

HUMAN RIGHTS AND DEMOCRATIZATION IN AZERBAIJAN

HEARING BEFORE THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE ONE HUNDRED TENTH CONGRESS SECOND SESSION

JULY 29, 2008

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July 29, 2008

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The hearing was held at 3 p.m. in room B-318, Rayburn House Office Building, Washington, DC, Hon. Alcee L. Hastings, Chairman, Commission on Security and Cooperation in Europe, presiding.

Commissioners present: Hon. Alcee L. Hastings, Chairman, Commission on Security and Cooperation in Europe; Hon. Saxby Chambliss, Commissioner, Commission on Security and Cooperation in Europe; Hon. G.K. Butterfield, Commissioner, Commission on Security and Cooperation in Europe; Hon. Hilda L. Solis, Commissioner, Commission on Security and Cooperation in Europe; Hon. Richard Burr, Commissioner, Commission on Security and Cooperation in Europe; and Hon. Benjamin L. Cardin, Co-Chairman, Commission on Security and Cooperation in Europe.

Witnesses present: Hon. David J. Kramer, Assistant Secretary of State for Democracy, Human Rights and Labor; H.E. Yashar Aliyev, Ambassador of the Republic of Azerbaijan to the United States; and Christopher Walker, Director of Studies, Freedom House.

HON. ALCEE L. HASTINGS, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. HASTINGS. We can get started.

Ladies and gentlemen, thank you all for being here, and welcome to our first hearing on Azerbaijan since May 2000. Earlier this year, we held hearings after elections in Georgia and Armenia, where violence either preceded or followed the vote. We are not waiting until after Azerbaijan's Presidential election in October because Congress will probably go out of session for the year in September. Rather than wait until 2009, I decided to proceed at this juncture.

I would also like to point out, though I hardly think it is necessary, that the Helsinki Commission does not only scrutinize foreign countries. We also examine U.S. compliance. During this Congress, we have held two hearings on the status and treatment of detainees at Guantanamo, which took a very critical look at U.S. observance of human rights standards. Just last week, we held a briefing on the medical evidence of torture by United States personnel.

One more thing, we do not intend today to focus on Nagorno-Karabakh. Assistant Secretary of State Daniel Fried recently testified before the House Foreign Affairs Committee on the so-called frozen conflicts. And at our hearing on Armenia, Nagorno-Karabakh received considerable attention from Deputy Assistant Secretary Matthew Bryza, who is directly charged with negotiating an end to that dispute.

To turn now to the subject of our hearing—human rights and democratization in Azerbaijan—let me say, having been there several times, that I appreciate very much the importance of Baku’s strategic relationship with the United States. Azerbaijan has cooperated closely with the United States on anti-terrorism matters. As a producer of oil and gas which is transported to Western markets through Georgia, Azerbaijan plays a pivotal role in diversifying sources of energy.

Still, there are serious human rights concerns in Azerbaijan. These have been laid out in the annual reports by the State Department and Freedom House. The Council of Europe, which Azerbaijan, Armenia, and Georgia all joined in 2002, also issues regular reports on all three countries, focusing on human rights problems, and I commend them to your attention.

Of particular concern is the situation of journalists. In December, 2007, Miklos Haraszti, the OSCE’s representative on Freedom of the Media, said more journalists were imprisoned in Azerbaijan than in any other OSCE member state. Later that month, President Aliev amnestied five journalists. Still, three remain in jail, or four, depending on whom you ask.

The jailed journalists bring us to the issue of political prisoners. I introduced a resolution a year ago which focused on the case of Farhad Aliyev and the repression of journalists. While even Azerbaijani human rights groups disagree about who should be considered a political prisoner and how many there are, they do maintain there are people in jail for their political beliefs or activity. The Council of Europe has been wrestling with this problem for years and we intend to question our witnesses about it as well.

Finally, an important Presidential contest is coming up in October. I have a special interest in that topic, having headed the OSCE’s International Observation Mission for Azerbaijan’s parliamentary elections in 2005. The OSCE’s Warsaw-based Office of Democratic Institutions and Human Rights has issued a pre-election report on conditions in Azerbaijan. I understand that Baku has not accepted several recommendations of the Council of Europe’s Venice Commission. I hope that decision will be reconsidered and that Azerbaijan’s October election will register clear progress over 2005.

Humor doesn’t go over very well in these hearings, but to give my friends from Azerbaijan some comfort, I am on the ballot in August and in December in Florida. Just like I wish for Azerbaijan that they have clear progress in their elections, I doggone sure hope we have clear progress in ours, especially in Palm Beach and Broward County, where in 2000 everybody in the world knows what transpired. So I am an equal opportunity concerned person.

I look forward to hearing from our witnesses on this and the other issues under discussion today.

Before inviting our first witness to begin his testimony, I would like to say, ladies and gentlemen, the biographies which are distinguished, are outside at our table, and any other paraphernalia offered by either or all sides is available at the table. So I will not go into great detail regarding the personal curriculum vitae of our witnesses.

But I would, however, in this instance, invite the Honorable David Kramer, who in addition to his duties as the Assistant Secretary of State for Democracy, Human Rights and Labor, and he took that post on March 21, 2008. And then from 2005 to 2008, he was Deputy Assistant Secretary of State for European and Eurasian Affairs, responsible for Russia, Ukraine, Moldova, and Belarus affairs, as well as regional nonproliferation issues.

Previously, he served in the Department of State, Office of Policy Planning, as a professional staff member, and before that was Senior Adviser to the Under Secretary of State for Global Affairs. Secretary Kramer is also a Commissioner of this organization's structure, and has informed me that he has matters that he must attend, and therefore will not sit as a Commissioner today.

But I welcome your testimony, and Commissioner, Secretary, all those wonderful things, you may proceed.

**HON. DAVID J. KRAMER, ASSISTANT SECRETARY OF STATE
FOR DEMOCRACY, HUMAN RIGHTS AND LABOR**

Sec. KRAMER. Well, Mr. Chairman, thank you very much. Thank you for inviting me here today to speak before the Commission, and my thanks to other members of the Commission.

I also want to thank the opportunity to appear with Ambassador Aliyev from Azerbaijan, too. It is always an honor and a privilege to appear on the same hearing with him.

Mr. Chairman, if I may, I would ask that my full statement be entered into the hearing record.

Mr. HASTINGS. Without objection.

Sec. KRAMER. Thank you.

Mr. Chairman, today's hearing follows a trip I took to the three countries in the South Caucasus in the end of June, so if you will permit me, I would also like to say a few words about Armenia and Georgia before turning to the subject of today's hearing, Azerbaijan.

The United States works with the Organization for Security and Cooperation in Europe, the European Union, and the Council of Europe to promote democracy, the rule of law, and respect for human rights in Azerbaijan, Armenia, and Georgia. We will continue to closely consult with our European partners on ways to encourage all three South Caucasus countries to take more vigorous steps to improve democratic governance and respect for human rights.

While in Armenia, I met with senior officials and with opposition and civil society activists, including some of the wives of those detained in connection with the post-Presidential election demonstration in early March. While there, I urged the authorities to release all those detained for engaging in opposition activities or for expressing their political views, to conduct a credible independent investigation into the March 1-2 violence that left 10 people dead, to

fully restore freedoms of assembly and media, and to initiate a constructive dialogue with the opposition in civil society.

In Georgia, there, too, I met with senior officials as well as opposition and civil society activists. I expressed concern about the lack of checks and balances among the branches of the government and urged the authorities to support democratic institutions, including a strong multi-party parliament and a fully independent judiciary.

I urged the Government of Georgia to work with the opposition to foster a culture of respect for political pluralism. In various meetings, I expressed concerns about negative trends since last year regarding media freedom, and stressed the need to accelerate prison reform.

Mr. Chairman, turning to the focus of today's hearing, the United States has major interests in Azerbaijan in three equally important areas: democratic and economic reform, energy diversification, and security cooperation. Our two countries enjoy strong cooperation on energy diversification, with Azerbaijan emerging as a potentially crucial supplier of diversified natural gas supplies for our European allies.

On security, Azerbaijan has made true contributions to international efforts in Iraq and Kosovo, and provides an air corridor that supports U.S. and NATO operations in Afghanistan. That said, our strongest relationships worldwide are with democracies that respect the full range of human rights of its citizens, in addition to sharing interests with us.

We seek to bring our cooperation on democratization with Azerbaijan up to the level of our security and energy collaboration. Azerbaijan's progress on democratic reform is key not only to strengthening our bilateral relationship, but also to Azerbaijan's own long-term stability.

I traveled to Azerbaijan to continue the high level results-oriented dialogue that my predecessor, Assistant Secretary Barry Lowenkron and President Aliyev initiated in December, 2006, following President Aliyev's visit to Washington that year. It was during that visit in April 2006 that President Aliyev stated, "We are grateful for the United States' assistance in promotion of the political process, the process of democratization of our society and are very committed to continuing this cooperation in the future." It was with President Aliyev's stated commitment in mind that I pursued these discussions in Baku.

Now, in addition to my discussions with President Aliyev, Foreign Minister Mammadyarov and other officials, I also met with opposition and civil society figures and independent journalists. We have some serious concerns about the state of democracy and the protection of human rights in Azerbaijan, which in some areas has deteriorated. I was able to discuss these concerns in a candid, but friendly and constructive manner with senior officials.

I addressed five key areas: political processes, media freedom, protection of human rights, rule of law, and an empowered civil society. In my meetings with Azerbaijani officials, we discussed concrete steps that can be taken to accelerate democratic reform.

Let me highlight our concerns regarding the election and media freedom, and conclude with a few final thoughts.

Mr. Chairman, as I stressed to senior Azerbaijani officials, the October Presidential election presents an important opportunity for the government to demonstrate its commitment to democratic reform by ensuring that the overall electoral process and election day itself are observed by credible independent election monitors, both international and domestic. The pre-election environment is as important, if not more important, than the conduct of election day itself.

The pre-election environment must be conducive with regard to freedom to organize political parties, election campaigns, or interest groups; conducive for freedom of the media, assembly and association; voter registration; appointments to election commissions; and election grievance processes. The political space for dissenting voices has been shrinking in Azerbaijan over the past few years. While some in the government have argued that the opposition's weakness is due to a lack of new faces and ideas, the government also bears ultimate responsibility for the election's climate.

In a welcoming environment, new people will have confidence that they can safely engage in politics and the open exchange of ideas. I urge the authorities to establish the conditions that would be conducive to a truly competitive election. A key factor in determining the credibility of the entire elections process and for establishing broad confidence in the legitimacy of the outcome is domestic and international election monitoring. This spring, Azerbaijani courts deregistered and annulled Azerbaijan's largest independent domestic election monitoring NGO, the Election Monitoring Center known as EMC. While there, I strongly urged the government to restore EMC's ability to function in time for meaningful independent election observation this October.

The OSCE's Office of Democratic Institutions and Human Rights should soon receive an invitation to monitor the election. The Parliamentary Assembly of the Council of Europe has announced its intention to send short-term observers. We also hope that the European network of election monitoring organizations can also observe the election. We hope to see the implementation of election-related laws in a way that expands, rather than constricts, the scope of citizens to exercise their rights.

A growing concern in recent years is the deterioration of media freedom in Azerbaijan. Administrative and other obstacles make it extremely difficult for the public to have access to a variety of views. Although seven journalists were released in 2007, which we welcomed, three remain in prison for reasons that appear politically motivated. Another journalist is in prison despite severe due process violations. In addition, the government has yet to seriously investigate numerous cases of violence against journalists.

There has been no accountability for the 2005 murder of Elmar Huseynov. I urged senior officials to release the remaining jailed journalists and ensure rigorous and transparent investigations of acts of violence against journalists such as Agil Khalil and media monitor Emin Huseynov. I also urged senior officials to publicly condemn in the strongest terms possible violence against and intimidation and harassment of journalists. The decriminalization of libel would also be a strong signal that the government respects open debate. I was pleased to learn that since my visit, in fact last

week, the government has decided to allow Mr. Khalil to travel and he is now in France.

I also made it clear that the unresolved conflict between Azerbaijan and Armenia over Nagorno-Karabakh, which you referred to earlier, Mr. Chairman, in your statement, is not a valid reason for either country to avoid respecting media freedom or engaging in other essential components of democratization.

Additional human rights concerns include the following: political prisoners. Local human rights NGOs estimate that the government holds between 33 and 57 political prisoners. The release earlier this year of two individuals considered by human rights monitors to be political prisoners was a positive step. We support the Council of Europe's efforts to resolve this problem. Institutional reform of the justice system would also help.

Abuses by security forces—torture, and the lack of accountability for it and the excessive of force against peaceful demonstrators or detainees remain serious problems. In the year of rule of law and corruption, promoting the rule of law, including an independent judiciary that respects due process remains among our highest diplomatic objectives for Azerbaijan and neighboring countries in the region.

In closing, Mr. Chairman, I had frank and very constructive meetings with President Aliyev, Foreign Minister Mammadyarov and other Azerbaijani officials. The United States approaches this dialogue as a friend of Azerbaijan. Friendship means not being indifferent to the circumstances of a friend. At the same time, being able to discuss matters of disagreement in a proper, yet candid, way is part of the nature of a serious dialogue. And concrete results, in terms of improved respect for human rights, clearly will serve to deepen our bilateral relationship—something we very much want.

I look forward to working with our friends in Azerbaijan, both in and out of government, to help them implement the kinds of democracy and human rights reforms that the citizens of Azerbaijan seek.

Thank you, Mr. Chairman.

Mr. HASTINGS. Thank you very much, Secretary Kramer.

We have been joined by several of my colleagues. In the order that they came, I will allow among other things any remarks that they wish to make at this time. And then we will go to questioning, but at this time, I would give the floor to my friend and former colleague in the House of Representatives, who went to the other body on us, Saxby Chambliss, who is also a Commissioner of the CSCE.

HON. SAXBY CHAMBLISS, COMMISSIONER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. CHAMBLISS. Chairman Hastings, thank you for that gracious welcome back over here. It is good to come back and get my blood checked every now and then on the House side. I miss you guys.

Mr. Chairman and fellow Commissioners, I am pleased to participate in this important hearing today. I thank Chairman Hastings, as well as my colleague Ben Cardin, for calling this hearing together.

As a Senate Commissioner, and as a Member of the Senate Committees on Intelligence and Armed Services, I know how important this part of the world is to our strategic interests and to the region. We value Azerbaijan's participation in the war on terror and on energy security and transportation.

But I also know the world will be watching this October when Azerbaijan holds its Presidential elections. Because Azerbaijan is a signatory to all the major international human rights agreements, including the Organization for Security and Cooperation in Europe, and the Council of Europe, this election is an opportunity for the government to show the rest of the world that it can live up to those commitments.

I am very appreciative, Mr. Secretary, of your comments relative to your anticipation there.

The Helsinki Commission performs a valuable function in monitoring fundamental freedoms such as democracy and the rule of law, free and fair elections, and the protection of human rights. The documents declare that commitments undertaken in this human dimension are a direct and legitimate concern to all Participating states. I am concerned there appears to be a number of human rights issues identified by the U.S. Government, the Council of Europe and NGOs.

According to the State Department, this has involved repression of independent journalists, the arbitrary arrest and detention of political opponents, and lengthy pre-trial detention. One case in particular is that of former minister of economic development, Farhad Aliyev, and his brother Rafiq, the former president of AZ Petro (ph) Oil Company. They were arrested during the parliamentary election campaign in October, 2005—Farhad on charges of plotting a coup d'etat. After being held in pre-trial detention for 18 months, they were tried and convicted of unrelated economic crimes.

Observers noted that the 5-month trial was marked by irregularities and lack of due process. I understand the state-owned oil company took control of AZ Petro (ph) the day after the brothers were arrested. During the trial, Minister Aliyev (ph) told the court on May 15, 2007 that the coup charges were just a pretext and that the government came up with certain bizarre demands, including an admission that he intended to carry out the Orange Revolution, incited by the U.S., British, and German Governments. He also stated that they requested \$100 million for him to be released.

The text of the two court statements—and I ask unanimous consent that the text of those two court statements be included in the hearing record. I will hand them to you, Mr. Chairman.

Mr. HASTINGS. Without objection.

Mr. CHAMBLISS. The State Department Human Rights Report for 2007 had this to say: "Some considered the 2005 arrests of individuals on charges of plotting a coup and subsequently corruption to be politically motivated." I understand that the Aliyevs were held in isolation without meeting or talking to his family for 2 years, although this just recently changed.

Mr. Chairman, I strongly urge that Azerbaijan resolve this and other political prisoner cases as soon as possible. Thank you.

Mr. HASTINGS. Thank you, Senator.

We have also been joined by our Commissioner G.K. Butterfield.

And Senator Burr, I am glad to see you. We are taking folk in the order that they come, if you don't mind.

At this time, Commissioner Butterfield from North Carolina, I would appreciate it if you have any opening comments.

HON. G.K. BUTTERFIELD, COMMISSIONER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. BUTTERFIELD. Thank you very much, Mr. Chairman, for convening this very important hearing. I am especially proud to be here with three U.S. Senators and two other colleagues from the House of Representatives. So this is an historic occasion, to say the least.

But good to see you again, David. Thank you very much for coming forth to share with us your thoughts on this very important subject.

With one of the world's fastest growing economies and a deep reserve of energy, Azerbaijan plays an increasingly important role in the international community. This country gained independence from the old Soviet Union in 1991 and it has successfully maintained good relations with the U.S. and Russia and maintains close ties with its neighbor to the south, Iran.

Azerbaijan's economy saw the highest GDP growth rate in the world last year on the strength of export of its plentiful gas and oil resources. With the growing need for energy around the globe, it is likely that the economy will continue to grow. The growing need for critical energy resources also is sure to increase international interest, focusing attention on Azerbaijan.

