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THE RULE OF LAW AND CIVIL SOCIETY IN AZERBAIJAN

NOVEMBER 5, 2015

**Briefing of the
Commission on Security and Cooperation in Europe**

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In fulfilling its mandate, the Commission gathers and disseminates relevant information to the U.S. Congress and the public by convening hearings, issuing reports that reflect the views of Members of the Commission and/or its staff, and providing details about the activities of the Helsinki process and developments in OSCE participating States.

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COMMISSIONER

PARTICIPANTS

THE RULE OF LAW AND CIVIL SOCIETY IN AZERBAIJAN

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Commission on Security and Cooperation in Europe
Washington, DC

The briefing was held at 2 p.m. in room 311, Cannon House Office Building, Washington, DC, Shelly Heald Han, Policy Adviser for Economics, Environment, Technology and Trade, Commission on Security and Cooperation in Europe, moderating.

Commissioner present: Hon. Robert B. Aderholt, Commission on Security and Cooperation in Europe.

Panelists present: Shelly Heald Han, Policy Adviser for Economics, Environment, Technology and Trade, Commission on Security and Cooperation in Europe; Ambassador Richard Morningstar, Founding Director of the Global Energy Center, Atlantic Council; Natalia Bourjaily, Vice President–Eurasia, International Center for Not-For-Profit Law; and Dinara Yunus, Daughter of Imprisoned Azerbaijani Human Rights Defenders Leyla and Arif Yunus.

Ms. HAN. Good afternoon. On behalf of Chairman Smith I'd like to welcome you all to this briefing on Azerbaijan, hosted by the Commission on Security and Cooperation in Europe, also known as the Helsinki Commission.

This past Sunday Azerbaijan held a parliamentary election. Unfortunately, the outcome was not a surprise because voting on Election Day had nothing to do with the results of the election. The outcome was determined well before Election Day when the majority of opposition candidates were not allowed on the ballot, when there was no mechanism for debate on television, when voters didn't feel free to sign petitions for candidates that they supported, and when election monitors faced intimidation or, as in the case of Anar Mammadli, sit in jail.

Azerbaijan has voluntarily committed itself through the OSCE and the Council of Europe to abide by minimum standards of elections, but has consistently failed to do so. So why, then, are we focused on these elections? One phenomenon that we're seeing in Azerbaijan is rule by law instead of rule of law. And a parliament that is handpicked by the president is a huge impediment to moving from rule by law to rule of law. Restrictive laws on NGOs or the media become fig leaves for authoritarian governments.

Another key indicator is the media. Azerbaijan has a plethora of media outlets, but there is a dearth of independent voices. They have been shut down or the journalists, as

in the case of Khadija Ismayilova, have been imprisoned. Democracy is a journey, not a destination. The commitment to democracy must be reaffirmed in every vote of parliament, in every election, and in every decision by the courts. And if wrong decisions are made—and there will be wrong decisions because democracies are run by humans—there must be a system for correcting those mistakes.

In some cases, the media will expose a wrong or voters will elect new leaders or judges will free a person who's been wrongly convicted. What matters is that there are systems in place for course correction. Can people read about the problems in the newspapers or hear about them on TV? Can people hold their government accountable? What we have in Azerbaijan is a situation where there is an abundance of elections and an abundance of media, but actually no true mechanism for the practice of democracy.

To help us better understand the current situation in Azerbaijan, we have three panelists from diverse backgrounds to talk about different aspects of the issue. First, we have Ambassador Richard Morningstar, who from July 2012 to August 2014 was the U.S. ambassador to Azerbaijan. And then we have Ms. Natalia Bourjaily, who is an expert on international law, and has specific expertise in NGO law. And then finally, Ms. Dinara Yunus, who is the daughter of Leyla Yunus and Arif Yunus, two prominent civil society activists who are currently serving lengthy prison sentences in Azerbaijan. Full bios of the participants have been distributed, so I won't read those. Ambassador Morningstar, can you get us started, please?

Amb. MORNINGSTAR. Thank you very much, Shelly. And thank you for the opportunity to be able to discuss these issues here today.

