

TURKMENISTAN: PROSPECT FOR CHANGE

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November 19, 2008

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The hearing was held at 2:03 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.

Commissioner present: Hon. Alcee L. Hastings, Chairman, Commission on Security and Cooperation in Europe.

Witnesses present: Ambassador George A. Krol, Deputy Assistant Secretary for South and Central Asian Affairs, Department of State; Anthony Bowyer, Program Manager, Caucasus and Central Asia IFES; Eric McGlinchey, Assistant Professor, Department of Public and International Affairs, George Mason University; and Cathy Fitzpatrick, Jacob Blaustein Institute for the Advancement of Human Rights.

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

Mr. HASTINGS. Well, good afternoon and welcome to all of you.

It's been almost 2 years since former President Niyazov died in December 2006 and the regime changed in February 2007. After years of dictatorship under President Niyazov, there were high hopes for reform both inside and outside Turkmenistan.

On December 14, for the first time since the regime changed, Turkmenistan will hold parliamentary elections under the framework of a new constitution and new electoral legislation. Today we are going to examine whether this election might mark a turning point at all for Turkmenistan as well as whether Turkmenistan is making progress on Democratic reforms.

I believe there have been some positive steps. Some reform of the education system has taken place. Education obviously is the future for any country and is critical to all of the countries in the world. However, I also have been disturbed recently about reports that Turkmen officials are pressuring young men not to apply for study programs in the United States. And I look forward to hearing what our panelists have to say on the issue.

I also welcome the Government's decision to work to integrate its international human rights obligations in Turkmen legislation, judicial practice and state institutions including through the establishment last year of a human rights commission under the President. I urge the Government of Turkmenistan to continue this posi-

tive momentum on reform by fully implementing steps it already has begun.

This includes revising and reforming the criminal code, the civil code and religious law in cooperation with international experts, registering nongovernmental organizations, increasing public access to information via the television, the Internet and print sources and continuing dialogue with international organizations such as the OSCE, the ICRC and the E.U.

I also would ask what would be a clear signal of the Government's intention to move forward with reform: allowing access to prisons, including to those imprisoned in connection with the events of November 2002. For the past 6 years, I have asked for information on our former OSCE colleague, Batyr Berdiev. We've heard reports that he may have died in prison. His family has the right to know whether he is dead or alive. We see no reason why the current government cannot provide immediate either access to the Minister, or if he is no longer alive, information concerning his fate.

Before giving the floor to anyone else, and this is going to be in the nature of a briefing, at about 5 minutes to 3 I am going to have to go to another meeting, but I would like to introduce our excellent lineup of speakers today and take note that we did invite the Embassy of Turkmenistan to participate today, but unfortunately a scheduling conflict prevented the Ambassador from being here.

For our first panel, we have Deputy Assistant Secretary of State for South and Central Asian Affairs Ambassador George Krol, who I was with earlier in Belarus. We kind of like going to these places, Ambassador, somehow or another. I'd like to note that the Ambassador is one of the few U.S. diplomats who actually speaks Turkmen. And I was there 3 days with former Congressman Gerald Solomon, and I did not learn to speak Turkmen in those 3 days, Mr. Ambassador.

For our second panel, we have Mr. Anthony Bowyer from IFES. For those that don't know that acronym, the International Foundation for Electoral Systems. And Mr. Bowyer is the program manager for the countries of the Caucasus and Central Asia.

And then Dr. Eric McGlinchey, an assistant professor of government and international affairs at George Mason University, and whose expertise includes Central Asia as well as political Islam.

And Cathy Fitzpatrick from the Jacob Blaustein Institute for the Advancement of Human Rights, who has followed development in Turkmenistan for many years.

Ambassador, let's begin and allow you to proceed as you see fit. And your full statement will be made a part of the record. All right.

AMBASSADOR GEORGE A. KROL, DEPUTY ASSISTANT SECRETARY FOR SOUTH AND CENTRAL ASIAN AFFAIRS, DEPARTMENT OF STATE

Amb. KROL. The respected Chairman, Mr. Hastings. Thank you very much for this opportunity to appear before you today to discuss the prospects for change in Turkmenistan.

And first I would like to salute this Commission for consistently raising congressional concerns about human rights and democracy

and democratic developments, not only in Turkmenistan and Central Asia but throughout the former Soviet region, including the last foreign posting in Belarus, where I was Ambassador and where we met. Thank you, sir.

And now to Turkmenistan. Since the death of long-time leader Saparmurat Niyazov in 2006, we believe significant changes have occurred. Under the new President, Berdimuhamedov, internal travel restrictions have been eased, educational reforms have been introduced. The President created an institute on democracy and human rights and a committee to review citizen complaints against law enforcement agencies. And some political prisoners have been released.

At the same time, Turkmenistan has opened up dramatically to the outside world. Numerous foreign delegations, including many from the United States, have visited this previously secluded Republic, and President Berdimuhamedov has also visited many countries, including the United States, reviving relations and contacts that had long languished under his predecessor.

The new Turkmen leader has publicly stated he is committed to modernizing Turkmenistan and promoting democratic reform. He has called for Turkmenistan's laws and practices, including those related to human rights, to be brought up to international standards. On his order, the country's legal, human rights and legislative bodies are working to draft more than thirty laws and codes, including on religion and civic organizations, family and criminal proceedings.

In late September, a revised national constitution was adopted and includes provisions for a strengthened and enlarged Parliament and contains some rights-related textual changes which the international community had suggested. A new law on the election of Deputies to the Parliament has been adopted and some provisions of the old election law about which we had expressed concern have been eliminated, such as negative voting.

As you had mentioned, Mr. Chairman, elections for the new Parliament will be held on December 14. We are now working on plans to monitor the election process. As part of that effort, our Embassy in Ashgabat recently organized the visit of an official from the Central Elections Commission to visit the United States to observe our recent Presidential Elections. And while that official was in Washington, I met with him to explain not only our own elections, but also to discuss the upcoming Turkmen Parliamentary elections with him.

Over the longer term, our embassy is working to facilitate visits by respected academics to speak to Turkmen audiences on democracy and elections. For instance, last week a professor of political communication at Emerson College, who is an expert on U.S. elections, met with Turkmen officials and students. And our embassy will also work with the newly elected parliament to foster its professional development and encourage increased exchanges.

We understand the Organization for Security and Cooperation, Europe's Office for Democratic Institutions and Human Rights will send a four-person election support team. We also understand the United Nations has been working with the Turkmen Government in providing training for local election monitors and poll watchers.

Mr. Chairman, these are very welcome developments, but everyone, I think, including the Turkmen leadership, recognizes that Turkmenistan still has a long way to go to meet international standards for democracy and human rights. We harbor no illusions that Turkmenistan's parliamentary elections on December 14 will fully meet international standards. Real political pluralism does not exist in Turkmenistan. There are no checks and balances, and independent, critical media is absent.

And on the human rights front, the justice system, prison conditions, harassments, detentions, restrictions on free speech and travel abroad remain very significant problems.

On the whole, President Berdimuhamedov seems to be taking a cautious, step-by-step approach to rebuilding his country's society and economy. He has not moved as fast as many would like on political and economic reform and respect for human rights. But the steps he has initiated, including this revised constitution, new election laws and his opening up of the country to greater interaction with the outside world, we hope are the first of many more steps he will take along the road toward systemic reform.

I spoke at length with him about these issues when I was in Ashgabat in September and he assured me personally that these were his goals as well.

For the United States, we look at these changes, this new openness and these elections, as opportunities. Opportunities to engage and encourage the Turkmen authorities and the Turkmen people who, frankly, have had little or no experience, let alone understanding of, democracy and its processes. We recognize we are dealing with a political culture that will take time to evolve. It's a society that still bears the strong imprint of its Soviet past and the destructive efforts of its last leader's long authoritarian rule that, frankly, left the country with little capacity to deal with the modern world.

Most importantly, right now the Turkmen leadership continues to seek constructive advice and support on how to go about the daunting task of bringing this country into the 21st century. The approach we are taking is to engage, to encourage and to support these positive tendencies. At the same time, we continue to press for the freeing of political prisoners, for international access to prisons, the elimination of the continuing abuses and restrictions on freedom of movement, assembly and media. We continue to promote greater religious freedom and advocate the growth of civil society.

In seeking to promote democratic development and strengthen respect for human rights, we are working with the government, but we are also working with Turkmen society through education exchanges, Peace Corps program and support for grassroots community, health, social and agricultural development projects.

Also, when I was in Ashgabat in September, I met with representatives of the civil society who expressed to me their hope for change would continue, even under the tough conditions they still endure. They encouraged us, and me personally, to keep engaged.

Mr. Chairman, as you well know, a democratic process and respect for human rights must be founded on a society that first understands and then practices these values. We, along with others

in the international community, are trying to facilitate Turkmenistan's own efforts to understand and build democratic values and economic reform through education, through patient, constructive engagement, advice, example and support. And this has been and remains our longstanding policy toward Turkmenistan.

Thank you, Mr. Chairman. I look forward to your questions and further discussion.

Mr. HASTINGS. Thank you very much, Ambassador.

Recalling my visit with my party colleague Gerald Solomon, we visited Peace Corps efforts and non-governmental organizations, and we were there on a Thanksgiving Day. I don't hesitate at all to indicate how strongly we felt at the celebration there. It seemed that there were a multiplicity of organizations that came together, particularly those from the United States.

I also remember that not Mr. Solomon's Chief of Staff, but the Chief of Staff of the Speaker was traveling with us, and he spent a whole day negotiating a rug. I had never seen anything like that in my life.

But one of the things that struck me as an individual, aside from all of the symbolism that Turkmenbashi, as he was referred to, seemed to have—a picture everywhere we turned, and I actually had the opportunity to see him stop all the traffic and drive his vehicle with nothing else moving on the road at the time. I thought that was extremely interesting.

But as a person that has traveled all over the world, I can coax a smile out of a child in the worst conditions, as I have in southern Sudan or in Moritza (ph), India and Chiyong (ph), China. No matter their parents' rigid attitude, I can coax a smile out of a child. Turkmenistan is the only place I have been in the world that I could never get anything but a blank stare.

It is my great hope that the new President is leaning more forward toward opening the process. And one of the things that you heightened that I find significant and perhaps would ask you to expand upon, is his relationship with his neighbors. I have had an opportunity to visit everywhere in the region but Turkmenistan since that visit, and I have come to know all the way down the stands, and particularly Uzbekistan, the attitude and attitudes of some of the neighboring countries.

What if anything in the way of change is taking place that suggests that he is doing better than his predecessor did in his relationships with his neighbors?

Amb. KRÖL. Mr. Chairman, I would say that this is one aspect, I think, that is seeing rather dramatic change compared to President Niyazov, who had very bad relationships with his neighbors, particularly the President of Azerbaijan across the way, across the Caspian.

President Berdimuhamedov, since he has become President, has visited all of his neighbors, including a very historic visit to Baku, Azerbaijan, where he met with President Aliyev. And President Berdimuhamedov told me when I met with him that, you know, he was quite taken in by this discussion that he had with his Azeri colleague and they had opened up, reopened, the Turkmen embassy in Baku, which is another, I think, sign of the warming of rela-

tions. And the Foreign Ministers have met and they continue to meet at ministerial levels in order to discuss their issues that they have on the Caspian border area within the sea.

He has visited Uzbekistan as well as President Karimov has visited Ashgabat, and as I understand they have managed to resolve matters dealing with their border area. There is a lengthy border, as you know, between Uzbekistan and Turkmenistan. And there are water management issues on that. And so that relationship seems to have improved considerably.

President Berdimuhamedov has visited his neighbor in Iran and has had discussions with the leaders there. There is a significant Turkmen minority population that is up on the border with Turkmenistan. And that relationship I think is, as President Berdimuhamedov has said, you know, is a matter of also realizing they need to have good neighborly relations with their neighbors. As well as Afghanistan.