Azerbaijan also plans to begin building its first nuclear reactor next year. As a pivotal player of growing importance on the international stage, it is crucial that Azerbaijan continues to make progress toward democratization and the guarantee of human rights. During the question and answer session in just a few minutes, I hope to raise some questions that must be asked. I think Senator Chambliss laid the groundwork for it just moments ago.

Currently, Azerbaijan remains one of the most strictly run of the post-Soviet states where political opposition is dealt with firmly. While elections have been held, they have been deemed deeply flawed by the international community. There is also great concern about the pervasive corruption, the disruption of wealth, political prisoners, freedom of the press, and the considerable buildup of armed forces.

So Mr. Chairman, I look forward to today's hearing in the hope that it will provide some answers about how our country and the OSCE and Azerbaijan can together cooperate to overcome these challenges.

Again, I thank the witnesses and all who will participate today. I yield back.

Mr. HASTINGS. Thank you, Congressman-Commissioner.

The next person to speak I am sure all of us that are mindful of ongoing concerns in her congressional area, an earthquake occurred earlier this morning in Los Angeles. I am told that the magnitude of it was 5.8. That is what I just saw about 10 minutes before coming here. But anyway, I am sure her office is reaching out,

and our best wishes for everyone in your congressional district, Congresswoman-Commissioner Hilda Solis.

**HON. HILDA L. SOLIS, COMMISSIONER, COMMISSION ON
SECURITY AND COOPERATION IN EUROPE**

Ms. SOLIS. Thank you, Chairman Hastings and Senator Cardin for having this hearing this afternoon, and afternoon in Los Angeles. And there was a magnitude 5.8 earthquake, and unfortunately one of my offices had to be vacated. It was actually a very long and very hard earthquake, one that we haven't had in quite a few years, so we are still assessing what is happening there. I haven't heard about any casualties, so that is good to know right now.

But we are here on a very important issue and it has to deal with Azerbaijan, which we know is one of the fastest growing economies in the world and enjoys what I believe and have been told good relations with the United States. What we do know is that the OSCE and other human rights organizations have expressed concerns to many of us regarding the freedom of the media and the conduct of elections in Azerbaijan. In fact, the Human Rights Watch has expressed concern about rapidly deteriorating media freedoms in Azerbaijan and the imprisonment of nine journalists for defamation and other criminal acts.

Although President Aliyev pardoned some of the journalists, four journalists still remain behind bars. With the upcoming elections in October, I think it is very important that the country there strive for transparency, especially in its electoral system. And in May 2008, a decision was made to close the Election Monitoring Center, a nonpartisan domestic monitoring organization that worked in partnership with the U.S.-based National Democratic Institute, which promotes election transparency and fairness worldwide.

I would ask the question why that was closed, and if there is going to be any evidence that there will be a change in that decision. I think that would go a long way today in our discussions.

I am hopeful also that we can have these various issues that we are bringing before you resolved before the October election. I think many of us do believe that Azerbaijan has been a great friend of the United States strategically. We need to continue to have these discussions. And as we have a new incoming presiding coming after the fall, I know that it is going to be very imperative for us to continue to have dialogue, cooperation, and first and foremost the ability to work across the sea with our neighbors there.

So with that, I will yield back and want to hear from our witnesses.

Thank you, Mr. Chairman.

Mr. HASTINGS. Thank you very much.

We have also been joined by Commissioner Richard Burr, another of my former colleagues that went to the U.S. Senate. I am telling you, I was good luck for all of these guys. There at least 32 of them that I have had the good fortune of serving with and good relations with them then and now. I miss Richard especially because he and I sort of kid each other an awful lot and traveled together before on other matters. But it is a pleasure to have him with us today.

Senator, anything you wish you add, you may do so at this time.

**HON. RICHARD BURR, COMMISSIONER, COMMISSION ON
SECURITY AND COOPERATION IN EUROPE**

Mr. BURR. Well, Mr. Chairman, I thank you not only for this hearing, but for the friendship. If the truth be known, I have always been envious of your haircut. That is what draws me to you.

My colleague from North Carolina, G.K. Butterfield, it is great to be with you.

Mr. Chairman, this hearing about human rights and democratization in Azerbaijan and the OSCE, commitment to promoting democracy and the rule of law is extremely important. I believe it is important for us to identify ways in which we can assist the people of Azerbaijan at this critical time in their nation's push toward democracy.

Let me first say that I recognize and respect the important bilateral and strategic relationship the United States enjoys with Azerbaijan. Cooperation in such areas as energy, the war on terror, troop contributions in Iraq and Afghanistan, reaffirms for me the deep and trusting relationship the United States has shared with Azerbaijan since its independence from the Soviet Union in 1991.

It is all the more important because of this relationship for us to assist our friends in reaching international democratic standards. As commissioners of the Commission on Security and Cooperation in Europe, our role is to monitor those standards and the acts of signatories which reflect compliance or violation of the articles of the Helsinki Final Act, particularly issues such as democracy, the rule of law, free and fair elections, and the protection of human rights.

Azerbaijan stands on the precipice. Presidential elections in 1998 and 2003 were viewed by the OSCE and the international observers as marred by irregularities that resulted in the elections being less than free and fair. Parliamentary elections in 2005 suffered the same fate and were further compromised by the detention of over 300 political activists and candidates.

It is in light of these past elections that the next Presidential election scheduled for October will be viewed. An internationally recognized free and fair election will cement Azerbaijan's place in the world, but one filled with irregularities and fraud will result in Azerbaijan losing the international respect and recognition it deserves for many years to come. All can agree on the importance of the October election. I look forward to reviewing the reports of OSCE observers as they report back to the commission their findings this fall.

But as preparations for these pivotal elections get underway, I remain concerned with reports both internationally and U.S. sources about political prisoners, in violations of rule of law in Azerbaijan. In the State Department's 2007 Human Rights Report, the Government of Azerbaijan is singled out specifically for imprisoning persons for politically motivated reasons. I find these reports especially disturbing, given the impact such actions would have on the upcoming elections.

One such case, as was mentioned by my colleague Saxby Chambliss, in the report is that Farhad Aliyev and his brother Rafiq. As many of you know, Farhad was an active cabinet minister for many years, serving as the Minister of Economic Develop-

ment at the time of his arrest. His brother was the president of AZ Petrol (ph), the largest retail oil company in Azerbaijan. Both were arrested at the height of the 2005 October parliamentary elections, the last major election campaign held in Azerbaijan.

Although Farhad was arrested initially for organizing a coup. After 18 months of pretrial detention, charges were dropped and he was tried and convicted on vague financial crimes in a trial that violated most international standards of due process and civil rights. The facts surrounding this case are far from clear, but organizations ranging from the Council of Europe to the U.S. State Department have raised serious questions about irregularities with the Aliyev brothers' arrest, detention, trial, and conviction, issues which go to the heart of Azerbaijan's compliance with OSCE norms.

I hope the testimony we will hear today will shed light on what I think is a very serious situation. Since 9/11, the United States has provided approximately \$500 million of humanitarian, democracy and reform assistance to Azerbaijan, both through the Freedom Support Act and other bilateral assistance. Although the amount was decreased recently, aid to Azerbaijan remains an important element of America's foreign policy in the region.

However, continued support must be tied to Azerbaijan's continued progress in moving down the path of democratization and establishing full human rights. I can assure you the case of the Aliyev brothers and the success of this October's election will be the test Congress looks at when considering aid in the future.

Mr. Chairman, we should expect better from OSCE signatory countries, and one that wants to be integrated into the international community.

I look forward to hearing the questions of this panel and the answers of our witnesses today.

I thank the Chair.

Mr. HASTINGS. Thank you very much, Senator Burr.

Also, we are joined by my Co-Chairman and good friend, and another person that left the House of Representatives to go to the other body. Obviously, that is a good place to go to from here, but they do come back. I am glad that Senator Cardin, Co-Chair, is with us today.

Senator?

HON. BENJAMIN L. CARDIN, CO-CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. CARDIN. Well, we have an equal number down from the Senate here. We are taking over.

Let me thank the chairman for calling this hearing. As my colleagues have pointed out, this is the appropriate role for the Helsinki Commission to take. That is to take a look at specific countries, to look at ways that we can help and improve their records in regards to the Helsinki recommendations.

I might say that the parliamentarians from Azerbaijan are very active in the Parliamentary Assembly, and we have good friends, and we have engaged them on a regular basis in regards to issues that affect all of the states within the OSCE region. So we come to this in a way that we hope that we can get a positive working relationship in dealing with the Helsinki issues.

So I very much appreciate the fact that the Assistant Secretary of State for Democracy, Human Rights and Labor is here, who of course serves on our Commission, but is directly involved in being able to help us not only with Azerbaijan, but as it relates to the region. We particularly appreciate the Ambassador from Azerbaijan being here. I think that is a clear indication of the friendly manner in which we do our work in trying to work with friends to help each other.

As we have said many times, we are not immune from questions raised in our own country in regards to activities that take place in the United States. So we come to this in a positive sense. We know of the strategic importance of Azerbaijan to the United States. That has been mentioned by many of my colleagues in regards to its location, in regards to energy issues, in regards to security issues.

I would just like to make one observation, Mr. Chairman, then I am going to ask that the rest of my statement be made part of the record.

Mr. HASTINGS. Without objection.

Mr. CARDIN. And that is, Azerbaijan has a strong Presidential system. The President has quite a bit of power in that country and can bring about significant changes in a relatively rapid period of time. The elections are scheduled for, I believe not scheduled yet, but we believe they will take place in October. We would just urge the Government of Azerbaijan to open up the process so that it is easier for political parties to participate, and opposition representatives to have a fair opportunity in regards to the political process. I think that is a legacy that the current administration would be proud to establish within a relatively young country from the point of view of its independence from the Soviet Union.

We would also ask this government to take a look at your underlying laws. When you take a look at freedom of expression and the media, there are standards that need to be met in your criminal code that will allow free expression by the media to be able to report and to be able to do things that are typical of democratic states. Obviously, it is a chilling effect when you see individuals that my colleagues have referred to, and we do mention specific cases because we think that is the best way to get to the facts. We can put a face on the issue.

We know that we can respond by saying, well, that matter is under judicial review, or that matter is an individual case. But I think it demonstrates the chilling effect it can have on the participation of people within your country. We do believe it is important to deal with the specific cases and we hope that we will have a chance to do that.

The bottom line is this is an opportunity to make progress. We would urge Azerbaijan to take advantage of that, and we hope that this hearing will be a constructive part of that process.

Thank you, Mr. Chairman.

Mr. HASTINGS. Thank you very much, Senator.

All of the comments of my colleagues are deeply appreciated. For purposes of you, ladies and gentlemen, that are here with us, we do have a Commission Web site at www.csce.gov. All of the com-

ments and this entire proceeding once memorialized will be placed on our Web site for your perusal as you see fit.

We also have, although he is not present, but signifying keen interest in this particular hearing, and it is a short letter, and I will take the prerogative of the Chair, and in addition to placing it in the record, will read it. This is from the Office of the Republican Leader of the House of Representatives. He says: "Dear Mr. Chairman, as a cosponsor of your resolution on the human rights situation in Azerbaijan, I want to thank you for holding today's hearing on human rights and democratization in Azerbaijan. I support a strong bilateral relationship between the United States and Azerbaijan, and resolving the human rights cases there would only further strengthen our relationship. The conduct of free and open elections is also critical, and I know the Commission will be closely monitoring the Presidential elections this October. I look forward to continuing to work with you to promote democracy and human rights in OSCE member states." That is from John Boehner, the Republican Leader. I will have it included in the record.*

[* **Editor's note.** The letter referred to may be found on p. 37.]

Mr. HASTINGS. Secretary Kramer, we didn't forget that you are there, but I will be brief, and urge my colleagues to do likewise, because our next witness is one for whom I have a great deal of respect. He and I have had very frank and open discussions with each other, and that is the Ambassador to the United States from Azerbaijan, Yashar Aliyev. I would hope all of us would be able to get to him. So I will be very brief.

I would like to ask you, Mr. Secretary, and I will put both questions and then that way we won't have to stop your recitation. At a recent gathering of Azerbaijan diplomats in Baku, President Aliyev essentially said criticism of Azerbaijan's record would no longer be tolerated. Let me quote him: "The government knows well what it is doing and will not allow interference in Azerbaijan's internal affairs. Those who say that something is going wrong in Azerbaijan, and there are shortcomings, should look in the mirror at their own country. Attempts to apply pressure will just cause tension in our relations. While several years ago we may not have reacted to this pressure or kept silent, we are not silent today."

How do you, Mr. Secretary, interpret these remarks, having just recently been in Baku and having discussed human rights issues with Azerbaijani officials? I believe among those of us here that you would be the most recent visitor.

Another thing of considerable curiosity, all of the Congresspersons and two of the Senators today have pointed to a specific case, but beyond the case as highlighted, even human rights groups in Azerbaijan seem to disagree as to the number of political prisoners. The numbers that we have seen range between 33 and 57. In your testimony, my recollection is that you used the figure 33. Does the State Department maintain such a list? And without asking that you identify them all for me now, if you do maintain such a list, would you provide the Commission with the list and names of all those persons that the State Department considers to be political prisoners in Azerbaijan?

Sec. KRAMER. Mr. Chairman, thank you for both questions. Let me also in the interest of time and with respect to the Ambassador,

try not to take too much time in answering your questions and the questions of other Members of the Commission.

I am familiar with President Aliyev's comments before his diplomatic corps. I think that they followed my visit at the end of June at which I had, as I described, a very candid frank discussion, but also a very cordial discussion with President Aliyev. I think it was a very good opportunity for him to hear first-hand from a senior official in Washington the concerns that we have on a number of issues that I touched on, you and your colleagues touched on, particularly related to freedom of the press, and also with the elections in the past that have occurred, but the opportunity that the upcoming election presents for Azerbaijan in October.

I read the comments as a reflection of a country that certainly has bounced back, a country that has experienced a significant economic turnaround thanks to its energy riches and resources. I think it is a country that also reflects the fact that it is in a very tough neighborhood, with some neighbors that aren't exactly moving in the right direction on a democratic path. I think President Aliyev is very attentive to criticism he hears from not only the United States, but also from the Council of Europe and other Western organizations.

It is our hope to engage with him, with other government officials, as I did with the foreign minister, and also to engage with members in the opposition in civil society, to encourage Azerbaijan to stay on a democratic path, to respect all the human rights reflected in the Helsinki accords, to allow freedom of the press, to deal with any problems that occur with journalists being detained or harassed or beaten up. So it is our hope that we can take what quite honestly has been a source of some friction in the relationship, on the issue of democracy and human rights, and turn it into a positive element, just as we have positive elements in our relationship on energy diversification and on security cooperation.

That is very much the spirit in which I went to Baku to have these discussions. I greatly appreciated President Aliyev's time. He spent a considerable amount of time with me. I think it was an opportunity for both of us to have a healthy exchange of views. My hope is that we will see some concrete steps emerge. I think we have already seen a few of those since I was there at the end of June. We hope to see more.

On the matter of political prisoners, as you described, and the numbers. As you rightly pointed out, Mr. Chairman, NGOs estimate between 33 and 57, and apologies if I did not state that we also recognize that range. In our human rights report, we do reflect concerns about arrests or persecutions of people for politically motivated reasons. In our report, we state that arbitrary arrest and detention, if you will permit me just to read this sentence, particularly of individuals considered by the government to be political opponents, and lengthy pre-trial detention, the government continued to imprison persons for politically motivated reasons.

So we have looked at this matter very seriously. We have looked at specific cases and we will continue to do so. I would be happy to continue to keep the Commission apprised on that.

Mr. HASTINGS. Thank you very much.
Mr. Butterfield?

Mr. BUTTERFIELD. I am just going to ask one question, Mr. Chairman. Thank you very much, and thank you, Mr. Secretary.

In Farhad's opening statement during his criminal trial, he said that on the eve of his arrest, that the authorities offered to release him if he signed a confession implicating the United States of America and the U.K. and Germany in the coup. That is troubling if it is true. Would you comment on that?

Sec. KRAMER. Sir, I don't have anything to confirm that report. We have followed his case closely. But if that is true, I agree it would be troubling, but I apologize that I am not in a position to be able to confirm that information.

Mr. BUTTERFIELD. Thank you. I have about 20 more questions, but I am anxious to hear the Ambassador. Thank you.

I yield back.

Sec. KRAMER. Thank you, sir.

Mr. HASTINGS. Commissioner Solis?

Ms. SOLIS. I will be brief also. I just want to hear your take on what is it we can do in the remaining months through OSCE to help move this agenda forward so that there is more transparency and better relations with the Azerbaijani government?

Sec. KRAMER. Commissioner Solis, I think particularly with the election, OSCE can play a very important role here with election observation. This is an issue that I raised with President Aliyev and other senior officials. It is my hope and my understanding that an invitation will be forthcoming for ODIHR. It is my hope also that the Parliamentary Assembly will be sending a mission to observe the election there.

Election observation missions are extremely important in promoting transparency. What is also important is that the assessment of the election be determined not simply on what happens election day, but what happens with the totality of the campaign, including ability to register, ability to get access to the media, to be able to campaign and assemble freely without any obstacles put in the candidate's way. So I think OSCE in particular with the upcoming election has a critical role to play. As a number of us have said, I think it is an opportunity for Azerbaijan to seize, and my hope is that they certainly take advantage of it.

Also, OSCE has a representative that deals with media freedom. There are two. I think OSCE has a very important role to play in raising issues of media freedom, raising the issues of detention of journalists, raising the issue of harassment, intimidation, beating up of journalists. So I think Azerbaijan as a signatory of OSCE has these commitments to abide by, and I think OSCE can play an extremely constructive and positive role in the country.

Mr. HASTINGS. Senator Burr, Commissioner Burr?

Mr. BURR. Mr. Chairman, I will extremely brief because I want to hear from the Ambassador as well.

Does the U.S. Government believe that Farhad and his brother are in fact legitimate political prisoners?