I left my post as United States ambassador to Azerbaijan a year ago August, and have had time to reflect on my experience in Baku and to reflect on the state of U.S.-Azerbaijani relations. I speak as somebody who first visited Azerbaijan 20 years ago, and somebody who has great respect and admiration for the country, its people, its many accomplishments—and there have been many accomplishments—and its majestic beauty. At the same time, I look at our bilateral relationship today with great disappointment. It seems as if we have become two trains passing in the night. Despite the fact that our two countries have made common strategic interests, our relationship remains problematic at best.

Two major factors, I think, have contributed to that deterioration. The first has been continuing human rights issues, particularly since the presidential election in October 2013, and the United States criticism of the Azerbaijani Government. And second, the lack of progress towards a settlement of the long-standing dispute over Nagorno-Karabakh and surrounding occupied territories. Azerbaijan believes that the United States should take stronger steps to bring about resolution of the conflict, particularly to more directly recognize Azerbaijan's sovereignty over the occupied territories and pressure Armenian withdrawal from them.

Together, these issues have created, I think, a perfect storm in the relationship. And I think for some time that there has been a vicious circle in our relationship—Azerbaijani rights violations, U.S. criticism, over-the-top Azerbaijani reactions, and more issues, and more criticism. I certainly empathize with the plights of several prisoners, including the Yunuses. I know Leyla Yunus quite well. And for the life of me, I just don't understand what she and her husband could have done to justify the jailing of an elderly and infirm couple. And apart from the human side of the issue, I can't understand it from a prag-

matic cost-benefit standpoint. I just don't understand what Azerbaijan—or, the government of Azerbaijan, has gained by this.

But having said that, I would like to focus on the future and how, from a pragmatic standpoint, our two governments can improve the situation. I think it's in the interest of both countries to break out of the vicious circle. The conundrum is how to do it. The result of the vicious circle, from the standpoint of the U.S. administration, I think is understandable. It has basically been a policy of, at the very senior levels, indifference towards Azerbaijan, coupled with criticism of Azerbaijan when significant rule of law issues have arisen, although we still cooperate on some issues, such as energy, counterterrorism, and cooperation with respect to Afghanistan—in fact, yesterday Azerbaijan announced that it's agreed to be part of the new NATO support mission in Afghanistan.

With all that, I think indifference is a major driver of U.S. policy. And that's fully understandable, given all of the foreign policy priorities that are on our plate. To the extent, I think, that very senior officials think of Azerbaijan, it seems to have become, well, if they're going to act that way, why pay attention to them? The problem with that approach, again, although understandable, is that is serves at best to perpetuate the status quo, and at worst to exacerbate the situation and push Azerbaijan closer to its northern neighbor. And in fact, we've not made any real progress on the democracy and human rights front.

So how can we make progress? And it's going to be difficult. To make progress, I think it's important that both countries take realistic stock of the situation and determine their respective interests and have a realistic dialogue as to how to bridge differences. From the U.S. standpoint, Azerbaijan is important. Baku is a two and a half hour drive from the Dagestan border and a little over three hours from the Iranian border. Azerbaijan should be a critical security partner, particularly in the area of counterterrorism. And as mentioned before, Azerbaijan has been a hugely helpful partner in Afghanistan and has always been a strong energy partner.

It's just as important the United States do everything it can to prevent the Azerbaijan-Armenia conflict from escalating into more of a major conflict—it's been difficult in the past several months—and to do everything it can to resolve the conflict. At the same time, it's important that the United States makes clear that it fully respects Azerbaijan's independence and sovereignty and our goal is not to change the government, but that we do have values and that from a pragmatic standpoint Azerbaijan will have more stability by breathing oxygen into civil society, and not to take abusive actions that are wholly unnecessary and only serve to create antagonism in the relationship.

Azerbaijan also should recognize that a good relationship with the United States is in its interest. The United States has been hugely helpful in the energy area. It's quite possible that neither the Baku-Tbilisi-Ceyhan pipeline nor the southern gas corridor would have happened without United States intervention at various points. Cooperation in the security and counterterrorism area is just as important to Azerbaijan as it is to the United States. Azerbaijan must have good relations with its neighbors. But if it truly wants to be independent, it also needs to have a strong relationship with the United States. Since its independence, no country has spoken out more strongly for the sovereignty and independence of Azerbaijan than the United States.