And he spoke to me, President Berdimuhamedov, at length, about his visit to Kabul and the support that he has been giving also to the Afghan people and to President Karzai, that they have been providing humanitarian assistance, electricity that is being brought into Afghanistan into the north.

And I think that this shows a rather dramatic change, and also the fact that the policy, the foreign policy, of Turkmenistan has changed to become far more interactive with its neighbors. And also he has traveled to the United States to the U.N. General Assembly and he has been to Austria and Germany and the like, too. I think it's a good sign that he's bringing the country out of the kind of seclusion that it has been in.

Mr. HASTINGS. My apologies for this cough. Apparently there is a difference between 19 degrees and 84, where I was in Florida. I'm sure that is what is affecting me. My humble apologies in that regard.

Obviously, we remain concerned about the lack of information on prisoners, and you have indicated certain aspects of that in your prepared testimony and in your remarks here. I would ask you to be more specific regarding the name that you pronounced so much better than do I, but specifically one person who we don't seem to be able to get accurate information concerning whether or not he is alive or dead. And I remember on my first coming to know anything about Turkmenistan [inaudible] was working in Vienna at the time with the Helsinki Commission, brought it to my attention.

And we met with people and ever since that time I have at some point raised the subject myself over the course of the years. And in that 6-year period of time, I've got no more information that I had in the beginning.

And then there are others. Mr. Berdiev and Mr. Sheikh Muradov (ph). And I'm just curious, do you have any added information regarding these individuals?

Amb. KROL. Mr. Chairman, I am sorry to say that I don't. I have raised these issues about Ambassador Berdiev. The situation involving Former Foreign Minister Sheikh Muradov other prisoners that are currently there, including Mr. Annaniyazov, who had been just recently detained and then sentenced to 11 years in prison.

At every opportunity that we've had in meeting with President Berdimuhamedov, the Foreign Minister, everyone, we raise these questions and ask. And I have asked for humanitarian reasons, for the families' sake, is there any information that can be provided to the families.

And as I understand, Ambassador Berdiev, according to his sentence, 5 years have passed and his family should be able to have access to him.

And we raise these matters consistently with the Turkmen authorities and hope that with the new, as it were, Presidency, that he would see fit to provide some further information. And what we get is, frankly, well, they were court cases. They're being punished. And I keep asking, well, are they sitting in prison? Are they in prison? And I have been assured, yes, they are.

But in what conditions? Can anyone visit them? Can the International Committee of the Red Cross visit them? And the Foreign Minister, who we met in New York, including Assistant Secretary Boucher and Assistant Secretary David Kramer from our Democracy, Human Rights and Labor, we all met with the Foreign Minister and raised these. And the answer was that they are working with the International Committee of the Red Cross, some modalities, that perhaps they could get them in to see the prisoners generally.

I have to say that we will continue to press to get information about these individuals at every opportunity that we can. It remains high on the agenda, sir.

Mr. HASTINGS. Yes, sir.

In my remarks, I pointed to the press reports that authorities in Turkmenistan are pressuring young people not to apply for study programs in the United States. First, to the extent that you would now, is this true? And if it is, how is the United States responding to this? And are the study programs effective?

Amb. KROL. Well, first, sir, I think the study programs are effective. I have met with the alumni of these programs when I was visiting in Ashgabat, and these people are in many respects transformed by their experiences studying and meeting in the United States. And they are proud of their country, Turkmenistan, they want to take advantage of the opportunities to develop their country and the like. And I can see there are probably no—the money is so well-spent on these exchanges.

And I would have to say that when I speak with President Berdimuhamedov and the head of their committee on democracy and human rights and everyone that I speak to in the leadership of Turkmenistan, they all say, yes, we like these programs. We want to support them.

And then when it comes down to the matter of, OK, we get these people, the students, to come to participate in these exchange programs, somewhere down in the bureaucracy, there are obstacles. And then we hear these things, where the students are being somehow—someone is telling them that they really ought not to be involved in these programs.

So immediately we raised this with the high authorities and said, on the one hand, you're saying you want exchanges, we do too, and we're offering these programs. And on the other hand, it seems

somebody is getting another message to them. And this is something, again, that we hope to see ended and reversed. And we will again continue this. Our embassy has mentioned this publicly, and it's a matter that I raise and will continue to raise whenever we hear that these things happen.

You know, bureaucracies are bureaucracies, and it seems that some people down there don't get the message from on high that there is a green light to go ahead and engage with the outside world.

Mr. HASTINGS. Do you have any knowledge of whether or not they are encouraging their young people to study in other countries, two specifically, or maybe three: the U.K., Russia, or China?

Amb. KROL. Well, I understand that there are significant exchange programs to study in Russia. I think in China there may be some more technical educational opportunities.

As far as Great Britain, I think the British Embassy has offered openings for these kinds of exchanges too.

Russia has opened up branches of some of their academic institutions, like the institute that teaches technology for mineral oil development at the Gauguin Institute. So they're moving to reengage on the educational exchanges that had ended under the Niyazov regime.

So I think there are others. I think they are going to other countries as well, in Europe, I understand, and Norway, Scandinavia, I think, I have heard as well.

Mr. HASTINGS. I see. When you spoke of what Russia had opened up, it led me then to thoughts with reference to the Extractive Industries Transparency Initiative. I began my responsibilities here as Co-Chair focusing on energy. I would, aside from the fact that this upcoming election is so critically important to us to understand, I wish that I had just time just to explore just the energy ramifications and the importance of a country like Turkmenistan in that sphere.

Toward that end, is the United States actively urging them to join the EITI? Are we encouraging Turkmenistan toward greater transparency in their oil and gas industry?

Amb. KROL. Yes, we are, sir. We are constantly in discussion with them. I think Ambassador Steve Mann, my colleague, the Energy Coordinator, in Turkmenistan right now. And in his many discussions with the leadership of Turkmenistan, this is one of the issues that he, and we as a government, have been encouraging them to be transparent in their energy policy.

And also to be inviting, opening up their energy market to cooperation with some of the major international oil and gas companies that can assist them in developing their immense resources in order to get these immense resources to market.

Again, they show an interest in this, but we have to see sort of more activity on their side, to be more open and more transparent in how they conduct their energy business. But I think after the many years where so much of this was held in the hands of one man, it is difficult, I think, for them to sort of open up, or even have people that understand the whole business, the oil and gas business. Many have left. They basically have to build a capacity to deal with these issues, which are immense.

Mr. HASTINGS. I want to raise two further subjects with your permission, and both of them are not so much taboo, but areas of continuing concern for all of us, not just in Turkmenistan but around the world.

I recall that there were serious allegations regarding drug trafficking in and through Turkmenistan. Of course, the State Department's listings reflect that. Additionally, if my friend and colleague Chris Smith were here, I am sure that he would ask, and I will in his stead, about any human trafficking that we have any information regarding that may—and this is not an allegation, this is seeking information regarding either of those subjects.

Amb. KROL. Well, sir, on the matter of narcotics trafficking, I think this has become a serious concern of President Berdimuhamedov and the Government. I mean, he has revamped, I think, the Counternarcotics Commission and Committee and wants to improve their capabilities, and they are seeking cooperation with us as far as training of their operations and of their people and getting technology that could help as they address the issue of narcotics trafficking, particularly preventing it from crossing their borders.

The United States has been very much involved with the Turkmen border guards. Actually, the Nevada National Guard, funded by Central Command, has assisted Turkmenistan in building several border posts, one on the border with Iran and Turkmenistan, one with Afghanistan and Turkmenistan. There is a third one they are building on the border with Turkmenistan and Uzbekistan, with state-of-the-art equipment, training and the like, in order to have a—be able to interdict narcotics trafficking, trafficking maybe in materials, radioactive materials, things of this nature.

President Berdimuhamedov, when I spoke to him, recognizes that they have a lot to do to again bring themselves up to the capacity to be able to understand the extent of the problem and to control it. And I think we and others in the international community are working with Turkmenistan to improve their capabilities to be able to combat this.

There is also an issue of use of narcotics in the country, too, which I think the President, being himself a medical person, recognizes is a problem that may have not been recognized under his predecessor and needs to deal with that as well as far as reducing usage and recognizing it and the extent of it and the like.

As far as your question or the question I guess from my Congressman, Congressman Smith, on trafficking in persons, is that I think it is again an issue that has not really been—there isn't much information known about it, but it is—understood that it probably is going on, and I think this is another matter of how to work with the Turkmen authorities to try to grapple with, first, what is the extent of it, is it going on, and how do you prevent it. And I think this is where we are working with them and with the authorities who feel—who are open to this kind of cooperation, to finally get at this problem, which basically was being ignored for so long.

So I think there are opportunities here to address them, but I think that they're all problems that are probably bigger than we all recognized.

Mr. HASTINGS. One final question and it only comes about by virtue of the fact that our staff and our members here have been working rather significantly on the subject of refugees generally and Iraq specifically.

Knowing the border that exists between Iran and Turkmenistan, and the leaving without having in hand information, that certain Iraqi refugees transmigrated to Iran. Then the question that would naturally follow is, do we at this point have any information of any refugee migration of Iraqi refugees? And I believe it would probably be miniscule, but that possibility exists, and that's why I ask the question.

Amb. KROL. Mr. Chairman, I am not aware of any Iraqi refugees who may be in Turkmenistan now. We can check with the Turkmen authorities. I have not heard that they have—

Mr. HASTINGS. It would be helpful for me to know, and if you would do that as a followup, it would be deeply appreciated.

Ambassador, it is good to see you and thank you. You have been generous with your time and very explicit with reference to the information that you have provided us. I don't know what your time schedule is, but you certainly are welcome to stay with us.

And I would invite the next panel to come forward now and ask you to take your leave. Thank you, sir.

Amb. KROL. Thank you very much.

Mr. HASTINGS. Good to see you.

Amb. KROL. Nice to see you. I hope you get to Turkmenistan again and have some people smile.

Mr. HASTINGS. Ms. Fitzpatrick, I didn't get a chance to say hello to you earlier, but welcome.

Mr. McGlinchey, welcome.

I did see and meet and talk with Mr. Bowyer first, so I'm going to start with him, OK? All right.

Thank you all for being here and thank you for all of the work that you do for all of us.

Yes, sir. You may proceed. And all of your statements will be included in the record, and you can reflect as you see fit. I would appreciate you going forward.

**ANTHONY BOWYER, PROGRAM MANAGER, CACASUS AND
CENTRAL ASIA IFES**

Mr. BOWYER. Mr. Chairman, ladies and gentlemen, I am honored to be present today to speak about the upcoming elections in Turkmenistan and how we should regard the recent changes to the constitution and election law in light of accepted standards of democratic practice and Turkmenistan's international commitments.

Mr. Chairman, I am aware you have traveled extensively in the region, so it is a particular privilege to be able to discuss this topic here with you today.

I work for the International Foundation for Electoral Systems, an organization with over 20 years of experience in international elec-

tions, and which has worked in over 100 countries, including in the Republics of Central Asia.

I have personally had the opportunity to evaluate election law and procedures firsthand in many of the former Soviet Republics. And as you know, while a good law is vital, it is how it is implemented as well as what happens in the period leading up to an election that determines how the election itself proceeds and how in fact we may judge it, as evidenced most recently with the elections in Azerbaijan.

Mr. Chairman, in the interest of time and given your tight schedule, let me get right to the election law, since IFES is the premier organization in helping countries with their electoral processes.

As you and Ambassador Krol mentioned, in a nutshell, political pluralism in Turkmenistan doesn't exist. Some steps have been taken to create more of a balance of power and open the country, but the constitution remains a very imperfect document and I would posit that we have not seen its final amending.