Sec. KRAMER. Senator, as you yourself said, I think, because I wrote it down. The facts in the case are far from clear. We have been working to get to the bottom of the case. We tend to try to stay away from exact qualification of these kinds of matters, but this is a case where our embassy, as well as officials from Wash-

ington, have been engaged and will continue to engage on this matter. I think there are questions about due process. There are questions about what is driving the prosecution in this case. And certainly, we will continue to monitor and press on this matter.

Mr. BURR. I appreciate your need for flexibility. I think the chairman opened the door when he asked was there a list, and I am not sure that the chair ever got the answer. You are certainly entitled to all the flexibility that you need. But let me ask this, what has the United States done, if anything, to seek the release of these brothers?

Sec. KRAMER. We have raised the case of both with the authorities in Baku, and we will continue to do so. We have stressed the importance of due process and adequate legal representation, and that is the stand that we will continue to follow.

Mr. BURR. And from that action, is there any reason to be optimistic that we have made any progress?

Sec. KRAMER. They are still in jail, so I think as long as they are, it would be premature for me to say yes or no.

Mr. BURR. Thank you.

Sec. KRAMER. Thank you.

Mr. BURR. I thank the chair.

Mr. HASTINGS. Thank you.

Senator Cardin had to leave. I certainly appreciate very much the time pressures that all of us are confronted with.

Secretary Kramer, thank you. Senator Burr pointed out something that I need to underscore as well, and that is our deep appreciation to the government of Azerbaijan for their assistance in Iraq, and the tremendous assistance that we have received from them in anti-terrorism undertakings. Those are always constructive matters that can allow for the kinds of discussions that I am sure you must have had with the officials when you were there. Our great hope, as has been expressed by all of us, is that our relations will be on a positive track and remain that way. I thank you so very much for your testimony.

I also understand that you have the press of time and have to proceed. You are welcome to stay if you see so fit.

Sec. KRAMER. Thank you, Mr. Chairman.

Mr. HASTINGS. At this time, ladies and gentlemen, if we could just transition momentarily, change our water and name tags, and ask my good friend, Yashar Aliyev. He is an orientalist by training and a career diplomat. He has served as Ambassador of the Republic of Azerbaijan to the United States since November 2006. From 1992 to 2001, he was Counselor on Political Affairs at Azerbaijan's permanent mission to the United Nations, as well as two 1-year terms as Charge d'affairs in 1993 and 2001.

Ambassador Aliyev was later appointed his country's permanent representative to the United Nations, serving from 2002 until 2006. We are delighted that he is here with us today. I would like to say that the Ambassador and I share opportunities to speak with each other. I always appreciate it and I hope he appreciates my candor and frankness, as he offers his, with reference to not only this matter, but other matters regarding the United States and Azerbaijan relationship.

Ambassador, you may proceed as you see fit, sir.

**H.E. YASHAR ALIYEV, AMBASSADOR OF THE REPUBLIC OF
AZERBAIJAN TO THE UNITED STATES**

Amb. ALIYEV. Thank you, Mr. Chairman. I thank the distinguished members of the Helsinki Commission. I thank you sincerely for the opportunity to address this distinguished Commission on two priorities for my country: human rights and democratization.

We made our decision 17 years ago upon regaining our independence back to pursue policies of a pro-Western democratic country with a free market economy. We are a secular country with a predominantly Muslim population where you can find our citizens attending a Catholic church, a synagogue, and a mosque within blocks of each other in Baku, capital of Azerbaijan.

Freedom of religion is guaranteed by our constitution. We are immensely proud of our long history of religious tolerance. Azerbaijan has vibrant Muslim, Jewish, and Christian communities. We are indeed a melting pot of cultures, religions, traditions, and ideas. Just this past March, for example, Vatican Secretary of State Cardinal Bertoni visited Baku, where he reopened a Catholic church in downtown of the capital that had been closed for decades under Communist rule.

Located at the crossroads of two great continents, Europe and Asia, we have always encouraged diversity and have been a bridge between cultures. We are situated in an important region of challenging political dynamics, with Russia to the north, Iran to the south, Armenia and Georgia to the west, and our backs against the Caspian Sea.

I am honored to have served for almost 2 years as Ambassador for Azerbaijan to the United States, and to have observed your own democracy in action during a critical period in America's history as you approach a Presidential election. I have had the opportunity to watch first-hand your own Presidential election process. I have learned how unique to the domestic culture and realities democracy really is.

Understanding the challenges of building a new democracy, I appreciate former Congressman and Chairman Vin Weber's opening statement about the United States in the recent 2007 annual report of the National Endowment for Democracy. He said about the United States, and I quote, "In our country, with its long tradition of self-government, we tend to forget how difficult democracy is to create and sustain."

As you know, Azerbaijan has emerged from the turbulent years following the dissolution of the Soviet Union to become a strong friend and ally of the United States and to the international community as a whole. The country is a member of the United Nations, the Organization for Security and Cooperation in Europe, the Council of Europe, and other international organizations. It is on a path toward World Trade Organization membership and is an active participant in NATO's Partnership for Peace.

As both a producing and transit country for Caspian oil and gas, Azerbaijan has become a major player in ensuring energy security to Europe and the West in general. In fact, just last week, Georgian President Mikhail Saakashvili stated without ambiguity that

Azerbaijan is a key guarantor of his country's independence by providing much-needed energy supplies.

Azerbaijan is also a staunch ally of the United States and international partners in security operations in Afghanistan and Iraq. Not only does Azerbaijan provide troops to NATO and coalition forces in these countries, it also has granted permission for U.S. airplanes to use Azerbaijan's vital airspace for U.S. military operations in Afghanistan.

Of course, as you are well aware, Azerbaijan faces grave problems concerning the Armenia-Azerbaijan conflict, which continues to result in the illegal occupation by Armenian military forces of some 20 percent of Azerbaijan's territory. Azerbaijan's territorial integrity has been affirmed and reaffirmed numerous times in past years by the U.S. Government. It has also been reaffirmed no fewer than five times by the United Nations, the most recent of which took place on March 14 of this year with a resolution calling for the immediate, complete and unconditional withdrawal of Armenian forces from occupied Azerbaijani territory.

This conflict has many ramifications, the most pressing of which is the continued displacement of up to one million Azerbaijanis from their homelands. In resolution 1614 just this past June 24, the Parliamentary Assembly of the Council of Europe stated that, and I quote, "The assembly considers that sustainable democratic development will be extremely difficult in Azerbaijan as long as the country's territorial integrity has not been restored."

We seek input from you, the Helsinki Commission, and other respected members of the international community, to help us solve this issue without delay. Indeed, when we address the issue of human rights in Azerbaijan, we must begin by restoring the human rights of almost one million refugees and displaced persons who, as we sit here today, are deprived of their right to live in peace and happiness in their homeland.

Mr. Chairman, it is an honor to appear before you today to provide insight into Azerbaijan's advances in democracy and human rights. While no democracy can ever claim to be perfect, we do know what we have achieved, what not, and that a lot of things are yet to be done. We know that building democracy is a process that is full of not only roses, and we understand the challenges ahead of us. We welcome your support, the benefit of your experience, your recommendations, and your understanding as we address the many challenges we confront together.

Azerbaijan has taken major steps to establish and enhance democratic institutions. Today, the country has a robust media environment with more than 1,000 newspapers and magazines, 7 television stations covering the entire country, 14 local stations in place, 11 radio stations, 30 news agencies, and 44 electronic mass media outlets.

The country has seen a virtual explosion of Web sites, blogs and access to the Internet across the country. Internet traffic in Azerbaijan has increased an astonishing 40 percent thus far this year compared to last year. And all this is going in a country the size of the State of Maine.

The new Azerbaijan brings with it a new set of needs and higher professional standards of journalism. The United States has been

working with Azerbaijan to help improve these standards and more is needed. I ask the members of this distinguished Commission to consider practical ways in which we can work together to better train a new generation of journalists to meet the professional challenges of the 21st century.

Azerbaijan enjoys strong political pluralism. There are 52 political parties in the country, 20 of them are currently represented in the national parliament.

This October, the 15th of October, 2008, Azerbaijan will hold its fifth Presidential election in 17 years. It also has conducted three parliamentary elections and two municipal elections. All of these have been held on schedule according to the electoral timetables. All of these were open to international observers, as this year's Presidential election will be. As Secretary David Kramer announced, 30 long-term and 450 short-term international observers from OSCE will observe the election.

Improving our electoral practices to meet international standards has been a priority. In this regard, we have instituted and amended the electoral code. Examples are following: implemented the practice of inking voters' fingers; declared election day a non-working day to allow all citizens the opportunity to vote; established that expert groups involved in the complaints and appeals process will be present at constituency commissions; facilitated voting by persons in detention; reduced the number of required signatures from 45,000 to 40,000 for the registration of a Presidential candidate; mandated that election observers be provided identification badges, thereby reducing the number of unauthorized persons in polling stations; required verification badges for registered agents of candidates, political parties, and political organizations; required disclosure of voter addresses in public voter lists.

Just last month, the Council of Europe's Venice Commission gave a positive assessment of these changes to the election code.

Azerbaijan has created the position of ombudsman to hear concerns from its citizens and to carry those concerns both to the government and to the European Court of Human Rights. It is important to note that just this past June 18, Azerbaijan commemorated its first-ever National Day of Human Rights.

In our democratic process, we understand the importance of facilitating the development of a critical pillar—civil society. Some 3,500 Azerbaijani and international NGOs have been established in the country, providing a welcome pillar to the strengthening of civil society. In December 2007, the State Council for the Support of NGOs was established by Presidential decree. This council seeks to accelerate the further enhancement of civil society in the country. Eight of its members are nominated by the NGO community, with the three remaining members nominated by public agencies. On June 13 of this year, the council announced in the press a competition for NGO projects in 15 areas, including human rights of refugees, women, and youth. Submitted projects will be examined by a group of experts and selected by the end of July. This year, \$1.5 million will be allocated to these NGO projects.

As far as maintaining the independence of the mass media, a working group created by the Azerbaijan Media Council has recently developed a concept on state support to mass media. This

document helps to define financial assistance for the media, including credit allocation and debt reduction. This measure will soon be submitted to the president for further consideration.

This Helsinki Commission has inquired about the detention of journalists. In accordance with the Presidential pardon decree of December 28, 2007, five journalists were released from prison.

A new draft law amending the law on freedom of assembly currently in force in the country was elaborated in close cooperation with experts from the Council of Europe Venice Commission and OSCE/ODIHR. On December 15, 2007, the Venice Commission provided a final opinion stating that if adopted, they will be in accordance with European standards. The law with amendments was adopted just 2 months ago on May 30, 2008 by the parliament and has been praised by the council of Europe representatives. According to the amendments, organizers have to inform the relevant administrative body about the place and time of the demonstration and also route of the rally 5 days before the demonstration. Freedom of assembly only can be limited in cases envisaged by the law and for national or public security, preventing crime or disorders, protection of health and morality, and rights of other persons.

In the area of increasing transparency and combating corruption, Azerbaijan has achieved the following over the last few years, including: adopted the law on combating corruption on January 13, 2004; secured Presidential approval of the state program on combating corruption on September 3, 2004; the Anti-Corruption Commission started to function at the Public Service Management Board; established Department for Combating Corruption within the Prosecutor General's office; and on June 28, 2007, the president issued the order endorsing the national strategy on strengthening transparency and combating corruption and the action plan for its implementation for years 2007 to 2011.

The national strategy recommends the following measures: improvement of legislation, law enforcement and courts; closer cooperation with civil society; advancement of anti-corruption culture; and enhancement of the anti-corruption work of governmental institutions.

Additionally, Azerbaijan has created a Commission on Combating Corruption, which is part of the State council on the Management of Civil Service. This commission functions as a specialized agency on combating corruption. It is comprised of 15 members, five appointed by the President, five by the Parliament, and five by the Constitutional Court.

We attach great importance on ensuring women's political and economic rights and providing them with adequate representation at all levels of decisionmaking process. In March 2000, the President signed the decree on implementation of the national gender policy in the Republic of Azerbaijan. For the past years, the number of women in political and decisionmaking has considerably increased. It is worth mentioning that Azerbaijani women gained electoral rights long before more developed countries, that is in 1918. Today, female parliamentarians represent more than 11 percent in the parliament of Azerbaijan.

Three Deputy Ministers of Education, of Economic Development, and of Culture, one Chairperson of the State Committee, and one

Chairperson of the State Commission are women. Besides, one Deputy of the Chairman of the National Parliament out of three, Ombudsperson of Azerbaijan, and Deputy Prime Minister of Nakhchivan Autonomous Republic are women. The total percentage of women working in the Ministry of Foreign Affairs of the Republic of Azerbaijan is more than 19 percent, from which 5 percent are women occupying leading positions. Two diplomat women are representing the country on the international level, one Ambassador and one permanent representative. Nowadays, women are widely represented in business sectors. The number of women engaged in entrepreneurship activities has increased more than 6 percent in the year 2008.

Azerbaijan, appreciating the importance of intercultural and interreligious dialogue and tolerance, has embarked on a series of important events intended to further this dialogue and to establish future goals and agendas. In the year 2007, a conference entitled *The Role of Media in Promoting Tolerance*, was held in Azerbaijan, which attracted attendees and observers from 11 international organizations and 49 countries.

Just recently in June, Baku hosted a major forum on the role of women in intercultural dialogue under the auspices of the first lady of Azerbaijan. Participants included the first ladies of Latvia, Poland, Angola, South Africa, as well as spouses of the Vice President of Argentina, the Prime Minister of Turkey, and the first lady of the State of Texas. On December 2 and 3, 2008, Baku will host a conference of the European ministers of culture with representatives from the Council of Europe, Islamic Educational, Scientific, and Cultural Organization, ISESCO, and Arab League Educational, Cultural and Scientific Organization, ALECSO, which will focus on the role of intercultural dialogue as a vehicle for peace.

Mr. Chairman, Azerbaijan welcomes the attention the United States has given to democratic issues in the country and to the South Caucasus as a region. We in the South Caucasus have faced numerous challenges. One neighboring country faced unprecedented post-election violence in which innocent civilians were killed and a ban on independent media was imposed. Another neighboring country enacted martial law and shut down media outlets. We have all passed through difficult times, but we have all been heartened by the friendship and support of the United States and its people.

Mr. Chairman, democracy requires constant nurturing and attention. Its establishment brings many challenges. I am confident that the United States, which has led valiant efforts to bring peace and democracy to volatile regions of the world in recent years, understands these difficulties very well.

Azerbaijan cherishes its friendship with the United States, as I am sure the United States does with us. As friends, we celebrate one another's successes. As friends, we are allowed to disagree from time to time, and to point out one another's shortcomings. And as friends, all that we require is that we treat one another with the same level of fairness that we give to others.

As you are aware, Azerbaijan often suffers from spurious campaigns that deliberately mislead and misinform the American public. As the great American essayist E.B. White famously remarked,

and I quote, "Prejudice is a great time saver. You can form opinions without having to get the facts."

In summary, Mr. Chairman, I would like to state we are a young democracy. We seek to move forward and to distinguish ourselves in several areas—leadership of women, religious freedom, economic opportunity, and growth. We also recognize certain needs for improvement and we will continue to make progress in these areas.

We remain committed to the principles of democracy and freedom. We are building such a society not for the international community, not for the outside world, but for ourselves, for our citizens, for our nation, and for our own prosperous and peaceful future.

Thank you for this opportunity to address these important issues with you. I look forward to your questions. Thank you.

Mr. HASTINGS. Before I go to my colleagues, beginning with Mr. Butterfield and Ms. Solis and Senator Burr, I thought as I listened to you, Ambassador, and your quoting yet another former colleague of ours, Vin Weber, at the outset of your remarks, indicating how difficult it is to achieve, preserve and maintain democracy. I certainly agree with Vin's comments that you offered and the fact that you offered them in that way.

You were here when I began my remarks, and the remarks that I offered allowed, among other things, that we have had two Helsinki Commission hearings this year on Guantanamo. We have held one at the University of Maryland dealing with the subject of torture. And just last week, we held a hearing dealing with human rights standards as it pertains to medical evidence of torture by U.S. personnel.

Now, here is how I feel, and you correct me if I am wrong. I had no compunction when I was doing that that President Bush or the Justice Department or anybody in authority was going to come and say to me that I couldn't do that. And then after I did it, I had no feelings, nor do I now, criticizing them today, and I wouldn't care if it was a Democrat or a Republican administration. I have criticized both and when they both deserved it, I criticized. I didn't think I was going to go to jail because of that.

Now, do you feel, if I had done the same thing in Azerbaijan in criticizing President Aliyev, with reference to political prisoners, and I do believe that the United States has done wrong by people that we have held, and I would say that to President Aliyev is it is true. Now, do you think I would still be walking around Baku?

Amb. ALIYEV. You know, let's try. I don't know. Let's try.

Mr. HASTINGS. Yes, well, I think that is a fair answer to perhaps what was a rhetorical question. [Laughter.]

And that is that my butt would be in jail, you understand. And so I just want you to take that back to the President as my offer.

I am going to go to Mr. Butterfield, and I will ask some other questions after my other Commissioners.

Mr. BUTTERFIELD. Thank you very much, Mr. Chairman.

Mr. Ambassador, thank you very much. I was listening very carefully to your statement. It is a very well thought and a very well delivered statement. Thank you, thank you very much.

Earlier in this hearing, Mr. Ambassador, Chairman Hastings quoted what appeared to be verbatim your President. Did you hear that quote that he mentioned earlier? And if you did, is it accurate?

Amb. ALIYEV. Yes, I did.

Mr. BUTTERFIELD. OK.

Amb. ALIYEV. I heard the quotation from his remarks, but you know, I am not in a position to confirm it is 100 percent correct, but yes.

Mr. BUTTERFIELD. Sure. And it has a confrontational tone. What we are trying to do now in our relationship with other countries around the world is to try to decrease the confrontation and increase the diplomatic relationships between our countries. You know, I think the tone of that statement is not well advised. I would hope that as we go forward that the rhetoric would cease and we would continue to work together.

