

**Azerbaijan's Growing Contradictions between
Economic and Democratic Development**

Testimony Prepared for Delivery

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Chairman Hastings, Co-chairman Cardin, other distinguished members of the Commission, thank you for inviting Freedom House to testify at today's hearing and for the opportunity to provide comment on recent developments in Azerbaijan as the Azeri people approach their presidential election in October of this year.

I am pleased to see His Excellency Ambassador Aliev here on the panel today and I am hopeful his schedule will permit him to remain and respond to my remarks, should he wish.

Freedom House's mission is to monitor and support democratic development; we take a keen interest in Azerbaijan's democratic development and human rights performance and have monitored the country's progress in these areas over the course of the past three decades. Today, Freedom House evaluates Azerbaijan in several of its analytical publications, including: our annual survey of political rights and civil liberties, *Freedom in the World*; the annual survey of global media independence, *Freedom of the Press*; and our annual survey of democratization in Central Europe and Eurasia, *Nations in Transit*.

Azerbaijan is a predominantly Shia Muslim country of roughly 8 million located in the pivotal trans-Caucasus region. To the east is the Caspian Sea, key to the region's energy riches and a pathway to Central Asia. To the north lies Russia. To the south, Iran. To round out this challenging neighborhood, the former Soviet republics of Georgia and Armenia are to Azerbaijan's west. Nagorno-Karabakh, over which Azerbaijan and Armenia remain embroiled in a territorial dispute, is one of the world's most bitter "frozen" conflicts. And of course Azerbaijan is playing an important role in an increasingly complex energy environment. Azerbaijan is, without question, a strategically important country.

Given Azerbaijan's clear strategic importance, I would emphasize the following four points:

One, Azerbaijan's record on developing democratically accountable and transparent institutions is poor and, by our measures, getting worse. Azerbaijan is ranked "Not Free" both in our survey of political rights and civil liberties – and in our survey of global media freedom.

Two, Azerbaijan's authorities are not advancing crucial reform measures that will enable the country to manage its resource wealth effectively and ensure that over time the vast majority of Azeri citizens will benefit from this unprecedented public wealth.

Three, the resource curse appears to be growing its roots. Findings released last month from our *Nations in Transit* analysis found that over the past decade Azerbaijan moved backward on *every* indicator in *Nations in Transit*. The regression has occurred systematically and across different sectors, affecting the spheres of electoral process, civil society, national governance, independent media, and judicial independence. Developments in Azerbaijan are part of a phenomenon that has also come into view in other resource-based states such as Kazakhstan and Russia. I would note that in these

cases our data do not suggest that abundant energy resources transformed these countries into authoritarian systems. Instead, where transparency and accountability were already weak, the new wealth has served to propel and intensify authoritarian practices.

Four, the authorities in Azerbaijan appear to have dropped even the pretense of enabling more accountable and transparent institutions. “Resource nationalism” has emerged as a guiding theme for the country’s leadership.

I’ll return to the issues of the resource curse and resource nationalism but first would like to share with you observations on key issues from our analysis that we believe deserve particular attention, including Azerbaijan’s election process and media sector.

I would note that Azerbaijan is a participating state of the OSCE, and is therefore obliged to fulfill its commitment to the rule of law and human rights standards established in several documents including the Copenhagen, Moscow and Budapest Documents of 1990, 1991 and 1994, respectively. In January 2001, Azerbaijan acceded to the Council of Europe. As a member of the Council of Europe, Azerbaijan is obligated to bring its legislation into conformity with European standards. It is also a party to the European Convention of Human Rights, violations of which can be brought to the European Court of Human Rights in Strasbourg after all domestic remedies have been exhausted.

