

**Commission on Security & Cooperation in Europe:
U.S. Helsinki Commission**

“Azerbaijan’s Persecution of RFE/RL Reporter Khadija Ismayilova”

Committee Members Present:

**Representative Christopher Smith (R-NJ), Chairman;
Senator Ben Cardin (D-MD);
Senator John Boozman (R-AR);
Representative Randy Hultgren (R-IL);
Representative Robert Aderholt (R-AL)**

Witnesses:

**Nenad Pejic, Vice President / Editor-in-Chief of Programming, RFE/RL;
Delphine Halgand, U.S. Director, Reporters Without Borders;
T. Kumar, International Advocacy Director, Amnesty International USA;
Shelly Han, Policy Advisor, Commission on Security and Cooperation in
Europe**

**The Hearing Was Held From 2:00 p.m. To 3:43 p.m. in Room 2200 Rayburn
House Office Building, Washington, D.C., Representative Christopher Smith
(R-NJ), Chairman of the Commission for Security and Cooperation in
Europe, presiding**

Date: Wednesday, December 16, 2015

SMITH: (Sounds gavel.) The Commission will come to order, and good afternoon to everybody. I want to thank you all for being here today to discuss the terrible plight of political prisoners in Azerbaijan, and in particular the imprisonment of journalist Khadija Ismayilova.

Khadija has done some very hard-hitting investigative reports on corruption at the highest levels in Azerbaijan. Khadija's reporting hit its mark, and the security services in Azerbaijan tried to intimidate Khadija from future reporting. They tried to blackmail her with compromising information. They threatened her with arrest. And she was always under watch. But Khadija stood firm and stayed focused on her important work. In December of 2014, however, she was arrested, and is now paying the price for her exemplary journalism with the loss of her freedom.

The government convicted her on spurious charges of embezzlement, illegal entrepreneurship, tax evasion, and abuse of power. She is now serving a seven-and-a-half-year sentence in a women's prison in Baku.

Much of Khadija's reporting was done as a journalist for the U.S.-funded Radio Free Europe/Radio Liberty. This means that the U.S. government has a special obligation to do everything it can to secure Khadija's release. That means our government must take every opportunity, must leave no stone unturned, in the effort to secure her release. The State Department must make Khadija's release a true diplomatic priority, not a talking point on page two of issue briefers.

One of the questions we will pursue today is whether or not, and to what extent our witnesses believe our government is doing just that. At this point, I would say we did invite the State Department to present testimony today. Unfortunately, the appropriate witnesses are on official travel this week, so we will circle back and meet with them in the very near future.

Human rights organizations have documented Azerbaijan's crackdown on civil society over the last three years. Just yesterday the Committee to Protect Journalists released its annual report, and in the report they find that Azerbaijan now leads all of the countries in Eurasia in jailing journalists.

In 2015, Azerbaijan jailed eight journalists. Today we are focused on Khadija's case, but there are dozens of other political prisoners, including journalists, sitting in a jail cell in Azerbaijan.

Judicial processes against political prisoners are often farcical. In Khadija's case, the prosecutors charged her initially with, quote, "incitement to suicide." Their case completely collapsed when their witness retracted. The prosecutor also charged that she had illegally signed service agreements with Radio Free Europe/Radio Liberty employees. The prosecution never produced any of the 11 agreements they said she had signed, and the four witnesses called to testify for the government's case denied that they had signed such agreements with Khadija.

Today is the one-year anniversary of Anar Mammadli's sentencing. Anar is the courageous head of EMDS, the leading election monitoring organization in Azerbaijan. He

spoke the truth about the fraudulent 2016 presidential election and is still paying the price. I met with Anar's father, a very gentle man, just a few months after Anar was arrested. And so many in his family are truly suffering from his incarceration.

I'd like to mention just a few of the political prisoners – and unfortunately, as I said, there are many.

Ilgar Mammadov. This opposition politician was severely beaten in jail on October 16th. Despite winning a European Court of Human Rights case that said his prosecution was politically motivated, the government of Azerbaijan will not set him free.

Intigam Aliyev. This leading human rights lawyer is now serving a seven-and-a-half-year prison sentence for his work seeking justice for political prisoners.

Rasul Jafarov. This human rights activist is serving six-and-a-half years because the government would not register his NGO.

There are many, many more, including those who have peacefully practiced their religion. In total, the Norwegian Helsinki Commission estimates that there are 80 political prisoners in Azerbaijan.

Over the years, the human rights situation has seriously deteriorated in Azerbaijan, causing damage to its relations with the United States and other countries, and damaged its own society by imprisoning or exiling some of the best and the bravest and the brightest of that country. The time has come to send a clear message.

Today, the Council of Europe is sending the same message to Azerbaijan. The secretary-general announced that he is investigating the human rights situation in Azerbaijan to determine whether or not Azerbaijan is meeting their Council of Europe commitments. This is a very rare step for the Council of Europe, and it's the first time that this secretary-general has launched this type of inquiry.

A few weeks ago, Azerbaijan gave medical parole to two of its most prominent political prisoners, Leyla and Arif Yunus. We should all welcome their release, even though it's just a first step. They are still under house arrest, and we have not seen such a step in other cases. I urge all of us to redouble our efforts to pass legislation, and I have introduced legislation called the Azerbaijan Democracy Act, a human rights act.

And with that, I would like to yield to my good friend and colleague, Ben Cardin, the ranking member, and to thank him for coming over from the Senate side.

CARDIN: Well, thank you, Mr. Chairman.

First, I thank you for calling this hearing on Azerbaijan. As you will recall, we had our annual meeting of the Parliamentary Assembly there recently, and we used that opportunity to raise these issues.

The retrenchment in Azerbaijan is extremely concerning, and I thank you for calling this hearing so we can focus on one individual primarily. Because we have found in the Helsinki Commission, when you put a face on the issue, we can make progress. We've done that when with Sergei Magnitsky's tragic circumstance, we caused the world to react to Russia's human-rights violations.