In your statement, and you can correct me if I am wrong, you did not mention the two brothers that all of us have been talking about today. As you can perceive from listening to all of us, we are very much concerned about these two men. We are concerned about the circumstances under which they were arrested and charged, and we are concerned about their future. Are you free to discuss the two brothers, Farhad and Rafiq?

Amb. ALIYEV. You know, kind of. I cannot say that I am completely free to discuss. I am free to discuss—

Mr. BUTTERFIELD. Tell us what you can discuss, because we are concerned about it.

Amb. ALIYEV. I cannot say what I don't know, simply. I have the permission provided by the Office of the Prosecutor General, and I easily can share it with you. It is in front of me, and by the way—

Mr. BUTTERFIELD. Now, the Chairman has given me 5 minutes, and I have used up about 3 minutes, so if you can do it briefly, I would appreciate it.

Amb. ALIYEV. Yes. I just would like to mention that a while ago, the first edition of this information has been submitted to the chairman, when we have met and discussed this matter. Let me be very brief, and I will let you know the principal charges against those two brothers. As in the United States of America and many other countries, the law forbids the government members and officials of Azerbaijan to exchange in business activities. Ex-Minister for Economic Development of the Republic of Azerbaijan, Mr. Farhad Aliyev, was charged inter alia with embezzlement, abuse of power and illegal entrepreneurship. His brother, Mr. Rafiq Aliyev, charges centered on smuggling, tax evasion, and illegal entrepreneurship activities. They both were in custody and were tried in compliance with Azerbaijan's criminal and criminal procedural courts.

Mr. Aliyev, Farhad, and Mr. Aliyev, Rafiq, were charged with embezzling state property and improvisation (ph) shares in the amount of more than \$73 (ph). Benefiting from illegal entrepreneurship in the amount of more than \$400,000 and smuggling precious jewelry and crude oil in the amount of more than \$7 million. The duration of Aliyev's detention did not exceed the maximum period under Azerbaijan's law. They were arrested in October 2005

and their detention was extended in successive rulings in accordance with provision 15948 of the criminal procedural code of the Republic of Azerbaijan.

Mr. BUTTERFIELD. Is it the shorthand way of saying that corruption—they were charged with corruption?

Amb. ALIYEV. In short, yes, corruption.

Mr. BUTTERFIELD. Well, if corruption was the real reason for his arrest, why was he not charged with corruption at the time of his arrest? That is what—

Amb. ALIYEV. Sir, allow me to disagree with you. Information I have been provided, and I can show it, on October 23, Mr. Farhad Aliyev was charged and arrested by the Nasimi (ph) District Court under provision such-and-such of criminal court of Azerbaijan. And he had been arrested under the provision of three items of the criminal code, including the corruption.

Mr. BUTTERFIELD. And they are still awaiting trial? Is that correct?

Amb. ALIYEV. No, no. It is over. They have been sentenced. They are serving now, with Farhad for 10 years and Rafiq, I believe, 9 years.

Now, allow me to give you more information about—

Mr. BUTTERFIELD. Well, either the Senator or the Congresswoman may want to continue this line, but I think my time has expired. I am sure they will. So Mr. Chairman, I am going to yield back the balance of my time.

Amb. ALIYEV. Mr. Chairman?

Mr. HASTINGS. Could you abbreviate it as best as possible? I will include the whole statement in the record and post it on the Web site. But there was one more point?

Amb. ALIYEV. Yes. You know, about the time of the visitation, since we have been discussing this at the time, yes, you know, I had received confirmed information that Farhad Aliyev was visited by his spouse and two sons June 30, 2007, 12 days before the resolution 183 was tabled. And the last time they met, July 12, 2008, from 12 p.m. until 4 p.m., spouse and his two sons. There is a full list of meetings—

Mr. HASTINGS. If you give me the full list, I will put it in the record.

Amb. ALIYEV. Yes, I will.

Mr. HASTINGS. Commissioner Solis?

Ms. SOLIS. Thank you, Mr. Chairman.

My question, Mr. Aliyev, thank you. I wanted to go back to a comment you made about the rights of journalists now and your attempt by the government to have a more what I thought I believed to hear more transparency. I wanted to ask you in particular how the current criminal code is structured. My belief is there are some elements in the code that allow the government to continue to prosecute journalists if they are not in agreement with statements that they made, either slanderous or in some way menacing to the government. I wanted to ask you if there is any attempt on the part of your government to try to rectify that or change or look at changing the criminal code, because on the one hand you are saying you are reforming, but yet your statutes allow you to go after

journalists who may not be in sync with what the government feels may not be appropriate.

Amb. ALIYEV. Thank you very much, Madam Congresswoman. As I told you, our mass media environment, just to like to repeat, we have more than 1,000 newspapers and magazines, 7 national stations, 14 local, 13 news agencies, et cetera, et cetera. So Azerbaijan media is governed by civil laws, and they are a big number: the law on TV and radio broadcasting, the law on mass media adopted a new edition in March 16, 2002. The Presidential decree on strengthening state support to media, July, 2001; the Presidential decree on additional measures on strengthening state support to media; the law on public TV and broadcasting; the law on access for information.

So there are a number of, you know, journalist organizations in the country.

Ms. SOLIS. Yes, but my point—

Amb. ALIYEV. Yes, I am going to the point now. So criminal court of Azerbaijan, now we have to speak about the defamation and libel. So each country has its own traditions and each country has its own values. So my country is a relatively young country as a democracy, but it has deep traditions that are ingrained in society. Some of the things seen in the tabloid journalism of other countries is deeply offensive to the Azerbaijani sensibility and to the social code of conduct. The notion of granting anyone *carte blanche* immunity for the things they distribute or disseminate in public, especially when it is not based on fact, is simply a new concept for much in Azerbaijan.

So what I would like to say is, the fact that, you know, the libel and defamation should be repealed or deleted from Azerbaijani criminal code is a very new topic for our republic. This topic is under very extensive and intensive, you know, discussion on the part of the government officials, on the part of the scientists, the lawyers, and simply the citizens of Azerbaijan.

Ms. SOLIS. Is there any—can you give us any information as to whether there will be an attempt to constructively look a changing the code? That is what I am asking you.

Amb. ALIYEV. I understand your point, ma'am. I can assure you that we are giving very serious attention and consideration to this matter. I cannot vouch that it will be solved with a couple of days or within a couple of months, but this item is in our agenda, and we are discussing this matter with the Council of Europe and OSCE.

Ms. SOLIS. Right. OK. And I am sure OSCE will be very happy to engage and provide whatever assistance we can.

My next question, and I know my time is running out, has to deal with religion. You talked earlier about the different faiths that are practiced there in your country, and I think that is commendable. That is great. But I also understand that there have been two arrests, two criminal trials that have been conducted, one against a Baptist pastor, Hamid Chavenoff (ph), who was sentenced, the Baptist pastor, and who is now in prison in 2007. He is being prosecuted on charges that he held an illegal weapon and faces up to 3 years imprisonment. This church and family insists that the

weapon was planted during a raid on his home on June 20, in which he was arrested.

Meanwhile, in Baku, there is also a prosecution underway of a Jehovah's Witness who contends that because he is a conscientious objector, that he is now evading military service, that he is also being charged. So I would like you to, if you can, speak on these two criminal cases.

Amb. ALIYEV. You know, I can just only confirm that indeed that gentleman he is, you know, sentenced because of the possession of the armament. So it is true. But the second fact, I am not—

Ms. SOLIS. You are not aware? Can you provide us information and get back to us on that?

Amb. ALIYEV. I will provide later on information on this matter.

Ms. SOLIS. And just to go back to the question about journalism, I mentioned that there were some releases of journalists there, but there still remain four that are behind bars. Can you give us any information as to where their trial is, where are we in that situation?

Amb. ALIYEV. Yes, I will. In my list, there are three. And I understand we are talking about the fourth one. The fifth one is Sakit Zahidov. He was held criminally liable not for defamation, but for acquiring and retaining narcotics. He is in fact a poet. He was offered, but refused a pardon. Just so you know the facts of the case, Zahidov was detained in 2006 in Baku district by counter-narcotics police. Officers found in his left pocket about 10 grams of heroin packaged in cellophane. He was convicted under article 234.1 for possession of illegal narcotics.

The editor-in-chief and the owner of the newspaper Realni Azerbaijan, named Eynulla Fatullayev, was held criminally liable by private charge for insulting the honor and dignity of Hochala (ph) residents that suffered Armenian aggression and genocide. Afterward Eynulla Fatullayev was accused also of another crime. In April 2007, different foreign companies, organizations and individuals operating in Azerbaijan received information stating that if Azerbaijan supports an untied (ph) Iran coalition, Iran would instigate neutral strikes against Azerbaijan and 16 (ph) strategic objects would be exploded by hundreds of suicide bombers.

After the investigation, his case was sent to Grave Crimes Court and Fatullayev was found guilty of three articles of the criminal code: threat of terrorism, evasion from taxes, inciting of national hatred. He was sentenced to 8½ years, [inaudible] that was [inaudible] on appeal.

The third one, Ganimat Zahidov, editor in chief of Azadlig newspaper, was held criminally liable for injuries and hooliganism following a charge by an Azerbaijani citizen on March 7, 2008. He was found guilty on articles light (ph) injuries and hooliganism and sentenced to 4 years imprisonment.

So as you can see, there is no relation to their professional activities, all based on their, let me say, disorder and they received appropriate sentences up to the court trial.

Ms. SOLIS. Well, I don't have all the evidence before me, but I have just some skepticism in what I am hearing. If they initially begin to talk to an individual because there is something that may not be in agreement with the government, then there are grounds

to go a little bit further and there may be something there that I am missing, or that I did not hear from.

Mr. HASTINGS. Thank you, Commissioner. Senator?

Mr. BURR. Thank you, Mr. Chairman.

Ambassador, I thank you for your willingness to be here. Your statement was thorough, well done. I am not sure that it encompassed all the concerns that Members have expressed in the form of their statements or questions. I take to heart your comments on the friendship between two countries, because friendships when headed in the right direction, grow; friendships when headed in the wrong direction eventually breed further confrontation.

I said in my opening statement, I pointed out a number of things that are I think fact. I haven't heard anybody dispute them, that international observers said that elections were marred by irregularities that resulted in elections being less than free and fair. That was the 1998–2003. The 2005 suffered the same fate and these observers said were further compromised by the tension of over 300 political activists and candidates.

Now, I wanted to make sure you particularly heard my comment about this October election, which you have referred to as October 15. We will watch and we will listen to observers. I hope that Azerbaijan will work very closely with those observers to make sure that their evaluation of free and fair is accurate of what takes place. More importantly, that this commission will watch the comments of those observers and we will use that in the context that it is provided to us.

What forces me to reinforce that is specifically the fact that you are a signatory. The acts of signatories, which reflect compliance or violation of the articles of the Helsinki Final Act, this is something that we would hold any signatory to; this is not picking you out of a group and saying we are going to go through this intense review. This is, I hope, the same standard that others hold us to, and I expect it.

So let me move to two questions on the two brothers, if I may. It is my understanding, right or wrong, that Farhad has had a medical condition, and is it true that he has been denied the medical treatment that he has needed?

Amb. ALIYEV. Sir, if I may once again, there is information about this. There is a certain portion about his medical examination. He was first examined on December 28, 2005, and the last time he was examined on January 28, 2008 by a panel of doctors consisting of a number of Azerbaijani physicians. So this is very short, just for the sake of time.

Mr. HASTINGS. Would the gentleman yield?

Mr. BURR. I would be happy to yield.

Mr. HASTINGS. Were any of those physicians of his own choosing, Ambassador?

Amb. ALIYEV. Sir, it is a good question, but there is no mention of it here.

Mr. HASTINGS. Would you get that information for me?

Amb. ALIYEV. Yes.

Mr. HASTINGS. Thank you.

Thank you, Senator.

Amb. ALIYEV. I have 15 items about his medical examination. It is here.

Mr. HASTINGS. We will put it on the Web site.

Amb. ALIYEV. Yes.

Mr. BURR. Ambassador, is he imprisoned in the Ministry of National Security?

Amb. ALIYEV. You know, to the best of my knowledge, the question of his transportation from the Ministry of National Security to the regular jailhouse is under discussion, and he will be removed soon.

Mr. BURR. Is it standard procedure in Azerbaijan to hold an individual accused of financial crimes in the government ministry buildings?

Amb. ALIYEV. To the best of my knowledge, I don't know. I guess not.

Mr. BURR. Understand the importance of this question. You have stressed the fact that this Commission, these individuals, we should try to base our opinions on facts. This is an important aspect. I would find it somewhat unusual for any government to house a criminal, somebody who had been found guilty of financial crimes, in the Ministry of National Security. So if he has been held, is being held, continues to be held, may be transferred based upon questions that we ask in the Ministry of Security, that begins to suggest to me that there is more to this than possibly what has been shared.

I don't believe that it would be standard procedure in any country in the world that a criminal, an individual charged with a crime of financial consequences, would in fact be housed in anything other than the prison that everybody else would be. So I hope you will look into this. I hope you will share with the appropriate people in Azerbaijan the serious questions that we ask to try to separate the fact from the fiction that clearly you alluded to. My hope is that as we look at October 15, we have an opportunity from an international observation of this election cycle that we can both turn around and say this was free, it was fair, and that this was the start at repairing some of the concerns, some of the questions, some of the un-factual things that might exist.

Thank you, Mr. Ambassador.

Mr. HASTINGS. Thank you very much, Ambassador. We greatly appreciate your testimony.

I would like in light of the fact that I know you know, as well as Azerbaijani officials, that I was a lead observer for the OSCE to the parliamentary elections in 2005.

Thank you, Senator.

Since that time, as you well know, and before that time, I was an observer in a considerable number of elections, including three in Russia, two in Ukraine, two in Georgia, one in Armenia, and I could go on and on and on. I only say that for the reason that when the ultimate statement is pronounced by the chair and office's designee, that statement comes from the work of those persons, including ODIHR, the Council of Europe in most instances, the NATO Parliamentary Assembly sometimes, and the Parliamentary Assembly of the Organization for Security and Cooperation in Europe.

Now, I don't and did not and will not take orders from my State Department about what is to be said in those meetings. As a matter of fact, Ambassador, very occasionally when I am visiting a country in my capacity for the Parliamentary Assembly, I do not ask, seek, or permit our U.S. Ambassadors to visit with me when I visit with officials at the official level, from President to Foreign Ministers to Ambassadors.

So if we have any democracy lesson here is, we do have a separation of powers. I don't take no orders from nobody but the people that I represent.

I thank you very, very much for your testimony today.

Mr. Walker, if you would come hurriedly. I do appreciate your patience.

Ambassador, you are certainly welcome to stay and listen to Mr. Walker.

As we are setting up, Christopher Walker is Director of Studies at Freedom House, where he helps oversee a team of senior analysts and researchers in devising overall strategy for Freedom House's analytical publications. These projects include Countries at the Crossroads, Nations in Transit, Freedom of the Press, and Freedom in the World: The Annual Survey of Political Rights and Civil Liberties.

Mr. Walker is responsible for generating special studies and reports, initiating task forces, and responding to critical news and democracy issues through statements and op-eds.

Mr. Walker, your full statement will be allowed into the record, and I would appreciate it—I know the hour is late—but I also have to go to the Rules Committee at some point and I want to get as much as I can from you, so if you would—

Mr. WALKER. I have an abbreviated statement.

Mr. HASTINGS. Thank you very much.

CHRISTOPHER WALKER, DIRECTOR OF STUDIES, FREEDOM HOUSE

Mr. WALKER. Mr. Chairman, Commissioner Solis, thank you so much for inviting Freedom House to testify here today and provide comment on recent developments in Azerbaijan in advance of their Presidential elections this October.

Freedom House's mission is to monitor and support democratic development, and we have taken a keen interest in Azerbaijan's democratic development and human rights performance over the last 30 years we have been monitoring it. Other speakers have underscored Azerbaijan's strategic importance, its geographic importance, in an increasingly complex energy environment. It is fair to say that Azerbaijan is a strategically important state.

Given the country's clear strategic importance, I would emphasize four points. The first is, Azerbaijan's record on developing democratically accountable and transparent institutions is poor, and by our measures is getting worse. Azerbaijan is ranked not free both in our survey of political rights and civil liberties, and in our annual survey of global media freedom.

Second point is that Azerbaijan, their authorities have not done enough to advance crucial reform measures that will enable the country to manage its resource wealth effectively.

The third point is the resource curse is growing its roots in the country, according to our findings. Our recent Nations in Transit finding which were recently released indicated that Azerbaijan, like Russia and Kazakhstan, have seen a downward trajectory on virtually all of their democratic indicators over the last decade, and this downward trajectory has accelerated as the price of oil has risen.

The fourth point is that the authorities now seem to have dropped even the pretense of enabling more accountable and transparent institutions. I noted in the earlier comment of some of the Commissioners that this was a concern. This is also something that we have noted in our recent monitoring of Azerbaijan.

So I will return quickly to the issues of the resource curse and resource nationalism, but would first like to share a few key observations on two particular issues: on the election and media freedom, issues that have been focused on over the course of this discussion.

I would note in the interest of brevity the most recent assessments that we have looked at, which have come from the OSCE's ODIHR needs assessment report which was issued just 2 weeks ago. Among a host of concerns that were listed, there was one that was a priority concern, the notion that the pre-election environment right now is not conducive to free competition of political ideas and different platforms. This is principally due to constraints on freedom of assembly and the media.

The track record of recent elections, according to our measures, indicates that right now the likelihood of having a competitive election process coming into October is remote. I think Secretary Kramer hit on this. It is not only election day that matters. It is the constellation of ingredients that we look at that will contribute to a meaningful competitive and fair election.