With regards to the Parliamentary election law, which was revised in October of this year, the document also remains somewhat simplistic and largely inadequate as a basic framework for democratic elections, for in democracies, where competitive elections should be the norm, not the exception, complicated situations can arise that demand legal regulation and intervention, such as we see here in the United States.

Those examining the just-approved legislation may recognize it as something seen previously in other former Soviet Republics circa the early 1990s. Among the outstanding issues of the very difficult rules that independent candidates need to following order to be accredited to run in the parliamentary elections and the practical reality that the environment is not conducive to the registration of independent candidates or movements.

In one such instance, the nomination of an independent candidate who dared to run outside of the Democratic Party or the pro-government public associations was denied, allegedly due to the late submission of application materials, this after the Government reportedly moved up the submission deadline without notifying potential nominees.

Additional problems with the law include the lack of detailed procedures needed to regulate the processing of voters, the issue and counting of ballots, the use of the mobile ballot box, unregulated early voting and unclear guarantees for media and rights of domestic observers, and preparation and public displaying of results protocols. Nor is there an acceptable process for filing and resolving complaints and appeals, or any regulations whatsoever on campaign finance. Last, candidates still require government permission and assistance to meet with voters and generally conduct their campaigns, which places undue control on their movements and their campaign messages.

Election commissions cannot be considered truly independent bodies in Turkmenistan at any level, though this is a problem in all of the Central Asian republics. In some countries such as Armenia, however, the Chair and Deputy Chair of the Central Election Commission are made up of representatives from different political parties, those not necessarily in lockstep with the President.

Likewise, there is at least some diversity in the composition of local election commissions in many former Soviet republics, though in Turkmenistan this is practically impossible due to the lack of any alternative parties.

The Turkmen election code was slow to incorporate changes that have been adopted in fellow Central Asian states, including the removal of negative voting. This has now been adopted, and it may seem like a small change, but it carries with it an important psychological connotations for voters, who previously associated elections with rejecting candidates instead of supporting them.

There is no doubt that should Turkmenistan hope to continue evolving along the lines of a democratic state, the election law and election procedures will need to be further revised and developed—an ongoing project that U.S.-based organizations can very well contribute to and which I believe would not be rejected out of hand by the government of Turkmenistan.

In terms of international involvement with the elections, as mentioned, the OSCE will be sending a very small observer delegation and will be joined by, among others, a CIS observer mission. For its part, the UNDP has played a rather constructive role in engaging the CEC in training of election management bodies. Again, U.S.-funded democracy assistance organizations specializing in technical election assistance, while not present for the current process, would also seem to have a role to play in building a positive working relationship with the CEC and other electoral stakeholders, such as they exist, as well as to continue encouraging the country to embrace political competition while working at the grassroots level to support this.

When assessing the electoral process in Turkmenistan, it must be noted that even the best election codes require the political will to enforce them. By way of comparison, the recent Presidential election in Azerbaijan featured a number of improved electoral legal provisions yet, as we know, was bereft of serious competition.

Further, the pre-election atmosphere in Azerbaijan was accordingly devoid of the excitement that pre-election Presidential Campaigns can and should bring, as many voters in that country were apathetic or disinterested in what they knew to be a pro forma vote.

In Turkmenistan, it is doubtful that people are fully aware of the upcoming elections to the Mejlis, nor the changes brought about by the constitutional amendments. If Turkmenistan, a country whose 25-and-younger population constitutes a growing majority of its 5.2 million population and a growing percentage of its 2.7 million voters, is to someday be a democratic success story, then its citizens will have to embrace a culture of democracy from an early age.

This can and must be reflected in study of the outside world and Turkmenistan's place in it, learning about democracy and the role of citizens and understanding the structure of government, and that government is chosen by the people to work for the people.

Supporting democracy in Turkmenistan and addressing electoral sector reform ought to be a priority of U.S. foreign policy, and it needs to be a long-term investment. Turkmenistan may be slow to change, but it is changing. This change needs to be supported by ongoing and strategic engagement with programs encouraging de-

mocracy, civic education, political competition, an open media, respect for human rights, and a vibrant civil society.

The creation of a professional cadre of election officials at all levels, independent from undue government influence or pressure, should be a goal, as should be the education of voters and citizens of the elements of participatory democracy and the rights of citizens to expect their elected leaders to work on their behalf and to ensure that they are doing so.

As we see elsewhere in Central Asia, there is serious competition to these very basic democratic ideals. Once hailed as the island of democracy, even the Kyrgyz Republic has struggled to consolidate its democratic change and is in fact now experiencing a regression.

In addition to questionable political will, we also see the influence of external actors hostile to democracy, such as Iran and the Russian Federation, as well as increasingly radicalized Islamic opposition in the Fergana Valley. This should not discourage or dissuade us from continuing to push the democracy agenda, however, even in challenging budget times, for increasingly our own security and legitimacy as a democracy, which has been looked upon very highly by the people of Turkmenistan and Central Asia, compels to lead by example and not lose faith, even when hope in the countries themselves is in short supply.

Mr. Chairman, I thank you and the Commission for the opportunity to speak today on this important subject.

ERIC McGLINCHEY, ASSISTANT PROFESSOR, DEPARTMENT OF PUBLIC AND INTERNATIONAL AFFAIRS, GEORGE MASON UNIVERSITY

Dr. McGLINCHEY. Mr. Chairman, thank you for the invitation to speak today. Will you be leaving at 5 to 3?

Mr. HASTINGS. [Off mic.]

Dr. McGLINCHEY. OK. Thank you. I would have abridged it.

Mr. HASTINGS. [Off mic.] I'm going to stay through yours and Ms. Fitzpatrick's testimony. I apologize.

Dr. McGLINCHEY. Thank you very much.

I would like to divide my comments into three sections. The first part, I'd like to look at some substantive changes that we've seen in Turkmenistan since President Berdimuhamedov has assumed power in December 2006.

The second thing I'd like to do is look at three potential causal explanations behind these changes. And then the third thing I'd like to do is explore what future developments we might anticipate, given which of these causal explanations we think are actually explaining what has happened in the past.

To frontload things, let me just give you my overriding conclusion, and that is that Turkmenistan remains incredibly dependent on one overriding executive, that is the President, and that this presents both limitations and opportunities.

The limitation is that a personal-centric role is both eccentric, erratic and abusive, but there is an opportunity, and that opportunity is that strong executives often overestimate their capacity. And oftentimes, should these executives even be partially amenable to democratic reform, they may make miscalculations, which may open up political space for actual true democratic reform.

Substantive changes. What are some of the substantive changes that we've seen? I'd like to divide these into three different areas: one, political reform; two, economic reform; and three, social reform.

As far as political reform, I think the September 26 constitutional amendment has made some steps toward a functioning, potentially functioning, legislative branch. There has been some human rights developments. This recent European Union-Turkmenistan meeting, the human rights dialog in Azkaban in June, was certainly a positive step forward.

There has actually been an institutionalization of releasing prisoners. There is the Night of Forgiveness, the end of Ramadan, where the Government regularly releases prisoners. There is State Flag Day, when it is also marked by releasing prisoners. There is the Constitution Day, where we release prisoners in Turkmenistan. And also Independence Day. So there is actually an institutionalized process now of releasing prisoners, some of them political prisoners. So that's a positive development.

The former Head of the National Security Service, I'm not quite sure if my information is correct here, but the former head of the National Security Service [inaudible] was released in October a few weeks ago. So again, he was one of the people who was implicated in the 2002 assassination plot.

So again, as far as human rights and political prisoners, again, a positive development.

As far as economic reform, the constitutional amendments of September 26 do include provisions for property rights, which are critical for the development of the Turkmen economy. There has been some price levelization with respect to gas. It has increased from 8-cents to about 60-cents, so there is a freeing of prices, which again is a positive step in the direction of market reform.

There has been increased reaching out to foreign investors. So the recent meeting in London, the oil and gas Turkmenistan 2008, this was April 2008, in an effort to demonstrate transparency to foreign investors—that this is now a place that you can invest in.

So there have been positive developments as far as economics. Social—as far as social reform, there has been a dismantling of the cult of personality. In April, Berdimuhamedov eliminated the naming of the calendar after personal family members. In May 2008, they removed the gold statue, which I am sure you saw on your visit. Perhaps no loss to cultural monuments there. There have been improvements in education. There has been a guarantee of a minimum of 10 years of education for every Turkmen child, which is something that is very heartening.

There has been some marginal increase in access to information. So there was an attempt—actually, the actual opening of five Internet cafes. So the desire to open up Turkmenistan to the international media. The state opera ballet allegedly are going to start functioning again. Some foreign travel restrictions have been reduced, although I think you rightly know that as far as education is concerned, they still remain if not formally, at least informally in effect.

And to a certain degree, pensions have been restored. They had been reduced under President Niyazov.

So there have been some developments, positive developments, and I think it is incumbent on us to recognize these. The question that I have as a political scientist is always, what explains these developments? And I'd like to present before you, Mr. Chairman, three potential explanations.

The first explanation, the first hypothesis, is that Berdimuhamedov is actually a true believer. He believes in democracy and he is willing to initiate reform, even at the potential expense of his own power. Democracy means turning over power. So that is a possibility.

A second possibility is, he is what I would call a façade democrat. And that is to a certain extent he has bought into the international discourse on democracy, he's somewhat internalized these norms, but he will only follow these norms insofar as they don't threaten his own power. So again, this idea of a façade democrat.

The third hypothesis is what I would call an instrumental autocrat, that he's an autocrat through and through, all the way through, and what he's doing in these substantive changes that I've outlined in the beginning are merely attempts to get rid of the old guard, to get rid of Niyazov's people. So these reforms are very easy ways to purge former Niyazov loyalists, to clean house. And also they're ways to increase political and economic support internationally. So these are simply instrumental indication of democratic steps, or ostensibly democratic, to increase his own power.

I think we can reject hypothesis one, that he is a true believer, fairly confidently. I'm not sure about where to go with hypothesis two or hypothesis three.

Let me just briefly return to some of the empirics, and perhaps you can give me some instruction where to go with this. As a political scientist, I would value that. If we look back at political change, the first thing I mentioned, if you look at these December elections, they're going to be sham elections. There is no question about that. All instruments of social mobilization in Turkmenistan are completely controlled by the executive. There is one party. There is an umbrella social mobilization organization called the Revival Movement. This includes the labor unions. It includes women's unions. It includes the youth union. It literally includes over half of the population of Turkmenistan. And the person who is in charge of that is the President.

So as far as the elections, and these are the bodies, the party in this umbrella organization, the Revival Movement, are the people who are responsible for nominating people. It's all underneath the control of the executive. So these are sham elections.

I think the President has also demonstrated that he is a material despot, to be perfectly honest. He continues the hiring and firing practices of his predecessor. You may be aware that recently on Turkmen national TV, one of the announcers was giving the evening news and a cockroach ran around the table. The next day, 30 people, 30 higher ups in the TV, were fired.

So again, this kind of mercurial behavior that we saw with his predecessor continues today.

As far as political prisoners are concerned, far more remain, languishing, as you rightly have pointed out, in prison. We don't know their fate.

So again, I would question some of the political changes. As far as economic change, transparency is not what we think it would be. The Italian company NE (ph) recently acquired a U.K. gas concern, and their executives have been prevented from entering, and we believe this is because the company did not consult the President before acquiring the British concern. So the transparency is also suspect.

As far as social change, I would say there probably is a creeping cult of personality with the President right now, much as we saw with Turkmenbashi before, I think we're seeing it with Berdimuhamedov today. A recent meeting of the Cabinet Ministers, the main representative for the Minister who is in charge of the archives of Turkmenistan delivered a book on Berdimuhamedov's maternal grandfather. It's a biography. So the state resources are being used to document the history of the President.