Both sides need to try to build that trust. Azerbaijan will have to be convinced and believe that the United States is not seeking a change in government. It will need to feel secure and self-confident enough to allow civil society to develop without fear of insta-

bility. And it does not need to take the wholly unnecessary steps that have created such problems with the United States and much of Europe, and have hurt so many individuals in Azerbaijan, such as the Yunuses. Concrete steps will be necessary to reestablish a strong, vibrant relationship, such as the release of specific prisoners and lightening control of civil society.

It's not helpful for the United States to preach at Azerbaijan. We must not in terms of our values, but from a pragmatic standpoint. So let the dialogue begin. It will be difficult, it may not work, but it's the only possible way to break out of this vicious circle.

Ms. HAN. Thank you. I appreciate your comments. Next, Ms. Bourjaily.

Ms. BOURJAILY. Thank you very much for inviting me over. It's an honor to be present here in this room and to share my limited experience in regards to legislation affecting civil society organizations. I head up the International Center for Not-for-Profit Law. I have been assisting with improving legislation affecting civil society organizations globally.

And I had the honor to travel to Azerbaijan on a number of occasions. The last time I was there a few years ago at the invitation of Azerbaijani Government to discuss the new adopted law on citizens' participation. I do recall from my past and my work with Azerbaijani Government and stakeholders that there were many positive developments in this country, including in regards to legislation regarding civil society organizations and citizens' participation.

Unfortunately, I witnessed a steady, from 2009 escalating, and in 2012 emerging deterioration of legislation affecting civil society organizations. And I'll take just a few minutes of your time to very briefly talk about status and development in a few areas the most relevant to activities of civil society organizations—access to resources, status of foreign NGOs interested in carrying out duties in Azerbaijan, sanctions specifically designed against civil society organizations and, last but not least, registration procedures, the ability to form new organizations in Azerbaijan.

Talking about access to resources, this is the vital right directly relating to ability of another human right of free association. And unfortunately, a study from—and I also wanted to mention in regards to this right, that my last conference where I was sharing was Azerbaijani good experience, actually. It was 2007. It was the conference in Central Asia. I was presenting Azerbaijan as an example because Azerbaijan had this notification procedure in regards to grants which was not very time consuming, which was not really very burdensome for civil society organizations, unlike a few other countries in that region.

So as I said, in 2012, the situation started to change very, very dramatically, especially in regards to legislation regarding access to businesses. First, civil society organizations started to have a real hard time to obtain approval through the government registration body in regards to their grants. And the banks would not process the concessions related to the funds from grants. Then there was the president's decree in 2014, which basically terminated the existing procedure on registration for grants.

And for some time, till 2015—till a few months ago, there was basically a little wind block where no no civil society organization was able to legally obtain any grant either local or foreign. And I don't have really that much information with regard to state grants, because there were some opportunities for groups to obtain some, but in terms of grants from foreign sources, the situation was really quite dramatic.

So then when a few months ago the new regulation on registration on foreign grants was adopted, it appeared to be extremely burdensome. And what's even worse, even its adoption does not allow civil society organizations to receive grants from foreign sources legally. One of the documents which the registration authority would require in order to approve a grant is a document on prior approval of a foreign grantor. And presently, there's no such procedure in Azerbaijan for foreign organizations to obtain prior approval.

So still, Azerbaijani organizations are still in legal limbo and cannot receive foreign funding. I keep talking about foreign funding because of its importance for financial sustainability of the civil society sector in Azerbaijan. I only have quite old data, it is from 2011, CSO Sustainability Index Report on Azerbaijan. But out of $37 million as the revenue for the entire sector, 34 million [dollars] come from foreign sources. So if organizations are not able to access foreign funding, how many organizations are without funding or have to find ways which perhaps are not entirely legal to be able to continue their activities. The situation is really quite dramatic.