And I think the tragedy that is taking place today in Azerbaijan – and we can mention so many of the individual cases. You mentioned the Yunuses, which has a connection to my state of Maryland. I know some family is here. That circumstance was outrageous, just outrageous – continues to be outrageous. So we need to put a face on the issue.

And clearly the persecution of Khadija is a clear example of the backtracking of Azerbaijan and something that we cannot allow to continue, the closure of Radio Free Europe/Radio Liberty. What is clearly happening in Azerbaijan is trying to cut off information. We know Khadija was a reporter, a journalist, and trying to do her job to root out corruption.

On November 19th of 2014, I chaired an Helsinki Commission hearing, and it was focused on the role of journalism in combating corruption. We invited Khadija to join us. The overall theme was corruption in the OSCE region. We invited her, expected her, that she would be able to testify. Shortly thereafter, she was denied the opportunity to leave Azerbaijan. And then, a few weeks later, she was jailed. And we know the rest.

So I'm going to ask consent that her testimony that was submitted at that hearing be included in this hearing. And I do that because I think it's relevant, very relevant to today's hearing.

I'm going to quote one paragraph from that letter: "Azerbaijan is part of the Extractive Industry Transparency Initiative since 2004. As in many other global initiative, the Azerbaijani government uses the membership as an argument against criticisms of corruption. The country is currently under scrutiny by EITI, as one of the main parts of the Initiative's civil society is paralyzed and cannot serve as a watchdog. In non-oil extractive industries, government-linked monopolies have a huge stake. In 2007, the government of Azerbaijan signed a contract to develop six gold and copper mines with a consortium that is co-owned by the president's daughters."

Clearly, we miss having her reporting in Azerbaijan so that we could have more transparency into what's happening in the country and to fight corruption in Azerbaijan.

The situation for civil society in Azerbaijan has only deteriorated further since her arrest. Azerbaijan's new regulations on NGO registration, and specifically NGOs' ability to receive funding from outside sources, are so restricted that almost all of the independent NGOs that have been working in Azerbaijan's multilateral stakeholder group for EITI can no longer operate. I don't see how Azerbaijan can maintain its status as a complaint country under these circumstances, something that we should be pushing hard for. We need to see much greater

space for independent NGOs and journalists to operate for the EITI process to achieve its true value.

Democratic societies function best when there is a high level of trust in each other and the institutions that underpin democracies. Corruption undermines that trust, and thus undermines the very foundation of democracy. Corruption has corrosive and cumulative effects on society. Whenever corruption rears its head – and every country is vulnerable – we must use all of our tools to combat that scourge. A vibrant civil society and a free press is essential to that effort.

So, Mr. Chairman, combating corruption may be the most important task that we face today. Unfortunately, Azerbaijan has taken one of our great anticorruption warriors off the field of battle. We need to work to bring her back.

SMITH: Thank you very much, Ranking Member Cardin.

Randy Hultgren, Commissioner.

HULTGREN: I don't have a statement at this time.

SMITH: OK, thank you.

CARDIN: Mr. Chairman, I'm going to apologize to our witnesses – the Senate Foreign Relations Committee, where I'm ranking member, has a hearing scheduled at 2:30 today that I must be at when it starts. So I apologize for not being able to stay for the witnesses. My staff is here. I look forward to your testimony.

SMITH: Thank you, Ben. And thank you for your very eloquent statement.

I'd like to now introduce our witnesses. And without objection, your full bios will be made a part of the record.

But very briefly, we'll begin with Mr. Nenad Pejic, who is the vice president and editor-in-chief of programming at RFE/RL. Mr. Pejic was named vice president and acting chief executive by the Board of Directors on August 31st, 2015, and became editor-of-chief of programming in December of 2013. Mr. Pejic joined RFE/RL in 1993, when he was named the first director of the Balkan Service. Prior to joining the radios, Mr. Pejic held various positions with Sarajevo television, including head of the news department in Belgrade, correspondent, and program director.

We'll then hear from Ms. Delphine Halgand, who is the U.S. director of Reporters Without Borders, a position she has held since 2011. She runs U.S. activities for the organization and advocates for journalists, bloggers, and media rights worldwide. Acting as Reporters Without Borders spokesperson in the United States, she regularly appears on American and foreign media, and lectures at conferences in U.S. universities on press freedom violation issues.

We'll then hear from Mr. T. Kumar, who is the international advocacy director at Amnesty International USA. Mr. Kumar has served as a human rights monitor around the world and was a director of several refugee camps and refugee ships. He also served as a consultant to the Quaker United Nations Office and was a professor in Washington College of Law. He has monitored several elections around the world, President Carter – with President Carter and the Organization for Security and Cooperation in Europe. He's also served as a judge of elections in Philadelphia. And I would note he was also a political prisoner for approximately five years in Sri Lanka. And Amnesty advocated for him, and now he is an advocate for others who are similarly situated.

We'll then hear from Ms. Shelly Han, who is policy advisor at the Helsinki Commission, was there with Khadija in the actual courtroom during her sham trial. Shelly joined the Commission in 2006 as a policy adviser for economics, environment, technology and trade. She has also previously served as the acting director – chief of staff, I should say, at Immigration and Customs Enforcement, or ICE. And before joining DHS, she was a senior international policy adviser at the Department of Commerce, working on sanctions policies and international security policy related to the export of sensitive goods and technology.

I'd like to now yield to Mr. Pejic.

PEJIC: Thank you, Chairman Smith.

First of all, thank you for the opportunity to speak with you today. And of course, in the interest of time, I'll highlight just a few points from my written testimony, which you received yesterday.

Khadija Ismayilova is an internationally recognized investigative journalist and prominent contributor to Radio Free Europe/Radio Liberty Azeri Service. The government of Azerbaijan began harassing Khadija in 2012, when she started publishing investigative reports that, among other things, documented extensive real estate holdings in Dubai belonging to President Aliyev's son, his daughter's control of major stakes in the country's telecom and airline industries, and the ruling family's ownership of extensive national resources, including gold mines. We believe that it is her reporting, actually, on the Aliyev family that brought her to arrest and the closure of our Baku Bureau.

