and I hope that any future rallies will be equally orderly.

Far better, however, would be the adoption of a law that all sides view as fair. I know that the OSCE's Office of Democratic Institutions and Human Rights is involved in negotiations with all sides to reach a compromise. I support these efforts and hope they will be successful. At this point, nothing could be more important for Azerbaijan's future than the holding of parliamentary elections that are seen inside and outside the country as fair and democratic in keeping with established OSCE standards.

Turning briefly to the economic dimension, I note from previous Commission hearings on corruption that Azerbaijan was ranked 96th out of 99 countries in the most recent report issued by Transparency International of perceptions of corruption. A business survey by Control Risk rated Azerbaijan as the third most corrupt country in the world. These figures underscore the urgent need for real political and economic reforms. Azerbaijan's commitment to take the necessary steps to hold free and fair parliamentary elections this fall will be an important indicator of Baku's willingness to break the legacy of the past and pursue a course that will lead to a freer and more prosperous future for all citizens of Azerbaijan.

I look forward to hearing the testimony of our witnesses. Thank you, Mr. Chairman.

PREPARED SUBMISSION OF AMBASSADOR DANIEL FRIED

Mr. Chairman, it is an honor to be here today representing the Administration at this hearing. I appreciate the opportunity to discuss recent developments in Azerbaijan and U.S. foreign policy goals in that country.

The United States seeks development of modern democratic political and economic institutions in Azerbaijan and the strengthening of Azerbaijan's sovereignty, independence and territorial integrity. With its vast hydrocarbon resources and its geo-strategic position on east-west trade routes, Azerbaijan stands a strong chance of becoming a vital hub for the transport of Caspian Basin energy resources to world markets. To promote our interests in Azerbaijan, we have established the following priority policy goals:

- Promoting regional stability and cooperation. Long-term stability in the Caucasus will require a peaceful resolution of the Nagorno-Karabakh conflict. As a co-chair of the OSCE Minsk Group, we, along with our French and Russian counterparts, are working with the parties to bring about a mutually agreeable, just and durable settlement.
- Broadening our cooperation with Azerbaijan to counter global threats, including terrorism, drug trafficking and proliferation of weapons of mass destruction, and associated delivery systems, materials, technologies and expertise.
- Supporting development of Azerbaijan's energy resources. We have sought to augment global energy supplies and support U.S. commercial interests by developing Azerbaijan's energy resources in an environmentally sound manner. By promoting the development of commercially viable multiple east-west pipelines, we look to improve regional cooperation and advance Azerbaijan's independence and prosperity.
- Promoting transition to a market-based economy open to foreign investment. Beyond development of Azerbaijan's energy sector, we have also broadened our efforts to include, as a priority for stability, development of a vibrant non-energy sector which can help diversify the economy and protect it from the potentially negative consequences of a large, unbalanced inflow of petroleum income.

All of these issues—democratization, market reform, nonproliferation, energy development, regional cooperation—are important, indeed critical to Azerbaijan's long-term prosperity, stability, and sovereign independence, and to its integration into Euro-Atlantic and global structures. The United States has consistently sought to pursue all of these objectives. We have been able to achieve some progress through high-level and broad engagement with Azerbaijan. Our position as co-chair in the OSCE Minsk Group is one example of this. Our recent inauguration of a bilateral Task Force on Economic Reform and Cooperation is another.

Bilateral assistance programs funded by Congress advance our goals as well. Section 907 of the Freedom Support Act limits our ability to provide assistance to Azerbaijan, hinders our ability to be an honest broker in the Nagorno-Karabakh peace process, and is a serious irritant in our bilateral relations with Azerbaijan. For these reasons, the

Administration continues to advocate repeal of these restrictions. However, within the limitations set by Section 907, the Administration is providing the following types of assistance:

- Humanitarian Assistance programs: Our assistance efforts in Azerbaijan continue to focus on humanitarian support. Targeted at the 850,000 refugees and IDPs displaced from their homes by the fighting over Nagorno-Karabakh, these programs include food assistance, primary health care, basic shelter, income-generation, and nutrition.
- Security Assistance programs: We are providing the Government of Azerbaijan with nonproliferation/export control assistance. In FY99, we established a maritime assistance program to help the Azerbaijani Maritime Border Guard stop the transit of WMD, associated delivery systems, materials and conventional weapons in the Caspian Sea. This program consists of senior level exchanges, technical training by the US Coast Guard and US Customs, and provision of detection, interdiction and enforcement equipment.
- Democracy programs: Our democracy programs include development of an independent media, civil society, independent NGOs, the rule of law, and expanded Internet access. We also have active exchange programs that exposed over 150 secondary school, undergraduate and graduate students to life in the United States in 1999. Thanks to Congress's FY98 loosening of Section 907 restrictions, we were able to expand our assistance programs in Azerbaijan to include activities to promote democracy, including free and fair elections. During the 1998 presidential elections and 1999 municipal elections, USAID-funded NGOs provided training to elections officials, technical assistance to the Central and Territorial Election Commissions, and implemented voter education and election observation programs.
- Other programs: Congress has also broadened our assistance options to include Trade and Development Agency assistance, Overseas Private Investment Corporation insurance, reinsurance or loan guarantees to U.S. firms interested in investment in Azerbaijan, and Export-Import Bank Financing.

Our efforts have begun to bear fruit. Much more needs to be done. Still, the last two years have seen a set of incremental improvements in respect for human rights in Azerbaijan. Let me review developments in a few key areas.

MEDIA FREEDOMS

The government tightly controls radio and television in Azerbaijan, requiring stations to obtain a license to operate. The government has used this requirement to deny broadcast licenses to independent stations. In addition, opposition parties have virtually no access to the official electronic media. We have repeatedly expressed our concerns over the lack of progress in the government's broadcast media policy to the government, and believe that the government's current policy in this area does not meet democratic standards. Print media, however,

has enjoyed much greater freedom. The independent and opposition press plays an active, influential role among political elites. Articles critical of government policy and discussion of sensitive foreign and domestic policy appear routinely in the print media. The government took a major step to improve print media freedom in Azerbaijan when it eliminated press censorship in 1998. In 1999, the government passed a new law on the media that, while still flawed, is considered an improvement over previous legislation by independent editors. Government officials have attempted to intimidate independent and opposition newspapers by suing them for slander, though none of the fines assessed in these suits have been collected. Some journalists have claimed that the threat of libel charges has forced them to exercise self-censorship, however, the print media continues to operate relatively freely.

RELIGIOUS FREEDOM

The government has made significant progress in its efforts to protect religious liberty in Azerbaijan. In November, President Aliyev held a National Security Council meeting to make a public commitment to protection of religious liberty in Azerbaijan. As a direct result, the government took action to remedy a number of specific violations of religious freedom including the reinstatement of workers fired because of their religious affiliation and registration of three religious groups that had been unsuccessfully seeking registration for several years. Almost all problems reported since last November involve one office, the Religious Affairs department. This office continues to delay registrations and to intervene in the importation of religious literature. We continue to work closely with the President's office to address these remaining issues.

INDEPENDENT JUDICIARY

Azerbaijan does not have an independent judiciary and judges do not function independently of the executive branch. With the 1998 democracy carve out in Section 907, we have been able to expand our efforts in this important area. Along with the Council of Europe and the World Bank, we have begun engaging the government in the initial steps of judicial reform. The creation of the Constitutional court in 1998 was a significant step forward. The court has already overturned a portion of the criminal code that allowed the government to confiscate property of a convicted person as well as a provision that allowed the government to deny legal representation to individuals by holding them in administrative detention. In addition, a number of new laws have been passed that restructure the courts, provide new standards of independence and immunity for judges, and limit the powers of the procuracy. However, these new laws will require an effective enforcement mechanism, in the form of an independent judiciary. Under a World Bank program, with significant involvement of the American Bar Association/CEELI, Azerbaijan is currently replacing most judges in the country via a competitive and supervised testing process. However, much more will need to be done to establish an independent judiciary.

ELECTIONS

None of Azerbaijan's elections since 1993 have met international standards. A consistent problem is the government's failure to report results that are judged credible by domestic and independent observers.

Other problems with the 1998 presidential elections included the unbalanced composition of the Central Election Commission, biased media coverage, restrictions on freedom of assembly, interference in the election process by officials, serious irregularities, including ballot stuffing on election day, and a lack of transparency in the compilation of vote totals. Municipal elections in December 1999 were equally troubled.

Parliamentary elections are scheduled for November. The government has been working with the OSCE's ODIHR and the Council of Europe in drafting legislation governing these elections and reform of the law on the Central Election Commission (CEC). However, it is not yet clear that these critical pieces of legislation will meet international standards. The government's decision on how to restructure the election commissions will have a tremendous impact on the prospects for free and fair parliamentary elections this fall. ODIHR has made proposals to bring the structure of the CEC into conformity with international standards, and we hope that all parties will agree to these proposals.