The President himself was just congratulated a couple of weeks ago with the publication of his own book on the equestrian traditions of Turkmenistan, a major—apparently a major addition to the scholarly research in Turkmenistan.

So some of the things we've seen before, we're seeing happen again.

As far as the information restrictions that were supposed to be removed, the Internet cafes are now being closed. So we've already seen two closed. YouTube, to the extent that the Internet is open, a lot of these things are being blocked. So YouTube is now blocked because the Turkmen opposition has videos on YouTube.

So again, I'm not quite sure where to go with these last two hypotheses, whether or not he's a façade democrat or purely an instrumental autocrat, but what I would like to leave you with is this conclusion that I outlined in the beginning, that sometimes autocrats, if they are façade democrats really at heart, if they will internalize some of the norms of democracy, sometimes they overestimate their agency.

So the extent to which we can encourage autocrats to engage in the discourse of democracy and encourage them in this movement toward incremental reform, I think we do open up political space for people who are actually pushing for substantive reform. So if we could encourage Berdimuhamedov along in this direction, not being overly shrill, for example, in December, when these elections don't meet our OSCE expectations, but perhaps identifying and congratulating them on making some incremental reform, I think we may be pushing the country and the society in the right direction.

Thank you.

**CATHY FITZPATRICK, JACOB BLAUSTEIN INSTITUTE FOR THE
ADVANCEMENT OF HUMAN RIGHTS**

Ms. FITZPATRICK. Thank you, Mr. Chairman.

I do share the assessment that you've made, and some of the other speakers have made, that Turkmenistan has turned a corner in certain respects and there have been improvements, particularly in the areas of health and education. But mainly, these have been undoing the damages of the past and not making progress into the

future and I think that rather than over-celebrating such improvements, we need to be very clear that they're not institutionalized.

I feel that in advance of this Parliamentary Election December 14, we can say already it's not free or fair. It's not just that there's only one party and one social movement. It's that both of them are chaired by the President himself. So it's not just that they're state approved. They're controlled by the President, which opens up the problem of separation of powers.

The changes that I think caught the attention most of the Western media were that there is now the recognition of multiple parties, but it was actually an erroneous assessment to say that this would actually play out to mean anything. I think that in looking at those changes, there has not been a realization that the way Turkmenistan works, which is the way that other countries in the region work, is not with the declarations of the constitution, that all these areas require enabling legislation. It requires separate laws in each area of concern that are very detailed.

This is a country with a civil law tradition, and it has no functioning constitutional court. And you can't claim that there is a self-executing constitution yet have no court.

Basically, it's a tradition in which they say if something is not explicitly permitted, then it's not allowed. So while you could have a new amendment such as Article 93, that does allow for political parties to nominate candidates, there is no separate law for political parties that can provide a means to have budgets, advertising, media access, all those kinds of things.

Article 29 permits public rallies in the abstract, but there is no separate law on demonstrations, and there used to be. So that shows you how it used to be done in the Soviet era. They were authorized and it was retired under Niyazov.

Unlike parties and unions, NGOs do have a separate law, which in part came about because of Western pressure and OSCE work with Turkmenistan, yet that law is not implemented. Groups are just simply not registered, and only a very select few are permitted.

Another amendment prohibits the formation of parties on ethnic or religious grounds. So that means ethnic Uzbeks, Russians, Muslims, other religious groups, are essentially barred from political organization.

Just to explain how these new amendments play out in reality with reports that we're getting from Turkmenistan, yes, citizens can nominate an independent candidate in theory, but they must have ten people on the initiative group, and then they have to be certain that 200 people show up at the meeting. Each one of those people has to present their passport and register their name, address and birth date. So that opens them up to vulnerability of harassment from the authorities. And sure enough, in one—in two instances that we know about, and Dasha Gouz (ph) was one, a group of school principals got together to try to make good on these promises in the constitution, but then eight of the ten got visits from the Ministry of National Security, discouraging them from going forward, so their effort was invalidated.

There are many aspects to this new constitution that, far from democratizing Turkmenistan actually strengthen Presidential Rule. For example, whereas before regions could appoint their own Ha-

kims (ph) or Governors, now the President will be appointing them and it will work in the [inaudible] system, the vertical chain of command, which is like Belarus and Russia and you're familiar with those kinds of government systems.

The legalization of private property is a very important watershed for Turkmenistan, but again we hear that there's going to be quite a bit of heavy Presidential intervention. When an independent union of entrepreneurs and industrialists applied to legalize recently, at first they were getting permission from the Ministry of Justice, but then the President, President Berdimuhamedov himself, decided he wanted to have a union of entrepreneurs, so he made a separate one that displaced the one that came up more from the grassroots, and then that group was forced to stand down and couldn't register.

I think we have to look at all the changes that we're seeing in the context where there is excessive and extensive Presidential rule and intervention into nearly every aspect of life. It is true that the portraits of Niyazov have come down, but portraits of Berdimuhamedov have come up. One observer quipped, "Not a leaf on the trees moves in this country with the personal consent of the president." And we're seeing that all major decisions are personally made by the President. So of course oil and gas contracts, construction projects, budgetary allocations, every school and every clinic, everywhere, personally handled by the President.

Of course foreign policy, relations with neighbors, but then many minor decisions were taken on. For example, what kind of school uniform will children wear or what kind of shape—will there be a wedding cake shape to this hotel and this resort region. It's all decided by the President. And what that means is that the West and foreigners in general have built up a steady queue to President Berdimuhamedov, waiting for his clearance on virtually every project they want to proceed with, and that helps reinforce the over-excessive Presidential Rule.

I think also we've mentioned the constant shifting and turnover of Ministers. And I think at this point we're well past the point where you could say they were purging out the old regime. Some of that did occur in the first year. But I think now we're seeing with the constant shake ups in oil and gas, the media, military, that it's just a means of keeping people off balance and keeping them on their toes and they're made very dependent on the Presidential whim.

So I feel that once this body is seated, it will not have legitimacy. It won't have been democratically elected and it won't have the power of the purse.

Just to go through some of the recommendations and what I think the U.S., our response should be to this situation, which will very much remain one of authoritarian rule. First of all, I think the United States has to be very clear on saying that these are not democratic elections and not over-praise any progress. Specifically, highlighting the idea that there is no enabling legislation. That is the note to self.

Then we know that ODIHR from OSCE is not going to send a full-fledged mission. They announced that it is just going to be a smaller technical assessment, but we have to make sure that the

Parliamentary Assembly does not cloud the picture with anything that looks like it is monitoring or observing in any full-fledged fashion. Because we do have this CIS observer sending—there will be 50 from the CIS, and they of course will acknowledge it. So there is a bit of a clash, because the CIS members are in the OSCE PA. So I think it's important to make sure that—

Mr. HASTINGS. [Off mic.] The bureaucratic tet-a-tet that is taking place between ODIHR and the parliamentary assembly or election monitoring? If election monitoring and reporting on election monitoring is what the objective is, and advancing democracy, then it would seem to me that it wouldn't matter if the two organizations who seemingly can't coordinate very well in some instances, if one of them chose to do one thing and another chose to do another.

Ms. FITZPATRICK. Well, I actually think that what happens is that when you have those two approaches, that what the OSCE PA is doing is undermining the ODIHR. And ODIHR, after all, is reflecting the will of the states who are the members. Ultimately it's the Secretariat, it's reflecting the consensus that this is not an election that deserves a full-fledged observation.

So you have some—

Mr. HASTINGS. I'm just going to cut across you, because I do have to leave. I don't—my apologies. I'm going to hear the rest of your recommendations. But as one who has been very much involved in this process, I am interested in where you're coming from, and perhaps we should followup a little bit after that.

Let me just use the more recent elections of the United States, incidentally, which no one could observe from the outside until the year 2004, when yours truly pressed the issue and Secretary Powell made the decision that that was permissible. I thought up until then that we were ridiculous, running around the world, pointing our finger at everybody else's failures, and I lived through Florida, OK? So I just want to make that clear.

Now, as a Parliamentarian and as a member of the Parliamentary Assembly, what you just said, ODIHR doesn't reflect the will of the people anymore than the 56 representatives of the Parliament reflect the people of the respective countries as well. And if we use the just-passed November elections, ODIHR chose to send a small group. I had as many as 12 Parliamentarians in my constituency. Five of them were Russian. And I can assure you, I hosted them at a reception, I had staff to arrange for them to do things that they ordinarily wouldn't have been able to do. And I can tell you from personal information that while Putin and Medvedev may control everything, they didn't control the thoughts, feelings, the camaraderie, the things that came about as a result of that visit.

So I take respectful exception to that notion. I am not encouraging the Parliamentary Assembly to do anything. But we have had that just take place very recently in a lot of places, including America.

Go ahead.

Ms. FITZPATRICK. Well, we should continue that conversation, but I think it basically comes down to what kind of message do you send when you are there, speaking to the state media, by your

presence? Whatever you want to call it, full-fledged, technical, it's—

Mr. HASTINGS. Kind of like I've done that 10 times, including in Azerbaijan and Belarus.

Ms. FITZPATRICK. But just to finish with some of the other aspects I think we need to look at, when we engage with bodies like the Commission to implement Turkmenistan's obligations under international law, I think that's a very important route that they've undertaken and I think we need to encourage that, but I think that what's happening, again, the steady stream of foreigners and the coverage in the press there, is all positive, as if there is no criticism. So it's very important to have alternative media, statements before the trip, after the trip, so that it is not all entirely co-opted.

On the question of technical assistance, I think we need to increase that and fund it more. I think we need to look for many more opportunities to reach out to Turkmenians in a lot of areas, like drug abuse is a very big one they declare as a national security concern. But I think we also have to realize that they are now in a mode where they are attempting to obstruct some of the programs, and we see this specifically in incidents I've outlined in my testimony, at counterparts IREX and the American Center. And these aren't just isolated low-level bureaucratic sorts of backsliding. I think it does come from the top, as most things do in Turkmenistan. And I think the U.S. needs to engage the Turkmen leadership on why this is happening, what is causing it and how can we turn it around, how can we increase our cooperation.

Just a final few things. I think we need to go back to the Russian-language "Voice of America." I think it was a terrible thing to have cut that off. I think it was a very important service for the whole region. We have to remember that, you know, we are very far away from these countries. The countries that will have the most impact day to day are going to be Russia, Kyrgyzstan, Kazakhstan, Tajikistan, Afghanistan, Iran. They are going to be dealing with Turkmenistan more than we will, and for the dialog to take place, there has to be some kind of lingua franca. For better or worse that is Russian, and people do speak Russian, and it's a good way to reach them in Russian. And that, of course, means expanding the Turkmen language in Russian broadcasting for "Radio Liberty" as well.

And I know this has also been somewhat controversial, the question of whether you should call Turkmenistan a country of particular concern. I think we on balance at this point would support that it should be called that, it should be put in the list, because of very severe restrictions that do remain on religious groups.

I think we do have an opportunity to take President Berdimuhamedov at his word now, but I think that we achieve that by remaining critical as well as engaged.

Thank you, Mr. Chairman.

Mr. HASTINGS. I was just advised by my Great Advisor how to have this nomenclature which doesn't fit my mind, but anyway that's inside baseball over here.

I appreciate all of you all. Regrettably, I don't have time for questions of you, and I'll conclude our proceedings at this time and allow that we send followup questions to you all.

I want to make it very clear, I thank you all. This has been most useful, certainly to me. Regrettably, the time of orientation is pressing all of my colleagues, not making excuses for them, I know that they are busy elsewhere, as I must be. But you are deeply appreciated for all of your participation and I thank you all so much.

OK. All right. We're adjourned.

[Whereupon, at 3:13 p.m., the hearing was adjourned.]