The charges against Khadija relate directly to the work of Radio Free Liberty Baku Bureau, of course, during the period she was our Baku Bureau chief, and they are all false. RFE/RL submitted detailed refutation to the general prosecutor of Azerbaijan on August 18, 2015. We received no reply.

Khadija's trial was a sham. The proceedings were not transparent. Journalists, international observers, and members of her family were banned from the courtroom. No motions or letters supporting Khadija were accepted into evidence during the trial, including our letter refuting the charges against her which I mentioned above.

During the trial, the prosecutor declared that testimony in her favor would create bias, and would therefore not be introduced. Not one witness testified against Khadija, and yet she was convicted and now she sits in prison. According to Khadija, when tax inspectors were questioned in court, they admitted that not a single document they saw had her signature on it. They also said they saw only documents shown to them by the prosecution, meaning no other documents – from us, for instance.

On December 26th, 2014, RFE Baku Bureau was raided by the police and investigators from the general prosecutor's office. Authorities seize our property and still have not returned it. RFE/RL's bank accounts were frozen. Our longtime lawyer was barred from the case. Twenty-six members of our staff were interrogated by the general prosecutor's office over the next several days. Some of them were literally dragged from their houses during the night, and most of them did not have legal representation. In April, their bank accounts were frozen.

The details of the charges against us were vague. The investigators have missed deadline after deadline for submitting their findings. Each time the next deadline arrives, they apply for and are granted another extension. The reason is obvious: they haven't found evidence of any wrongdoing by Radio Free Europe/Radio Liberty. In fact, some of the investigators have privately conceded to our lawyer that RFE/RL has not violated any laws, and that they are just pursuing investigation because they have been ordered to. The investigation is just a pretense used to prevent RFE/RL from broadcasting. If charges are ever brought against Radio Free Europe/Radio Liberty, we will disprove them in the court. The next deadline for the investigators to present their findings is December 30th, 2015.

After the raid on our Baku Bureau, several members of our staff fled Azerbaijan and have applied for asylum abroad. Many others have stopped reporting and remain unemployed. Our former bureau chief, Babek Bakirov, remains under a travel ban and cannot leave the country.

And yet, the bureau might be closed, but the journalists continue their work. Thirty percent more people visited, for example, the Azerbaijani Service website last month than in December 2014. The last month, it was the last month when the bureau operated in Azerbaijan. Despite the efforts of the government to deny our journalists the ability to report the news in and from Azerbaijan, our freelancers continue to cover protests in Baku live for RFE/RL.

Today's hearing, I believe, is another evidence of the prominence of the Azeri Service, the importance of the journalism, and public awareness that the charges against Khadija are groundless. I am honored to be editor-in-chief and to be boss of this group of people. And I am honored by the courage and professionalism demonstrated by Azeri Service and its Baku Bureau.

Of course, our bureau remains closed. RFE/RL Azeri Service has continued to work from our headquarters in Prague. But Khadija is in prison, her crime being nothing more than doing her job as a journalist.

To ensure that her work continues, Radio Free Europe/Radio Liberty has partnered with Sarajevo-based Organized Crime and Corruption Reporting Project to launch a fellowship in her

name. Our aim is to encourage more investigative journalism and to ensure that intimidation doesn't win.

With this testimony, I am very proud and proudly join international appeal for Khadija's immediate release. Thank you.

SMITH: Mr. Pejic, thank you very much for your very strong statement and rebuttal, and pointing out that the charges are groundless.

We will have to take a very short break— there are three votes on the floor of the House. We have a minute to go on the first one, so I will run out. But we'll stand in recess for about 15 minutes. Thank you. (Sounds gavel.)

(Recess.)

SMITH: The Commission will resume its sitting.

First of all, let me just welcome Dr. Boozman, a member of the United States Senate and commissioner. Dr. Boozman, any comments at this point?

BOOZMAN: No, just we, as always, appreciate your leadership. And I had the opportunity to serve with Chairman Smith for many years in the House of Representatives on Foreign Affairs and Veterans Affairs, and nobody works harder, you know, in the effort to help those that need help. So we just appreciate your leadership very, very much.

SMITH: Thank you. And thank you for all your humanitarian work over on the Senate side. It's tremendous.

I'd like to now invite Ms. Halgand to provide her testimony.

HALGAND: Representative Smith, members of the Commission, thank you for convening this very timely and important hearing. Thank you for inviting me to testify today. By your invitation, you honor the work Reporters Without Borders, Reporters Sans Frontieres, has done since 1985 to defend journalists and freedom of information all over the world.

Azerbaijan is ranked 162nd out of 180 countries in the 2015 Reporters Without Borders World Press Freedom Index. It means that Azerbaijan is ranked lower than Egypt or Pakistan.

In my remarks this afternoon, I will focus on three aspects of Azerbaijan crackdown on journalists and press freedom: suppression of media pluralism, imprisonment of critical journalists – like Khadija Ismayilova of course, and the violence towards journalists.

President Ilham Aliyev has suppressed all media pluralism in Azerbaijan. He has orchestrated an unprecedented crackdown on the remaining critics for the past two years. The media regulation authority and manipulation of the advertising market have brought broadcast

media under control. Corruption, blackmail and intimidation have systematically been used to chase journalists away from independent reporting.

I would like just to highlight a few example(s). The Baku Bureau of Radio Free Europe/Radio Liberty was forcibly closed down after the police raid last December. The independent newspaper Zerkalo was financially strangled and closed down earlier this year. The main opposition newspaper, Azadliq, is on the verge of collapse due to astronomical fines.

So after successfully suppressing media pluralism at home, the Azerbaijani authorities have waged a war against foreign-based independent media created by prominent Azerbaijani journalists now in exile. The authority seems to be stopping at nothing in their determination to persecute independent journalists.