I would note that in the last election cycle, there were a number of modest positive steps that the authorities took. This included lifting 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, however, were put into place very late in that last election cycle and therefore didn't achieve the degree and quality of implementation needed to be effective.

The ongoing challenges faced by the political opposition have also been described in some detail in the joint evaluation of the draft amendment to Azerbaijan's electoral code undertaken by the Venice Commission and OSCE's ODIHR, and they have chronicled a host of issues that need to be addressed quickly in order to have the other ingredients in place for a fair election this October.

Others today have noted the critical importance of media freedom. I will take just a minute to touch on this. We have noticed in our evaluation, and this is across a host of analyses we do each year. This is four separate analytical lenses that the media pressure that is being applied by the authorities has taken a difficult environment and made it significantly more difficult.

Azerbaijan's media sector confronts a host of major obstacles, and the authorities use a variety of tools to manipulate and intimidate the press. State businesses, for example, do not advertise as a rule

in opposition newspapers. There is very extensive influence by the authorities over state businesses in determining where their significant funds go in the media business. A private business with interests in state contracts in an economy still dominated by the state will usually decide caution is wiser in advertising with opposition newspapers.

Distribution is also a significant challenge for opposition newspapers, and critically—and this is I think a thread running through so many of the questions in this discussion—the court system is subordinated to the executive and doesn't allow publishers, editors and others meaningful legal recourse.

So there are a host of other media-related items that I have included here. I won't get into them during this discussion. Let me focus on what may be the critical issue for the purposes of international policymakers. And that is, the impact of energy wealth on Azerbaijan's key institutions. As oil and gas revenues have surged, the incentives for the government to enable meaningful alternative voices domestically and to heed the advice of international organizations has been diminished. In an address to international diplomats on July 6 that was cited earlier, President Aliyev made it unambiguously clear that Azerbaijan is posturing itself with a resource nationalism orientation.

He has also suggested that Azerbaijan might well withdraw from rules-based institutions, rather than comply with their standards or requirements that the government opposes. The budget dimension of the current Azeri energy wealth suggests a couple of important points. The first is there is now more than 30 percent of the overall budget represented by state oil revenues. These have been principally directed in two directions. One has been to military expenditures, and the other to infrastructure projects.

The massive scale of these projects and the lack of transparency in the allocation of funds have led to questions about the efficiency of the expenditure of public money and the selection of contractors. 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 forms of corruption.

I will conclude with the following observations. Although we are still nearly 3 months from the upcoming October elections, senior Azeri officials have already suggested that a third term might be in the offing for President Aliyev. This suggests potentially that the country is laying the foundations for a possible leader-for-life system, along the lines of those that have been anchored in countries such as Belarus or a number of the Central Asian states. Such controlled and insular politics clearly have profound drawbacks. These politically closed systems create zero-sum winner-takes-all approaches to governing, and with unchecked power comes unchecked corruption. In fact, hyper-corruption is the soft underbelly of these sorts of models in which accountability and transparency is in low supply.

It is no surprise, therefore, that in 2007 out of 179 countries surveyed, Azerbaijan shared the 150th ranking, along with countries such as Belarus, Congo, Kazakhstan, Kenya, and others in Transparency International's Corruption Perception Index.

The challenges to promoting reform in Azerbaijan are considerable. However, given the state and the strategic nature of Azerbaijan in the Caucasus and wider Europe and Eurasian region, Freedom House believes that the U.S. Government should continue to support democratic and human rights activists and critically support accountable and transparent institutions.

I would conclude with one final thought, and that is the decision that the authorities take today concerning the investment of the nation's extraordinary energy wealth will define the country's course for the next generation and beyond. A system that enables little accountability for how these resources are used holds enormous risks that these unprecedented, but ultimately finite wealth and resources may not be enjoyed by the vast majority of ordinary citizens in that country.

Thank you.

Mr. HASTINGS. Thank you very much, Mr. Walker.

You have argued that energy-rich countries are especially likely to develop authoritarian political systems. But what about Belarus, which is certainly a country that has oil and gas? I would argue to you that the key, it would seem, or a factor of considerable import would be political will on the part of the country's leadership, as opposed to where the wealth comes from.

I spent a large portion of my early career in and out of Africa having served on the Subcommittee on Africa. Many of the countries that I went to were not rich with resources, and yet they had very similar governance issues. Therefore, I find it difficult to believe that oil and gas standing alone leads to the kind of outcome that you are suggesting. I read a couple of your articles and I had the thought that I have. What is your response?

Mr. WALKER. Well, Mr. Chairman, you raise a critically important point, and that is the energy wealth isn't causing these countries to be authoritarian. The point is that the energy wealth is intensifying existing authoritarian structure. So no one would argue that in any three of the cases I cited that the energy wealth has transformed these countries from something they weren't before. In all of these countries, there are extraordinary challenges. The institutions are still struggling with post-Soviet legacy. They have, as was mentioned earlier before, very strong Presidential systems, which also creates obstacles to reform.

Nevertheless, I think what is striking in our findings is with this sort of resource at the disposal of not only Azerbaijan, but Kazakhstan and Russia, I would put in this category, one would hope that there would be some doors open for, say, greater media pluralism, meaningful pluralism.

I would also clarify something that was mentioned earlier, and that is there is pluralism in the print media in Azerbaijan. There are an enormous number of print publications. They represent a small part of the media landscape. As is the case in so many countries, it is broadcast media that most ordinary citizens get their news and information from.

In addition to that, if anything, the obstacles to the print media, even with their relatively less influential role in communicating to ordinary citizens, is becoming more difficult for a variety of reasons. I think that is worth noting.

Mr. HASTINGS. Do you perceive as Ambassador Aliyev said, in asserting to a positive, the growth of Internet usage? My recollection from his testimony is 30 percent growth in usage. That is pretty impressive when you think about it. Is that something that you factor in, not broadcast media like CNN or whatever would be the case in Azerbaijan?

Mr. WALKER. It is. And it is an extraordinarily important issue and I am glad you raised it. The overall usage in Azerbaijan now in percentage terms is fairly modest, but the trajectory is upward, which is terrific. The content of Internet use in Azerbaijan right now is very, very good. All things considered, in terms of a discussion of meaningful community-related issues, political issues, that is where you will find most of the action today.

I would note with some caution and trepidation, however, that just in the last couple of days there has been a discussion of creating another layer of monitoring of the Internet. This was proposed, or at least discussed, by the Minister of Communications and Technology, Mr. Adisov (ph), that in addition to three existing entities that already regulate the Internet for the purposes of cyber-crime, there may be another layer that would fulfill what appears to be a duplicative purpose oriented toward cyber-crime.

Some of the fears in the press freedom community are that this may be used to restrict proper and appropriate use of the Internet going forward, in part because the trajectory is going upward. If other media are used as a barometer for the treatment that they receive from the authorities, the Internet may be now in the cross-hairs. I think this is something that should be viewed with great scrutiny and concern by all those who look to see a safeguarded media environment in Azerbaijan.

Mr. HASTINGS. Right. Well, I appreciate all of your testimony. As I have indicated, I will post it all on our Web site.

You heard, and you were very patient in sitting here, and I appreciate very much that you took the time. But you heard the testimony of Secretary Kramer and Ambassador Aliyev, and you heard all of the questions and statements of my fellow Commissioners. Several of them are pointed to, and I asked Ambassador Kramer about the number of persons that NGOs site to as being political prisoners.

What is your view on this issue? And does Freedom House believe that there are political prisoners in Azerbaijan?

Mr. WALKER. I would answer the question in the following way, with two dimensions. The first is the definition of political prisoners, as other participants have alluded to, isn't always clear and fast. So I think right now there is a consensus that there remains a significant number, too many, political prisoners in Azerbaijan.

But what I have taken away from the discussion today is the thread that runs through the Farhad and Rafiq Aliyev case, the other prisoners who are being detained for what may be political purposes, it is hard to tell because the system is so non-transparent. It is difficult to have confidence in the outcomes that are produced when you don't have meaningful checks and watchdogs, either in the form of the press, which it is so critically important that the authorities ease the pressure that has been growing in recent months and years, frankly, to allow a more meaningful discus-

sion of the issues that are critical, not for the purposes of international NGOs or for the Commission, but for ordinary Azeri citizens who are looking to hear that their Governors are doing right by them.

I think that is what has been missing. And troublingly, the trajectory in our evaluation is heading in the wrong direction. I think this is at a meta-level the issue that has been more worrisome to us. It squares in large measure with not only Freedom House findings, but I think if you look at other international watchdog groups, as well as the supra-national organizations and institutions that do their work, even if they don't perhaps quantify it in precisely the same ways, if you look at what the ODIHR has been saying, if you look at what the Council of Europe has been saying, there is I would say fundamental consensus that things have been constricting in terms of political space in the last few years.

That is hard to square with the fact you have these sorts of enormous resources coming into the country which should at root, one would hope, open up some breathing space, provide some pluralism both at the business-news media level, but I think also in other sectors that we would all agree on would be salutary for the country's development.

Mr. HASTINGS. I agree with everything you have said and I would add that in international undertakings in oil and gas, I do believe that corporate entities, and particularly those that are international, have some immense responsibility in dealing with the various countries that they deal with.

I don't wish to point to any one particular group. Just lump them all under big oil, and say that when they go into places, they have some responsibilities, too. If I could turn away from Azerbaijan for a moment and just Nigeria and the environmental degradation that has taken place there by virtue of oil exploration, then it signifies to me among other things that countries are not the only ones at fault, but international giants who deal with leadership at a given time do foster sometimes very bad situations.

I was talking with my daughter last week about driving in from the airport to the President's residence in Angola, and passing by a compound owned by an American company that was walled and watching people in swimming pools and on tennis courts, and then passing by. It was about a two-mile ride from the airport, and passing by people that were standing in pools of filth with no clothing on.

That, to my way of thinking, leadership had a responsibility there, exercising our feelings about sovereignty, but so did those oil companies who were there have some responsibilities. I am not chastising Freedom House, but in the development of democracy, I think Ambassador Aliyev is absolutely correct. It takes time to do it and to maintain it and to preserve it. Azerbaijan can be on a positive track I think with organizations like Freedom House.

I didn't say to the Ambassador, and I will, that I want to know more about what happened with NDI. The successes for the country is not, and you put it so well, not so much just the NGOs, but for further development and democratization. What they do at great sacrifice is help countries to develop the institutions that ultimately we have an opportunity to see.

One thing I would say, I have a limited amount of time as the agenda setter as Co-Chair, and then the emphasis shifts to the Senate and Senator Cardin will have the same prerogatives that I have had throughout the last year-and-a-half really. I didn't have a full 2 years, but that year-and-a-half, as it were. I am hopeful that we have achieved some things, but I am also going to try to impress upon Senator Cardin, and as you know, Freedom House, in addition to having made a presentation there, I have called on you and other NGOs to give your input, to not just Azerbaijan, but all countries.

Some emphasis needs to be placed on some other places. For example, I find it passing strange that we go monitoring everybody's elections, and it wasn't until 1994 that I was able to persuade the State Department to let people come and monitor ours. I would hope Azeri officials would come to the November elections after their October election, and see our successes and failures as well as we are in this work-in-progress called democracy.

I would be hopeful next year that we would before having public hearings and briefings, have some roundtables with some experts like yourself, Mr. Walker, and others, that would allow for greater expression and frankness in a different setting for media offerings, and then come to others. If I said the 2004 elections, not the 1994 elections, is what I should have been speaking of when I spoke about talking with Secretary Powell and ultimately his making the decision to allow our elections to be observed.

There are so many things to be done and so many that can be done constructively. I hope this hearing falls on the ears of those who are not here, and the things that are said, that are taken in the form of constructive criticism, as opposed to bashing. I appreciate it very much.

Mr. WALKER. Well, Mr. Chairman, Freedom House would welcome the opportunity to take part in those sorts of discussions, and also to hear feedback on our findings—where we got it right, where we got it wrong.

Mr. HASTINGS. I think that is a healthy approach. I get a little bit tired of—the other thing that bothers me, and the wonderful people that work with me at the Commission, all of them don't necessarily agree with me, and I understand that. I am not talking about the membership. That is true, too, but staff even—I just don't enjoy having people with all of the expertise of people that have sat in this room today, and had to listen to us—I am talking about from our standpoint—and witnesses go through this exercise, and for them not to participate.

Maybe time is always something that is a pressure, but I have found that I achieve a whole lot more in informal settings than I do in formal settings.

Mr. WALKER. It is a wonderful idea.

Mr. HASTINGS. I have been doing that since I was a judge, and I kind of like I am going to continue. That is my story and I am sticking to it.

This one is adjourned.

Mr. WALKER. Thank you.

[Whereupon, at 5:10 p.m., the hearing was adjourned.]

APPENDICES

PREPARED STATEMENT OF HON. ALCEE L. HASTINGS, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Ladies and gentlemen, welcome to our first hearing on Azerbaijan since May 2000. Earlier this year we held hearings after elections in Georgia and Armenia, where violence either preceded or followed the vote. We are not waiting until after Azerbaijan's presidential election in October because Congress will probably go out of session for the year in September. Rather than wait until 2009, I decided to proceed at this juncture.

I would also like to point out—though I hardly think it is necessary—that the Helsinki Commission does not only scrutinize foreign countries. We also examine U.S. compliance. During this Congress, we have held two hearings on the status and treatment of detainees at Guantanamo, which took a very critical look at U.S. observance of human rights standards. Just last week, we held a briefing on the medical evidence of torture by U.S. personnel.

One more thing: we do not intend today to focus on Nagorno-Karabakh. Assistant Secretary of State Daniel Fried recently testified before the House Foreign Affairs Committee on the so-called frozen conflicts. And at our hearing on Armenia, Nagorno-Karabakh received considerable attention from Deputy Assistant Secretary Matthew Bryza, who is directly charged with negotiating an end to that dispute.

To turn now to the subject of our hearing—human rights and democratization in Azerbaijan—let me say, having been there several times, that I appreciate the importance of Baku's strategic relationship with the United States. Azerbaijan has cooperated closely with the United States on anti-terrorism matters. As a producer of oil and gas which is transported to Western markets through Georgia, Azerbaijan plays a pivotal role in diversifying sources of energy.

Still, there are serious human rights concerns in Azerbaijan. These have been laid out in the annual reports by the State Department and Freedom House. The Council of Europe, which Azerbaijan, Armenia and Georgia all joined in 2002, also issues regular reports on all three countries, focusing on human rights problems, and I commend them to your attention.

Of particular concern is the situation of journalists. In December 2007, Miklos Haraszti, the OSCE's Representative on Freedom of the Media, said more journalists were imprisoned in Azerbaijan than in any other OSCE member state. Later that month, President Aliev amnestied five journalists. Still, three remain in jail—or four, depending whom you ask.

The jailed journalists bring us to the issue of political prisoners. I introduced a resolution a year ago which focused on the case of Farhad Aliev and repression of journalists. While even Azerbaijani human rights groups disagree about who should be considered a political prisoner and how many there are, they do maintain there are people in jail for their political beliefs or activity. The Council

of Europe has been wrestling with this problem for years and we intend to question our witnesses about it as well.

Finally, an important presidential contest is coming up in October. I have a special interest in that topic, having headed the OSCE's International Observation Mission for Azerbaijan's parliamentary election in 2005. The OSCE's Warsaw-based Office of Democratic Institutions and Human Rights has issued a pre-election report on conditions in Azerbaijan. I understand that Baku has not accepted several recommendations of the Council of Europe's Venice Commission.

I hope that decision will be reconsidered and that Azerbaijan's October election will register clear progress over 2005. I look forward to hearing from our witnesses on this and the other issues under discussion today.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
July 29, 2008.

Hon. ALCEE HASTINGS, *Chairman,*
U.S. Commission on Security and Cooperation in Europe,
234 Ford Office Building,
Washington, DC.

DEAR MR. CHAIRMAN: As a co-sponsor of your Resolution on the human rights situation in Azerbaijan, I want to thank you for holding today's hearing on Human Rights and Democratization in Azerbaijan.

I support a strong bilateral relationship between the United States and Azerbaijan and resolving the human rights cases there would only further strengthen our relationship. The conduct of free and open elections is also critical, and I know the Commission will be closely monitoring the presidential elections this October.

I look forward to continuing to work with you to promote democracy and human rights in OSCE member states.

Sincerely,

JOHN A. BOEHNER,
Republican Leader.

PREPARED STATEMENT OF HON. SAXBY CHAMBLISS, COMMISSIONER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. Chairman and fellow Commissioners, I am pleased to participate in this important hearing today on the situation in Azerbaijan. As a Senate Commissioner, and as member of the Senate Committees on Intelligence and Armed Services, I know how important his part of the world is to our strategic interests and to the region. And we value Azerbaijan's participation in the war on terror and in energy security and transportation.

But I also know the world will be watching this October when Azerbaijan holds its Presidential elections. Because Azerbaijan is a signatory to all the major international human rights agreements, including the Organization for Security and Cooperation in Europe (OSCE), and the Council of Europe, this election is an opportunity for the government to show the rest of the world that it can live up to these commitments.

The Helsinki Commission performs a valuable function in monitoring fundamental freedoms, such as democracy and the rule of law, free and fair elections and the protection of human rights. The documents declare that commitments undertaken in this human dimension are of direct and legitimate concern to all participating states.

I am concerned there appears to be a number of human rights issues identified by the U.S. government, the Council of Europe and NGOs. According to the State Department, this has involved repression of independent journalists, the arbitrary arrest and detention of political opponents, and lengthy pretrial detention.

One case, in particular, is that of former Minister of Economic Development, Farhad Aliyev, and his brother, Rafiq, the former President of Azpetrol Oil Company. They were arrested during the parliamentary election campaign in October 2005: Farhad—on charges of plotting a coup d'état. After being held in pretrial detention for 18 months, they were tried and convicted of unrelated economic crimes. Observers noted that the 5 month trial was marked by irregularities and lack of due process. I understand the state owned oil company took control of Azpetrol the day after the brothers were arrested.