In February, the government registered the Azerbaijan Democratic Party, the last major opposition party pending registration. Although the Baku Mayor's office refused to grant a permit for the rally to be held downtown, the opposition staged a demonstration on April 29th to protest the lack of progress in election legislation and reforming the Central Election Commission (CEC). There were clashes between police and demonstrators and more than 40 people were arrested. On May 20, after successful negotiations with the Baku mayor's office over a mutually agreeable location, the opposition held a second demonstration. There were no reports of violence and no arrests. However, the government continues to hold people arrested for politically motivated reasons such as participating in political demonstrations in 1998.

The United States has engaged all elements of the political spectrum, including the government, the opposition, and NGOs, on democracy issues at every opportunity. Our message has been clear

Azerbaijan's long-term stability and integration into Euro-Atlantic community depend on action now to build democracy and civil society. Azerbaijan needs to reassert its commitment to strengthening democratic development and fostering greater respect for human rights, including its commitments to the OSCE.

There are realistic achievable steps the government can take in order to conduct free, fair and transparent parliamentary elections in November:

First, it should bring its legislation governing conduct of parliamentary elections into accordance with international standards.

Second, it should work with the OSCE's ODIHR and opposition to ensure that the composition of the Central Election Commission and lower level commissions will ensure fair conduct of the elections.

Third, it should allow opposition groups to demonstrate peacefully in locations accessible to the public.

Fourth, it should allow for fair and equal media coverage for all groups participating in the elections.

Fifth, it should encourage the election commissions to conduct the vote count transparently and to publish election protocols in a timely manner.

We are prepared to provide additional assistance to both the government and non-governmental organizations in Azerbaijan to ensure that parliamentary elections are carried out in accordance with Azerbaijan's

commitments. There is a great deal that can be accomplished between now and November: training of election officials and domestic observers; development of a mechanism to ensure that election results are reported quickly and accurately; and voter education. These are just some of the things we can do to help prevent the problems experienced in previous elections. Active U.S. and European engagement will continue to be a vital contributor to the development of democracy in Azerbaijan.

Mr. Chairman, democratic traditions and respect for human rights will not develop overnight in Azerbaijan. Azerbaijan has been independent for less than 10 years. Like other states of the former Soviet Union it suffers from a heavy legacy of seventy years of Soviet communism: the absence of democratic traditions, of a civil society and of entrepreneurial experience. Our dialogue with the government, however, has been productive. We want to recognize where progress has occurred while urging the government to meet all of the international commitments that it has assumed as a participating State in such bodies as the OSCE. With the support of Congress, we will continue to work with the Government of Azerbaijan on democratic reform, respect for human rights and other priority issues.

PREPARED SUBMISSION OF AMBASSADOR HAFIZ PASHAYEV

Mr. Chairman, Members of the Commission, Ladies and Gentlemen, It is an honor to appear here today, when you hold hearings on Azerbaijan. I consider that such an experience can have a very positive influence on the democracy-building process, especially if the position is impartial and the criticism constructive.

In presenting my Government's position on promotion of democracy and protection of human rights in Azerbaijan I would like to start by briefly outlining the main trends of its independent development.

Azerbaijan is a secular Muslim country of eight million people, and archaeologists date the first human settlements in what is Azerbaijan today to the Stone Age. During its long, long history, Azerbaijan has only known 11 years of true independence, the last nine since the fall of the Soviet Union. Azerbaijan's first opportunity for independence was between 1918–1920 in the aftermath of World War I and the overthrow of the then Russian czar. This taste of freedom was short-lived, however, as the Bolsheviks invaded and conquered Azerbaijan in 1920 and maintained control over the republic until 1991.

In our long history, we have been part of one empire or another, none of which practiced democracy. The last 70 years were, of course, under the Soviets, whose anathema to democratic practices was well known. We learned, often the hard way, that there can be no democracy without political freedom. For hundreds of years, the word—as well as the practice—of democracy were totally alien concepts in Azerbaijan. The first obstacle to overcome was the notion that your opinion didn't matter, that your vote did not count. It is not as if we are totally unfamiliar with elections. The Soviets had elections, but the candidates represented the same party and the same party-line point of view. No one expected anything to change as a result of elections. The same was true of other democratic notions such as freedom of speech and freedom of the press. This is hard for most Americans to understand, given your history of democracy and support for human rights starting in year one of independence and continuing to this day.

With the collapse of the Soviet Union, we have been struggling to promote democracy in Azerbaijan. If I were to summarize that progress today, it would be as follows: steady but incomplete.

Steady in that improvements occur with every election and every new year; steady in the abolition of censorship and the death penalty; steady in the growth of a free press and a multitude of opposition and independent media; steady in the enactment of laws protecting individual liberties; steady in registering more than 30 human rights NGOs, over 30 trade unions, 20 women's NGOs etc; and steady in the growth of transparency in business transactions. But perhaps most of all, steady in the sense of a growing confidence in the sovereignty and independence of Azerbaijan as well as its governmental stability, which, of course, is the foundation for all the other freedoms and rights mentioned above.

Yet our democracy building efforts are incomplete. We have had irregularities in our elections. Our judiciary has become more independent, but we have not yet developed a completely independent judicial system. At times, our local police still exceed their authority. Business transactions are often clouded by the old Soviet system of doing business. Finally, we are still grappling with the proper balance between personal freedom and order in society.

However, considering where Azerbaijan was in 1991 when we restored independence and where we are today, no objective observer could deny that real, substantial progress has been made. Had you told me in 1991 that elections—even with their shortcomings—would become normal events within a decade and would be praised by a Council of Europe rapporteur, I would not have believed you. Had you told me in 1991, after 70 years of Soviet communism, that within a decade censorship would be outlawed and human rights sanctified in law, I probably would have laughed. Had you told me in 1991 that within a decade there would be hundreds of independent media outlets in Azerbaijan, I would have been amazed but unconvinced. Yet all of that has come to pass within the past decade.

As is always the case in human events, one cannot understand the present without considering the past, and Azerbaijan's has not been a particularly pleasant one. It took political courage to establish a pro-Western policy, democratic norms, and stability during a time of war and transition from communism. A lack of understanding about Azerbaijan's past and current geopolitical situation, in my opinion, gives rise to the greatest misunderstanding among Americans about the progress we have achieved and the commitment we have made toward democracy. At times, we even feel that as America assesses our efforts, perfection is the enemy of the good.

There seems to be insufficient attention to the unresolved conflict that left Azerbaijan with nearly 1 million refugees and displaced persons and about 20% of our land occupied as a result of Armenian aggression. Our path towards democracy is complicated not only by external threats, both open and covert, but also, as I have already mentioned, because of the history of Soviet culture that is not immediately attuned to the habits of democracy. It is against this background that I would like to discuss broad trends in our democratization as well as some specific comments regarding elections, freedom of religion and freedom of the press.

ELECTIONS

Since restoring our independence in 1991, we have been struggling to implement democratic norms of behavior. We have held three presidential, one parliamentary and one local election. These were not perfect elections, as many Western observers including the Helsinki Commission were quick to point out, but they were important milestones on our way to a true democracy.

I am reminded of our first elections when the head of a family would show up to vote for all members of his household. Such a practice does not meet normal democratic standards, but it is understandable given our history and culture. And while there were some irregularities in the last Presidential election, no one doubts that President Aliyev received the overwhelming majority of the votes, as has been shown by numerous scientific polls, one conducted under the auspices of the U.S. State Department, since the election.

And while much discussion occurred in America regarding irregularities in the first municipal election, the runoff elections generally received high marks—but virtually no publicity in the U.S. Here I would quote from Azernews agency, which reports: "Repeated municipal elections were held in a number of Azeri provinces on March 20. In a news conference held at Europe hotel of Baku on the following day, the head

of the Council of Europe Congress of Local and Regional Authorities delegation, Mr. Jean Claud Frecon, gave a preliminary feedback of the election. He said a 6-people strong delegation had visited almost 50 polling stations in Baku, as well as western and eastern regions of Azerbaijan and came to the conclusion that except for the Narimanov district of Baku, where voter turnout was too low for the election to be considered valid, the voting process was not marred with serious irregularities. Council of Europe observers pointed out positive changes in comparison with the December 12, 1999 election, but added that there were some technical and other violations of law.”

A Council of Europe report said these were the first local elections since independence, “indicating the country's commitment to continuing with democratic reforms at the local level” and “were simply the first step towards the establishment of a fully developed system of local democracy.”

RELIGION

Azerbaijan strongly protects freedom of religion: today, over 200 religious groups freely exercise their activity in Azerbaijan. The United Nations report on “International Convention on the Elimination of all Forms of Racial Discrimination” makes a number of references to some provisions of our Constitution. These provisions deal with the right of freedom of conscience, every person's right to adopt his own attitude towards religion, to profess any religion whatsoever whether alone or jointly with others, not to profess any religion and to express and propagate his convictions concerning religion. It is further noticed by the UN that over 200 Muslim mosques, over 50 Christian churches and communities, and five synagogues are currently registered in Azerbaijan. The report goes on, mentioning that religious communities, institutions and centers of the Muslims of the Caucasus, of the Russian Orthodox churches, of the Evangelical Christians or Baptists, of the Adventist communities, of an International Christian Association (The Saving Grace), the Baku branches of the International Krishnaite and Baha'i Associations, are active in Azerbaijan. In addition, the report concludes, hundreds of different religious groupings are active unofficially, of which about 60 are communities belonging to the Christian religion.