By example, Ganimat Zahid is the well-known editor of the opposition newspaper Azadliq. Ganimat fled to France in 2011 and has lived there ever since. Instead of being satisfied with forcing Zahid to flee the country, actually the authorities are now hunting members of his family who are still in Azerbaijan, like his 87-years-old mother, but also his nephew, his cousin, and so on.

Another worrying example of the Azerbaijan government harassment of independent media in exile is Meydan TV, a Berlin-based online TV station and news website run by Emin Milli, an Azerbaijan journalist now living in Germany. So Milli fled to Germany in 2012 after 18 months of arbitrary imprisonment, and recently he has given an interview to the international media about the corruption surrounding the Baku European Games, and actually the Azerbaijan authority enraged by the failure of their European Games media plan to conceal their massive human rights violation.

In addition, I want to highlight that all media support and press freedom NGOs were forcibly closed down in 2014. Among them, the most prominent one, the Institute for Reporters' Freedom and Safety, IRFS, which was actually a Reporters Without Borders local partner organization. Just to make you understand the violence of this attack, the chairman of this press freedom organization had to hide almost one year in the Swiss embassy before an agreement was made to let him leave the country, and he's now living in exile in Switzerland. His name is Emin Huseynov.

So independent journalists in Azerbaijan are left with the choice between arrest, exile, or silence.

Twelve journalists – 12 journalists and bloggers are currently detained in connection with their work in Azerbaijan. The most famous of them is Khadija Ismayilova. As Nenad explained it to us earlier, she is a leading investigative reporter, and her arrest was a political case from the outset. She's in prison because of her journalistic work and her human rights activism.

I would like to highlight another case, the case of Rauf Mirgadirov. His trial began behind closed door(s) on November 4th. And actually, the prosecutor requested today a seven-

year jail sentence for high treason, and his next hearing is scheduled for December 23rd. He might end up in jail for seven years as well.

We cannot forget the other journalists: Nijat Aliyev, imprisoned since May 2012; Hilal Mamedov, since June 2012; Araz Guliyev, since September 2012; Tofiq Yaqublu, since February 2013; Shaig Agayev, since February 2013; Rashad Ramazanov, since May 2013; Abdul Abilov, since November 2013; Parviz Hashimli, since September 2013; Omar Mamedov, since January 2014; and Seymour Khazi, since August 2014.

Arrests most of the time take the form of a kidnapping by plainclothes officer. Journalists are arrested under trumped charges such as drug trafficking, hooliganism, and trials are held in camera. The courtroom is often filled with paid state servants in order to not allow family members to attend. We bear witness to tragicomedies in Azerbaijan's courts with scripts written long ago by President Ilham Aliyev.

I would like to finish by giving you a few examples of the violence and physical violence targeting journalists in Azerbaijan.

Journalists are regularly threatened and even violently attacked. The freelance journalist Rasim Aliyev died on August 9 of this year in a Baku hospital from the injuries he received when he was lured into an ambush and beaten. Rasim Aliyev is the fourth journalist to be murdered in the past 10 years in Azerbaijan. The investigation into the death of Elmar Huseynov and Alim Kazimli in 2005, and Rafiq Tagi in 2011, have yet to yield any credible results. Impunity for violence against journalists is systematic in Azerbaijan.

So Reporters Without Borders would urge the Commission, the Obama administration, and members of Congress to raise the issue of restriction on freedom of the press in meetings with senior Azerbaijani official, to demand the immediate release of all Azerbaijani journalists, to put an end to these trumped-up prosecution, to abandon the practice of collective punishment, and to investigate the murders of journalists. Azerbaijan independent media need your support, and sanction and visa denials should be considered.

And I'm glad to discover the Azerbaijan Democracy Act, and Reporters Without Borders definitely supports this Act, and will help to make it a reality. The United States must make clear to President Aliyev that it follows carefully the crimes committed against journalists, and that the United States won't accept such crimes.

Thank you again for holding this hearing and for giving me the opportunity to contribute on behalf of Reporters Without Borders. Thank you.

SMITH: Thank you so very much for your testimony and your recommendations.

I'd like to now yield the floor to Mr. Kumar.

KUMAR: Thank you very much, Chairman Smith and other members of Congress.

Amnesty International is on one hand extremely pleased that you are organizing this hearing, on the other hand extremely worried by the developments in Azerbaijan. Azerbaijan stands out in that part of the world as an example of how to silence peaceful critics in a most effective and brutal manner.

One example is the case that we are talking about, Khadija's case. We have been following this case and other cases, and one thing came very clearly to us: that any opposition – very peaceful, well-meaning opposition – will never be tolerated at any cost. They use every tactic under the sun to silence these people.

Khadija's case is a textbook example to how to silence a critic in a very effective and very brutal manner. In her case, she was targeted not only for reporting and media work she was doing; she was also investigating the president's corruption. His family was involved in alleged corruption. So she was investigating that. So the government machinery, every level of government machinery, started to move against her. They harassed her. They blocked her from going overseas, a travel ban. All this harassment was going on. She didn't budge.

Then – it could be intelligence officers; we don't know who did it – she was filmed in a very intimate manner in her own house, and that was used as blackmail tactics to silence her. She didn't – she said I can't – I will not stop. They threatened that they will make it public and she did not back off, so they put it online to humiliate her. Not only they humiliated her, they tried to humiliate her family as well. Even her own sister was called names. So it's an extended, collective punishment was there because of one individual who was trying to raise issues in a very, you know, internationally accepted norms of media freedom.

They played race card. They used that she has some connection – her relatives or someone have some connection who is Armenian, so they play race card. It did not work.

So blackmail using intimate pictures online did not work. Using race card did not work. Then they switched to using law as a weapon to silence her. First they tried to charge her, saying that someone tried to commit suicide because of her action. It did not go anywhere. Then they – suddenly they found that there is another way: let's charge her the same charge that she is going after the president, namely the fraud and corruption. So they went after her. Instead of, you know, she was going after the president, they went after her.

So what says this? It says that the government machinery in every level – intelligence, military, police, judiciary, lawyers, everyone – is working in tandem, working in one tune to silence critical voices – peaceful critical voices in that country.