During the trial, Minister Aliyev told the Court on May 15, 2007, that the coup charges were just a pretext and that the government came up with certain "bizarre demands" including an admission that he "intended to carry out the 'orange revolution' incited by the US, British and German governments. He also stated that they requested \$100 million dollars for him to be released. I ask unanimous consent that the text of his 2 court statements be included in the hearing record [Statement 1, Statement 2].*

[* **Editor's note.** The statements referred to may be found on pages 39 and 40.]

The State Department Human Rights Report for 2007 had this to say: "Some considered the 2005 arrests of individuals on charges of plotting a coup and subsequently corruption to be politically motivated." I understand that the Aliyevs were held in isolation without meeting or talking to his family for 2 years, although this just recently changed.

Mr. Chairman, I strongly urge Azerbaijan resolve this and other cases as soon as possible.

[The statements referred to follow:]

STATEMENT OF FARHAD ALIYEV

Dear court participants,

I certainly uphold the application of my defence to halt the proceedings of this criminal case and I subscribe to everything they said. The issues related to the conduct of the investigation, the injustice committed against me, partiality of the investigation and smear campaign launched against me have been clarified. My innocence and the absurdity of charges I am facing were sufficiently substantiated.

While the defence spoke out mostly about legal aspects of the criminal case and events around it, I would like to touch upon the factual side and request that my thoughts are taken into account while considering this application.

Before I begin my statement, for the support and sympathy that I have received at difficult time in detention, I would like to express my sincere gratitude to:

- The representatives of media, human rights activists, members of Parliament, politicians, western countries' government officials and parliament members, especially the members of the US Congress and Senate.

- The leadership of the European Union, OSCE and the Council of Europe, members of the Parliamentary Assembly and PACE's co-rapporteurs on Azerbaijan.

- Doctors who provided me with a medical care and the Red Cross Committee which has been constantly monitoring the state of my health.

and also thank my relatives and supporters for their relentless moral support.

I assure you that we all will soon witness the triumph of justice.

As it's known, in the afternoon of the 19th of October 2005 two deputies of the Minister of National Security came to my office and accompanied me to their Ministry. After 8 hours of waiting in different offices, at 10 o'clock in the evening I was taken into custody for an alleged coup d'etat attempt and preparation of massive unrest. Although officially I was detained as a suspect, the charges were announced to me on the same day.

I didn't know that the final decision against me had been already made. Since I had never committed anything beyond the limits of law, I ruled out the possibility of criminal proceedings against me.

Even the officials of the Prosecutor General's Office and the Ministry of National Security knew that I had not committed any crime. Shortly after that, I testified that I had never been in contact with Rasul Guliyev and that I met with Fikret Yusifov only to discuss his everyday problems. It was also revealed to the investigation that we didn't even discuss the political power, let alone the coup d'etat.

Fikret Yusifov also testified to the investigation that a coup was not planned.

Despite all that, the charges against me were put forward and the judge, who was invited to the Ministry of National Security, in

the investigator's room, read out the decision of the court regarding my arrest.

Apparently, the aim was not to check the suspicion or to ascertain whether or not the coup was actually planned, but rather to isolate me from the society.

It's clear that the main reason behind this were my activities and policies that I pursued. Can the strive for poverty reduction, opening of work places, improvement of the life of people, development of entrepreneurship, strengthening of domestic production, fight against monopolies and corruption as well as the statement that the future of Azerbaijan is not connected with Russia, but with the integration with the West and open advocacy of these, be construed as a coup d'etat?

Today I am aware of the reason behind my arrest and I know those who ordered, organized and executed it and what links them.

It is not about coup d'etat. It is just a pretext. It must be clear. Having realized that their plans had failed, they came up with some bizarre demands. What were those demands?

1. To admit that the money that I lent to Fikret Yusifov was meant to reach Rasul Guliyev and used to organize the coup.

2. To admit that I intended to carry out the "orange revolution" and that the officials of US, British and German governments and their respective ambassadors in Azerbaijan have incited me to do so.

3. To apologize to the president and appeal for his pardon.

4. Then to agree to pay 100 million dollars to be released.

However, as any honorable person I adamantly refused their demands. Exactly for this reason, I and all these innocent people sitting here are still behind bars.

My arrest was politically motivated. The fabricated criminal case launched against me was the result of political arrangement. Unlawful actions during the investigation were also the result of it. Despite being arrested under the pretext of coup d'etat and because these accusations had failed, today those, sinking deeply into the corruption, are trying to accuse me in corruption. I demand to hold an inquiry into the coup attempt, not into these vague, preposterous and fabricated charges.

For the last 19 months I have been subjected to all kinds of threats. For the sake of justice, our traditions and moral values I have tolerated everything. But they didn't appreciate my tolerance. I appeal to the decision makers today to put an end to such injustice.

Baku, May 15, 2007

Farhad Aliyev

**FINAL SPEECH OF FARHAD ALIYEV AT THE COURT OF GRAVE
CRIMES OF THE REPUBLIC OF AZERBAIJAN**

Just like the primary investigation, the trial process, which is coming to an end, has been conducted upon political orders and therefore, the truth was not revealed.

That's why, regardless of what verdict will be made on my case, I would like to once again touch upon important points concerning the reasons, plotters and implementers of my arrest.

Two years ago, when leader of the ministry that implements economic policy of the country was suddenly arrested with coup d'etat charges, the society was shocked. But shortly, everything became clear.

As a minister, I struggled against monopolies and corruption, which are the main reasons of increasing prices, I worked to eliminate shadow economy and reduce poverty, and I openly made statements calling for integration of Azerbaijan to the West. All this was contrary to the interests of those who administer this country, and that's why, the higher political leadership accused me of a coup d'etat and made a decision on my arrest.

As the investigation bodies, which could not prove this fabricated accusation, were ordered to keep me in arrest for a long period, they accused me of multiple crimes related with my official position without showing any evidence, and fabricated new and even more absurd charges. I have previously stated many times that my arrest was not connected with the charges against me, but with my activity and statements. I repeat it once again today and want to explain details with all accuracy.

While estimating revenues and expenditures of the state budget, we determined that due to the existing monopolies and shadow economy in the country, at least, 3 billion dollars are evaded from the state budget and misappropriated through customs and taxation bodies.

Resources of the budget are not used efficiently; about 1 billion dollars that were supposed to be allocated to teachers, doctors, pensioners, handicapped and other low income segments of the population were misappropriated by high-ranking officials under the pretext of investment projects and construction works.

I have implemented broad range of activities in order to fight poverty and unemployment, and prevent monopolists from artificially increasing prices of imported products. Apart from artificially monopolists in the field of imported products, there are also natural monopolists in the country. They are mainly in the energy sector. They always tried to increase the prices of electricity, oil products and gas under the pretext of high costs.

These prices were regulated by the Tariff Council.

As the Chairman of the Tariff Council, I avoided increasing of prices. The monopolists, in turn, increased the amount of electricity and gas sold to the population on paper, thus "produced" and misappropriated 300 million dollars annually. In reality, the population did not get this amount of gas and electricity. Moreover, they also misappropriated the amount of money required to spend on black oil and natural gas to produce that much electricity.

All these were found out during the monitoring conducted by us. We released official information on the results of the monitoring. As the results of our monitoring were not liked, the authority to conduct monitoring was taken from the Ministry of Economic Development and given to the Ministry of Fuel and Energy.

Despite all the pressures, as the Chairman of Tariff Council, I always avoided increasing prices, within the limits of my power. As

it is known, after my arrest, the price of electricity was increased three times and the prices of gas and fuel—twice.

Now the state has increased prices of its own electricity, gas and oil products, but does not allow entrepreneurs and farmers to increase the price of their products. They forcibly bring farmers to the agricultural fairs and force them to sell their products at a price that is lower than their costs. As such kind of approach harms the people I was always against such ideas.

I really wanted to creation of an order in the field of energy, establishment of an energy management system at the level of international standards, and elimination of parallel and identical structures in this field. I was against concentration of the money evaded from budget in different funds, because the money was then misappropriated from those funds. I wanted elimination of these funds, so that all the money is channeled directly to the budget. In 2003–2005, I submitted written proposals on these issues several times. Some of them were accepted by the President, some of them were not. I understand the reasons now.

Most part of arable lands has been given to personal ownership of a small group of people by the heads local executive authorities and municipalities. To give some examples, fruit gardens in Quba and large territories in Absheron have been covered by fences. Sovkhozes (agricultural farms) were functioning in these territories before. These lands are fertile and arable lands. People used to work in these lands and support their families. But now these lands belong to 3–5 people and ordinary peasants have been deprived of the right to cultivate them. This was one of the reasons of unemployment and poverty. In other regions of the country the situation is even worse. I had submitted my written appeals on this issue long before my arrest, but still there is no result.

It can be asked how one Ministry could do so much work. By regulation, the ministry had 120 functions. But here it is presented in such a way that as if Farhad Aliyev only was the minister of privatization. Only one of many departments of the ministry dealt with privatization.

We had other, more important, works to do. One of the major tasks was related with the development of the private sector. The higher is the level of living of each citizen, the higher is the level of development of the country. That's why, we tried to avoid illegal and irrelevant interferences in the work of the private sector, decrease the number of licenses required for various types of economic activity, and allot credits for the development of the private sector. As a result of our work, the number of licenses required for entrepreneurial activity was decreased from 270 to 30; irrelevant interferences in the work of private sector were avoided. But high ranking state officials who were granting those licenses and who could conduct inspections at any time, did not want to accept this. As their earnings decreased, they chose me as the target.

Everybody knows that Azerbaijan is an oil country. Despite this fact, only two percent of the labor force works in oil sector. 98 percent of the labor force works in non-oil sector and so, their living depends on non-oil sector. I wanted to convert the “black gold” to “human gold”. I was trying to divert the revenues coming from oil sector to improvement of living of the remaining 98 percent of pop-

ulation. I wanted to allot oil revenues to the development of regions, revitalization of the agricultural sector, as well as, to the implementation of projects that would have real effect on improvement of the citizens' living.

I was against Azerbaijan's receiving high-interest credits from abroad. Is it logical that Azerbaijan's resources are put in foreign banks with 1% interest rate, but Azerbaijan receives credits from abroad with 6% interest rate? I was against all this.

At the same time, I was trying to create healthy competition atmosphere in various fields of economy and attract investments from the private sector. Did I want to plot a coup d'etat with these activities? — Of course, no. I worked for the progress of the state, but at the end my activities were named "coup d'etat".

I know that the charges against me are absurd. "There is no need for a guide if you already see the mountain". Everybody knows who plotted my arrest and why. It is said in one of the charges that I allegedly received 300 dollars bribe for giving a license to a company. I have signed large investment projects and programs that amounted hundreds of millions dollars. I could have easily misappropriated millions of dollars during this process. Or, let's take the issue related with "Azerfon" company, which my lawyer mentioned yesterday. What I only was not offered in exchange to giving 51 percent of this company to a foreign firm? I knew who were behind the people making these offers and could have easily agreed. But I refused all the offers and kept not less than 51 percent of the shares in the hands of the state of Azerbaijan. However, at the moment, only 10 percent of the shares of that company belong to Azerbaijan; those who once had offered me bribes now own 90 percent of the company. Now, you can clearly see who took bribes and sold interests of the state, who is the betrayer and coup plotter.

Probably, everybody knows about the trial process related with "Tiger" vessel that has been going on in Africa since 1992. Despite the fact that the Azerbaijan government was ready to pay millions of dollars in fine, I managed to win the trial and thus saved 144 million dollars for Azerbaijan. But the government "rewarded" me by arresting me.

My lawyers have proved that the charges against me are fictitious. I would also touch upon some points. 50 thousand objects in the country have been privatized in accordance with the same rule. By logic, if privatization of one of them is considered wrong, then privatization of all others should also be considered wrong. Why do you choose only 162 of these 50 thousand objects and value them in accordance with current market prices? Where is that market? Was any one of these 50 thousand objects privatized in accordance with current market prices? — Of course, no.

The revenue of the state budget from privatization of all land areas in Azerbaijan was only 15 million dollars. But the accusing side values one piece of land at 18 million dollars and argues that I misappropriated this money. The owner of the land, however, states that he did not pay this much money and that the land belongs only to him.

Isn't the law same for all? It is. Such a distortion of the law is aimed at accusing me and other people arrested under various pretexts with something.

For 2 years they have been announcing to the world that they had caught an organized criminal group. Where is that group? What has it done? I was working in the same building with the Cabinet of Ministers—just 30 meters away from the President's Office. How come, anybody did not find out existence of this "organized group" during 7 years? It can be derived from the charges that from the date of my appointment as minister we created an "organized group" and started to commit crimes. The President appointed me to the post of minister. Then, it appears that it was the President who created the "organized criminal group". Similarly, four of the members of this "organized group" were appointed to the Collegium of the Ministry by the Prime Minister. Then Prime Minister also participated in the creation of this "organized group". There was no such group; all this is fabrication of the investigation side.

They accuse us of misappropriating properties in the value of 53 million manats [Manat—Azerbaijan currency. 1 US dollar equals to 0.85 manat approximately]. During the period of my arrest, they took over a large part of those properties, worth 40 million manats. If they were mine, where are they? Why my consent was not asked?

All this is untrue—neither I nor other accused persons here misappropriated anything. Police conducted search in the homes of all these persons, If these people misappropriated millions of dollars as the investigation argues, then during the police search, at least, 10–15 thousand dollars would be found in their homes. Or they would own some other houses, property, objects. If anything was found out during police search or investigation, please reveal to the public. There is nothing and there couldn't be anything.

I can also give some examples. For example, the property located in Ingilas Street, 999th quarter. The owners of that property are a group of handicapped people. They told to the court that due to the lack of funding for medical treatment, they have sold that property and spent the money for their treatment.

Another example, the property located in the address: 81, Neftchilar Avenue (Azadliq Square). Investigation argues that it was a historical building and thus could not be privatized, but they say, I privatized and appropriated it. The investigation put arrest [i.e. froze transactions] on that building. Where is this property that allegedly belonged to me? — It has been demolished. But I was not asked. How come, a historical building cannot be privatized, but can be demolished? How about the decision about arrest on that building? Thus, it appears that properties worth of 40 million manats have been taken over from citizens without any court decision. I don't want to talk about other properties that have been illegally taken over during my arrest. I will give this information in during the next levels of court trials.

The allegations about my using "discrete" authorities and not proposing to change values of the privatized state properties are also untrue. Two and a half years ago, in July 2005, I sent my proposals on this issue to the Cabinet of Ministers. But up until today,

the prices have not been changed. So, who is guilty now? They are arguing that in 2000, I did not value properties contrarily to the law. These are all untrue.

Why didn't the investigators check privatization of any big enterprises in the country? — Because the owner of those enterprises is the political plotter of my arrest. The main large enterprises are concentrated in the hands of 5–10 people. Probably, you are aware of the fact that businessmen were massively arrested after my arrest. There were very few people who had something; but their properties were also taken over forcibly and through intimidation.

According to allegations: in Astara district somebody privatized a land section and paid to the state 50 manats less; another person in Dashkasan district bought a small commercial kiosk and paid the state 10 manats less; a third person privatized equipment in the cafeteria of Yasamal District Local Executive Authority and I wasted ladles and pots—What a fabrication is this?

My illegal arrest was also related with global factors. Back in July 2005, I openly stated in the media: “Russia is Azerbaijan’s past; the West is its future”. This created anger in many people. In October 2005, Rushaylo, Lebedev and Patrushev [Russian officials] came to Baku with large delegations and conducted broad discussions. They persuaded the President that should be arrested. I was betrayed. Since then our ways separated. Yes, betrayal is a very bad and unacceptable thing . . .

Look what inhuman treatment I have faced during the past two years. I was threatened with death. They questioned me as a suspect in the murder of journalist Elmar Huseynov. I was blackmailed. High ranking officials of the country spread information through media about my connection in the murder. I faced moral torture. Without any court decision, from the highest podiums, they called me a briber and a corrupt person. They said that no document was issued from the ministry without a bribe. Where are those documents? In which area was I a monopolist? Let them show it now. They can't show, because it's untrue.

They spread allegations about me: as if I held secret talks with ambassadors of the Great Britain, United States, famous politicians and agents of secret services of Western countries, as well as, Mrs. Madeleine Albright. Yes, I did have a meeting with Mrs. Albright. But tens of people apart from me also participated in that meeting. I held all of my meetings in accordance with the state protocol. I did the work of the state and talked about my works in all meetings. Official information about these meetings has always been sent to the head of state and protocol service.

A lot of rights of mine have been violated. My medical treatment was not permitted. Yesterday, we again appealed to the court and requested to provide medical treatment. No result.

I would like to note another issue specifically. Alihuseyn Shaliyev died in a mysterious manner during the investigation. This person, who was arrested illegally, was tormented too much. He was a very valuable, professional and educated specialist in his field. He loved his people and his homeland very much. Nobody investigated his death. Nobody was charged for his death. God bless his soul. Other people sitting here have also been arrested because of me. None of

them has any fault. I am ready to do anything to get these people released.

My brother, Rafiq, did not say anything at the court today. What should he say? He knows that the decision will not be made in this court. I was arrested upon a political order and I am a prisoner of conscience. Both Rafiq and other accused persons sitting here know what will be the result of this court trial.

They have put conditions before me to get released. Some of the accused persons sitting here confessed that they were “guilty”. It is good if a person confesses what he has done.

But the conditions they have put before me require me to confess what I have not done, what I am even unaware of. If I have had committed only one of those deeds, I would have confessed and honestly, would discuss with them their conditions. But why should I confess a crime that I have not committed, that is evil, and that is a slander? I have always preferred living one day with dignity to living a hundred years without it.

During the period of my arrest, high ranking state officials spread slanders about me. But I will not go down to their level and answer each of them one by one. The time, which God bestowed to us, will show who betrayed whom. I once again state that the result of this trial case does not depend on this court. I think that I should have made this speech. Not saying these things would be ignorance of and betrayal to my nation. That’s why I should have said these words.