Not so long ago, Azerbaijan had several cases involving religious freedom. These cases did not involve the mainstream religious organizations of Muslim, Jewish and Christian, but rather concerned some smaller religious organizations. Small or not, President Aliyev personally intervened in these cases and resolved them in favor of religious liberty. Subsequently, he has made his position in favor of religious freedom clear.

President Aliyev on November 8, 1999 publicly reaffirmed Azerbaijan's commitment to religious freedom with a statement, specifically saying: “One cannot restrict freedom of conscience and creed.” Chairman Smith of this Commission was among those who praised Azerbaijan's actions at that time. May I remind you, Mr. Chairman, of your own words of November 16, 1999, when you endorsed my country's policy on religious freedom, stressing that “President Aliyev's remarks signal a new dawn in Azerbaijan and that his country will become the region's beacon for religious freedom.” We, in Azerbaijan, appreciate the fact that you have recognized our progress in this field of religious freedom.

Azerbaijan's commitment to freedom of religion was confirmed by the U.S. Department of State's Annual Report on International Religious Freedom for 1999, which states: "The Constitution allows persons of all faiths to practice their religion, without restriction, and the Government respects this provision in practice..."

PRESS

Azerbaijan has made significant progress in allowing freedom of press. Right now there are literally scores of newspapers in Azerbaijan, and they are generally granted traditional press freedoms. It is also worth mentioning that 65% of the media are established by political parties and their organizations, 20% are independent and only about 15% belong to the state. With the abolishment of censorship, by a Presidential order in 1998, there is certainly no restriction left on the right of free speech, as the Government and the President himself are regularly criticized and denounced by some within the country.

But don't take my word for it. According to the Council of Europe, there are approximately 350 newspapers, 100 magazines, around 30 press agencies and several dozen television companies that are registered in Azerbaijan. Some critics complain about government domination of the national television channel, but there is a number of private channels in my country, expressing variety of political views. I believe the views that will be expressed today by the leaders of opposition parties have appeared more than once and freely in the Azerbaijani media. The fact remains that freedom of the press is alive in Azerbaijan.

SUMMARIZING THE PATH TO DEMOCRACY

In sum, Azerbaijan has not reached perfection by a long shot, but we believe that, in the face of difficult circumstances, we have made a promising beginning.

Further proof of Azerbaijan's steady progress toward a full democracy is contained in the unanimous decision made by the Political Affairs Committee of the Council of Europe Parliamentary Assembly to approve the recent report of Mr. Jacques Baumel of France, on "Azerbaijan's request for membership of the Council of Europe." In his opinion, "the Assembly considers that Azerbaijan has a democratic, pluralistic society in which human rights and the rule of law are respected, and, in accordance with Article 4 of the Statute of the Council of Europe, is able and willing to continue the democratic reforms initiated in order to bring its entire legislation and practice into conformity with the principles and standards of the Council of Europe."

Mr. Baumel reports that in interviews with most of the 34 political parties in Azerbaijan, each considered the present Azerbaijani Constitution "provides a sound base for the country's democratic development" and that "despite specific problems that may crop up from time to time, political pluralism is a reality in Azerbaijan."

In his conclusions, the Council of Europe rapporteur states: "since the first free elections were held in 1995, Azerbaijan has made considerable progress towards the building of a democratic state in keeping with Council of Europe principles, and has substantially demonstrated its commitment to democracy. The reforms which have been initiated, and which the Rapporteur considers irreversible, constitute a solid basis for a pluralistic State that is governed by the rule of law and shows due regard for human rights and fundamental freedoms."

907 AND THE U.S. ASSISTANCE

Over past decade, we have achieved a steadily growing confidence in the sovereignty and independence of Azerbaijan as well as its governmental stability, which, of course, is the foundation for all the other freedoms and rights mentioned above. As we have consolidated our independence, we have been able to advance our democracy.

But we cannot do it alone. We need your support and your help.

A peasant or worker who is barely making enough to survive, or a retired person whose retirement income is wiped out by inflation, may find it difficult to see the virtue in seeking democracy, if for no other reason than he or she does not have the time to devote to it, or because they do not believe it will make a difference. This is especially true of the one million Azerbaijani refugees—one eighth of the total population—who have been displaced from their homes by Armenian offensives seven years ago, or for those who perceive they had a better existence under the old communist system. Democracy is no substitute for bread for a hungry child.

For years, Azerbaijanis have considered the United States the world's greatest democracy. Yet, until recently, America could not help implement the elections because of the ban on assistance to Azerbaijan contained in Section 907 of the Freedom Support Act. This provision of law was enacted in 1992 by the Armenian-American lobby groups as part of their war effort against Azerbaijan. For several years, Azerbaijan's one million refugees could not even receive American humanitarian assistance. Yet, never once did an American Congressional Committee even hold hearings on the violation of human rights of hundreds of thousands Azerbaijanis deprived of their homes by Armenian aggression.

While we were able to carve out an exception from the ban for democracy building in 1998, that meant that the first seven years of Azerbaijani democracy had to be constructed without American assistance. During that time, we had the anomaly of America being able to assist opposition political groups, because they were not part of the government, but being unable to assist the government itself in the promotion of democracy.

As far as upcoming parliamentary elections are concerned, I would like to emphasize my Government's determination to work with the opposition, for the sake of future democracy, and not to please foreign observers.

The Government is in constant contact with the OSCE Office of Democratic Institutions and Human Rights, a representative of which has been in Baku in recent days. We believe that these consultations will lead towards a full consensus of all who care about my people's future, erasing any concerns about the democratic nature of the process.

I'd also like to mention that Section 907 still prohibits American assistance in the promotion of education, which is a foundation of democracy. As a result of Section 907, for a number of years Azerbaijani students studying English had to use old communist era textbooks because the American ambassador could not donate modern English-language texts to Azerbaijan. I remember US Ambassador Rich Kauzlarich's lamentations about these textbooks presenting the U.S. in a communist way, so to speak.

But worst of all, think of the example of democracy that Section 907 presents. It tells many Azerbaijanis that American ethnic groups can get their way in Congress through political pressure—despite the fact that successive American administrations strongly oppose Section 907, as does a who's who of the American foreign policy establishment.

CONCLUSIONS

Given the facts of Azerbaijan's struggle to fully implement its democracy, one could either conclude that the glass is half full or half empty. Our critics, of course, always say the glass is half empty. But I am an optimist. I say the glass is half full, and well on its way to becoming full. I also believe different countries are at different stages of development in their democracy. I believe that by having improvement every single time an election is held, we demonstrate not only our commitment to promoting democracy, but also our potential for further growth.

We have chosen a difficult and rocky path to democracy. It is a hard road to follow, but we are determined to do so. We look forward to working with you and we would appreciate any assistance, any constructive engagement from the established democracies.

PREPARED SUBMISSION OF ABULFAZ ELCHIBEY

Dear Members of the Commission, Ladies and Gentlemen,

It is for the first time that I am in the United States of America, a country looked upon by many as a bastion of freedom and democracy. The United States is a superpower that took upon itself the responsibility to defend and support democracy and freedom in the world and to help resolve conflicts among and even within states. The present administration has reiterated that objective as well.

It is not an easy task. Besides laws, conventions, and political endeavors, there are, and there should always be in politics, ethical values, such as justice and honesty. Values that had been shaped throughout history and which are our common heritage. I believe that in their main political actions the United States are governed by these underlying values and will not abandon its global role of defending freedom and democracy worldwide. In general, the United States policy has been effective and that is why democrats in Azerbaijan and in the world consider the United States to be their best ally.

Unfortunately the U.S. policy toward any country, and here I want to speak about my country, Azerbaijan, is not shaped by one factor and dimension only. U.S.-Azerbaijan relations, even when based on the right premises, are also influenced, sometimes strongly, by corporate interests, by group interests, by individual people, who deviate from the ethical principles of the U.S. foreign policy. Sometimes it is the case even of appointed U.S. representatives. Whether an individual is himself a democrat matters in politics a lot. If one looks, for example, at the rotating chairmanship of the OSCE, one will see that the OSCE attitude toward democracy in Azerbaijan changes from year to year depending on whom, and what country is at the helm. Sometimes there is no congruity between U.S. political principles and the interests of the oil companies. This creates an unhealthy situation in which democratic politicians are pressured from two conflicting sides. Such was the situation when the oil companies were pushing for a pipeline through Iran, while the U.S. government and we, the democrats in Azerbaijan, were supporting the Baku-Ceyhan pipeline route. The oil companies were taking revenues into consideration. We took under consideration our national interests, regional cooperation, and long term strategic policies.