APPENDICES

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

Thank you, Mr. Chairman.

I also look forward to hearing this assessment of how the reform process is—or is not—proceeding in Turkmenistan. I agree that there have been some steps forward since the change in regime two years ago. I understand, for example, that the new election law does incorporate some of the suggestions for reform put forward by international organizations, including the OSCE. I look forward to hearing our experts' analysis of that new law and whether it will have an impact on the upcoming elections.

Nevertheless, I am concerned by some recent developments. The June 24, 2008 arrest of former political prisoner Gulgeldy Annaniyazov upon his return from exile abroad sends a chilling message that voices critical of former President Niyazov's policies will continue to be punished by the current Government. I urge the Government of Turkmenistan to take another look at his case. Charges made against him under the previous regime should not be taken at face value. My understanding is that Mr. Annaniyazov was a leader of the so-called "Ashgabad Eight", a group that was arrested in 1995 in connection with a peaceful demonstration calling for expanded democratic reform in Turkmenistan. We urge Turkmen authorities ensure that peaceful human rights advocates are allowed to express themselves freely, in accordance with Turkmenistan's OSCE commitments.

The ability of civil society to freely work and express its views is critical to democratic reform. It is also vital to holding free and fair elections. The ability of candidates to freely express their views and policies—even when critical of incumbents—is also necessary. I hope that the Government of Turkmenistan will ensure that candidates for the December 14 election are able to campaign openly, and that the media is allowed to report freely.

**PREPARED STATEMENT OF AMBASSADOR GEORGE A. KROL,
DEPUTY ASSISTANT SECRETARY FOR SOUTH AND CENTRAL
ASIAN AFFAIRS, DEPARTMENT OF STATE**

Mr. Chairman and members of the Commission,

Thank you for this opportunity to appear before you today to discuss Turkmenistan and the prospects for change there. The Helsinki Commission has been a consistent voice in raising Congressional concerns about human rights and democratic developments in Turkmenistan and Central Asia.

Mr. Chairman, Turkmenistan has entered a potentially significant phase in its relatively young history as a nation state. Its authoritarian ruler for more than two decades, Saparmurat Niyazov died in December 2006. Gurbanguly Berdimuhamedov emerged as Turkmenistan's new president and has an opportunity to move Turkmenistan toward its place among the world's community of respected, prosperous, stable, market-oriented democracies that respect human rights.

Since President Berdimuhamedov assumed power, several hopeful signs of change have appeared. The new leadership has allowed greater openness: internal travel restrictions have been eased; educational reforms have been introduced; the government created an Institute on Democracy and Human Rights that aims to help Turkmenistan meet its international treaty obligations in the area of human rights as well as serve as an unofficial ombudsman; a government Human Rights Commission has been established; a committee to review citizen complaints against law enforcement activities has been set up; and some political prisoners have been released.

In February 2007, the country held its first Presidential election since 1992. Though the election did not meet western standards it was noteworthy in Turkmenistan for the involvement of five candidates and for public debates that mentioned topics like the problem of drug abuse which was never even acknowledged by the previous regime.

The Turkmen leadership has called for economic, social and democratic reforms to bring Turkmenistan into the 21st century. In an effort to end the country's past isolation, Turkmenistan has welcomed numerous foreign delegations, including many from the U.S. Government and two from the U.S. Congress. President Berdimuhamedov has also visited many countries, including the United States, to revive relations that long languished under his predecessor.

These are welcome developments. But even the Turkmen leadership recognizes Turkmenistan still has a long way to go to meet international standards for democracy and human rights. It has not moved as fast as we and its people would like on political reforms, increased access to the Internet, allowing free media, releasing all political prisoners, and addressing serious human rights abuses by security forces.

It still bears the strong imprint of its Soviet past and its last leader's long authoritarian rule—a rule that did not develop protections for human rights, standards for freedom of religion or expression, democratic institutions, multiple political parties, competitive elections, civil society, inquiring and independent media, trans-

parent justice, an independent judiciary, an open economy, an efficient bureaucracy responsive to the people's needs, freedom for all to travel abroad, or normal relations with the rest of the world. President Berdimuhamedov seems to be taking a cautious step-by-step approach to rebuilding his country's society and economy, and is seeking constructive advice and support on how to go about this daunting task. The time is ripe for well-targeted and thoughtful engagement, encouragement, and support.

The United States has always respected and supported Turkmenistan's sovereignty and independence. Since the beginning of bilateral relations, the United States has sought to develop a relationship with Turkmenistan based on respect for human rights, democratic values and mutual economic and security interests. Turkmenistan's abysmal human rights record under the past president greatly reduced the extent and scope of our bilateral engagement.

The United States is encouraging the new Turkmen leadership to take real steps toward respecting human rights, developing democratic institutions, and establishing the rule of law to ensure fundamental freedoms for the people of Turkmenistan.

U.S. policy in Turkmenistan is three-fold. We encourage democratic reform and respect for human rights and fundamental freedoms including improvements in the education and health systems. We encourage growth of a market economy, privatization of agriculture and diversification of Turkmenistan's energy exports. We promote security cooperation in our global struggle against crime, drugs, and terrorism.

Mr. Chairman, President Berdimuhamedov has publicly stated that he is committed to modernizing Turkmenistan and promoting democratic reform. He has made a public commitment to bring Turkmenistan's laws and practices, including those related to human rights up, to international standards. On his order, the country's legal, human rights, and legislative bodies are working to draft more than thirty laws and codes, including on religion and civic organizations, family, and criminal procedure codes.

In late September, a revised national constitution was adopted. It included provisions for a strengthened and enlarged Mejlis (parliament), eliminated many of former President Niyazov's arbitrary addenda, and contained some rights-related textual changes the international community had suggested. Most notably, it eliminated the Halk Maslahaty (Peoples Council), an oversized, bureaucratic, and largely rubber-stamp body whose powers have largely been transferred to the Mejlis. A new law on the election of Deputies to the Mejlis has also been adopted, and some provisions of the old election law about which we had expressed concern have been eliminated. These include negative voting, a process in which voters cross off the names of candidates they do not support instead of marking the candidate they do support.

Elections for the expanded 125-seat Mejlis will be held on December 14. We are now working on plans to informally monitor the parliamentary elections and to help Turkmenistan to move farther down the path toward a more transparent democratic process. As part of that effort, our embassy in Ashgabat recently organized the visit of an official from the Central Election Committee to visit the

United States to observe our elections. While the official was in Washington, I met with him to discuss the upcoming Turkmen parliamentary elections. Embassy Ashgabat has also met with Central Election Committee officials to discuss the elections. Embassy officers are traveling around Turkmenistan and meeting with candidates. They plan to attend campaign events as well. Personnel from our embassy will also attempt to visit polling stations and talk with officials and voters during the election.

Over the longer term, Embassy Ashgabat is working to facilitate visits by respected academics to speak on democracy and elections. Last week, a professor of political communication at Emerson College, an expert on U.S. elections, met with Turkmenistan officials and students. Our embassy also will work with the newly elected parliament to foster its professional development and encourage increased exchanges. We will look to increase exchanges with the Institute for Democracy and Human Rights and the Central Election Committee.

We understand that the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights will send a four-person election support team. The team will arrive in Ashgabat around December 6 or 7 and will remain in the country through the elections. In Turkmenistan, the team will attend campaign rallies, meet with non-governmental organizations, examine voter lists, visit polling places, and meet with election officials. After the election, we understand the team will draft a memo for the OSCE Center in Ashgabat. That information will likely be incorporated into the Center's report on the election that will be available to OSCE member states.

We also understand that the United Nations has been working with the Turkmenistan government, providing training for local election monitors and poll watchers.

Mr. Chairman, we harbor no illusions that Turkmenistan's parliamentary elections on December 14 will meet international standards, but I believe that these steps toward reform including the new constitution and new election laws, may be the first on a long road towards systemic democratic reform. Political pluralism does not exist in Turkmenistan, and there are no checks and balances. Independent media, a vital component to free and fair elections, are absent.

For Turkmenistan, at this stage, much of the focus of our effort should be on education. We should look at these elections as an opportunity to educate and encourage the Turkmen, who heretofore have had little to no experience let alone understanding of democracy and its processes. We are dealing with a political culture that will take time to evolve. The key point, I believe, is that we must remain engaged with the Government and people of Turkmenistan if we wish to advance democratic reform.

The Government of Turkmenistan could also do more to engage with the international community on human rights and democratic development, including sending a delegation to the OSCE's Human Dimension Implementation Meeting.

Mr. Chairman, on human rights, Turkmenistan's human rights record has long troubled the United States. In keeping with U.S. policy, we continue to press for the freeing of more political pris-

oners, allowing international access to all prisons, and the elimination of abuses and restrictions on freedom of movement, assembly and the media. We are also working to promote greater religious freedom and advocate the growth of civil society.

Although President Berdimuhamedov is making progress in overhauling Turkmenistan's laws, human rights practices continue to lag behind his stated intentions and Turkmenistan's OSCE commitments. Radio Free Europe/Radio Liberty reporters continue to experience harassment from security forces. Religious freedom conditions have improved since the Niyazov era, especially with the move away from the Ruhnama as an official ideology. Additionally, the UN Special Rapporteur on religious freedom was allowed to visit for the first time this September. Small evangelical Christian religious communities, however, continue to experience problems with registration, and authorities target unregistered religious groups for harassment and detention. The government continues to prohibit conscientious objection to military service, which had been legal until 1995. Although President Berdimuhamedov in 2007 released Turkmenistan's former Grand Mufti, imprisoned since 2005 on charges of complicity in the 2002 attack on President Niyazov, only a handful of other individuals considered to be political prisoners have been released. Closed trials that fail to meet international standards of due process continue. We are currently drafting the 2008 Human Rights Report for Turkmenistan, which will describe these and other abuses in greater detail.

More recently, the arrest and detention in a psychiatric facility of RFE contributor Sazak Durdymuradov, as well as the recent sentencing of former political prisoner and civic activist Gulgeldy Annaniyazov in a closed trial to 11 years in prison, serve as reminders that there is still much to be accomplished on the human rights front in Turkmenistan. We continue to raise cases such as these on a regular basis with the Government of Turkmenistan.

In seeking to promote democratic development and strengthen respect for human rights, we are working with the government appointed and newly empowered Institute for Democracy and Human Rights, which is one of the government bodies most open to cooperation with foreign donors. In January 2008, the Ministry of Foreign Affairs agreed to USAID's proposal for cooperation with the Institute. Areas for cooperation include information exchange, the provision of legal and technical expertise, and support for increased access to information. Together with the Institute, USAID's partner, the International Center for Not-for-Profit Law, has laid out an ambitious plan for cooperation over the next year. Last week, the International Center for Not-for-Profit Law and the Institute jointly hosted a forum on NGO legislation. Other USAID partners have made or are preparing to make other proposals based on feedback from the Institute.

We are still awaiting, however, a response from the Government on U.S. Government proposals for improvements on and cooperation in the area of human rights. We look forward to the Government of Turkmenistan's consideration of those proposals as well.

The new leadership in Turkmenistan has shown particular interest in engaging the U.S. across the board through programs like the Peace Corps, especially in the fields of health, education, and

social, legislative, and media development. We will continue to work with our colleagues here in Washington, with the Congress, with non-governmental organizations and with our friends and allies to expand contact and exchanges in all these areas.

Another of our priorities is to encourage and support American businesses and non-governmental organizations to engage the Turkmen economy and society for mutual benefit. Turkmenistan needs immense foreign investment to realize its potential and U.S. and international companies have shown strong interest in pursuing partnerships.