I am once again saying that my work and responsibility was to improve the welfare of my nation, to avoid the illegal actions of customs and taxation bodies, monopolies and state officials, as well as, to prevent poverty and unemployment. It is ridiculous that those who are sinking in the corruption swamp now are accusing me of corruption.

One always looks for flies in the swamp. Did I create this swamp?

One builds a nice house, another demolishes it. The first is remembered for the good deed, the second for demolishing this nice house. I wanted to build and I do not regret that I was arrested this. I do not regret about what I have done. I am proud that I did whatever I could do for my nation.

Regardless of how hard they torture me, my honor is with me. I have never seen that anybody can win the truth or can be higher than the truth. My will is strong; my enthusiasm is high; my patience is endless. I will prove that I am innocent.

I am grateful to all those who participated in this trial process and kept this trial in the center of their attention—to the representatives of the independent media, to the intelligentsia, local and foreign politicians who supported me, as well as, to the local and international human rights organizations. I assure them that they should not be disappointed; I will make their expectations come true and will continue my just struggle till the end.

Farhad Aliyev
4 October, 2007

PREPARED STATEMENT OF HON. THADDEUS G. McCOTTER (R-11) A MEMBER OF CONGRESS FROM THE STATE OF MICHIGAN

Thank you, Chairman Hastings, for allowing me to participate in this important, and timely, hearing on Azerbaijan. My interest in the Caucasus region and Azerbaijan in particular, stems from my days on the Foreign Affairs Subcommittees on Europe and the Middle East and Central Asia. I know just how important the Caucasus are to regional stability and to counterterrorism and energy security.

The Helsinki Commission and the Organization for Security and Co-operation in Europe (OSCE) process is so important in this region, particularly with respect to free elections, human rights and the rule of law. I was pleased to work with you in the development—and co-sponsorship—of House Resolution 183 dealing with the human rights situation in Azerbaijan. The Resolution highlighted a human rights case many in the international community believe was politically motivated from the beginning: the case of former Cabinet Minister, Farhad Aliyev, and his brother, Rafiq, former President of Azpetrol Oil Company.*

[* **Editor's note.** The Resolution referred to may be found on p. 48.]

Farhad was a well regarded reformer who advocated more integration with the West. They were arrested during the October 2005 parliamentary campaign; some 300 opposition activists and parliamentary candidates were also arrested. The original charges against Farhad alleged fomenting a coup. In his Application to the European Court of Human Rights, Farhad stated his brothers were also arrested, his wife was forced from her medical job, and her brother in law and uncle were arrested. They also rounded up his assistant and bodyguard. He testified at his trial authorities wanted him to admit he was part of an “orange revolution” incited by the US, Britain and Germany.

The Resolution called for the Government of Azerbaijan to immediately release the Aliyevs during trial, to assure their right to a fair and open trial before an impartial tribunal will be carried out, and to comply with its international human rights commitments respecting the rule of law. It also calls on Azerbaijan to release imprisoned journalists and to prosecute individuals who attack journalists.

Since the introduction of the Resolution a year ago, the Aliyevs have been tried, convicted and sentenced on unrelated financial charges after a 5 month show trial. The political nature of case is shown by Farhad's sentence: 10 years in prison, confiscation of property, and deprivation of the right to hold key government positions for 5 years.

The Resolution was intended to shed light on the human rights situation and the Aliyev case without making any claims of guilt or innocence. At the time, the Aliyevs were held in lengthy pre-trial detention in the isolation unit of the National Security Ministry, without family visitation or proper medical care, while the government mined through their personal and business records. Credible

observers raised serious concerns about irregularities and violations of OSCE Rule of Law commitments. I am very disappointed there has been no movement whatsoever to address the issues raised in the Resolution.

Mr. Chairman, I would like to make the Resolution part of the hearing record.

[The Resolution referred to follows:]



IV

110TH CONGRESS
1ST SESSION

H. CON. RES. 183

Calling on the Government of the Republic of Azerbaijan to immediately release Farhad Aliyev and Rafiq Aliyev from detention during trial, to assure that their right to a fair and open trial before an independent and impartial tribunal will be carried out, and to comply with all its international human rights agreements and commitments respecting the rule of law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2007

Mr. HASTINGS of Florida (for himself, Mr. McCOTTER, and Mr. ACKERMAN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Affairs

CONCURRENT RESOLUTION

Calling on the Government of the Republic of Azerbaijan to immediately release Farhad Aliyev and Rafiq Aliyev from detention during trial, to assure that their right to a fair and open trial before an independent and impartial tribunal will be carried out, and to comply with all its international human rights agreements and commitments respecting the rule of law, and for other purposes.

Whereas, on October 19, 2005, the former Minister of Economic Development of Azerbaijan, Farhad Aliyev, known as a leading advocate of pro-market reforms, was arrested during Azerbaijan's parliamentary campaign for

allegedly planning a coup d'etat, and he has been detained in solitary confinement, without family visitation rights, continuously since that time in violation of Azeri and international law;

Whereas, on October 19, 2005, Rafiq Aliyev, the brother of Farhad, a leading businessman and former President of the oil company AzPetrol, was arrested for allegedly failing to declare foreign currency in his possession prior to an international flight from Baku airport, and has also been detained in solitary confinement continuously since that time in violation of Azeri and international law;

Whereas their pre-trial detentions exceeded the maximum period permitted by Azeri law and the indictment containing the charges for which they are now facing trial was not presented until March 1, 2007, and does not include the charges relating to the alleged coup, which have been separated and remain untried for an indefinite period of time;

Whereas the Aliyevs have been denied sufficient time and resources to review evidence and prepare adequately for trial, nor have they been permitted to see their international legal representatives;

Whereas Farhad Aliyev has been denied a medical examination by doctors of his own choice, despite the clear recommendation of the Council of Europe (Council Resolution 1545);

Whereas the Aliyev brothers are now facing trial on other charges, including embezzlement, tax evasion, and illegal privatization, and the families of Farhad and Rafiq Aliyev have been the subject of intimidation, harassment, and illegal search and seizure of property;

Whereas Farhad and Rafiq Aliyev vigorously deny all the accusations against them, claiming that the charges are based on false evidence and are politically motivated;

Whereas, after the commencement of pre-trial and trial proceedings in May 2007, international trial observers, including representatives of the United States and British Embassies, the press, international organizations, non-governmental organizations, and their British lawyer representing them before the European Court of Human Rights were all excluded from attending the proceedings, in violation of Azeri and international law;

Whereas in September and November 2006, applications were filed with the European Court of Human Rights on behalf of Farhad and Rafiq, respectively, alleging violations of rights guaranteed under the European Convention on Human Rights, including violations of the right to liberty, unlawful and arbitrary pre-trial detention, poor conditions of detention, the absence of a fair trial, the arbitrary prohibition on correspondence with and visits from their families, and violations of property rights;

Whereas during this period, Farhad and Rafiq Aliyev have on numerous occasions petitioned for release from pre-trial detention, including more recently under the relevant provisions of Azerbaijan's Criminal Procedure Code and Article 5 of the European Convention on Human Rights, on the grounds that the maximum period for their pre-trial detention had expired, and were consistently denied;

Whereas Farhad and Rafiq Aliyev further petitioned for release from detention in both the preliminary hearings and during trial proceedings under the relevant provisions of Azerbaijan's Criminal Procedure Code and Article 5 of

the European Convention on Human Rights, and were denied;

Whereas the Republic of Azerbaijan is a member of the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe, the United Nations Human Rights Council, and a signatory to the Energy Charter Treaty and the European Convention on Human Rights;

Whereas the Department of State Country Reports on Human Rights Practices, 2006, issued on March 6, 2007, stated that the Government of Azerbaijan's human rights record remains poor, and it continues to commit numerous abuses;

Whereas the Country Reports on Human Rights Practices, 2006, further stated that, although Azeri law prohibits arbitrary arrest and detention, the Government of Azerbaijan generally did not observe these prohibitions in practice, and official impunity remained a problem, specifically citing the cases of the Farhad Aliyev and Rafiq Aliyev in this regard;

Whereas Amnesty International's 2007 Human Rights Report stated that Farhad Aliyev and Rafiq Aliyev were denied rights to due process, a fair trial, medical care and, initially upon being detained, legal counsel of their own choosing, among other violations;

Whereas Human Rights Watch World Reports for 2007 also cites the cases of Farhad and Rafiq Aliyev as a pattern of politically-motivated arrests in Azerbaijan;

Whereas according to the OSCE Representative on Freedom of the Media, Azerbaijan has the highest number of arrested journalists among all the 56 OSCE Member States;

Whereas at present seven journalists are imprisoned in Azerbaijan, and over 20 journalists have openly asked for political asylum abroad;

Whereas the Government of Azerbaijan has rejected repeated calls by the United States Government, the OSCE, the Council of Europe, and other international organizations to revise the criminal code so as to decriminalize slander and defamation;

Whereas violent attacks against journalists have become alarmingly frequent, and, along with other constraints on independent media, have elicited the public concern of the OSCE Representative on Freedom of the Media and international human rights organizations;

Whereas restrictions imposed on opposition and independent Azeri media outlets have constrained their access to the trial of Farhad and Rafiq Aliyev, making it difficult for the Azeri public and the international community to receive objective information;

Whereas the arbitrary imprisonment and violation of human rights against the citizens of Azerbaijan in violation of OSCE commitments on freedom from arbitrary arrest or detention, the right to a fair trial, and violations of other international agreements, are of serious concern to the Congress; and

Whereas Azerbaijan is an important strategic ally of the United States, serving as a key source and transit route for the export of Caspian oil to Western markets, and a strong energy security policy requires the United States to deal with stable and reliable countries to the extent possible; Now therefore, be it

1 *Resolved by the House of Representatives (the Senate*
2 *concurring), That—*

3 (1) Congress—

4 (A) calls on the Government of the Repub-
5 lic of Azerbaijan to immediately release Farhad
6 Aliyev and Rafiq Aliyev from detention during
7 trial and to assure that their right to a fair and
8 open trial before an independent and impartial
9 tribunal established by law will be carried out;

10 (B) calls on the Government of Azerbaijan
11 to immediately implement visitation rights for
12 family and medical and international legal ad-
13 visers for Farhad and Rafiq Aliyev, consistent
14 with the relevant provisions of Azeri law and
15 Article 8 of the European Convention; and

16 (C) calls on the Government of Azerbaijan
17 to fulfill its international obligations, including
18 obligations relating to its membership in the
19 Council of Europe, the Organization for Secu-
20 rity and Cooperation in Europe (OSCE), the
21 Convention on Human Rights, and the Energy
22 Charter Treaty; and

23 (2) it is the sense of Congress that—

24 (A) the United States Government should
25 use all available means, including diplomatic

1 channels, to encourage the Government of Azer-
2 baijan to release Farhad and Rafiq Aliyev from
3 detention during trial;

4 (B) the United States Government should
5 use all available means, including diplomatic
6 channels, to encourage the Government of Azer-
7 baijan to release the imprisoned journalists and
8 aggressively identify and prosecute those indi-
9 viduals who beat and attack journalists;

10 (C) the United States Government should
11 coordinate actions with the OSCE, the Council
12 of Europe, and other appropriate international
13 organizations; and

14 (D) the OSCE should continue to monitor
15 these legal proceedings for compliance with all
16 commitments under the Helsinki Final Act.

○

PREPARED STATEMENT OF HON. DAVID J. KRAMER, ASSISTANT SECRETARY OF STATE FOR DEMOCRACY, HUMAN RIGHTS AND LABOR

Mr. Chairman, Members of the Commission, thank you for inviting me to speak to you today. The Department and I greatly appreciate the dedication of Helsinki Commission members and their staff to the OSCE, its values, and its institutions. In both my capacities as the Assistant Secretary for the Bureau of Democracy, Human Rights and Labor and as the State Department representative to the Commission, I look forward to continuing to work closely with you on the full range of important issues before the OSCE, including the upcoming Human Dimension Implementation Meeting (HDIM).

You have asked me to speak about democracy and human rights in the run up to Azerbaijan's October presidential election, following my June trip to the South Caucasus. If you will permit me, I will briefly discuss Armenia and Georgia, which I visited as well, before turning to Azerbaijan. The United States works with the OSCE, European Union, and Council of Europe to promote democracy, the rule of law, and respect for human rights in Azerbaijan, Armenia, and Georgia. We will continue to closely consult with our European partners on ways to encourage all three South Caucasus countries, respecting their unique qualities, to take more vigorous steps to improve democratic governance and respect for human rights.

ARMENIA

While in Armenia, I met both with senior government officials and with opposition and civil society activists, including some of the wives of those detained in connection with the post-presidential election demonstration in March. I urged the authorities to release all individuals detained for engaging in opposition activities or for expressing their political views; conduct a credible, independent investigation into the March 1–2 violence that left ten dead; fully restore freedoms of assembly and media; and initiate a constructive dialogue with the opposition and civil society.

Time is of the essence. Societal tensions will only increase if the authorities fail to take swift, dramatic, and substantive measures to heal the serious divisions in the country that the presidential election and its violent aftermath exacerbated. While all elements of society have an obligation to engage in constructive dialogue and to act responsibly, the heaviest responsibility lies with those who actually hold power—the government.

It is in the interest of the U.S.-Armenia bilateral relationship and in the interest of the Armenian people to see the new government in Yerevan succeed in deepening Armenia's democratic development. On a positive note, I found the Ombudsman to be playing an important role on behalf of democratic reform in the country.

GEORGIA

In Georgia, too, I met with a range of senior government officials as well as opposition and civil society activists, including the Ombudsman, who has been playing a leadership role in support of im-

proved human rights observance and accountability for rights violations. I expressed concern about the lack of checks and balances among the branches of government, and urged the authorities to support robust democratic institutions including a strong, multi-party parliament and a fully independent judiciary.

My message to the government included the need to make a maximum proactive effort to work with the opposition to foster a culture of respect for political pluralism. A policy-making process that includes consultations with experts and stakeholders including the opposition and civil society would be helpful. I expressed concerns about negative trends since last year regarding media freedom, and stressed the need to accelerate prison reform.

It is in Georgia's own interest and also in the interest of our already strong bilateral relationship to see democratic institutions take root in Georgia. I also urged opposition leaders to strengthen their outreach to Georgia's citizens to explain their parties' vision for strengthening democratic and market economic institutions.

AZERBAIJAN

Located between Russia's troubled Northern Caucasus region and Iran, Azerbaijan is situated in a tough and strategically important neighborhood. If it enacts meaningful political reform, its location and abundant resources give it tremendous potential to serve as a model for aspiring democracies.

We consider Azerbaijan a friend of the United States. We have major interests in Azerbaijan in three equally important areas: democratic and economic reform, energy diversification, and security cooperation. Our two countries enjoy strong cooperation on energy diversification, with Azerbaijan emerging as a potentially crucial supplier of diversified natural gas supplies for our European allies. On security, Azerbaijan has made important troop contributions to international efforts in Iraq and Kosovo, and provides an air corridor that is crucial to supporting U.S. and NATO operations in Afghanistan. Our relationship in both these areas has tremendous potential for even further growth.

That said, our strongest relationships world-wide are with democracies that respect the full range of human rights of their citizens in addition to sharing interests with us. Fulfilling the great potential of our relationship with Azerbaijan should be no exception. We seek to bring our cooperation on democratization up to the level of our security and energy collaboration. Azerbaijan's progress on democratic reform is key not only to the strengthening of our bilateral relationship, but also to Azerbaijan's own long-term stability.

In my meetings I focused on democracy and human rights concerns which are essential for the type of relationship I just outlined. I continued the high-level, results-oriented dialogue that my predecessor Barry Lowenkron and President Aliyev initiated in December 2006, following President Aliyev's visit to Washington in April 2006. During that visit, President Aliyev stated, after meeting with President Bush: "We are grateful for the United States' assistance in promotion of the political process, the process of democratization of our society, and are very committed to continuing

this cooperation in the future.” I traveled to Azerbaijan with President Aliyev’s stated commitment in mind.

In addition to my discussions with President Aliyev, Foreign Minister Mammadyarov and other government officials, I also met with a variety of non-governmental figures, including opposition and civil society figures, and independent journalists as well as journalism students.

There is no denying that we have some serious concerns about the state of democracy and the protection of human rights in Azerbaijan, which in some areas has deteriorated. I was able to discuss these concerns in a candid but friendly and constructive manner with senior government officials. I addressed five key areas: political processes, with a focus on the October presidential election; media freedom; protection of human rights; rule of law, including combating corruption; and an empowered and educated civil society. In my meetings with senior officials, we discussed concrete steps that can be taken to accelerate democratic reform in order to build a democratic future for Azerbaijan’s citizens. In light of today’s focus on the situation in advance of the October election, I will highlight our concerns regarding the election and media freedom, and conclude with a few additional points.

The Presidential Election

As I stressed to senior Azerbaijani officials, the October presidential election presents an important opportunity for the government to demonstrate its commitment to democratic reform and free and fair elections by ensuring that the overall electoral process and election-day itself are observed by credible, independent elections monitors, both international and domestic. A key theme in my discussions was that the pre-election environment is as important, if not more important, to the integrity of the electoral process as is the conduct of election-day itself, including the vote count and regional and national tabulation. The pre-election environment must be conducive to a level playing field—particularly with respect to freedom to organize political parties, election campaigns, or interest groups; freedom of the media, assembly and association; voter registration; appointments to elections commissions; and election grievance processes.

We are concerned that the political space for dissenting voices has been shrinking over the past few years. While some in the government have argued that the opposition’s weakness is due to a lack of new faces and ideas, the government bears ultimate responsibility for the climate within which political parties and candidates operate, and within which public debate takes place. In a welcoming environment, new people will have confidence that they can safely engage in politics and the open exchange of ideas. We urge the authorities to establish the conditions that would be conducive to a truly competitive election.