I did not come here to criticize U.S. policy. Each country should run its own foreign policy according to the will of its own people. What I want to stress is that in issues such as security, independence, territorial integrity, freedom, and democracy in Azerbaijan, there should not be any ambiguity in the U.S. policy. The people of Azerbaijan are carefully listening to what the United States says and we ask you to clearly articulate your positions.

When we return to Azerbaijan, our constituency will ask us: Does the United States support the democrats in Azerbaijan? What should we tell them? The U.S. took a tough position against dictators such as Milosevic and Lukashenko. What is the U.S. position toward Heydar Aliyev? If all the election in Azerbaijan since 1993 have been declared by independent international observers to be undemocratic and unfree, but 15 out of 120 Members of Parliament are from the opposition because such is the whim of Mr. Aliyev - does it mean that Azerbaijan is a democracy? We do not think so. Each time we wanted to boycott the elections because of the unfair election laws, the U.S. was telling us: "go and participate, it is a good learning experience, monitor the viola-

tions.” We did go, we monitored the violations, we did it several times. The violations were monstrous. Sometimes we were consoled that in Uzbekistan it is even worse. We do not want to be compared to Uzbekistan. We would like to be compared to Estonia, for example. Why not to the Czech Republic? It is true that having a few deputies in the parliament has some advantages because they can say some words of truth. But they cannot have influence in politics, nor can they pass any legislation. On the other hand, by agreeing to go to elections and sending our people to the parliament, we give the present government legitimacy it does not deserve.

This time, at the eve of the November 2000 parliamentary elections we will do everything in our power to change the law on the Central Electoral Committee, the Law on the Elections and we will make sure that our candidates are registered and that the votes are honestly counted at the polling places.

And we would like to know whether you are supporting free and democratic elections in Azerbaijan. Are you supporting the democrats?

When the democrats in Azerbaijan see the vacillation of the U.S. or of West's policy toward democracy in Azerbaijan, and let me assure you here that the majority of people in Azerbaijan are democrats, they feel hopeless, abandoned and suspect the Western democracies of cynicism.

If people in Azerbaijan will become disillusioned, they may turn toward the two neighbors who are doing everything in their power to attract and pressure them: Russia or Iran, and believe me that it will be good neither for democracy in Azerbaijan nor for the United States.

There are issues universally considered not to be internal matters of any given countries. Such issues are, among others, human rights, terrorism, narco-traffic, and also democracy.

I strongly believe that democracy in Azerbaijan will have stronger ramifications, than just bringing freedom and prosperity to our citizens. Look at the map. We are the largest state in the Caucasus. We are a mostly a Muslim population, both Shiite and Sunni, but a secular state, with both Asian and European traditions. We lived through democratic governments. For short periods, it is true: from 1918-1920 and during 1992-93. We had a democratic mass movement of the Popular Front of 1988 which survives until today in the form of several democratic parties. We have democratic traditions, democratic intellectuals, our youth thinks in a modern democratic way and Azeris are well educated people. Our people know so much about democracy, that it reminds me of the anecdote about a Soviet dissident who was distributing blank leaflets. “Are you crazy?” he was asked. “Why don't you write something on these leaflets?” “Why should I write anything? Everybody knows everything, anyhow.”

We are known and respected for our religious and ethnic tolerance. We lived with Armenians side by side for centuries, and the recent war was in no way a religious war. It was a territorial war instigated and provoked first by the Soviet Union and later by Russia. I am proud that it was during our government of the Popular Front that we passed the first most tolerant law on national minorities in the former Soviet Union.

We can be a bulwark, an example, a center from which democracy can radiate to Central Asia. Turkmenistan, Uzbekistan, Kazakhstan, Tajikistan and even Kyrgystan are on a dangerous way not only toward full dictatorships, but lately they have been reinforcing their links with Moscow and with the Commonwealth of Independent States.

Already in 1992-93, Azerbaijan, as a Turkic language-speaking nation, and the only democracy among Muslim nations of the former Soviet Union, as a more economically developed nation started to be a magnet for democrats in Central Asia. Unfortunately our government was overthrown by a coup, and many of the Central Asia democrats are today either in prison or have emigrated abroad. Of course Turkey, a free market and democratic state is also very important state as an example, but since it did not go through the communist and Soviet experience it is more distant from the Central Asia republics than is Azerbaijan.

If you look at the map again, you will see how close is Azerbaijan to Chechnya. You will see that Azerbaijan has a long common border with the Russian Federation in Dagestan. If the war in Chechnya, which is not an internal matter of Russia, but a genocide of a nation, is not stopped immediately, there is a danger that other conflicts and wars may erupt in the North Caucasus. And the Caucasus is indivisible. The North and the South are closely connected by culture, tradition and multiple links built throughout the centuries. Let me repeat: Azerbaijan is the largest state in the Caucasus. A democratic Azerbaijan, with its people supporting its government, which is not the case today, may be a strong deterrent for Russia if it is planning new expansions in the Caucasus. And it is the only state in which there are no Russian troops. This is also one of the achievements of our government of Which we are very proud.

In my short remarks I mentioned only some key issues. I am more than willing to answer all questions and discuss all issues including such important issues as the return of the occupied territories to Azerbaijan and the unjust imposition of Section 907; the issue of refugees in Azerbaijan; our willingness to join the NATO structures as the only guarantee of our security, and others.

Let me finish by saying that we are very grateful for the support given thus far by the U.S. Congress, by the U.S. government, by U.S. non-governmental organizations and by individuals to the democrats in Azerbaijan. That support has been very important and useful for us. Because of that support some political parties were registered, some newspapers were not closed, some people were released from jail.

I also believe that the effectiveness of this support could be increase manifold if you apply even more pressure on the present government of Azerbaijan to adopt democratic election laws. We, for our part, will do everything in our power to do so and I hope we will unite our forces to see soon a democratic Azerbaijan which will be beneficial to the people of Azerbaijan, to the Caucasus, to Central Asia and also to the United States.

Thank you very much for your attention.

PREPARED SUBMISSION OF ISA GAMBAR

Mr. Chairman, Members of the Commission, Ladies and Gentlemen,

Let me first of all, Mr. Chairman, thank you for inviting me to testify at this hearing which I consider significant for the development of democracy in Azerbaijan as it passes through a difficult and important period. As an Azerbaijani politician, from a moral perspective, it is not easy for me to speak about my country's problems in front of the legislative body of a foreign country. In all likelihood, it is not pleasant for you to constantly hear about the negative state of human rights and lack of democratic progress in countries like mine.

But if we are all convinced that the issue of human rights is not merely a matter of the internal affairs of any given country and that regimes which refuse to guarantee the rights of its citizens to determine their own destiny should not enjoy the trust of the international community, then I believe our presence here is justified and important.

I do not intend to add to the evidence that clearly demonstrates that violations of civil and political rights in my country are commonplace. You have enough information with respect to this from the annual human rights reports of the State Department, OSCE and Human Rights Watch. These reports I believe are objective and well prepared. However, I must stress that these and other reports do not fully disclose the actual scale of human rights violations. Under the current regime, the country is being plunged into a moral, political and economic crisis which could lead to either the triumph of despotism over democracy or a highly destructive social explosion.

ON HUMAN RIGHTS

"Give me time," says the head of the present regime to Western leaders, adding that democracy cannot be established overnight. He gains their empathy and thereby more time, but unfortunately this additional time is only being used to further subdue the people of the country to the rule of one person and his family. In the field of democracy and human rights, we are step by step falling to the level of a former Soviet Republic but with a level of corruption which could not have been even imagined during Leonid Brezhnev's time.

Following the recent municipal elections, it became even more apparent that a one-party regime has been established. This regime fully controls all organs of power and only pledges allegiance to itself. The democratic laws on personal and political rights adopted in 1992-93 by the then democratically elected government are now being systematically changed with the aim of restricting our freedoms and replacing the functions of the judiciary with executive authorities.

The values of independence, self-governance and a free market economy, enthusiastically embraced by our society in the early 90s, are now under being questioned. Increasing numbers of people feel less like citizens of our country and more like subjects of a great and unseen Big Brother, like that found in the Orwell's novel.

"There is corruption everywhere"—the leader of the current regime loves to point out time and time again. "There are no free elections anywhere" and "capitalism has always amounted to stealing." These are the main postulates of the ideology enshrined by the current regime, an ideology which unfortunately can, with time, come to dominate the thinking of the people. The warm receptions received by pro-Western dictators on the green lawns of the white houses of the Western

world and in the villas of the captains of multinational corporations have also served to bolster this ideology and the hold it has over the people.

ON ELECTIONS

To justify this almost unlimited authority while still responding to the demands of the international democratic community, the authorities are forced to conduct elections. However, observers from the US, the OSCE, the Council of Europe and elsewhere have stated that all the elections carried out in our country over the past five years have “not met international standards.” It is worth pointing out that to our ears, the wording of such statements can be confusing and unclear. To date, we have yet to hear a more precise, direct and clear position coming from the organizations represented by these western observers. In the meantime, the regime has been perfecting new irregularities for the next elections.

As you are well aware, all members of election commissions are appointed by the president and therefore dependent on him. The falsification of elections begins with the process of registering political parties and individual candidates.