Electoral Process

Azerbaijan’s elections planned for this October represent an important opportunity for reform and for enabling wider participation in what is at present effectively a closed political system. The Parliamentary elections in 2005 and the reruns in 2006 were beset by irregularities and failed to meet a number of international standards. The intervening period has seen little meaningful reform of the electoral system while government pressure on the political opposition has continued unabated. A recent OSCE/ODIHR Needs Assessment Mission Report issued on July 11, 2008 already pointed to a host of concerns, including that “the pre-election environment is not conducive to the free competition of political ideas and platforms, due to constraints on freedom of assembly and the media”. The report added that “since the 2005 parliamentary elections, the electorate would appear to have more limited access to diverse political views”. I would take this opportunity to call on the Azeri authorities to create conditions so that OSCE -- and other outside organizations -- can credibly monitor the October elections.

The track record of recent elections and the prevailing conditions in Azerbaijan strongly suggest that a genuine contest for political power will be near impossible this fall.

Azerbaijan’s constitution provides its citizens the right to change their government peacefully. However, in practice this right is effectively denied. Elections are used to preserve, not contest, power in Azerbaijan. Indeed, all of the elections conducted under the stewardship of former President Heidar Aliyev and, more recently under his son, Ilham Aliyev, have fallen short of international standards for democratic elections. The parliamentary elections held in November 2005 were no exception to this pattern.

Since the 2005 parliamentary elections, the government has maintained its hegemony over the political sphere. The 125-member parliament is heavily dominated by the ruling Yeni Azerbaijan Party and pro-government “independents”. In 2005, the two opposition blocs, Azadlig (Liberty) and Yeni Siyaset (New Politics, or YES) managed only eight and two mandates, respectively. Parliamentary sessions in 2007 were boycotted by the mainstream opposition parties, except for the Musavat Party of former parliamentary speaker, Isa Gambar. The government is extremely well-funded and firmly in control of mass media outlets. There are few, either in Azerbaijan or in the international community, who doubt that President Aliyev will be returned to office this October.

The opposition leaders continue to criticize the lack of progress on democratic reform and in particular the government’s refusal to allow the opposition to have equal representation on electoral commissions as per the recommendations of the Council of Europe. There is some uncertainty about whether prominent opposition figures, such as Isa Gambar of the Musavat Party will decide to run against Aliyev or to boycott the election altogether. Unlike in past elections, no opposition rallies, either authorized or unauthorized, have been held, and there has been no talk of opposition consolidation.

Apart from technical and administrative obstacles found in the election process, the authorities also employ more brutal tactics in managing political competition. In the lead up to the 2005 elections the main opposition bloc (Azadliq) faced a heavy-handed campaign from state media, as well as arrests, beatings and intimidation by the authorities. Since then, government pressure on the political opposition has continued. In September 2007, a prominent member of the Azerbaijan Popular Front (AXCP), Alesker Ismaylov, was arrested and, after interrogation, taken to a psychiatric institution, a deplorable, yet disturbingly common way of dealing with political opponents in post-Soviet republics. So far, the government’s 2008 election campaign has been relatively quiet. Perhaps this is a result of the perceived absence of any substantial opposition.

The poor conduct of the election process is in essence a symptom of deeper and fundamental challenges confronting the country. The source of the problem rests in an entrenched political culture that retains a number of Soviet era governance features, among them flawed institutions incapable of achieving sufficient levels of accountability. I would note that there were, however, some modest positive steps taken by the authorities during the 2005 election cycle, including the lifting of a ban on election monitoring by local NGOs that receive more than 30 percent of their funding from outside sources, and the creation of a public television station. These measures, which were taken under considerable external pressure, were put in place late in the election cycle and therefore did not achieve the degree and quality of implementation needed to be effective.

In the broader context of Azerbaijan’s development, the slow progress on implementing democratic reforms has not gone unnoticed by key western institutions and monitoring organizations. The OSCE and the Council of Europe (COE), for instance, have repeatedly criticized the authorities for the sluggish pace of reform.

Since 2005, the international bodies have carried on their pressure for democratic reform in the country. In particular, the Venice Commission of the COE continued its consultations with the authorities throughout 2007 and 2008, in which it advocated modifications to the electoral code to tackle the problem of ruling party dominance on electoral commissions.