Then they brought her to charge. They extended the detention just to harass her without giving any fair trial. Even when the trial started, her first charges failed, then they brought in the corruption charges. Then they went after the lawyers. Her one lawyer was forced to resign and other harassment was going on. So she did not have effective legal representation to represent her in the court.

The other one is, during the trials, they specifically selected a very small courtroom so that outsiders can't be there to observe the trial. Even though it's a show trial, they didn't want anyone else. So what happened was there were only 20 people who can sit in that courtroom; they filled the courtroom with plainclothes folks. She was in a white, you know, glass cage sitting in the middle, surrounded by all these plainclothes folks. Even diplomats, others could not able to get in. There were – intimidation were waiting outside. So eventually she was convicted.

But one thing that – you know, we follow – congressmen, you also know, you also follow a lot of cases. What amazes me in this case is her courage. Believe me, I was shocked by how strong she is, and she didn't budge. Even after putting her personal pictures online, she said go to hell, I'll do the work. That's what she stands out for.

So now let's see what the U.S. government can do. We comment on your actions, including the Act you are bringing in. One thing I have to commend you, Chairman, is before we ask, you act. Usually, for – (laughs) – sometimes we have to go and ask. You are actually one step ahead of us.

But other recommendations is that – one is for the Congress, which is this Act, but also to the administration. For the Congress, we would strongly urge when members of Congress visit Azerbaijan, CODELs, they should insist that they would like to visit her in prison. It's nothing unusual. You know, in Vietnam Father Ly members of Congress have met. It's the will of the members of Congress that matters. So if the members of Congress can stood firm and say, here, 20 of us are coming, we want to see her in prison, that should be attempted. Let them say no. They should – it should be attempted.

For the trial, any political prisoner trial now – this case is over – it's the ambassador who should be there, not the political officer, because the situation is so bad in Azerbaijan the level of scrutiny should be the highest. So ambassador should take time and go and give – it's a political message.

Third, the ambassador should frequently meet with political prisoner families. In this case, mother and sister are there.

Then, when it comes to the administration. You know every administration, no matter which administration, they are – they are known for making statements and not following through. Oh, we are concerned. It's not going to go anywhere with Azerbaijan. The only way that can – they have to ratchet up a little bit. So we would urge President Obama to meet with the family members of Khadija. When her mother visits here or when her sister comes here, President Obama should meet. He has done it with other political prisoner. Not consistently; with China he never wanted to meet, but there are other cases he met. We would strongly recommend that Khadija's mother be – if a community bring her or someone bring her, President Obama should meet her as a symbolic gesture that U.S. government will not stay silent when you harass and abuse your own citizens who are peacefully raising issues of concern.

Thank you, Chairman, for inviting us.

SMITH: Mr. Kumar, thank you so very much for your defense and your recommendations.

I'd like to now yield to Ms. Han.

HAN: Thank you, Mr. Chairman, commissioners. As a staff member of the U.S. Helsinki Commission, I traveled to Azerbaijan in late October, and I met with government officials as well as the few remaining activists who were willing to meet with someone from the United States.

The mood was subdued among the independent activists, as many of their colleagues were in jail. And they and often their family members were facing harassment from the government and were also under threat of arrest.

But I cannot say that they were defeated. In fact, they were defiant in the face of the crackdown. And they're determined to continue to fight for human rights. And it's exactly the bravery and the incredible optimism that Khadija brings to this group and that she has shown during her trial and imprisonment that have played a big part in keeping the activists motivated. And Kumar mentioned that in his testimony.

On the afternoon of October 29th, I attended one of Khadija's appeal hearings at a courtroom in Baku. And as Kumar mentioned, the courtroom was packed. It was full of even more attendees, and they were searching – everybody was searching for a seat in this small courtroom on the crowded benches.

And as we were taking our seats, there was a moment of confusion, and we were all told to move to a different courtroom. There was a mad scramble as we rushed into the new room, and you had to find a seat or else you had to leave, because you were not allowed to stand and watch the trial. Apparently this room-swapping technique is something that the court officials use so that nobody can have physical contact or have – be able to exchange words with Khadija as she's brought in to the prisoner glass cage.

So I could feel the tension in the courtroom but also the resignation. It was as if we were at a theater and we all knew the grim ending of the play, but we held out hope that audience participation might somehow change the outcome. There was no doubt that Khadija would be found guilty. And it was not because of the preponderance of evidence against her, because in fact the evidence didn't support the charges at all. But it was because the whole trial was being held to fit the government's desired conclusion, a guilty verdict. And the court was now merely the stage on which to act it out.

In reality, Khadija had already started serving her sentence on the day of her arrest. The only thing she did not know was how much longer that she would be in jail.

Since the guilty verdict is assumed, the punishment starts before the trial begins. Essentially every single prisoner – political prisoner in Azerbaijan has spent the entirety of their

pretrial period in pretrial detention despite the availability of a bail system. Khadija spent exactly – almost exactly one year in pretrial detention from her December 5th, 2014 arrest to her November 26th, 2015 – excuse me, November 25th final appeal.

The conditions in pretrial detention are often harsher than in the regular prison system. Khadija was not given consistent or sufficient time with her lawyers to prepare her case. Her family was obliged to provide her with food, clothing and other basic necessities. Her family visits were restricted or denied. And communication with the outside was extremely limited. And Khadija was punished, often by being put in solitary confinement, for issuing statements or continuing to write letters from jail. One of her letters from jail was published in the Washington Post back in February of this year, and she was immediately punished for that.

When we arrived in the second courtroom, Khadija was already in the glass-enclosed witness cage, where she spends the entirety of the hearing process. She cannot speak unless the microphone in the glass cage has been turned on. And in other hearings over the last year, the judge would cut off Khadija's mic if Khadija started saying something that the court didn't like.

The court had another particularly cruel practice. As we filed into the courtroom, the tallest and most burly guards were standing shoulder to shoulder in front of the glass cage so that Khadija was not able to see or even wordlessly communicate with her elderly mother. So they were basically blocking her off from seeing her mother. So her mother was anxiously peering left and right around the guards, trying to catch a glimpse of her daughter; trying to find out did she look sick, was she in good spirits.