Another major point at which elections are falsified takes place during the vote counting process. During the last elections in 1999, new “energy-saving” technologies were applied. Now the authorities do not even take the trouble to deal with falsified electoral bulletins. Local polling commissions send their signed empty protocols to the Central Election Commission (CEC) where they are completed in accord with the desires of the head of the present regime. The courts, totally under the control of the president, refuse to even consider complaints lodged by rejected or defeated candidates. In addition, the president pardons bureaucrats who committed violations of the election laws. By doing so, the bureaucrats are not only not being punished but are exempt from punishment for these violations in the future.

The Musavat Party, the oldest party of the country, declared Azerbaijan independent for the first time, back in 1918. This party, which I represent here, was prohibited by the Central Election Commission from participating in elections in 1995. We have information, that the regime once again intends to ban Musavat from this year's elections—the party is simply too independent and popular to justify the risk.

FOR FREE AND FAIR ELECTIONS

Fortunately, the present regime's efforts to suppress the democratic movement in Azerbaijan have so far failed. Only with the moral support of the international community do the country's democratic forces continue to defend the freedoms and rights gained by the people during the movement for independence in the early 1990s.

Recognizing its responsibility to maintain stability in the country, the democratic opposition has preferred to carry out its struggle within the framework of peaceful actions and protests. The main aim of our struggle for democracy is to first change electoral legislation, in particular, to ensure that electoral commissions are independent and free from outside influence. We will not retreat from our goals because there is no place to retreat to nor is there anybody else who can do this job for us. If the upcoming parliamentary elections are held according to the

old scenario, then there will be a deepening crisis in all the spheres of public life mentioned earlier, and we may end up with a destroyed or dying-away country.

A lot has been written about Azerbaijan's natural wealth and strategic geographic location, but I would like to emphasize the strategic importance of Azerbaijani democracy. Peace and stability in the South Caucasus is dependent on the strength and reality of the independence of Azerbaijan, Armenia and Georgia, on the end of aggressive policies in the region, on the resolution of the region's conflicts within the parameters of international principles and on the development of democracy and human rights in these countries.

A democratic Azerbaijan could be an attractive example for other Muslim countries of the former Soviet Union and those of the Middle East which are in the process of searching for the best mode for development. An Azerbaijan where people enjoy freedom of religion and conscience could become a reliable stronghold against religious intolerance and extremism. These challenges can not be answered through enlightened despotism but only through pluralistic democracy.

Let me again return to the elections. We claim that today "resolution of all the problems of Azerbaijan depend on free and fair elections", but they are also important with regard to honest Azerbaijani -American relations. We call on the United States of America and today, in this place, especially on you, who have been elected in free and fair elections to morally support the aspiration of our people to form a government which is accountable to its people. If we will succeed, both of our countries as well as the world at large will be the winners.



PREPARED SUBMISSION OF RASUL GULIEV

Mr. Chairman and Members of the Helsinki Commission, first of all I want to express my appreciation on behalf of the Azerbaijan Democratic Party (ADP) and the thousands of Azeri citizens who support the ADP for holding these hearings around a topic that is crucially important for the future fate of the Azerbaijani nation. During the past several years I have met with many Members of Congress seeking congressional hearings about the situation in Azerbaijan. All have agreed that more needs to be done to educate US policymakers about the true situation in Azerbaijan, and that hearings by the Helsinki Commission would be an important step in raising awareness about what is happening today in Azerbaijan. I am grateful to you, Mr. Chairman, and to your colleagues who have worked to make today's hearings a reality.

I am Rasul Guliev, former Speaker of the Parliament of Azerbaijan (1993-1996) and Co-Chair of the Azerbaijan Democratic Party. I resigned from my post as Speaker in 1996 in protest against the human rights violations, censorship policies, widespread use of bribery and corruption, and anti-democratic policies of the current Aliyev regime. For most of my professional life I was a worker at Baku Oil Refinery. I joined the refinery as a foreman in 1971, and became General Manager. In 1992 I was named Vice President of SOCAR, the State Oil Company of Azerbaijan Republic. Since resigning as Speaker and coming to the United States where I live in exile, I have authored three books: *Oil and Politics*; *Path to Democracy*; and *The Purpose of Our Struggle*.

I very much appreciate the opportunity to testify before you today. Yet at the same time I feel a great sense of sadness that my motherland—Azerbaijan—has not yet been able to realize the promise of democracy which we anticipated when we gained our independence after the collapse of the Soviet Union. I am deeply troubled by the fact that my country is ruled by a dictatorship regime that continuously and ruthlessly violates human rights.

Today I would like to paint a picture for you in words of what life is like in Azerbaijan—how Heidar Aliyev came to power and maintains his stranglehold on power. I would like to tell you about the living conditions of the Azeri people, including those who have been forced to leave their homeland; about the situation with respect to political prisoners; corruption and bribery; about barriers to achieving democracy and respect for human rights in Azerbaijan, and about issues around the upcoming parliamentary elections.

I would like to ask that my complete statement be made part of the hearing record, and I will summarize it for you now.

When Azerbaijan secured its independence from the Soviet Union in 1991 we had much hope that democracy would be established in our nation. Unfortunately, former KGB ruler of Azerbaijan, Heidar Aliyev, took over our country in a 1993 coup and has increased his firm grip on power in the years since. We do not have separation of powers in Azerbaijan such as you enjoy in the United States. There is no independent parliament, judiciary, or local government in Azerbaijan—all are appointed and under the absolute control of Heidar Aliyev. The Chairmen of the police, prosecutors, heads of administrative offices, directors, even deans, presidents, and department chairs of universities, institutes, and technical colleges are all appointed by Heidar Aliyev. In summary, no position exists in Azerbaijan that can express its own will, or to which citizens can gain appointment through elections. The right to elect and be elected in Azerbaijan has been totally seized.

Out of a population of 7 million people, two million have been forced to leave in order to find employment to support their families, and over one million are internally displaced persons who live in deplorable conditions in refugee camps as a result of the aggression by Armenia over Nagorno Karabakh and neighboring territories within Azerbaijan. In this regard I want to make a small digression and on behalf of Azerbaijan Democratic Party and all Azeri people I want to appeal one more time to US Congress to abolish section 907 of Freedom Support Act which prohibits US aid to Azerbaijan: the nation which has been subjected to aggression by another state should not and must not be treated so unfairly. In the midst of rich natural resources, there are extreme levels of poverty. Human rights abuses have been documented by international organizations and by the US State Department. They include suppression of the opposition and the media, and beatings and arrests of opposition leaders, journalists, and their relatives.

There has been a series of falsified elections since the coup that brought the Aliyev regime to power in 1993. Parliamentary elections in 1995, presidential elections in 1998, and most recently, municipal elections held in December of 1999 have all been falsified and failed to meet international standards, as has been documented by international elections observers. Serious and numerous irregularities included ballot stuffing, forged signatures on voter lists, problems with vote counts, inappropriate conduct by the election commissions, and restrictions on the access of international observers to the vote count process. Pre-election environments that have prevented free and fair elections included restrictions on freedom of assembly, use of excess force by police during political rallies where leaders of opposition parties have been beaten and arrested, and interference with television broadcasting to restrict the ability of the opposition to reach the electorate. Up until the present day the Central Election Committee, which is also controlled by the Aliyev regime and which is responsible for the conduct of elections has not publicly announced the election results and protocols.

Now a fourth election is on the horizon. The next round of parliamentary elections is due to be held in November and we have grave concerns that this election too will be falsified. A major issue continues to be the control of the Central Election Committee by the Aliyev regime.

The obvious question comes up: Why has the Azerbaijani nation, which fought as hard as Baltic states to escape from the captivity of the Soviet Empire in the processes that started in 1988, that sacrificed hundreds of lives for its independence in the turmoil of January, 1990, fallen to such a deplorable state and why can it not struggle decisively for human rights and democracy?

There are many reasons for this. The main one, in my opinion, is the repressive program of Heidar Aliyev. He brought back into usage from Stalin days the term "enemy of the state." There is not a single leader with an opposing view who has not been called "enemy of the state" by Heidar Aliyev at least once.

From 1996 to the present day thousands of innocent people have been subjected to Aliyev's investigations, including being sent to prison where they have ended up in isolation and subjected to torment and torture. The persecution and repression of citizens works like a conveyor belt: charge with fictitious crime—investigation— isolation—torture—trial—prison. Some of those arrested who are able and who agree to pay bribes can save themselves. When there is no more room in the prisons an

amnesty is declared with a decree from the president, room for new prisoners is created, and the first stage of the conveyor belt restarts. Today it is no secret that in Azerbaijan thousands of innocent people have been arrested under false accusations such as threatening the life of the president, participation in terrorist acts, or embezzlement of the nation's property. These are the standard charges used to throw innocent citizens into prison. And while the death penalty has been officially abandoned in Azerbaijan, many prisoners have died mysteriously in prisons, either because of torture or because medical help was withheld from them.