A key factor in determining the credibility of the entire elections process, and for establishing broad confidence in the legitimacy of the outcome of the election, is serious domestic and international election monitoring. It is especially unfortunate that this spring Azerbaijani courts deregistered and annulled Azerbaijan’s largest independent domestic election monitoring NGO, the Election Moni-

toring Center (EMC). I strongly urged my governmental interlocutors to restore the EMC's ability to function in time for meaningful, independent election observation this October. The OSCE's Office of Democratic Institutions and Human Rights (ODIHR) should soon receive an invitation to monitor the election, and will send about 30 long-term observers and 450 short-term observers. Likewise, the Parliamentary Assembly of the Council of Europe (PACE) has announced its intention to send 35–40 members as short-term observers. We also hope that the European Network of Election Monitoring Organizations (ENEMO) can observe the election.

The June 23 joint OSCE/ODIHR-Venice Commission opinion on the amendments made this year to the Azerbaijani election code is a useful tool. We hope to see the authorities implement election-related laws in a way that expands, rather than constricts, the scope of citizens to exercise their rights.

A word about what U.S. election assistance is and is not: As I made clear to my Azerbaijani interlocutors, America's interest in elections worldwide is that they be free and fair. We do not provide assistance in order to direct, influence, or dictate outcomes. Our programmatic assistance is non-partisan and our aim is to help create an elections environment conducive to a competitive, free and fair elections process. We also seek to strengthen democratic political culture and democratic institutions. That is our approach in Azerbaijan as it is in many other countries around the world.

Media Freedom

A significant and growing U.S. concern in recent years is the deterioration of media freedom in Azerbaijan. Administrative and other obstacles to the functioning of independent media make it extremely difficult for the public to have access to a variety of views, including those which may be critical.

Although seven journalists were released in 2007, which we welcomed, three remain in prison for reasons that appear politically motivated. Another journalist is imprisoned despite severe violations of due process during his trial. In addition, the government has yet to seriously investigate numerous cases of violence against journalists. There has been no accountability for the 2005 murder of Elmar Huseynov. I urged senior officials to release the remaining jailed journalists and ensure rigorous and transparent investigations of acts of physical violence against journalists such as Agil Khalil and media monitor Emin Huseynov. Rigorous and transparent investigations would be a powerful sign of the government's commitment to media freedom and rule of law, as would public condemnation by senior Azerbaijani officials of violence against and intimidation and harassment of journalists. The decriminalization of libel would also be a strong signal that the government respects open debate. I was pleased to learn that, since my visit, the Azerbaijani government has decided to allow Agil Khalil to travel outside of Azerbaijan, and he is now in France.

I also made it clear that the unresolved conflict between Azerbaijan and Armenia over Nagorno-Karabakh is not a valid reason for either country to avoid respecting media freedom or engaging in other essential components of democratization. To the contrary,

the conflict only heightens the importance of a serious discussion on both sides of how to achieve a peaceful resolution to the conflict.

U.S. assistance to support the development of independent media in Azerbaijan includes funding for the professional development of journalists, advocacy for media rights, Internet access, and capacity building to make media financially self-sustaining.

Some additional human rights concerns for Azerbaijan include:

Political Prisoners: As noted in the Department's human rights report for Azerbaijan, local human rights NGOs maintain that the government continues to hold political prisoners. NGO activists currently estimate that the government holds between 33 and 57 political prisoners. The release earlier this year of two individuals considered by human rights monitors to be political prisoners was positive. We support the Council of Europe's efforts to resolve this problem; institutional reform of the justice system also could help.

Abuses by Security Forces: The constitution and criminal code prohibit torture and provide for penalties of up to 10 years' imprisonment for officials who violate the law. Torture, and the lack of accountability for it, and the excessive use of force against peaceful demonstrators or detainees, remain serious problems.

Rule of Law and Corruption: Unchecked corruption can destroy a government's ability to govern effectively and to retain citizens' confidence. In the midst of Azerbaijan's oil boom, which creates, at least in the near term, highly visible disparities in wealth between a small elite and the bulk of society, it is all the more important for the government to act with determination and complete transparency to root out corruption. Above all, pervasive corruption in the judiciary and law enforcement community must be eradicated. Promoting the rule of law—including an independent judiciary that respects due process—remains among our highest diplomatic objectives for Azerbaijan and neighboring countries in the South Caucasus.

In closing, I appreciate the frank and constructive meetings I had with President Aliyev, Foreign Minister Mammadyarov, and others, and their generosity with their time. The U.S. approaches this dialogue as a friend of Azerbaijan. Friendship means not being indifferent to the circumstances of a friend. At the same time, being able to discuss matters of disagreement in a proper yet candid way is part of the nature of a serious dialogue. And concrete results in terms of improved respect for human rights clearly will serve to deepen our bilateral relationship. I look forward to working with our friends in Azerbaijan—both in and out of government—to help them implement the kinds of democracy and human rights reforms that the citizens of Azerbaijan seek and deserve.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF H.E. YASHAR ALIYEV, AMBASSADOR OF THE REPUBLIC OF AZERBAIJAN TO THE UNITED STATES

Mr. Chairman, Members of the Commission:

Thank you for the opportunity to address this distinguished Commission on two priorities for my country: human rights and democratization. We made our decision 17 years ago, upon regaining our independence, to pursue policies of a pro-Western, democratic country with a free market economy.

We are a secular country with a predominantly Muslim population, where you can find our citizens attending Catholic Church, a synagogue and a mosque within blocks of each other in Baku. Freedom of religion is guaranteed by our Constitution. We are immensely proud of our long history of religious tolerance. Azerbaijan has vibrant Muslim, Jewish and Christian communities. We are indeed a melting pot of cultures, religions, traditions and ideas. Just this past March, for example, Vatican Secretary of State Cardinal Bertoni visited Azerbaijan where he reopened a Catholic Church in downtown Baku that had been closed for decades under communist rule.

Located at the crossroads of two great continents, Europe and Asia, we have always encouraged diversity and have been a bridge between cultures. We are situated in an important region of challenging political dynamics, with Russia to the north, Iran to the south, Armenia and Georgia to the west, and our backs against the Caspian Sea.

I am honored to have served for almost two years as Ambassador to the United States and to have observed your own democracy in action during a critical period in America's history as you approach a presidential election. I have had the opportunity to watch firsthand your own presidential election process. I have learned how unique to the domestic culture and realities democracy really is.

Understanding the challenges of building a new democracy, I appreciate former Congressman and Chairman Yin Weber's opening statement about the United States in the recent 2007 annual report of the National Endowment for Democracy. He said about the United States, and I quote, "In our country, with its long tradition of self-government, we tend to forget how difficult democracy is to create and sustain."

As you know, Azerbaijan has emerged from the turbulent years following the dissolution of the Soviet Union to become a strong friend and ally of the United States, and to the international community as a whole. The country is a member of the United Nations, the Organization for Security and Cooperation in Europe and the Council of Europe. It is on a path toward World Trade Organization membership and is an active participant in NATO's Partnership for Peace.

As both a producing and transit country for Caspian oil and gas, Azerbaijan has become a major player in ensuring energy security to Europe and the West. In fact, just last week, Georgian President Mikhail Saakashvili stated without ambiguity that Azerbaijan is a key guarantor of his country's independence by providing much-needed energy supplies.

Azerbaijan is also a staunch ally of the U.S. and international partners in security operations in Afghanistan and Iraq. Not only does Azerbaijan provide troops to NATO and Coalition forces in these countries, it also has granted permission for U.S. airplanes to use Azerbaijan's vital airspace for U.S. military operations in Afghanistan.

Of course, as you are well aware, Azerbaijan faces grave problems concerning the Armenia Azerbaijan conflict, which continues to result in the illegal occupation by Armenian military forces of some 20 percent of Azerbaijan's territory. Azerbaijan's territorial integrity has been affirmed and reaffirmed numerous times in past years by the United States government. It has also been reaffirmed no fewer than five times by the United Nations, the most recent of which took place on March 14 of this year with a resolution calling for the "immediate, complete, and unconditional" withdrawal of Armenian forces from occupied Azerbaijani lands.

This conflict has many ramifications, the most pressing of which is the continued displacement of up to one million Azerbaijanis from their homelands. In resolution 1614 just this past June 24, the Parliamentary Assembly of the Council of Europe this year stated that, and I quote, "The Assembly considers that sustainable democratic development will be extremely difficult in Azerbaijan as long as the country's territorial integrity has not been restored."

We seek input from you, the Helsinki Commission, and other respected members of the international community to help us solve this issue without delay. Indeed, when we address the issue of human rights in Azerbaijan, we must begin by restoring the human rights of almost one million refugees and displaced persons who, as we sit here today, are deprived of their right to live in peace and happiness in their homeland.

It is an honor to appear before you today to provide insight into the Republic of Azerbaijan's advances in democracy and human rights. While no democracy can ever claim to be perfect, we know what we have achieved and that a lot is yet to be done, we know that building democracy is a process that is full of not only roses, and we understand the challenges ahead of us. We welcome your support, the benefit of your experience, your recommendations, and your understanding as we address the many challenges we confront together.

Azerbaijan has taken major steps to establish and enhance democratic institutions:

- Azerbaijan today has a robust media environment with more than 1,000 newspapers and magazines; 7 television stations covering the entire country; an additional 14 local television stations; 11 radio stations; and 30 news agencies; 44 electronic mass media outlets;
- The country has seen a virtual explosion of web sites, blogs and access to the Internet across the country. Internet traffic in Azerbaijan has increased an astonishing 40 percent thus far this year compared to last year. All this, in a country the size of the state of Maine.
- The new Azerbaijan brings with it a new set of needs and higher professional standards of journalism. The United States has been working with Azerbaijan to help improve these standards, and

more is needed. I ask the members of this distinguished Commission to consider practical ways in which we can work together to better train a new generation of journalists to meet the professional challenges of the 21st century.

- Azerbaijan enjoys strong political pluralism. There are 52 political parties in the country, 20 of them are currently represented in Milli Mejlis -Parliament.

- In October 2008, Azerbaijan will hold its fifth presidential election in 17 years. It also has conducted three parliamentary elections and two municipal elections. All of these have been held on schedule according to the electoral timetable. All of these were open to international observers, as this year's presidential election will be. 30 long term and 450 short-term international observers from OSCE will observe the election.

- Improving our electoral practices to meet international standards has been a priority. In this regard, we have instituted and amended the electoral code. Examples include:

- Implemented the practice of inking voters' fingers

- Declared election day a non-working day to allow all citizens the opportunity to vote

- Established that expert groups involved in the complaints and appeals process will be present at constituency commissions

- Facilitated voting by persons in detention (Amendment 46.9)

- Reduced the number of required signatures (45,000 to 40,000) for the registration of a Presidential candidate

- Mandated that election observers be provided identification badges, thereby reducing the number of unauthorized persons in polling stations. (Article 36.6)

- Required verification badges for registered agents of candidates, political parties, and political parties. (Article 72.2)

- Required disclosure of voter addresses in public voter lists (Article 48.1)

Just last month, the Council of Europe's Venice Commission gave a positive assessment of these changes to the election code.

Azerbaijan has created the position of Ombudsman to hear concerns from its citizens and to carry those concerns both to the Government and to the European Court of Human Rights. It is important to note that just this past June 18, Azerbaijan commemorated its first ever National Day of Human Rights.

In our democratic process we understand the importance of facilitating the development of a critical pillar—civil society. Some 3,500 Azerbaijani and international NGOs have been established in the country, providing a welcome pillar to the strengthening of civil society. In December 2007, the State Council for the Support of NGOs was established by Presidential decree. This council seeks to accelerate the further enhancement of civil society in the country. Eight of its members are nominated by NGO community, with the three remaining members nominated by public agencies. On June 13 of this year, the Council announced in the press a competition for NGO projects in 15 areas, including human rights of refugees, women and youth. Submitted projects will be examined by a group of experts and selected by the end of July. This year \$1.5 million will be allocated to these NGO projects.

As far as maintaining the independence of the mass media, a Working Group created by the Azerbaijan Media Council has developed a Concept on State Support to Mass Media. This document helps to define financial assistance for the media, including credit allocation and debt reduction. This measure will soon be submitted to the President for consideration.

The Commission has inquired about the detention of journalists. In accordance with a Presidential Pardon Decree of December 28, 2007, five journalists were released from prison.

A new draft law amending the Law on Freedom of Assembly, currently in force in Azerbaijan, was elaborated in close cooperation with experts from the Council of Europe Venice Commission and OSCE/ODIHR. On December 15, 2007, the Venice Commission provided a final opinion stating that if adopted, they will be in accordance with European standards. The Law with amendments was adopted just two months ago on May 30, 2008 by the Parliament and has been praised by Council of Europe representatives. According to the amendments, organizers have to inform the relevant administrative body about the place and time of the demonstration and also route of the rally 5 days before the demonstration. Freedom of Assembly only can be limited in cases envisaged by the law and for national or public security, preventing crime or disorders, protection of health and morality and rights of other persons.

In the area of increasing transparency and combating corruption, Azerbaijan has achieved the following over the last few years, including:

- Adopted the Law on Combating Corruption on January 13, 2004.
- Secured Presidential approval of the State Program on combating corruption on September 3, 2004.
- The Anti-Corruption Commission started to function at the Public Service Management Board.
- Established Department for Combating Corruption, within the Prosecutor General's Office.
- On June 28, 2007, the President issued the order endorsing the National Strategy on strengthening transparency and combating corruption and the Action Plan for its implementation for 2007–2011.

The National Strategy recommends the following measures:

- Improvement of legislation, law enforcement and courts;
- Closer cooperation with civil society;
- Advancement of anti-corruption culture;
- Enhancement of the anti-corruption work of governmental institutions.

Additionally, Azerbaijan has created a Commission on Combating Corruption, which is part of the State Council on the Management of Civil Service. This Commission functions as a specialized agency on combating corruption. It is comprised of 15 members: five appointed by the President, five by the Parliament and five by the Constitutional Court.

We attach great importance to ensuring women's political and economic rights and providing them with adequate representation at all levels of decision-making process. In March 2000, the Presi-

dent signed the Decree “On Implementation of the National Gender Policy in the Republic of Azerbaijan”. For the past years, the number of women in political and decision-making has considerably increased. It is worth mentioning that, Azerbaijani women gained electoral rights long before most developed countries of the world that is, in 1918. Today female parliamentarians represent 11.2% in Parliament.

Three deputy Ministers (of Education, of Economic Development and of Culture), one Chairperson of the State Committee (State Committee for Family, Women and Children Affairs, one Chairperson of the State Commission (State Commission on Admission of Students) are women. Besides, one deputy of the chairman of the National Parliament out of three, Ombudsperson, deputy Prime Minister of Nakhchivan Autonomous Republic and

Ombudsperson of Nakhchivan Autonomous Republic are women. The total percentage of women working in the Ministry of Foreign Affairs of the Republic of Azerbaijan is 19, 4%, from which 5, 1% are women occupying leading positions. Two diplomat women are representing Azerbaijan on the international level (one ambassador and one permanent representative). Nowadays, women are widely represented in business sectors. The number of women engaged in entrepreneurship activities has increased by 6,2% (79147 persons) in 2008.

Azerbaijan, appreciating the importance of intercultural and interreligious dialogue and tolerance, has embarked on a series of important events intended to further this dialogue and to establish future goals and agendas. In 2007, a conference on “The Role of Media in Promoting Tolerance” was held in Azerbaijan, which attracted attendees and observers from 11 international organizations and 49 countries.

Just recently, in June Baku hosted a major forum on the “Role of Women in Intercultural Dialogue” under the auspices of the First Lady of Azerbaijan. Participants included the First Ladies of Latvia, Poland, Angola, South Africa as well as spouses of Vice-President of Argentina, of Prime -Minister of Turkey, the First Lady of the State of Texas. On December 2–3, 2008 Baku will host a Conference of the European Ministers of Culture with representatives from the Council of Europe, Islamic Educational, Scientific and Cultural Organization (ISESCO), and Arab League Educational, Cultural and Scientific Organization (ALECSO), which will focus on the role of intercultural dialogue as a vehicle for peace.

Mr. Chairman,

Azerbaijan welcomes the attention the United States has given to democratic issues in the country and to the South Caucasus as a region. We in the South Caucasus have faced numerous challenges. One neighboring country faced unprecedented post-election violence in which innocent civilians were killed and a ban on independent media was imposed. Another neighboring country enacted martial law and shut down media outlets.

We’ve all passed through difficult times. But we have all been heartened by the friendship and support of the United States and its people.

Mr. Chairman,

Democracy requires constant nurturing and attention. Its establishment brings many challenges. I am confident that the United States, which has led valiant efforts to bring peace and democracy to volatile regions of the world in recent years, understands these difficulties very well.

Azerbaijan cherishes its friendship with the United States, as I am sure the United States does with us. As friends, we celebrate one another's successes. As friends, we are allowed to disagree from time to time, and to point out one another's shortcomings. And as friends, all that we require is that we treat one another with the same level of fairness that we give to others.

As you are aware, Azerbaijan often suffers from spurious campaigns that deliberately mislead and misinform the American public. As the great American essayist E.B. White famously remarked, and I quote: "Prejudice is a great time saver. You can form opinions without having to get the facts."

In summary, Mr. Chairman, we are a young democracy. We seek to move forward and to distinguish ourselves in several areas—leadership of women; religious freedom; economic opportunity and growth. We also recognize certain needs for improvement and we will continue to make progress in these areas.

We remain committed to the principles of democracy and freedom. We are building such a society not for the international community, but for our own citizens, our own nation, and our own prosperous and peaceful future.

Thank you for this opportunity to address these important issues with you today.

I am happy to answer any questions you may have.

**PREPARED STATEMENT OF CHRISTOPHER WALKER,
DIRECTOR OF STUDIES, FREEDOM HOUSE**

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 au-

thorities 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 govern-

ment 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.



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