The non-governmental sector in general finds itself under great pressure and pushed to the fringes of the Azeri society. The marginalization of organizations and forces not aligned with the regime presents a dilemma that confronts many other unreformed post-Soviet regimes; namely, how to include alternative voices in the political process and move away from zero-sum politics.

The ongoing challenges faced by political opposition have also been elaborated in some detail in a joint evaluation of the draft law on amendment to Azerbaijan's electoral code undertaken by the European Commission for Democracy through Law, known as the "Venice Commission" and the OSCE's ODIHR. In a report issued on June 12, 2008, they set forth a host of deficiencies, among them an amendment that would exclude state-funded TV and radio from providing equal conditions for the conduct of the campaign. The report noted that "the current amendment would limit the scope of election-related information and political views available to voters, which are crucial in order for voters to make informed choices on election day".

Media Sector

The question of media freedom is critical. The Azeri authorities have distinguished themselves in the most recent period by their intensifying repression of journalists and editors.

Azerbaijan's media sector confronts major obstacles. Authorities use a variety of tools to manipulate and intimidate the press. State businesses in Azerbaijan, for example, do not advertise in opposition newspapers. A private business with interests in state contracts in an economy still dominated by the state will usually decide caution is wiser than advertising in such publications. Publications not aligned with the authorities must obey the rules of state-owned printing facilities. Distribution of opposition publications outside of the capital city of Baku is often obstructed. In Baku, unregistered newspaper vendors - the type who sell opposition newspapers - are finding that law enforcers are increasingly vigilant. The court system is subordinated to the executive, and therefore journalists, editors, and publishers do not have effective legal recourse.

Journalists are also subject to physical abuse and risk death. In March of this year, Agil Khalil, a correspondent for the opposition newspaper, Azadlig (Freedom), was stabbed by two unknown men as he was leaving the newspaper's Baku office. Khalil, who had published articles criticizing senior city government officials, had suffered a previous assault when he was attacked and badly beaten in February, again by unknown assailants. In early 2008, the US State Department released a report, which concluded that "Azerbaijan's media freedom environment significantly deteriorated during the year."

The Azeri authorities have resisted international pressure to abolish laws that make journalists criminally responsible for defamation, and there are currently three journalists serving prison sentences in Azerbaijan.

During the 2005 election campaign, in its prime time news and current affairs programs, AzTV - the state broadcaster - demonstrated a clear bias. Media monitoring of election campaign content revealed that in the two months leading up to election day AzTV provided 97 percent of its political and election prime time coverage to the activities of President Aliyev, the presidential administration, the government and the YAP. Private stations Lider, Space and ATV reflected a pattern of political favoritism similar to that of state-funded broadcasters during the 2005 campaign.

An extensive report issued in 2007 by the Media Rights Institute in Azerbaijan identified major shortfalls in the implementation of the country's December 2005 freedom of information law, finding that the government had taken no steps to establish or finance information-services departments within state agencies as called for in the legislation.

While Azerbaijan's constitution guarantees freedom of speech and the press, the authorities use a variety of tools to limit press freedom in practice. The broadcast media are the main source of information in the country. Of the 16 television stations, four broadcast to a national audience, and all four have clear or likely links to the regime. Independent and opposition newspapers struggle financially in the face of low circulation, limited advertising revenues, and heavy fines or imprisonment of their staff. State businesses rarely if ever advertise in opposition newspapers. While there is some pluralism in the print media, newspapers have relatively small print runs.

In the last weeks of 2006, the authorities mounted a concerted effort to hinder the few remaining outlets providing independent information to mass audiences. These measures included a decision by the National Television and Radio Broadcasting Council requiring domestic companies to obtain a license to rebroadcast programs from such news sources as the BBC and Radio Free Europe/Radio Liberty (RFE/RL). A campaign to silence the relatively independent media company ANS ultimately led RFE/RL and the BBC to find different frequencies on which to broadcast in 2007. I would note that last year the authorities made available an FM frequency that has enabled RFE/RL to broadcast more news content, which is a welcome development. The BBC's journalists, however, still are not accredited to cover presidential events and therefore are severely impeded in gathering and reporting on news from the president's office.