This situation, coupled with the inability of suspect citizens to find jobs, has caused over two million Azeris—out of a population of 7 million -- to leave the country. They are now scattered over many countries of the world. The resistance of the people against the anti-democratic system has been weakened because of the fact that such a large proportion of our citizens has been forced to leave their country.

In summary, there are three main barriers to participation in the struggle for democracy and human rights in Azerbaijan:

- First, the conveyor-like repression that has intimidated citizens in an effort to make them obedient.
- Second, the forced displacement of many of Azerbaijan's intellectuals and leaders from the country.
- Third, the fact that there is no middle class in Azerbaijan that can struggle for the rights and freedom of the people. Why? Because the level of corruption and bribery in Azerbaijan is so high—4th among all countries of the world—that the ruling regime is enriched and lives in extreme wealth, while the rest of the population lives at a level of poverty or beggary.

Barriers to achieving democracy extend beyond ordinary citizens even to our parliament. The very small number of members of parliament representing the opposition is not even allowed to meet with the electorate. Even the members of parliament from the president's own party—the New Azerbaijan Party—cannot meet with the electorate without his permission. Only two members of parliament, Aliyev's son Ilham Aliyev and his brother Jalal Aliyev, are excluded from this rule and are able to meet the electorate. And the parliament's right to pass laws has been restricted. The president has placed a prohibition on one of parliament's important functions—the right to control the state budget.

A familiar argument made by the Aliyev regime is the thesis that “it took the United States 200 years to achieve democracy.” I wonder what he means when he says 200 years? Maybe he thinks that free and fair elections in America have been conducted only since the 1990's? In my opinion, regardless of any excuses, falsification of elections has no connection with democracy.

Some commentators, in trying to note a positive step toward democracy of the Aliyev regime, point to the abolition of censorship. Censorship was formally abolished just prior to the flawed 1998 presidential elections, but then immediately informally re-instituted after those sad elections.

In Azerbaijan the government has a monopoly on materials necessary for publishing newspapers, including the paper itself and the print materials. The government has raised the cost of paper to such an extent that today the price of newspapers is several times as much as those published in America or western countries. And try to imagine what level of opportunity there is for a citizen with a \$20 per month salary to buy a newspaper?

Secondly, groundless accusations have been brought against independent newspapers and individual journalists by the government. Presidentially controlled courts have leveled astronomical fines against them that have effectively put them out of business. Pressure and repression against journalists is a regular occurrence in Azerbaijan.

Television and radio channels in Azerbaijan are under the control of the government. The three television channels and two radio channels in Azerbaijan are busy praising the Aliyev regime 24 hours a day. Transmission by opposition members is not allowed, so in effect, the Aliyev regime has converted television and radio into a means of propaganda against opposition forces and those struggling for democracy. One relatively independent "SARA" television channel attempted to operate in Azerbaijan, but it was shut down by the government after only three months.

As you know, the next round of parliamentary elections is due to be held this coming November. In order for these elections to be free and fair and to reflect the real will of the people, agreement on two election laws is essential. Time is running out, as these laws are being considered by the presidentially controlled parliament this month for "discussion" and confirmation," and the parliament is scheduled to adjourn in the next several weeks. The laws are "On The Elections To Milli Mejlis Of The Republic Of Azerbaijan" and the law "On The Central Election Committee."

The importance of the relationship of these laws to the issue of free and fair elections cannot be overstated. The Central Election Committee is currently controlled by the government, and the fact that Heidar Aliyev will not agree to a Central Election Committee that has the confidence of those wishing to participate proves once again that he wants to cheat the people of his own nation and the whole world society as well. Both laws create insurmountable barriers for the parties and persons he opposes to participate in the elections and both create opportunities for falsifying the results of the elections once again.

There are many questions that require answers:

- Why does Aliyev not want to create a Central Election Committee on a parity basis so that it has the confidence of those who want to participate in the elections?
- Why has the declaration of the results and protocols of the recent elections been prevented?
- Why is Aliyev opposed to increasing the number of international observers in the November elections?
- Why does Aliyev move police forces and use violence against the citizens who want to hold peaceful rallies and demonstrations demanding free and fair elections?

I can only say that anyone believing that he enjoys the support of the nation would not rule the state in such an anti-democratic manner.

As necessary as air and water are for us, it is that necessary for elections in Azerbaijan to be conducted fairly, that they be transparent, that people have the right to express their ideas freely and independently. A democratic future for Azerbaijan can start with these elections.

What do we want?

- We want an end to the tragedies that the Aliyev regime has brought to Azerbaijan.
- We want an end to the situation where the average salary of the Azerbaijani citizen is only \$200 per year.
- We want an end to the situation where over 90 percent of the population lives in poverty, while people close to Heidar Aliyev live in luxury and make millions as a result of corruption and bribery.
- We want an end to foreign investors leaving our country because of the astounding level of corruption and bribery.
- We do not want our citizens who think differently than those in the government to be arrested and charged with “crimes” that they did not commit.
- We want an end to a situation that crushes people's hope for a better tomorrow by dragging the nation into destitution today.

What specifically do we want with regard to the upcoming elections?

- We want approval of election laws and a Central Election Committee that will enable the citizens of the country to express their ideas freely and independently, not laws that create inevitable opportunities for falsification of the results of the elections.
- We want television and radio, which are financed by the taxes collected from the Azerbaijani nation, to be independent and to allocate transmission time so that the views of the opposition can be aired.
- We want an end to repression and fictitious criminal cases against those who stand in opposition to the current regime.
- We want the number of international observers to be increased sufficiently and for their opinion to be respected.
- We want elections to be held in Azerbaijan to be democratic, free and fair. If we can achieve this with your help, I assure you that within a very short time Azerbaijan will become the stimulator of democracy in the Middle East and Central Asia.
- We want the restoration of the territorial integrity of Azerbaijan, provision for rule by law, and an increase in the standard of living of our citizens through the achievement of economic development and full participation of citizens in the economy.

Mr. Chairman and members of Helsinki Commission, we realize that those changes should be done for the people of Azerbaijan and by the people of Azerbaijan only through democratic methods. And although for the last seven years the Aliyev regime has done everything possible to destroy the opposition, not only has the opposition been able to survive but also to continue its struggle for democracy more and more vigorously -- this fact itself shows the desire of the Azeri people for democracy and the possibility for its rapid achievement. We are doing all we can in this struggle, and we ask for your help. And may God be with us.

PREPARED SUBMISSION OF NAZIM IMANOV

Mr. Chairman, Ladies and Gentlemen,

Allow me first of all to thank the US Congress for its attention to human rights issues worldwide, and to express the hope that this hearing will become another strong element of partnership between Azerbaijan and United States in the area of democracy and respect to human rights. We in the National Independence Party of Azerbaijan assume that the US congressional hearings will promote renewed US assistance to Azerbaijan in strengthening its democratic institutions.

This year is crucial for Azerbaijan's democracy. Understanding of that I found in the text of invitation letter you sent to the participants of this hearing. If parliamentary elections of November 5, 2000 follow the tradition established by our country's decade of independence, then citizens of Azerbaijan will be forced to wait a long time for a new opportunity for positive and peaceful historical change. By the way, this wrong tradition comprises not only domestic problems, but also an international one—the tradition of extremely moderate international reaction to election fraud.

If citizens can not exercise their formal right to change their government at free and fair elections, then democratic political activism and participation fade out. This creates favorable conditions for different sorts of authoritarian rule or dictatorship. Lack of government accountability to the parliament, as well as lack of transparency in the government, undermine economic growth. Both these trends are clearly visible in the present-day Azerbaijan: voters' turnout is declining dramatically year after year, and foreign investors are leaving the country almost in a rush because of Azerbaijan's corruption index being just the same of Nigeria's and Indonesia's.

Economic devastation and inefficiency are becoming an imminent result of lack of democratic guarantees to property rights, government transparency, and political freedom. Our party views the strongly protected property rights, and economic freedoms as the most reliable and lasting basis for democratic institutions in Azerbaijan.

Irregularities of the 1998 presidential elections, where Chairman of our Party Mr. Etibar Mamedov was the main opponent to Mr. Heydar Aliyev, are described very well in the 1999 Human Rights Report of the US Department of State. Result of voting by polling stations—the only true legal evidence of the current president's real electoral performance—are not made public so far, although the legal deadline for publishing these reports were 10 days after the end of voting. By the way, 7 members of our party are still imprisoned because they took part in a rally protesting the non-publication of official reports by polling stations.

Courts do not accept any appeals of opposition about election irregularities. This is just one element showing the real status of judiciary in Azerbaijan. There are much more examples from other areas which prove that courts in Azerbaijan enjoy no independence from the executive power.

It is worth of noting here that the election fraud in 1998 took place just a year after Heydar Aliyev's visit to Washington DC, where two presidents signed a joint statement. In that official document President Clinton welcomed President Aliyev's commitment to hold free and fair elections.