So we took our seats, and Khadija pressed a piece of paper to the glass with a message to her mother, but the guards quickly told her to put it down.

The judge filed in and read a short notice about the procedure of Khadija's appeal. And Khadija had one more month to file a certain petition, so the court would send her back to pretrial detention for that full month's time. The judge quickly turned and left.

As we were hustled out of the courtroom, I too leaned around the guards, searching to make eye contact with Khadija. I saw her, and we exchanged a quick wave, a big smile and the universal peace sign. And with that, I was pushed out the door, leaving Khadija behind.

Thank you.

SMITH: Thank you very much for your testimony and your work on Khadija's case.

Vice president of the parliamentary assembly, Robert Aderholt, and also of course a member of our commission. I yield as much time as you may consume.

ADERHOLT: Oh, thank you. Mr. Chairman, thank you for this hearing today. And let me just say, having had a chance to visit Azerbaijan on a couple of different occasions, I'm familiar with the area, have got to know some of the officials there. And generally speaking, Azerbaijan has worked with the United States in many ways, and there has been a working

relationship between our two countries. But certainly it's situations like this and, you know, hearing more details about Khadija's situation that – it's very disconcerting. And certainly, you know, I think it's important, Mr. Chairman, to have this hearing to learn more about it because, like I said, there is a real desire, I think, from the United States to be in friendship with Azerbaijan, and we want to work with them.

But I think one of the things that's very difficult for most Americans is when they hear situations like this. It's very alarming. And I think that it's important that these things come to light and that we make sure there're no Khadijas out there that are being imprisoned.

Let me just – and I have got to slip out to another meeting here in a few minutes, so, Reporters Without Borders, let me ask you this question. How many journalists would you say are currently in prison in Azerbaijan?

HALGAND: There are at least – there are at least 12 journalist and blogger currently in jail in Azerbaijan. And what is important to highlight, that most of them were imprisoned since 2012. So there has been a really harsh crackdown these last years.

ADERHOLT: And you know, there seems to be a lot of newspapers there. Are there any independent voices out there in the media?

HALGAND: So what I tried to highlight was the fact that really President Aliyev has been quite successful to completely silence independent journalist at home but also the media in exile like Meydan TV or others and – by going after their family members who are still in Azerbaijan, by crushing the media financially and so on.

ADERHOLT: Thank you. Like I said, I apologize. I'm going to have to leave shortly. But like I said, I think there's a real desire for the United States to have a good working relationship with Azerbaijan. But you know, this is – certainly anytime you hear reports about this, the American people are – I can tell you from my constituency are – when they hear reports like this, it's very disconcerting.

And so I think that's why it's important, we need to learn from this hearing. And again, thank you, Mr. Chairman, for hosting this today. And I yield back.

SMITH: Thank you, Mr. Aderholt.

Dr. Boozman.

BOOZMAN: Let me just ask a couple questions in regard to the broadcasting. Are you able to continue broadcasting now?

PEJIC: We had an FM license in Azerbaijan, but we of course lost it several years ago. But even though we lost the FM license long time ago, we are – we were able to keep the bureau. We are now able to broadcast only via shortwave and through Internet.

BOOZMAN: OK. So do you have any idea of the size –

PEJIC: We do have some cooperation – sorry – with Turksat TV, trying to address Azerbaijan content in cooperation with Turksat TV.

BOOZMAN: Do you have any idea of the size of your audience?

PEJIC: Yes, I do. It depends what you want to compare it with. I think you were not here when I mentioned that today we have 30-percent larger audience on the Web compared to the time when we had bureau in Baku in December 2014. In November 2014 we have 1,138,000 visits on the Web, plus YouTube, plus social network, et cetera. So this is increase compared to, let's say, May for about 15 (percent), 30 percent.

BOOZMAN: So what can we do? What can Congress, what can the State Department – how can we support you?

PEJIC: I think my colleague laid out pretty good ideas of what should be done. We – at some point with the support from the State Department went to Baku. And our representatives and the representative from the Broadcasting Board of Governors – we tried to find out kind of three issues there. Number one, was there any misreporting that was done about Khadija? Because we have no idea about any single fact that represented in a wrong way. Nobody has ever said anything like this.

Point two, we wanted to find out, OK, what are the wrongdoings that RFE/RL office was done? And point three, of course, we wanted to try to solve the problem. We got no – negative answer on all these issues.

BOOZMAN: For the panel, I guess, you know, with the issues you brought up, what has the United Nations done, the U.N.?

Shelly.

HALGAND: What? I didn't hear your question.

BOOZMAN: The United Nations, have they played a role?

KUMAR: They have. U.N. Human Rights Council – there was a joint statement issued about six months ago, and U.S. did not take the lead, but they were party to that. That issue is important, that U.S. can take a lead. Now U.S. is not a member, but still they can – they can play a role in passing a resolution next time, because when bilateral initiatives are not working, it's always better to go to multilateral, not only U.N. but also OSCE. You know, the ambassador has been doing a good job. But again, that should be – that avenue should be explored.

BOOZMAN: So are they more responsive to our – the United States' intervention or more so to the United Nations?

KUMAR: U.S. – they will react, but U.S. is not intervening in a meaningful manner. Making statements – they know that everyone makes statements. That’s what I said. They have to go one step further by – you know, CODELs visiting, they should try to meet with Khadija. And also, most importantly, President Obama – I strongly feel a strong message should be given by meeting the family members. That will give the message that U.S. is serious about it.

They think U.S. is not serious. That’s what’s happening.

BOOZMAN: I see.

KUMAR: So the bilateral, but also at the same time multilateral, they should start with.

BOOZMAN: Very good.

Thank you, Mr. Chairman.

SMITH: Thank you very much, Dr. Boozman.