The new leadership in Turkmenistan has reached out to us for constructive help and advice as they and we seek to turn a new page in their history and in our relationship. I believe that continued engagement by the United States is the only way to encourage greater openness and the development of sustainable democratic institutions in Turkmenistan. The role of the United States and the international community is to provide constructive encouragement and advice. A democratic process must be founded on a society that understands and practices democratic values.

Thank you. I look forward to your questions.

**PREPARED STATEMENT OF ANTHONY BOWYER, PROGRAM
MANAGER, CACASUS AND CENTRAL ASIA IFES**

Mr. Chairman, members of the Commission, ladies and gentlemen, I am honored to be present today to speak about the upcoming elections in Turkmenistan and how we should regard the recent changes to the constitution and election law in light of accepted standards of democratic practice and Turkmenistan's international commitments. I work for the International Foundation for Electoral Systems (IFES), an organization with over twenty years of experience in international elections which has worked in over 100 countries worldwide, including the five republics of Central Asia. I have personally had the opportunity to evaluate election law and procedures first hand in many of the former Soviet republics, and as we know it is most important what happens in the period leading up to an election that determines how the election itself proceeds.

It is well known that Turkmenistan has not, in its relatively brief history of independence, held what could be called a competitive election. With only one registered political party, the Democratic Party of Turkmenistan, political pluralism has simply not existed. Moreover the February 2007 presidential election which formally brought current president Gurbanguly Berdymukhammedov to power was contested exclusively by candidates loyal to and approved by the Democratic Party.

On October 25, 2005 the People's Council of Turkmenistan (Halk Maslikhaty) adopted a resolution to hold early parliamentary elections, bringing the elections forward by nearly one year to December 14 2008. This was formalized in the constitutional changes adopted on September 26, 2008. Since President Gurbanguly Berdymukhammedov formally came to power he has shown signs of wanting to loosen the cult of personality that dominated the leadership of former president Saparmurat Niyazov. Some reforms in education and social policy, along with the physical dismantling of much of Niyazov's capital splendor, initially gave hope that political changes would follow suit.

While sweeping changes to liberalize society and boldly move the country towards democracy have not taken place, there have been efforts to take baby steps in the last two years towards creating more of a balance of power. In September the amended constitution was adopted by the 2500-member Halk Maslikhaty, which effectively eliminated that body as a state institution and made the Mejlis (the parliament of Turkmenistan) the unchallenged supreme legislative body. In addition the number of deputies serving in the Mejlis was nearly doubled, increasing from 65 to 125 and elected for five-year terms in single-mandate districts. This was to have the effect of dispersing power between the President and an expanded Mejlis, making the latter, in the words of President Berdymukhammedov, an example of a "more efficient use" for democratization of society and state.

Though the changes are perhaps viewed in a somewhat skeptical light, there are some positive elements to mention, such as a new article affirming that the economy is committed to market relations and that entrepreneurship and development of small and medium enterprise is encouraged by the state. Another new article calls for

environmental protection and the right of every person to enjoy nature and a healthy environment.

In a nod to the disputed line of succession that complicated the last presidential transition, a Deputy Chairman of the Cabinet of Ministers will be appointed to the position of Acting President by the State Security Council in the event the sitting President is not able to fulfill his duties. The Acting President can formally run for the office in the subsequent presidential election, which according to the previous constitution, the Chairman of the Parliament (Berdymukhammedov) should not have been allowed to do. Also noteworthy is that the Mejlis can call for a national referendum with at least two-thirds support of its members, as opposed to only one-fourth support required previously. Persons in pre-trial detention also have been restored the right to vote, whereas they were previously restricted from doing so (the same as convicted criminals are barred from voting). In a further boost to the new parliament, duties formerly in the domain of the People's Council are now in the jurisdiction of the Mejlis, including ratifying and denouncing international treaties and addressing territorial divisions within the country.

The president has likened the situation in Turkmenistan in 2008 to an "era of new renaissance," further suggesting that the days of complete executive control over the country were coming to a close. Certain provisions of the new Constitution betray this enthusiasm, however. The all-important post of Hyakim (mayors of cities and governors of Welayats, or territories) are again considered "representatives of the President" and appointed and dismissed by him, a privilege briefly granted to regional legislatures as of the 2005 constitutional amendments. This will have the effect of keeping pro-presidential loyalists as the head of territorial and local government bodies, a trend that has served to undermine elections in neighboring Kazakhstan and fellow Central Asia country Tajikistan, where there at least is a modicum of political competition. In addition, while the Mejlis has been elevated as the undisputed legislative body, its ability to appoint members of the Central Election Commission has reverted to the President, which calls into question the independence and objectivity of that body.

President Berdymukhammedov has stated that "some articles and rules of the constitution are outdated, lagging behind the times, even hindering progress" in presenting the constitutional reforms to the public. Yet in spite of the changes adopted, the constitution is still ambiguous regarding separation of powers between the branches of government. It is likely that the document has not seen its final amending.

Concerning the parliamentary election law (there are separate election laws for eight different levels of legislative bodies), this document also remains somewhat simplistic and largely inadequate as a basic framework for democratic elections. For in democracies quite complicated situations can arise that demand legal regulation and intervention, such as we see in the United States. The new legislation is on a par with what was seen in other successor states of the Soviet Union around 1992. Among the inadequacies are the very difficult rules that independent candidates need to follow in order to be accredited to run in the parliamentary elections, and

the practical reality that the environment is not conducive to the registration of independent candidates or movements. In one such instance the independent candidacies of some individuals who dared to run outside of the Democratic Party of the pro-government public associations were denied allegedly due to submitting their applications late, after the government arbitrarily moved up the submission deadline.

Additional problems include the lack of detailed election procedures needed to regulate the processing of voters, issuance and counting of ballots, use of the mobile ballot box, unregulated early voting, unclear guarantees for media and rights of domestic observers, and preparation and public displaying of results protocols. Nor is there an acceptable process for filing and resolving complaints and appeals, or regulations on campaign finance. Lastly, candidates still require governmental permission and "assistance" to meet with voters and generally conduct their campaigns, which places undue control on their movements and messages.

Election commissions cannot be considered truly independent bodies at any level in Turkmenistan, though this is a problem in all of the Central Asian republics. In some countries such as Armenia, however, the Chair and Deputy Chair of the CEC are made up of representatives from different political parties, and not necessarily those in lock step with the president. Likewise there is diversity in the composition of local election commissions in many former Soviet republics, though in Turkmenistan this is practically impossible due to the lack of any alternative parties. It should be noted that representatives of the National Revival Movement "Galkynysh" (consisting of public associations including Trade Unions, the Women's Union, the Veteran's Union and the Youth Union) have the right to nominate members of lower-level election commissions, though these associations are largely loyal to the President and the Democratic Party.

The Turkmen election code was even slow to incorporate changes that have been adopted in fellow Central Asian states, including the removal of "negative voting" on ballots and a switch to making the ballot in favor of the candidate for whom one is voting, as opposed to crossing out the names of all of those candidates one is voting against. This may seem like a small change, but it carries with it an important psychological connotation for voters, who have previously associated elections with rejecting candidates instead of supporting them. There is no doubt that should Turkmenistan hope to continue evolving along the lines of a democratic state, the election law will need to be further revised and developed.

In terms of international involvement in the elections, the OSCE will send a small observer delegation for the December 14 elections, and will be joined by, among others, a CIS observation mission. For its part, the UNDP has played a constructive role engaging the CEC on training of election management bodies. U.S.-funded democracy assistance organizations specializing in technical elections assistance, while not present for the current election process, would also seem to have a role to play in the long-term, and there is the real possibility that such assistance would be welcomed by the CEC.

When assessing the overall electoral process it must be noted that even the best election codes require the political will to enforce them. The recent presidential election in Azerbaijan featured a number of improved electoral legal provisions yet was bereft of serious competition. The pre-election atmosphere was accordingly devoid of the excitement that pre-election presidential campaigns bring, as many voters were apathetic or disinterested in what they knew to be a pro forma vote. In Turkmenistan it is doubtful that people are fully aware of the upcoming Mejlis elections, nor the changes brought about by the constitution. If Turkmenistan, a country whose under-25 population constitutes a growing majority of its 5.2 million population and a growing percentage of its 2.7 million voters, is to someday be a democratic success story, then its citizens will have to embrace a “culture of democracy” from an early age. This can and must be reflected in study of the outside world and Turkmenistan’s place in it, learning about democracy and the role of citizens, and understanding the structure of government and that it chosen by the people to work for the people.

Supporting democracy in Turkmenistan must continue to be a priority of U.S. foreign policy, and it needs to be a long-term investment. Turkmenistan may be slow to change, but it is changing. This change needs to be supported by ongoing and strategic engagement with programs encouraging democracy, political competition, an open media, respect for human rights, and a vibrant civil society. As we see elsewhere in Central Asia, there is serious competition to these very basic democratic ideals emanating from inside Turkmenistan’s neighbors as well as from external sources. While energy issues largely continue to dominate foreign policy orientation towards Turkmenistan, we must not neglect the need to support the call of democracy no matter where it is heard, and no matter how softly it may ring.

I again thank the Commission for the opportunity to speak today on this important topic.

PREPARED STATEMENT OF ERIC McGLINCHEY, ASSISTANT PROFESSOR, DEPARTMENT OF PUBLIC AND INTERNATIONAL AFFAIRS, GEORGE MASON UNIVERSITY

Mr. Chairman and members of the Commission,

Thank you for the invitation to discuss Turkmenistan and prospects for change. I will divide my comments into three sections. First, I will highlight the substantive political, economic and social changes that have occurred since President Berdymukhamedov assumed power in December 2006. Second, I will offer three hypotheses that may explain these changes. Lastly, I will explore the implications for future change these hypotheses may hold, should any one of them be correct.

Here in my introductory remarks let me state my overriding conclusion. Turkmen politics, like Central Asian politics broadly, is centered on executive power. This executive dominance produces erratic, eccentric and often abusive rule. At the same time, executive dominance offers openings for political change. Autocratic executives frequently overestimate personal agency, believing they can institute yet carefully control incremental political reform. These miscalculations provide space for political opposition and, in some instances, open paths to true reform.

SUBSTANTIVE CHANGE

POLITICS

Over the past two years the Berdymukhamedov government has encouraged change in politics, economics and broader Turkmen society. Most recently, the September 26, 2008 constitutional reforms provide institutional foundations for parliamentary power. The September amendments allow for the disbanding of the People's Council of Turkmenistan, a rump legislative body handpicked by the previous Turkmen president, Saparmurat Niyazov, and the establishment of a new 125 member Mejlis, or parliament.

In addition to this legislative reform, president Berdymukhamedov has presided over encouraging improvements in human rights. The European Union—Turkmenistan “Human Rights Dialogue” held in Ashgabat in June, 2008, demonstrates the Berdymukhamedov government recognizes the considerable interest the international community has in improved human rights in Turkmenistan. Moreover, the now regular pardoning of prisoners during state holidays such as the Night of Forgiveness, State Flag Day, Constitution Day and Independence Day, is a welcome, if somewhat idiosyncratic practice.

ECONOMICS

Paralleling this liberalization of human rights and parliamentary practices are several economic reforms. The September 2008 constitutional amendments, importantly, introduce property rights provisions that are critical for the development of a free market economy in Turkmenistan. Decreased state subsidization of gasoline prices, similarly, promises more efficient market allocation and consumption of resources and less rent-seeking behavior by government officials. Lastly, greater efforts at transparency, particularly the allowing of independent audits of major oil and gas fields, will

yield greater international interest and investment in Turkmen energy.

SOCIETY

These economic and political reforms are remarkable. Given the eccentricity and sense of personal grandeur that characterized Turkmenistan's previous leader, though, perhaps the most pronounced change since Berdymukhamedov's assumption of power has been the careful dismantling of the Niyazov cult of personality. In May 2008 the gold-plated Niyazov statue disappeared from Ashgabat's city center and in April 2008 the Turkmen executive decreed that the months of the year and days of the week would revert to their pre-Niyazov names (the months and days had been renamed after Niyazov, his mother, and real and imagined Turkmen heroes).