Over the course of the past year, the government intensified its pressure on the media, including using libel and defamation statutes to penalize journalists critical of the authorities. In April 2007, Eynulla Fatullayev, editor of the newspapers *Realni Azerbaijan* and *Gundelik Azerbaijan*, was convicted of criminal libel and insult and sentenced to 30 months in prison. Fatullayev was known for his reporting on issues of official corruption. Rovshan Kabrili, editor of *Mukhalifat* (Opposition), and a reporter from that newspaper, Yashgar Agazade, received 30-month prison sentences in a separate libel case.

Some 1,500 prisoners were amnestied and released by the government in May 2007. Few of those released were politically sensitive cases or those viewed as political prisoners. President Aliyev pardoned more than 100 prisoners in late December. Five of these included imprisoned journalists. Not included in this group were the high-profile journalist cases of Eynulla Fatullayev, Sakit Zahidov, and Ganimat Zahidov.

In effect, the distribution of power within Azerbaijan's media community mimics to a significant degree the distribution of political power in that country. Both are profoundly skewed. At the political level, power is effectively monopolized by the YAP, through an elaborate web of patronage and entrenched corruption. Those not in league with the ruling powers have negligible influence.

Energy and the Resource Curse

While the November 2005 elections revealed the ruling powers' determination to prevent political opposition from reaching a competitive threshold, the ballot also offered evidence to suggest the opposition is ill equipped to mount a serious challenge. The current political landscape underscores that the political opposition is in a worse position today to compete than in previous elections. The suffocating grip on Azerbaijan's politics by the ruling YAP party presents a singular challenge for the country's political development. At the same time, the opposition has not distinguished itself, leaving an enormous reform vacuum in the country's political life. This absence of meaningful political competition creates a system where the ruling elite can and does operate with impunity.

Indeed, as oil and gas revenues have surged, the incentives for the government to enable a role for alternative voices domestically or to heed the advice of Western states on democratization and human rights has been diminished. In an address to international diplomats earlier this month (July 6) that articulated Azerbaijan's resource nationalism posture, President Aliyev told foreign diplomats in no uncertain terms that criticism of Azeri government policies on the regulation of civil society will damage international relations. He went on to suggest that Azerbaijan would rather withdraw from rules-based international organizations than comply with demands or requirements that his government opposes.

In addition to this worrying change of attitude on the part of the Azeri president, there is growing reason for concern that Baku's mismanagement of Azerbaijan's natural energy wealth, as evidenced by rising government expenditures and lack of transparency, will exacerbate the already serious problems of high inflation and widespread corruption in the country, along with their corresponding negative implications for democratization and human rights.

In May of this year, the parliament revised the 2008 state budget to accommodate rising revenues from the State Oil Fund (SOFAZ), which had increased by 42 percent since the original 2008 budget was passed. As a result, state spending is up 30 percent from the original budget and now stands at roughly US\$14 billion.

SOFAZ was set up in 1999 to oversee government usage of revenue from oil and gas sales and it has been closely watched as an indicator of the kind of efforts being made to diversify Azerbaijan's economy away from dependence on the energy industry. However, the Azeri government places no restrictions on its borrowing from SOFAZ, and transfers to the budget from SOFAZ now make up 36% of all government revenues. In the new budget the government specified two priorities, those being the armed forces and government infrastructure projects. Military spending on one hand, up 32% on the original budget, is largely a closed book. Spending on infrastructure on the other hand, up more than 50% on the original budget, has virtually become an industry in itself. The massive scale of the projects and the lack of transparency in the allocation of funds have led to questions about efficiency of the expenditure of public money and selection of contractors.

Parliament passed the revised budget without amendment or debate and the lack of discussion meant that consideration of the impact of increased spending on inflation was largely neglected.

The IMF has also expressed concern, pointing to the "limited" capacity of Azerbaijan's economy to absorb such hefty expenditure on infrastructure, and the "inadequate ability" of officials to "implement large investment programs".