So a few words in regards to foreign organizations who have been determined to assist Azerbaijani citizens and civil society. Unfortunately, there were a number of rules adopted over the years, starting from 2009, which first made it extremely difficult for foreign organizations to get registered. In order for a foreign organization to get registered, in addition to a list of documents that is required to provide to Azerbaijani government, it has to negotiate an agreement with the Ministry of Justice.

And the terms for negotiation of this agreement are extremely vague. The applying foreign organization, for example, has to prove in its application that its presence in Azerbaijan will benefit Azerbaijani people and that it will respect national moral values of Azerbaijani people. Now, these terms are very, very general. And they're entirely left for interpretation for the Ministry of Justice, the authority—the other party to the agreement, which does not have to justify a denial if it chooses not to sign an agreement with a foreign organization.

The bottom line is that I don't know many foreign organizations which were able to register in Azerbaijan since 2009. I know a few which wanted to, but of the ones which I know no one had succeeded. And those who were in the country, they were required to re-register. And some—quite a few had to shut down their activities, again, because they had to re-register and failed to do so. And most recently, 2014, there was additional change to this regulation which in addition to the procedure or—yes, the very, very vague procedure, it also stated that any registration granted to a foreign organization has to have an expiration date. So after you go through 10 cycles or 15 cycles of bureaucracy and negotiations, then you might have to do it again in a year or so.

So I also want to say a few words about the extraordinary sanctions that are presently imposed on civil society organizations, managers, participants of these organizations, and also those who fund their activities. Frankly, I've not seen such sanctions in the code of any other countries. All of them are in thousands of dollars. And I wanted to provide you just a few examples of all these sanctions. For example, the failure to register a grant agreement, which costs a civil society almost $9,000—up to $9,000. And this is taking into consideration that the average budget for a civil society organization on a good year is between $10,000 and $50,000. I'm talking about the budget—the total revenue—$10,000 also for the failure to register a grant agreement.

Or, for example, if some organizations fail to receive a grant without a written contract, then such organization will have to pay penalty of up to $20,000. Again, I'm not

going to list all of those, all the penalties. There're many, many articles, and code of administration offenses specify civil society organizations, managers and participants are especially subject to administrative offenses. Just wanted to note that in the same code of administrative offenses, it's a very different treatment in regards to regulating individuals and in regards to businesses.

For example, if a civil society organization would fail to include some information on their application and registration of grants, it has to pay up to $10,000 penalty. And at the same time, if an individual, a business, fails to submit tax report, individual has to pay approximately 80 manat—80 manat, it's hard for me to exactly compare it, perhaps $90? And a legal entity would have to pay 300 manat, perhaps $350. So you can see the difference in treatment and very, very disturbing approach in regards to civil society organizations—$10,000 versus $350 for offense which is perhaps less harsh.

And so just a few words with regards to registration. There were very few changes in regards to legislation relating to the registering procedure in the past years. I can't say that it deteriorated much. I have mentioned the situation with the registration for the new organizations in Azerbaijan has been problematic for quite a while. And this was noticed in the decision of the European Court of Human Rights and other international organizations. So unfortunately, this situation has not improved much. But at the very least, there were no specific dramatic changes in regards to the registration procedure.

The only change I can recall right now related to participation of foreigners and people without citizenship in NGOs and civil society organizations. Basically, at this time only those which have permanent residency in Azerbaijan are permitted to be founders and managers of local organizations. Basically, this excludes—or this denies the right of freedom of association of all of the foreigners who are legally present—or the majority of foreigners who are legally present right now in Azerbaijan.

In order to be a permanent resident, someone has to be—prior to obtaining permanent residency, someone has to have a temporary residence, which requires legal presence in Azerbaijan for at least two years. And then, of course, obtaining this permanent residency is also of length and complexity. So the majority of foreigners who are legally present in Azerbaijan, they don't have the right, basically, to participate in associations in civil society organizations. So that's it.

Ms. HAN. Thank you very much. We've been joined by Congressman Aderholt. Would you like to make some comments?

Mr. ADERHOLT. Oh, yes, just want to thank you. The schedule's been a little bit unwieldy today with votes right in the middle of the day. But I wanted to come by this hearing, having had a chance to have visited Azerbaijan on a couple of occasions. Just trying to understand this issue a little more. So just look forward to hearing your testimony.