What is a typical day like for Khadija? You mentioned that she’s been in solitary confinement. How is she faring? Because obviously there’s a corrosive effect. Every day that goes by, you know, life in a political jail becomes that much harder. And you would know it personally, Mr. Kumar.

KUMAR: I will say they are trying to break her.

SMITH: Trying to break her.

KUMAR: But I do – I will admit I don’t know about her, but given her background, especially when they threatened exposing her personal – when she said she doesn’t care, I think she’s a very strong lady.

So I don’t know, but you may be able to –

HAN: I don’t know if Mr. Pejic wants to chime in, but I think that Khadija – the attitude that she’s taken toward serving time in prison is quite positive. I mean, she’s decided that basically she’s going to bloom wherever she’s planted. She’s been planted in prison right now by the government of Azerbaijan.

And in one of the letters that she did write, she said that – she said: Prison is not the end of life. I’m strong, and I see it as a possibility to learn the system from the other side. Communicating with alleged criminals, who do or don’t accept their guilt, I am learning the wrongdoings of the penitentiary and justice system.

She said: In fact it’s an unparalleled opportunity. And she’s going to use the time to translate and write books and to do what she can. So she’s actually, I think, taken a really quite

positive attitude. Obviously she doesn't want to be in prison, but she's decided that she's going to make the best of it.

PEJIC: Something to add – she's under strict rules. She has been prevented to write. She has been prevented to talk with her mother without control. But the message we got, she used the time to educate other intimates – other inmates there, you know, on their own cases. She's helping them.

HALGAND: I just would like to highlight again the really difficult condition and detention in Azerbaijan and the difficult access to the lawyers, to the family members and to health care system. So definitely that's a point that you should highlight in your own meeting with official, the difficult condition of the detention.

SMITH: Mr. Pejic, the Radio Free Europe / Radio Liberty family – are they very, very concerned about this? I mean, is there a sense inside the building, so to speak, that, you know, one of our own has been unjustly accused and now incarcerated? And frankly – and you may not want to answer this, but maybe our other – Mr. Kumar has certainly answered it when he said that there – where was it – the U.S. has not intervened in a meaningful manner. Well, that can change, and we will appeal to the president again to try to get him to – and I think your idea is an excellent one – to invite the family, to make it clear that he's in solidarity with the unjustly imprisoned woman and not with the process that has exploited her.

But is there a sense among the radio and TV family that this is just an outrage?

PEJIC: Of course. Of course. She's one of us.

SMITH: Yes.

PEJIC: Even she was not legally employed by RFE/RL, she was one of our contributor.

SMITH: Right.

PEJIC: What I'm personally a little bit concerned about, to see how other colleagues in other bureaus will react, because, you know, we are all human natures. And we all need to think of our families, et cetera.

To the question about the U.S. government, I – of course as a journalist I would like to see more aggressive approach there. On the other hand, I have – as I just outlined a few minutes ago, we did get help, and we are going there, from the U.S. ambassador from the State Department. And thanks to them I believe we did manage to meet pretty high officials in Baku.

SMITH: Has Secretary Kerry raised this issue personally with Aliyev or the foreign minister, as far as we know? Is that something we should ask him to do? I mean, really, when I held a hearing on – with Naghmeh Abedini on behalf of Saeed Abedini – and Frank Wolf held the first; I held two – at the first hearing, she said the State Department said, there was nothing we can do. And at least in response to the outrage on Capitol Hill that was bipartisan – of course

he's being held in Iran – was at least we got some words out of the secretary of state. But Iran is certainly not seen as a friend and ally the way Azerbaijan is.

So, you know, it seems to me that leverage needs to be ticked up real quick on her behalf and hopefully – you know, a rising tide raises all boats, to quote John F. Kennedy – there would be an effort – a more robust effort to counter all of these jailings of journalists, bloggers and other human rights activists. Again, the Norwegian group puts it at 80 people who are prisoners of conscience. That's a huge number of people for a relatively modest-size country.

So it's something I think we need to – and this commission – you know, we met – and Robert will recall, we had a very robust exchange with Aliyev when we were in Baku. And we were there twice, back-to-back years. One was when the parliamentary assembly was there. The other was when Senator Wicker led the effort. We went there from Istanbul and raised these – not this issue obviously because it was not on the table then – and met with the families.

So we need to do more ourselves, and we will. That's why we're having – or we're chairing – putting on this hearing and why we're introducing the legislation, which I think will get their attention. And we're very serious about getting it passed. Doris, I know, was sitting there, and Doris will remember with Belarus – with the Belarus Democracy Act, which had some similar attributes to it on visa bans and the like and holding individuals to account. That is law, and it has had an impact, has not had the – had the full impact we had hoped, which is democracy. But my hope is that we can push this very, very aggressively.

Let me just ask you with regards to the U.N. – was asked by Dr. Boozman, and I think it was a good question – you have the periodic review comes up – 2017 is the next one. A statement is important. Hopefully more statements will follow. And so if any of you want to comment on what other bodies ought to be doing besides Congress and the president, that would be – that would be helpful.

Yes, sir.

PEJIC: Just if I can say one sentence, and I would like to excused because –

SMITH: I know you have to go.

PEJIC: – I have a really important meeting I have to attend. We are trying to get – and to prepare ourselves for this U.N. session in '17. And there is attempts at – with us, I believe, with some other organizations to have this case there present on the human rights committee too – if possible to come up with a resolution or something like that. It's going to happen, of course, at some point.

Thank you, Chairman Smith.

SMITH: Thank you very much, Mr. Pejic.

HALGAND: I want to highlight the work that the German parliament has done, especially around the European Games last June. And so we've – the work of Reporters Without Borders office in Berlin and many very active members of parliament in Germany – I think there's a very important effort on that side, which is definitely very important. And we can also highlight, of course, the work of the Council of Europe, but much more is needed from the U.N. and from the U.S.

And I just want to highlight that because we know that President Aliyev cares tremendously about his image and especially in the U.S. So I really believe sincerely that there's been not enough pressure from the U.S. and that he would care if the U.S. acts strongly on these issues.