The Public Finances Monitoring Center in Baku has observed that the country's budget is too dependent on transfers from the country's state oil fund (SOFAZ) while the oil and gas industry is supplying more than half of the country's GDP. Infrastructure projects are positive in general, but the problem is that these kinds of projects are traditionally misused by corrupt institutions, and importantly there is not a watchdog structure in place to ensure proper spending of the allocated funds.

This is a critical point in a country where high levels of corruption pervade society. The prevailing notion among many Azerbaijani officials is that state institutions are designed to confer privileges on individuals or special groups rather than meet broader societal needs. Indeed, as the economic windfall from high oil prices rockets upward and the temptations of oil money grow, it is all the more important to have meaningful political reform to put basic checks on rents, runaway patronage and other variants of corruption.

I would mention parenthetically another byproduct of Azerbaijan's ballooning energy wealth: military spending that is contributing to a growing regional arms race. The 2008 edition of the authoritative publication of the London-based International Institute of Strategic Studies (IISS) *Military Balance* points out that the GDP increase of Azerbaijan from 2006 to 2007 increased from \$20 billion to \$26 billion, growth of some 30%). The defense budget for the same interval grew from \$658 million to \$936 million. That's 42% growth. This suggests that the growth in hydrocarbon revenues is disproportionately fueling the regional arms race and contributing to instability in this way.

The lack of governmental transparency also creates an enabling environment for graft and corruption at all levels of the bureaucracy, hindering social and economic development. Of course, a lack of transparency also results from state control of media and the absence of a significant opposition group in the parliament, which does not possess the capacity for oversight of the executive branch.

Although we are still nearly three months from the planned October presidential elections in October of this year, senior Azeri officials have this month floated the idea of a third term for President Aliyev.

Ali Ahmedov, deputy chairman and executive secretary of the ruling Yeni Azerbaijan Party, said on July 18 that “the fact that our people have made their choice long before elections is also connected with Ilham Aliyev’s factor. It is impossible to deprive people of the right to choose: this is a fundamental principle of democracy. Citizens must decide who will become a president of the country, where they live and work. In this sense there are restrictions, contradicting to democracy: restriction of the presidency term. It means that if people elect a president every five year, introduction of the second restriction-opportunity to be elected a president for no more that two times-is senseless. I think it is not democratic to restrict presidency with two terms, if people make their choice each year through democratic elections”.

This suggests that Azerbaijan is laying the foundations for a possible leader for life system along the lines of those that have been anchored in Belarus and most of Central Asia. Such controlled and insular politics clearly have profound drawbacks. These politically closed systems create a zero-sum, winner-takes-all approach to governing. And with unchecked power comes unchecked corruption. “Hyper-corruption” is the soft underbelly of this model, in which accountability and transparency are in painfully short supply. It is no surprise that in 2007 out of 179 countries surveyed Azerbaijan shares 150th ranking with Belarus, Congo, Cote d’Ivoire, Ecuador, Kazakhstan, Kyrgyzstan, Kenya, Liberia, Sierra Leone, Tajikistan and Zimbabwe in Transparency International’s Corruption Perceptions Index.

Such systems smother the institutions -- an independent judiciary, free media, and political opposition, among others -- that are essential not only for tackling massive corruption but also for improving the quality of public policy, thus preventing meaningful reform in the spheres of education, health, and public infrastructure.

The challenges to promoting reform in Azerbaijan are considerable. However, given the stakes and the strategic nature of Azerbaijan in the Caucasus and wider Europe and Eurasia region, Freedom House believes that the U.S. government should continue its support for democratic and human rights activists, as well as for more accountable and transparent institutions.

Finally, I would conclude by emphasizing the point that the decisions the Azeri authorities take today concerning investment of the nation's many billions of dollars of energy wealth will define Azerbaijan's course for the next generation - and beyond. A system that enables unchecked power and little accountability for how such resources are used holds enormous risks that this unprecedented, but ultimately finite, wealth may not be enjoyed by the vast majority of ordinary Azeri citizens.