Ms. HAN. Thanks. We appreciate your participation. All right, and now Dinara Yunus, would you care to make your statement? Thank you.

Ms. YUNUS. Thank you for inviting and organizing this meeting.

What I have to start with today is hard. I was reading the news today about my parents, and I read that my mom has bruises on her neck and I don't know why she has them. My mom has several times been attacked behind the bars by criminal inmates and by the major of the prison. She was the only one who was receiving reprimands and incar-

cerated when she was asking for the help. And those bruises would be instigated again, and I am very scared.

Basically, my mom and dad were today at the court hugging each other and they weren't speaking. It's very hard. And my dad had two strokes before his arrest, and he was never fully recovered. And he was locked behind bars on trumped up, bogus charges, when he was delivering food and medicine to my mom. My mom is diabetic and she has hepatitis C, gallstones that needs to be operated. She has hypertension and it's very painful for her to walk now after the beatings on her head by the major of the prison, and because she lost so much weight, and she is now seeing very poorly with that eye. She has crystal implants on both of her eyes that was caused because of diabetes, and she underwent two medical surgeries on her eye. And during our last meeting, actually, I was with my mom during her operation. It was a very hard operation, without even anesthesia, and she was in pain. But after the operation she finally started seeing well, and now the eyes are deteriorating again. My mom's becoming a disabled person.

And as for my dad—some of you perhaps heard, some of you witnessed the court in the summer, when my dad was basically lying on the bench and the court just proceeded. The doctors were called only for making him sit up during the trial, not because he needs the treatment. He was never hospitalized back then. He was taken back to Ministry of National Security Prison, which is not a part of Ministry of Justice and is well-known for torture. And when he was taken back to Ministry of National Security Prison, he had to undergo some certain procedures before he gets to his cell. So we hope he managed to lay down. After he fainted so many times, he had to stand for a couple of hours there as well.

Lately I heard the news that he was hospitalized, and now I'm very scared. They didn't hospitalize him when he was fainting at the court three times. They prevented an ambulance to take my dad to the ER during the April 2014 events, when they were illegally detained at Baku Airport. So what's going on with him now? Is he dying? I don't know. Myself, I live in exile, so I have to follow the news first and then I get information from Baku. But it's very hard to wake up every morning and read this news. And today was one of those mornings when you're basically just reading that your mom probably—most likely was beaten up because she has bruises. So bruises don't come just—she used to have a lot of bruises in the beginning of her arrest, and now it's being repeated.

My parents are being exposed and subjected to both psychological and physical torture. And my dad has been in solitary confinement, so if he has a stroke he won't be able to call for help. And he has been there for—since August 7th, 2014, alone in a cell. I say that he was buried alive. And I haven't heard anything from him. The last time I spoke to him was before his arrest on August 4. He told me he will deliver food to my mom and medicine and then he will call me, but he never did. And then I read the news that he was arrested.

My mom and dad, they need urgent medical treatment and they are not receiving it. In fact, there is a German doctor that's visiting my mom, but Azeri doctors have not been following any of his prescriptions. Now my mom has a lot of problems with side effects. She has problems in the digestive system; it deteriorated dramatically. She had problems in [inaudible]. And she has so much pain in her stomach that she can barely move. And we gave her the cane, and the authorities removed the cane from her.

On October 20, when my mom came to the court with my dad, they basically—the authorities isolated both of them. They put them in the glass cage. They isolated the

sound system. They turned off the microphone. They surrounded the glass cage with 25 guards so nobody can see them from inside. So no one can witness their true health condition.

In August, when I saw my mom's picture, I saw my grandmother. It wasn't my mom. Her health deteriorated so badly that she lost 20 years, I believe. And I see my dad in handcuffs.

And my parents are being punished for their human rights work. They've been in human rights for 30 years. They started during Soviet times. They worked in some [inaudible] back then, and the main work was a compiling of a list of political prisoners. And now they became a part of their horrifying list that keeps adding people.