Despite all mistakes of the past, people of our country still maintain their belief in the potential of democracy. Parliamentary elections of 2000 would be a final test not only for the strength of this belief, but also for the reputation of democratic countries among ordinary Azerbaijani voters. National Independence Party of Azerbaijan will do all its best to mobilize voters in this crucial year. However, we need good laws, and proper law implementation to ensure that votes will be counted, and people will be heard. The issue of democratization should not become a pretext for restrictions against Azerbaijani state because such sanctions, just like Section 907, would make all people in Azerbaijan suffer, and would have no effect on the government. Combined efforts of democrats in Azerbaijan and in the West—with respect to sovereignty, independence and other fundamental achievements of Azerbaijani nation—this is what we really need for democratic prosperity in our country.

In the end, I would like to draw your attention to one recent publication. Last week the official *Xalq Qezeti* newspaper in Azerbaijan wrote that Mr. Christopher Smith was summoning opposition parties to instruct them about the composition of the new parliament, which would play an important role in future government changes. Of course, National Independence Party of Azerbaijan does not share such perception of the current event, as you can feel from this presentation.

Thank you very much for your attention.

PREPARED SUBMISSION OF CATHY FITZPATRICK

My name is Catherine A. Fitzpatrick and I am executive director of the International League for Human Rights, a non-governmental organization based in New York with representatives in Geneva and a network of affiliates and partners around the world. The League, now in its 59th year, has special consultative status with the UN's ECOSOC and its mission is to protect human rights defenders worldwide and to help strengthen the capacity of international institutions to respond to human rights violations. The League has long been concerned about the development of democracy and human rights in Azerbaijan, and we have maintained a special focus on this strategically-located, oil-rich former Soviet republic, which we would like to see avoid many of the tragedies Nigeria witnessed in recent years. We see the establishment and protection of a vibrant civil society in Azerbaijan, with significant U.S. government and private support, as an important factor in resolving persistent regional problems such as the Nagorno-Karabakh conflict, and in creating stability in the Caucasus, especially at time when the whole region has been affected by Russia's prosecution of the war in Chechnya.

The League has two partner organizations in Azerbaijan, the Association of Lawyers of Azerbaijan and the Azerbaijani Advocates Association, as well as other colleagues such as the Baku Center for Human Rights. Our president, board members, and staff travel to Azerbaijan frequently to maintain contact with our partners there and provide our support.

In anticipation of the November parliamentary elections, the OSCE, CSCE and other international organizations are once again focusing on conditions for what might best be termed a balloting exercise. That is, as with the presidential elections in 1998, under pressure from Western institutions, some changes in the law or the electoral commissions or the access to state media may be made, but they won't add up to genuinely free and fair elections that will consolidate an authentic democratic government with a thriving civil society. Even democratic elections cannot bring about democracy, unless due diligence is exercised now about the civil and political rights which make up the nuts and bolts not only of electoral machinery but the ultimate checks and balances of power—freedom of speech, association, and assembly, and an independent bar that can vigorously protect these basic rights. The League has maintained, in examining a number of flawed election settings around the OSCE, that unless basic goals of registration of parties, NGOs, and trade unions as well as legalization and the independent media and peaceful assembly are tolerated, full-fledged observation teams should not be sent, thereby further legitimizing the absence of basic human rights required for democracy to take hold.

Therefore while there are many glaring human rights issues in Azerbaijan which must urgently be tackled—torture in detention, failure to protect refugees, political prisoners, and so on, we have focused on the importance of the bar and human rights NGOS, without which it is possible to even have a human rights movement to resolve the harder issues.

INDEPENDENCE OF THE BAR

An independent, fee-paid, private bar, free of interference by the Ministry of Justice and other government agencies, allowed to practice freely

and safely, should be the centerpiece of any democratic reform program. International human rights treaties specify the right to choose one's counsel or certain protections for lawyers, but the institution of a private, non-state, fee-paid bar, a goal related to market reforms and principles of free enterprise not necessarily protected in international law, has received less attention although it is a cornerstone of our own U.S. democracy. We have stressed the importance of support of the independent bar as a priority over other legal reform projects like reform of the criminal justice system, judge, and police training because without independent trial attorneys, there is no one to employ the law and the courts to instill the rule of law. Just as, in the words of A.J. Liebling, "freedom of the press belongs to him who owns one," only a private bar can ensure the rule of law. Our own history illustrates the importance of public interest litigation in developing and implementing human rights and government accountability. Lawyers have a vested interest in legal reform, and attention to their concerns should be the priority in any U.S. sponsored rule of law program.

In Azerbaijan, lawyers have had an uphill struggle breaking away from the state-sponsored Collegium of Advocates, the Soviet-era body which regulates the bar. In the last three years through a series of presidential, ministerial, and judicial decrees or instructions, a private bar with licensed attorneys practicing independently of the state first came into existence and flourished, and then was repelled, punished and put out of business when the state bar became jealous and the Justice Ministry saw that a force had appeared to seriously press for protection of civil society through the courts.

In Azerbaijan, three types of legal professionals: jurists, who have legal education and provide legal services and can defend a client in a civil proceeding; advocates, who have further credentials and training and can defend a client in criminal court, and notaries, who perform legal transactions such as real estate deeds.

Formally, the Collegium is independent from the Ministry of Justice and any other state control. In reality, it, like most semi-public institutions in Azerbaijan, is governed by the state's political influence. Although the Ministry of Justice does not micromanage the day-to-day operations, the Collegium leadership knows what is politically acceptable to the Presidential Administration and the Ministry of Justice. The leadership toes the line and ensures that the lawyers it controls stay in line as well. When it does not, a phone call from above can quickly energize the Collegium leadership into action.

In addition to the pervasive fear in Azerbaijani society of causing dangerous political offense, advocates working within the Collegium are influenced by the organization's direct control over their work and pay. The Collegium controls the flow of case work from the criminal justice system and requires lawyers to turn their fees over to the Collegium's accounting offices. This is among the features of a Soviet-style Collegium that make it different than a Western-style professional society; it functions as a kind of law firm itself. An advocate's clients and salary are supplied by the Collegium, which in turn takes between 15% and 25% of the advocate's salary. Local lawyers have stated that they turn over as much as 58 percent of their fees to the Collegium: about 38 percent goes to taxes, and 20 percent for the Collegium's "upkeep."

Lawyers in Azerbaijan report that the Collegium presidium rarely interferes directly in an individual advocate's work, but that typically a lawyer's Collegium supervisor monitors the lawyers under him or her and exerts pressure through slightly more subtle means such as suddenly not finding cases to assign a lawyer who shows too much independence. Since an advocate's work is officially channeled through the Collegium (even if clients approach a specific advocate, as they often do), an advocate can be precluded from earning a living inside the Collegium and thus forced to seek one outside. Under recent regulations, advocates may sign a contract with a private client to handle civil cases, but the Collegium becomes suspicious if an attorney is not available for its case assignments, some of which are pro bono for indigent clients. Thus, the best, most independent attorneys are forced to juggle an unwieldy load of cases they have taken to keep the Collegium off their backs; pro bono or low-paid cases of political activists in trouble with whom they sympathize; and other paying clients with civil or criminal cases who may wind up getting them in trouble with the law through their fees.

Advocates have very little power, either in the broad political scheme or within the justice system itself, and they are vulnerable to the influence of the prosecutor's office and the police in addition to the higher political authorities. Faced with the enormous power of the state's prosecution machinery and pervasive judicial corruption, often the best a lawyer can do is to resort to technicalities or health grounds to seek a sentence reduction or a client's release. For this reason, the general public frequently describes advocates as "musicians at a funeral" you need them for the ceremony, but they can no longer really do anything for you once you are arrested.

Currently, the Collegium of Azerbaijan has approximately 500 members, of which an estimated 20 are believed to be attorneys independent enough to choose to defend politically-sensitive clients. Given the country's eight million person population and the hundreds of citizens that have been caught in the net of state repression (journalists, human rights activists, political party leaders, rebellious policemen), there is a severe shortage of attorneys who can provide victims of human rights abuse, let alone the population at large, a serious legal defense.

In addition, the Collegium's monopoly on defending criminal cases deprives defendants of the opportunity to file suits or defend themselves independently, in clear violation of basic human rights and international standards for the legal profession, such as the UN Basic Principles for the Role of Lawyers. Moreover, attempts to practice as a non-member have been all but unthinkable: Article 158 of the Criminal Code of Azerbaijan punishes performing services without a license by up to five years of imprisonment. It is not known if this article has ever been invoked, but lawyers are intimidated by believing it could apply to them.

Until recently some confusion has reigned as Azerbaijan has moved to market practices regarding the rights and limitations of a licensed lawyer. Some felt that the 1997 presidential decree and the 1998 Council of Ministers' resolution gave licensed lawyers the right to engage in some of the same activities as their advocate counterparts, including taking on criminal cases, and to open up private firms. A December 1998 letter from the Minister of Justice sought to clarify this point of confusion by stating that only members of the Collegium had the right to take on criminal cases as defense lawyers. In many cases, it was up

to individual judges to determine which lawyers would be allowed into the courtroom. While some judges did in fact allow the licensed lawyers into the courtroom for criminal cases, there was always the factor of uncertainty, which made lawyers dependent on the arbitrary interpretations of the judges.