Accompanying this dismantling of Niyazov monuments has been the opening of Turkmen society and culture to the outside world. Restrictions on foreign travel have decreased, internet cafes have opened, primary and secondary education has improved, and the national opera and ballet, disbanded under Niyazov, have begun practicing again. Admittedly, even by Central Asian standards, these are small steps toward greater openness. Nevertheless, these steps are a welcome contrast to what was the suffocating Niyazov cult of personality.

EXPLAINING CHANGE

One of the following three hypotheses may help explain the substantive political, economic and social changes I have outlined: (1) president Berdymukhamedov may be a true believer in liberal reform; (2) the president may be a façade democrat permissive of some reform as long as it does not threaten personalized power; and (3) the Turkmen president may be an instrumental autocrat who invokes reform so as to consolidate his own power while dismantling his predecessor's legacy. A slightly more expanded examination of the past two years will show that, while we can reject the true believer hypothesis, it is not yet clear if Berdymukhamedov is a façade democrat or an instrumental autocrat.

President Berdymukhamedov's political reforms, for example, lose luster when contextualized within the executive's broader autocratic strategy. The planned December 2008 parliamentary elections will not be competitive, but rather, will be wholly managed by the presidential party, the Democratic Party of Turkmenistan, and by Galkynysh, the president's umbrella "Revival Movement" that oversees labor, women and youth unions. The new Turkmen president, moreover, exhibits much the same mercurial behavior his predecessor did. In early 2008 Berdymukhamedov fired thirty state television employees after learning that a cockroach had, the previous night, used an announcer's desk as a running track during the live broadcast of Vatan, the Nation's evening news. And though the president readily parted with state TV employees, he has been less willing to part with political prisoners, most of whom are held incommunicado

while great ceremony is made of the freeing of non-political prisoners during state holidays.

Berdymukhamedov's economic and social reforms similarly pale when placed in broader context. The Turkmen foreign ministry, for example, has repeatedly denied entry visas to Italian Eni executives. The Wall Street Journal attributes the visa denials to the Eni's failure to vet with the Turkmen president its negotiations to purchase Burren Energy, a British oil company with operations in Turkmenistan. Though the Italian executives may have misread the new Turkmen president, Berdymukhamedov's ministers appear savvy. In October 2008 the cabinet of ministers' archive directorate published a biography of Berdymukhamet Annaev, the Turkmen president's paternal grandfather, World War II veteran and village school teacher. And earlier this month, the cabinet collected to congratulate Berdymukhamedov on the publication of his new monograph detailing the history of equestrian sports and horse breeding in Turkmenistan.

Although I intend no insult to Turkmen horse breeding or to Berdymukhamedov's grandfather, I do question if we may now be witnessing the emergence of a new Turkmen cult of personality. Problematically, though Turkmen themselves may equally be questioning their president's new inclination to self-aggrandizement, the executive's reinstatement of press and communications restrictions offers society less and less voice to express discontent. Of the fifteen new internet cafes opened since Berdymukhamedov came to power, two have closed and the remaining thirteen are of limited utility give the Turkmen government's routine blocking of objective media outlets. The government has even taken to blocking YouTube, perhaps fearful the Vatan cockroach might make a second appearance.

PROSPECTS FOR CHANGE

Ultimately, the prospects for change depend not on the September 2008 constitutional reforms or on any of the other reforms we have seen in Turkmenistan these past two years. Rather, future change depends on what underlying causality is driving president Berdymukhamedov's personalistic politics. From the preceding exploration of mixed political change and autocratic continuity, it is clear that we would be mistaken to conclude that the Turkmen president is deeply committed to liberal reform. We would be equally mistaken, though, to conclude Berdymukhamedov is simply an instrumental autocrat applying limited reform to purge vestiges of the old regime. Rather, this odd mixture of substantive change and political backsliding is indicative of a leader who is invested in the international discourse of democracy, human rights and the global economy. This investment in democratic norms, however limited and tenuous, is a welcome change from Niyazov-era Turkmenistan and deserves further acknowledgement and encouragement from Ashgabat's international partners. Such encouragement yielded surprising and surprisingly positive results in the past, in Eastern Europe in 1989, in the Soviet Union in 1991, and in South Africa in 1994, and may equally advance sustained reform in Turkmenistan.

Chairman Hastings and members of the Commission, thank you for your attention and for the opportunity to appear before you today. I welcome any questions you may have.

**PREPARED STATEMENT OF CATHY FITZPATRICK, JACOB
BLAUSTEIN INSTITUTE FOR THE ADVANCEMENT OF HUMAN
RIGHTS**

Mr. Chairman:

My name is Catherine A. Fitzpatrick. I am a consultant to the Jacob Blaustein Institute for the Advancement of Human Rights of the American Jewish Committee, a non-government organization in New York which has long been committed to the protection of human rights through multilateral institutions, and to the improvement of international mechanisms for individuals seeking redress from human rights violations. I have followed events in Eurasia for many years and frequently written on human rights issues in the region.

We can say in advance of the December 14 parliamentary elections in Turkmenistan that they will neither be free nor fair, as only one presidentially-controlled party and one presidentially-controlled civic movement approved by the state are allowed to take part in them, and any other civic initiatives have been heavily discouraged or even punished.

The election is being called ahead of schedule, because the Constitution was revised this year to increase the number of members of the Mejlis (parliament) from 50 to 125, and to disband the 2,500 member Halk Maslahaty (People's Council), originally created to resemble traditional tribal meetings. Selected by past dictator Saparmurat Niyazov, the unwieldy body was seen as associated with his power base, and the current leader, President Gurbanguly Berdymukhamedov evidently felt that it had to be disbanded.

President Berdymukhamedov's own accession to power was characterized by violation of the rule of law, such as it was in Turkmenistan. Under the previous law, the speaker of the Mejlis, or parliament, was to rule in the interim if the head of state died. This procedure was violated after Niyazov's death in December 2006. Ovezgeldy Atayev, speaker of the Mejlis at the time, was arrested after Niyazov's death, and is still in custody. His current condition not known. In February 2007, the Turkmen Supreme Court sentenced him to five years in jail on charges of driving his stepson's bride to suicide, an accusation that was not independently confirmed. Thus, instead of following the existing lawful procedure, the title of acting president was conferred on Gurbanguly Berdymukhamedov, who at that time served as vice chairman of the Cabinet of Ministers. The Halk Maslahaty then hastily amended the constitution in 2006 to enable the acting president, who originally under the law was not allowed to run in the elections, to appear as a candidate.

Changes to Turkmenistan's Constitution, approved by the Halk Maslahaty in September 2008, were greeted by great fanfare in the state-media, orchestrated by the president. Regrettably, some Western news outlets echoed this coverage, celebrating the fact that for the first time, permission for multiple parties was granted in the new Constitution, although this was merely window-dressing. In fact, the language contained in the Constitution ostensibly affording such new civil rights is declarative and vague, and contains no reference to the enabling legislation required in this country with a civil-law system, no functioning Constitutional Court,

and a long-standing tradition of considering “Whatever is not explicitly permitted is not allowed.”

Art. 93 of the Constitution allows for political parties, civic associations and groups of citizens to nominate candidates, but does not provide a means for such groups to operate legally through registration. Art. 7 of the Law on Election provides for initiative groups of at least 30 people from parties, civic groups, and initiative meetings to nominate members to the district electoral commissions, yet these bodies themselves have no legal base. There is no citation of any law that could legalize a party, and thus no actual legal basis for parties to participate in elections.

Without a separate law on political parties and unions, they cannot be legalized and the constitutional references remain without effect. And while laws on NGOs and religious groups exist, they are not sufficiently enabling, or nor adequately implemented, to provide a basis for electoral activity. In fact, the existing Democratic Party itself has no legal underpinnings because there is no law on parties. While it may have a charter, the charter has no law governing it.

While Art. 29 of the new Constitution permits political rallies in the abstract, there is no specific enabling legislation on rallies, assemblies, and demonstrations. In the Soviet era, the Turkmen SSR did have such a law, passed during the time of perestroika. The procedure for obtaining permits for such rallies was spelled out in the law of that era, and meetings of political parties were included. Today, there is no such law in Turkmenistan. A constituent meeting convened to form a party would have no legality.

Unlike parties and unions, NGOs do have a law on civic organizations and are at somewhat of an advantage over parties. NGOs do have a formal path to legality and under the Constitution, have the right to nominate candidates in the elections. Here the issue, then, is rather a lack of enforcement of the technical rights available in the law. Groups, including some that would have liked to become involved in the elections, are simply not granted registration under various pretexts.

There are many lapses in law that mean even registered groups cannot engage in typical activities. For example, while civic organizations can in theory have a bank account and report their financial transactions—there is no such a provision in the Tax Code for such activity; NGOs are not even mentioned and are thus not a subject of the law. So the Constitution can mention parties or NGOs or unions, but they do not have the practical legislation to carry out their activities in supporting laws. There is no specific law governing the formation of trade unions; officially-recognized unions are said to be authorized on the basis of their charters.

While Art. 19 of the Constitution provides for equality of rights and liberties regardless of political convictions, party affiliation or any other affiliation, no party or group that is counter to official ideology is allowed to exist. There is evidence that even membership in the Democratic Party is coerced, or made strongly desirable for government officials to advance in their careers.

Art. 30 of the Constitution prohibits the formation of parties on ethnic or religious grounds, which means that ethnic Uzbeks, Rus-

sians and other minorities as well as Muslims and other religious believers are specifically barred from political organization.

Under Art. 29 of the Law on the Elections to the Parliament, detailed procedures are provided on the holding of nomination meetings. An initiative group of at least 10 citizens must seek permission from local authorities to convene the meeting. Their candidate's selection is then only recognized if they muster at least 200 eligible voters from that district to their meeting. All of those attending must be willing to register their names, addresses and dates of birth.

Already, President Berdymukhamedov has declared there are 250 candidates, RFE/RL reported this week. Evidently only the existing Democratic Party and the officially-approved Galkynysh movement, have been able to exercise the right of nomination under this law. These already-state-controlled bodies were personally taken over by President Berdymukhamedov in 2007, when he made himself chair of both of them.

The Turkmen Initiative for Human Rights has reported several incidents where citizens attempting to take the new law seriously have been discouraged. In early November, in the Boldumsaz etrap (district) of the Dashoguz velayat (province) at election precinct no. 51, a group of 10 people, including principals and teachers from local schools and a lawyer, submitted their application to hold a citizens' nomination meeting. The meeting, however, scheduled for November 10 at school no. 9, was cancelled. Days before, 8 members of the group suddenly withdrew from the nomination group, and it developed that all of them had been pressured by the local National Security Ministry agents and police. Although 2 members remained who were not intimidated, now they now longer had a valid initiative group, although they claimed 500 people willing to participate in the meeting. A similar fate met an initiative group formed in Bairamali, led by a lawyer and executive of a local learning center, who was discouraged from proceeding.

A reason why it is so easy for local officials to undermine the declarative electoral law on initiative groups is because there is no effective law on assemblies of any kind, so that only top-down, approved meetings are possible. Observers believe that this vagueness and lack of connection to enabling legislation is deliberate, as to interpret the law as needed by the authorities.

There are other aspects to the Constitutional revisions that have brought less democracy, not more. While a previous amendment in 2005 enabled regions to appoint their own hakims (governors) and other local officials, now such appointments are the prerogative of the president, who has created a vertical, or vertical chain of command from the center, and can appoint or dismiss the governors at will.