SMITH: Thank you. Does that also include the private sector? I mean, who does he listen to? Do we know?

HALGAND: So I asked this question to my colleagues, and they say actually because we didn't have so much real pressure, it's – in the past, it's hard to know for who he cares. But I think the example of the release of Leyla Yunus clearly shows that they care about the international pressure.

So it should just encourage us to raise the tone a little bit, because pressure works.

HAN: Yes, I think certainly today's Council of Europe announcement about the inquiry on human rights is really important and – because it now, in concert with the Azerbaijan Democracy Act, is – I think it's showing a united front, because I think that Azerbaijan has gotten somewhat of a pass from some of the European institutions from time to time. But I think that it's hard for not only the public but also for these groups to ignore the consistent crackdown that's been happening.

I also would like to mention that – and in terms of the U.N., just this month there was a periodic review on Azerbaijan's adherence to the Convention Against Torture. And the report found that despite hundreds of allegations of torture within the security services, there wasn't even one prosecution. So they were pretty severely criticized and asked to do better on that part. So it's important to understand that from the U.N. side.

SMITH: Do we have a sense of what caused this most recent crackdown, which began on or about 2012? What was the proximate cause?

HALGAND: So one of the explanation we see is that actually with the Arab Spring revolution, there's been some demonstration at that time in Baku in very small size, if I could say. But it's one interpretation that we can have, that the regime got scared that this kind of civil movement could duplicate in Azerbaijan. And we saw that at that moment the crackdown really step a new level.

So that's a potential explanation. But don't believe it was a paradise for a journalist or a human rights defender earlier.

SMITH: Yeah.

HALGAND: But that could be an explanation, the fear of an Arab Spring in Azerbaijan.

HAN: Yeah, I think that's correct and also the situation in Ukraine. The Maidan uprising and the upheaval that happened there, I think, was also disconcerting. And it happened right around the time of a presidential election in 2013. And I think that at first observers felt that the crackdown that was happening prior to the 2013 presidential election was related to just the election itself. But then it continued on after that. It never let up and in fact got worse.

So I think that it's perhaps a decision by the government that they just can't tolerate the independent voices.

SMITH: For those who do human rights reporting on the ground in Azerbaijan – and Mr. Kumar, you might want to especially speak to this – what are the risks to those people to report, particularly if their identity is known?

KUMAR: They will be – first of all, we were kicked out of the country and those other human rights organizations. We were deported. And OSCE, as you're aware, for the election's time, they themselves withdrew. Any local domestic Azerbaijanis who are trying to help, either direct or indirectly, if they get caught, they'll be in very bad shape. So be extremely careful in getting information and vetting the information to pretty much protect their identity and their protection.

HALGAND: Reporters Without Borders correspondent in Azerbaijan works unofficially for us. And we have an official local partner, as I said, the Institute for Reporters' Freedom and Safety. And he's German, as I say, had to hide nearly one year in the Swiss embassy before being able to leave and to now leaving in exile in Switzerland. So that's the life of the human rights defender in Azerbaijan.

SMITH: Is there anything else any of you would like to add? Because your testimonies were outstanding. I think Mr. Pejic, you know, did a wonderful job in just showing on the record how these are bogus charges, these are false charges, trumped-up. And all of you have provided, I think, the commission very, very important insights.

And in Shelly's case, she's provided insights to – and has been doing it –

HAN: Color commentary –

SMITH: – color – for all of us. And I deeply appreciate that.

You know, it was Thomas Jefferson who said, were it left to me to decide whether we had a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter. None of us – even this politician sometimes doesn't like the press treatment that I get, and all of us feel that way, but would defend to the death their ability to

publish, free speech, which is our constitutional right. And you know, we need to promote this. It is a universally recognized human right.

And I would just ask you – I would ask you one last question. That would be, our ambassador on the scene, our mission in Baku – how effective has our ambassador been on raising these cases, particularly for Khadija?

HAN: I think it's difficult to assess. I think he's in a very – Ambassador Cekuta is in a very difficult position. And I think that he also must follow whatever the State Department line is. And I think they're being careful. I think they're trying to be careful, they're trying to thread the needle of maintaining relationships with Azerbaijan that we've had in the past but they are not quite sure how to react. And I think that direction from Congress is probably helpful to the State Department to change that.

KUMAR: He doesn't have to wait for this – either way, don't do it or do it, from State. He has a lot of authority, all the ambassadors. For example, he can visit family members of political prisoners. He can invite them and human rights –

SMITH: Does he?

KUMAR: I don't know. I'm just – I'm just saying in general.

SMITH: Sure.

KUMAR: If he didn't do it, then he should explore doing those things and also having functions. Even in China they do that. So he should – if he didn't do it, I didn't follow his actions. But there are a lot of things they can do, which I don't know whether he's doing or not. Thanks.

And also, as I mentioned earlier, any trial political in nature of this level, he should be there. That's a political message.

SMITH: Your point was very well taken on that.

KUMAR: Sure.

SMITH: And I take it he was not there. OK.

HAN: As far as I know, the ambassador has not attended any of the hearings. And if he has met with family members, I'm not aware of it, but they – again, if they have, they may have kept it quiet as a strategy. But perhaps the strategy should be changed.

SMITH: You know, I would respectfully submit that as an ally increasingly careens in the path of human rights abuse and cruelty, that relationship becomes less valuable and less reliable. And frankly, I would also submit that friends don't let friends commit human rights

abuses. If we are friends, we should be speaking – we should be the first and the foremost in bringing this to light, in trying to mitigate and end it.

So, you know, when we had our conversations, when I did and my colleagues, with Aliyev in Baku the second time, it was extended. People were leaving and, you know, we had to get back to the conference. And I said, let's press this individual, this man. He was very engaging, but you know, we need honesty and truth and a record that is as impeccable as it could be.

So your testimonies have been tremendous. We thank you and look forward to working with you going forward not just on Khadija's case but the other cases as well.

The hearing is adjourned.

[Whereupon, at 3:43 p.m., the hearing ended.]