The new Law On Advocates and Advocate Activity, which entered into force on January 27, 2000, constitutes a significant step backwards because it fails to provide adequate means to license private practitioners of law free of state interference. Rather, the new formulation of the law reiterates the Justice Minister's distinction between jurists and advocates (even when jurists have the specified credentials) and worse, continues to designate the Collegium of Advocates as the main regulatory body of the legal profession, noting in Article 9 that "individuals who are not members of the Collegium of Advocates cannot engage in advocates' activities."

The fact that six of the nine members of the Qualification Commission, which selects Collegium members, are chosen by the executive branch and by the judicial branch, which, by many estimates, is heavily influenced by the executive authorities, serves to further undermine the independence of the Collegium. Perhaps it is no accident that the chair of the Collegium is on the Central Electoral Commission, and a supporter of Aliiev.

Adding to the monopolistic status of the Collegium is the fact that the Law makes no mention of the permissibility of alternate bar associations. The fact that they are not banned outright might be seen as encouraging, although their absence from the law, in a civil law setting, signals that they may not gain legitimacy. Article 58 of Azerbaijan's Constitution, which guarantees freedom of association as well as Article 6 of the Law On Public Associations do not specifically prohibit lawyers from creating associations.

The law does make mention of legal entities through which advocates can carry out their activities. Article 5 specifies that "the conduct of advocate activities shall begin after the state registration of the organization chosen for the activity on the basis of an organizational legal form. The founders of such an organization can only be advocates (i.e. Collegium members, emphasis added).

In general, this section of the law seeks to add to the monopoly of the Collegium, whose influence now will penetrate in each and every law firm employing advocates. Lawyers report that the damaging final clause was apparently not included in the draft version of the law, but was instead added at the last minute.

Many of these weaknesses in the Law could have been avoided had the government of Azerbaijan made the discussion of the draft law public, and provided ample time for revision. As it was, independent lawyers and other international experts were not allowed to participate in the process of drafting this highly important law. The government of Azerbaijan claims to have obtained approval from the Council of Europe (which keeps its recommendations secret), although it now appears that the text of the draft law which the Council of Europe was given for review was not the same one presented to and passed by the parliament later. In general, the government of Azerbaijan seems to have made little if no effort to incorporate suggestions from local and international

observers to avoid a law which contradicts Azerbaijan's own legislation as well as international norms, and which places serious restrictions on the legal profession.

Any democratic society must create a system for credentialing lawyers; this is not at issue. But such a credentialing body must be legitimized through participation by respected jurists, and if housed in the state itself, it must have the respect and cooperation of the genuinely independent bar, with the primary focus being professional self-regulation. This has not been the case in Azerbaijan.

The Collegium, with the apparent collusion of the Ministry of Justice, has conducted targeted harassment of one particular lawyer in apparent retaliation for his criticism of the Collegium and the Ministry of Justice and for his advocacy of a strong independent defense bar. Aslan Ismailov, formerly a judge in the Stavropol Territory during the Soviet era, and a prominent attorney and legal advisor to past governments, was a member of the Collegium until his dismissal in 1999. He received a license to provide paid legal services on June 12, 1998. He has served repeatedly, pro bono or for a nominal fee, as legal counsel in human rights cases that have met with government resistance, particularly cases involving freedom of the media.

The case of Aslan Ismailov provides an important window into the system of Collegium control and coercion over attorneys.

From February 21 to March 5, 1999, Aslan Ismailov and two other Azerbaijani lawyers - one a member of the Collegium, the other a licensed jurist attorney - traveled to the United States on a training and advocacy trip sponsored by the International League for Human Rights. During their stay, they met with judges, lawyers, journalists, scholars, congressional staffers, and government officials. Their trip coincidentally overlapped with a working visit by the Minister of Justice and the president's legal advisor, who were meeting with many of the same policy-makers as the lawyers. Their simultaneous presentation of information that directly contradicted what the Minister was saying was undoubtedly a cause of irritation to the Minister. Within days of his return, on March 18, Mr. Ismailov was informed that he had been expelled from the Collegium.

In a separate report to CSCE, the League has provided exhaustive detail on all the twists and turns in Mr. Ismailov's case. We've faced a continual war of facts with the Collegium of Advocates, the Azerbaijan government, and others, and we have been forced to present the copious detail to make the following points: 1) arbitrary licensing procedures led to the situation where the Collegium, on a whim after becoming annoyed at Ismailov's outspoken positions in the U.S. and at home, expelled him from the Collegium. 2) Through the intervention of the U.S. ambassador and others, he was allowed to continue to practice as a jurist, which of course deprives him of access to pre-trial detention and criminal court. Repeated interventions were not sufficient to reinstate him to the bar as a criminal trial attorney, and we urge the new ambassador and members of congress to raise his case anew and to remain persistent; 3) Ismailov attempted to protest the Collegium's actions in court, in trial observed by League representative, and the charges that private legal work somehow violated laws on commercial activity were clearly untenable, yet the court did not restore his membership; 4) the new law on the bar gives every indication of having been designed to keep independently-minded practitioners out of business.

The international human rights community has three interests at stake in this particular case. First, Ismailov is presenting the legal case for an independent bar, which must be a central element in legal reform for any country. Second, he is one of the most high-profile defenders raising important issues like corruption, media censorship, and other human rights violations, and not only in public, but in the courts. If he is silenced, it will send a strong signal to others who might be discouraged from raising legal challenges to human rights abuses and injustice in the courts. Third, he has challenged the unreformed Soviet-era Collegium of Advocates, similar to the Collegia in most other post-Soviet states, and his case is a litmus test for the degree to which the rule of law, defended vigorously by lawyers, will be tolerated by other post-Soviet governments with the same circumstances.

Under the Law On Advocates and Advocate Activity, Ismailov can now be persecuted on a new level as well. He is the sole founder of the law firm called VIZA, which has until recently engaged in advocate activity. In theory, now that he has been expelled by the Collegium, VIZA could thus potentially be closed by the authorities. This could also be the case for nearly a dozen other law firms which were founded by licensed lawyers (not Collegium members) who had practiced advocate activity on the basis of a license originally honored by the Justice Ministry. It seems unlikely that the authorities would likely take such a drastic step, although the fact that the current legislation puts these law firms at potential risk should be of great concern to foreign law firms, businesses, governments, IOs, and NGOs with a presence in Baku.

RIGHT OF ASSOCIATION

The League has campaigned for the last 3 years to register NGOs, first and foremost for the legal NGOs, which themselves provide pro-bono assistance to third-sector groups who would like to obtain legal status. The Association of Lawyers of Azerbaijan (ALA) did finally obtain official registration on February 15, 2000, nearly three years after it first applied. The reason for this was likely twofold: the Council of Europe had been putting pressure on the government of Azerbaijan to register a series of organizations, including the ALA, which it had been refusing to legalize for years. The other reason is that just days before the ALA obtained registration, Aslan Ismailov, one of the founders of the organizations since the very beginning, was told by an official from the Ministry of Justice that the ALA would continue to have difficulty as long as he remained one of the founders. He thus withdrew his name from among the list of founders, and the organization was registered shortly thereafter, thus constituting only a partial victory for the Council of Europe and others who have raised the case.

Another group with which Ismailov was involved, the Azerbaijani Advocates Association or AAA, composed of 14 founders, initially submitted its registration documents to the Ministry of Justice on June 18, 1999. Only several months later (in violation of the law, which says that a response shall be given within ten days) on August 4, 1999, the AAA received a letter from Fazil Mamedov, the head of the Ministry of Justice's Board for the State Registration of Legal Entities, notifying them that registration of the organization could not be considered until the draft law on the legal profession had been passed.

On the grounds that the decision of the Ministry of Justice was unlawful, the AAA resubmitted registration documents several weeks later. On November 19, 1999, the AAA received a second letter signed by Fazil Mamedov denying the organization registration on the grounds that the organization's documents violate the Law on Public Associations (although no specific reasons were provided) and that, once again, registration of the organization could not be considered until the draft advocates' law was passed.

After the law went into force on January 27, 2000, the AAA submitted its registration documents for the third time, although they have yet to receive a response.

When international human rights groups and governments intervened, most notably the Council of Europe as part of the legal harmonization exercise, after the ALA, the Democratic Party, the Center for Human Rights, the Trade Union of Journalists, and others whom had long been denied were finally legalized this year. This is indeed a welcome development, but a troublesome one—what can be given by discretion, only under pressure from the Council of Europe, could just as easily be taken away after the coveted Council membership is achieved. Meanwhile, the discriminatory and still cumbersome NGO law, and the absence of adequate tax protection continue to hobble the NGO sector, since without a tax-exempt, charitable system to attract cash and in-kind donations, both foreign and domestic aid winds up in the state tax coffers. This must be of paramount concern to the U.S. government and private donors in Azerbaijan, who must cooperate to negotiate with authorities across-the-board legal registration and charitable status for NGOs, as distinct from discretionary registration and confiscatory tax policies.

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