Past dictator Sapurmurat Niyazov manipulated the People's Council (Halk Maslahaty) in existence at the time to have himself declared president for life. There is no such clause now—the presidential term was defined for five years. But the Constitution is not clear on the issue of consecutive terms of office for the same leader, opening the door to possible multiple terms.

Those seeking office must comply with the Law on Selection of Persons for Government Service, which means they are checked for

loyalty to the government and their relatives are also investigated, particularly if any are abroad, in prison, known as dissenters, etc.

As for future presidential elections, a law requiring 10 years residence within Turkmenistan before running for president will effectively disqualify those who were forced into exile under Niyazov.

While the new Constitution will put into effect the new 125-member Mejlis, or parliament, this body, now expanded, will operate under the old law on the Mejlis which has still not been revised.

Judges and prosecutors are barred from political parties and certain civic groups which can cut both ways; on the one hand, it can keep the punitive agencies out of civic groups, but on the other hand, as we have seen, early reform movements in this region are often spearheaded by such jurists who have a keen sense of injustice, and this law effectively ensures that such knowledgeable persons are kept from politics.

Legalization of private property and a market economy ultimately cannot have effect with only merely declarative and disconnected invocation of political parties. Here, too, we can expect extreme presidential control. When the independent Union of Entrepreneurs and Industrialists applied for legalization to the Ministry of Justice recently, initially they did not encounter any obstacles. They also obtained initial approval from the Prosecutor's office. Yet when President Berdymukhamedov reacted by deciding to make his own Union of Entrepreneurs, in effect displacing the one that had emerged independently, the original grassroots organization had to step aside—and ultimately was not legalized.

Parties may emerge at some point, based on groupings like "farmers" or "youth," but then they will be thematic rather than consisting of political positions. Organizing society in this way will ensure that it can be more closely controlled to ensure no one competes with official ideology.

In looking at any ballot in Turkmenistan, we must note that elections take place in a context of supreme presidential power, with the trappings of authoritarian rule in part carried over from the Niyazov era, and with presidential intervention into nearly every aspect of life. While the portraits of Niyazov have been taken down, new ones with Berdymukhamedov have gone up. While the traditional names of the days of the week have been restored, propagandistic speeches about the "Era of New Revival" abound, with the media constantly chastised to cover reforms only in a positive light.

An observer inside Turkmenistan commented to News Briefing Central Asia, "Not a leaf on the trees moves in this country without the personal consent of the president." The president's frantic programs of mass tree-planting, construction of state palaces, parks and fountains, large historical statues and even a race track in every province, serve to bolster the image of the strong state, dwarfing the individual.

All major decisions such as oil and gas contracts, construction projects, budgetary allocations for schools or clinics, relations with neighbors, the drafting of the constitution and many minor ones—such as what kind of school uniform children will wear or the wedding-cake shape of a resort hotel—are all decided personally by the

president. The Turkmen leader keeps up a frenetic pace, travelling abroad or receiving a steady stream of foreign dignitaries, all of whom realize that if they are to get their projects or proposals reviewed or implemented, they must have the president's personal sign-off. The president decided to prematurely disband the Halk Maslahaty, and despite a fictional cover of "proposals from the people" and "drafting of the Constitution by the parliament," the exercise was basically conducted to expand his own powers. As has been made clear from reports of Cabinet of Minister meetings and special sessions of the Mejlis, the president personally approved all aspects of the new Constitution, noting in every public statement that it was accomplished with prestigious foreign advisors, and "fully in compliance with international norms".

Direct presidential rule has made an indelible stamp on Turkmenistan's governance, and it is hard to see how any parliament will function adequately. A climate of fear and uncertainty is deliberately maintained, with constant presidential reprimands finding fault in many ministers, who are put on probation for 6 months or publicly warned of immediate dismissal if improvements are not made. Ministers, law-enforcers, media executives and regional leaders have come and gone with disturbing frequency, usually in public disgrace, but for reasons that remain undisclosed beyond vague "shortcomings".

While President Berdymukhamedov has removed the worst excesses of the Niyazov regime, such as the curtailing of years of education, health care facilities, and pensions, and restored them to their previous levels, and although he has ended his country's isolation, the president has made it abundantly clear that dissidents or even loyal critics within the country will be heavily discouraged and punished, and that exiles will not be tolerated nor allowed to return.

In the last year, the U.S. has enthusiastically greeted the modest changes in Turkmenistan and prioritized energy and business talks in the opening climate. U.S. sponsored programs in education, training, Internet access, health, etc. have been opened in Ashgabat in a number of Turkmenistan's provincial cities. And not surprisingly, given the continuation of heavy state control and top-down presidential management in Turkmenistan, some of the activities of these programs have encountered resistance from authorities, and Turkmen citizens who sought to participate in them have been reportedly discouraged or threatened.

Earlier this year, the Turkmen Initiative for Human Rights reported on efforts by Counterparts International to work with a group of farmers to install a grain mill; a local security official, evidently alarmed at the contact with foreigners and the competition to state programs, put an end to the initiative. Turkmen citizens who wished to take part in some legal education seminars were harassed by officials. Educational exchanges have faced impediments; TIHR has recently reported on threats made against those hoping to participate in IREX and the American Center programs. The U.S. Embassy in Ashgabat has issued a rather mild response to these events, downplaying the reports and stressing that many other citizens have been able to benefit from these programs. The difficulty comes with the Turkmen government's manipulations of

exchanges, giving permission to elites in government and diplomatic circles, to upgrade the level of bureaucrats' knowledge of the rest of the world, yet tempering such opportunities with bright lines drawn against any activity that would seem like a "color" revolution as took place in Ukraine and Georgia. U.S.-sponsored program officials under these circumstances do not always wish to protest any mistreatment, for fear it would disrupt their ability to operate in the country at all, which makes them continually vulnerable to Turkmen authorities' pressure.

Ultimately, all of these legal and social factors contribute to a non-permissible environment for free elections. Yet, it can be said that the ballot will not be completely without use. During presidential elections, we saw that at nomination meetings and candidate presentations, people were able to ask questions in public meetings, albeit in a controlled format. Certain pressing social problems, such as the disastrous state of the education and health systems, were able to be discussed, and remedies outlined. It is anticipated that the state media will cover some of these types of issues, in very limited form, of course, during the parliamentary elections, and people will have some very limited opportunity to declare concerns. This should not be considered a substitute for democracy, however.

And once seated, this 125-member body chosen under very constrained circumstances will be among the least legitimate parliaments of Eurasia. It will not be able to challenge the supreme presidential control, nor the presidentially-appointed gubernatorial rule in any significant fashion. Moreover, it will not have the power of the purse, to really obtain transparency of oil and gas revenues and to manage how such income is spent on society's needs. Nor is it likely, on its own, to take the initiative to draft and pass all the supporting legislation needed to uphold a civil society, such as a law on political parties.

RECOMMENDATIONS FOR U.S. ON TURKMENISTAN

1. U.S. Government The CSCE should call on the U.S. State Department to make a clear and unequivocal statement that conditions for democratic elections have not yet emerged on the eve of the parliamentary elections in Turkmenistan in December. While some modest progress in revising the Constitution is recognized, mainly to permit a market economy, the CSCE should emphasize that Turkmenistan must work to draft enabling legislation for the legalization of multiple political parties, unions, NGOs, and religious organizations, as well as ensure the freedom of independent media outlets, in order to create a climate for legitimate elections to take place in the future. Political prisoners should be released, and emigres and their relatives forced to go abroad should be allowed to travel to and from their homeland freely.

2. OSCE The CSCE should urge the Parliamentary Assembly of the OSCE not to send any full-fledged observation missions to Turkmenistan in December, as basic conditions have not been met for the poll. The PA should closely monitor and coordinate its efforts with the Office of Democratic Institutions and Human Rights (ODIHR), which should also be urged not to send a full-fledged mission. The PA should, in any case, follow the more cautious con-

ditions established by ODIHR for electoral observation, and coordinate its public remarks closely with ODIHR to avoid undercutting that body's more thorough and carefully crafted findings and recommendations.

If any monitors do travel to Turkmenistan to assess the human rights and political situation during the ballot, they should be careful to explain that they are observing human rights conditions, not monitoring elections. They should send a coherent message about the lack of democratic prerequisites, and avoid cooptation by state-sponsored bodies and state-controlled media. Any travellers should make the effort to obtain independent international media coverage of their statements to counter possible misrepresentation of their presence in Turkmenistan in the state press.

CSCE should also call on fellow participating states in OSCE and OSCE institutions to condemn the efforts of the government of Turkmenistan to brand as "terrorists" domestic and exiled Turkmen NGOs that have neither used nor advocated violence, which have been accepted by ODIHR to participate in the annual Human Dimension Implementation Meeting, and to ensure that such Turkmen NGOs can take part in OSCE meetings without reprisals.

3. UN The CSCE should call upon the U.S. to urge UN election-monitoring bodies to refrain from monitoring the elections formally, as insufficient time has been allowed for pre-election analysis which is normally undertaken by the UN in such cases.

4. Bilateral Contacts When engaging bodies such as Turkmenistan's Commission to Examine Turkmenistan's Legal Obligations under International Human Rights Law, U.S. officials and NGOs should make an effort to obtain external media coverage of their criticism to avoid cooptation; the state media has repeatedly portrayed every foreigner meeting with this body as praising the president's reforms and applauding Turkmenistan's merely declarative intentions.

5. Technical Assistance Efforts to engage Turkmenistan's government and society should continue in the form of technical assistance, educational exchanges, cultural exhibits, and so on. Yet it is important not to tolerate hindrance of the normal functioning of such programs inside Turkmenistan. The U.S. government should investigate the experience of publicly-financed programs such as Counterparts and IREX, as well as private sector exchanges, which have reportedly encountered some difficulties recently, with officials warning Turkmen citizens against involvement in U.S. programs.

The solution is to involve non-operational agencies not directly in the field in assessing the level of freedom of operation and movement such programs, their efficacy and sustainability, and the political steps needed, including forceful advocacy with the highest levels of the Turkmen government, to ensure their continuation.

6. International Broadcasting The CSCE should vigorously urge the U.S. to continue, expand and improve broadcasts to Turkmenistan and to the Turkmen diaspora in both the Turkmen and Russian languages by Radio Free Europe/Radio Liberty (RFE/RL) and to restore Voice of America's Russian-language broadcasting to Central Asia. Russian business and civil society, as well

as businesses and NGOs in neighboring Central Asian countries have a role to play in engaging Turkmenistan, and such broadcasting is an excellent way to inform the publics and involve them in the international debate about democracy.

7. US CIRF As has been recommended by the U.S. Commission on International Religious Freedom, CSCE should call for Turkmenistan to be designated as “a country of particular concern” on the grounds that religious expression, assembly, and registration continue to be suppressed and religious bodies controlled by the state. While some prisoners of conscience have been released, others remain in jail and members of religious communities continue to suffer harassment.

We are well aware of the urgent energy security and economic concerns that preoccupy the U.S. and the international community today, yet these problems are not solved by pushing human rights problems into the background. Time and again we have observed in the history of the Helsinki process that both security and humanitarian goals must be advanced simultaneously to achieve both. Turkmenistan’s considerable gas deposits, with the South Yolotan field recently said to be the world’s fifth largest, as well as the need to obtain alternative routes to Russia’s monopoly over pipelines, currently supply one-fourth of the EU’s gas needs, understandably dominate the geopolitics of the region now. Yet business cannot thrive without the rule of law to protect investment, and if the resource revenues are not used transparently and justly, human security concerns begin to themselves threaten regional security. No regime in this region has ever achieved stability and prosperity by tyranny. Turkmenistan’s leader President Berdymukhamedov has declared that democratization of his country is vital, and reforms are necessary. Let us call him on his promises, and insist on their realization.



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