I am very scared for their lives because, as I said, they are not receiving medical treatments at all. They have no safety. They have no security behind the bars. They've been charged to death sentence this summer on trumped-up bogus charges. My mom is sixty-eight and a half years and dad's seventy years. But with their health conditions, they won't survive another year behind bars. So something should be done to get them out right now because I don't want to be here next time and saying that my mom died or my dad died, and please help my other parent. My mom is Knight of French Legion of Honor. My mom is the holder of international Theodore Hacker Award for her human rights work. My mom is the laureate of Sergio Vieira de Mello Award. My mom is one of the finalists of European Parliament Sakharov Prize, 2014. And several days—I mean, last week my mom received here the Battle of Crete Award for her human rights work.

Thank you.

And I also want to say one thing. There is no safety and security for my parents. When my dad was laying like that, the only human rights organization against the tortures, they didn't even make a statement that my dad is being tortured like that. And it was in front of the eyes of representatives of the international community, and what they can do to them behind the bars. And the ombudsman, she also doesn't make a statement that my parents are in bad health condition when it's just obvious. And the visits of doctors have also proved that the health condition is very bad and they're just not receiving medical help in Azerbaijan.

Ms. HAN. Thank you very much, Dinara. It's difficult to hear, particularly the news this morning about potentially worsening health. Mr. Aderholt, would you like to start with some questions, or . . . ?

Mr. ADERHOLT. Let me just say, what are your parents actually charged with?

Ms. YUNUS. They are charged with now is economical—trumped-up economical charges, like illegal entrepreneurship front, illegal business. And there is also a treason charge that is sent to another court. We still don't know what's going to happen with the treason charge because they were initially arrested by treason, and then the economical charges were added to.

Mr. ADERHOLT. So the charges that they're actually charged with, you're saying they're really just fake charges, trumped-up charges?

Ms. YUNUS. Yes, for their human rights work.

Mr. ADERHOLT. And tell me a little bit more about some of the human rights work that is problematic for the government to cause them to retaliate.

Ms. YUNUS. Well, when the authorities were saying that there are no political prisoners, my parents were presenting the list of political prisoners, and their list was well-

recognized. Also, my parents, during the Eurovision song contest, my mom reported about illegal demolishing of the houses of Baku citizens. Seventy thousand citizens lost their houses illegally because of the Eurovision song contest. And when my mom's interview was published in Washington Post, the Institute for Peace and Democracy building was demolished illegally as well. It's my mom's organization.

And they were also—my mom was protecting the basic rights, the rights of assembly. She was helping people. The latest work of my parents also included the unique website which brought together the members of civil societies of Azerbaijan and Armenia so they could negotiate for future stability in the region. So this was their peacebuilding work. And then they got accused in a trumped-up treason charge.

Mr. ADERHOLT. I see. OK. Thank you. That's it. Thank you.

Ms. YUNUS. Thank you.

Ms. HAN. Thank you. I want to ask a specific question, Ambassador Morningstar. You laid out a couple of things that need to happen in terms of trying to recognize the importance of the U.S.-Azerbaijan relationship. And part of the problem that we hear a lot is that Azerbaijan doesn't like to be criticized. I mean, I guess most countries don't like to be criticized. But it's something that we specialize in. We criticize ourselves. We criticize everyone else. It's something that we're quite comfortable with.

And we also feel that, I think because we're friends with Azerbaijan, we also want to see them succeed. And part of that success is having a strong society and a strong foundation. And I'm just wondering, though, how given the impasse that we seem to be at right now with Azerbaijan and the crackdown that we've seen on civil society, and given the things that you enumerated in terms of U.S. support for Azerbaijan's energy independence, U.S. support for Azerbaijan in the Nagorno-Karabakh conflict, and also U.S. support for Azerbaijani independence over the years—why do you think that we continue to be sort of portrayed as the enemy of Azerbaijan just for criticizing the jailing of independent voices?

Amb. MORNINGSTAR. Well, I wish I knew. I can certainly speculate. Azerbaijan is a post-Soviet country, which I think still has an effect. I think there are cultural differences that can be in play. The excuse that comes from Azerbaijan is that they have to do these things in order to maintain stability. The problem with that argument is that at the end of the day, stability taken to its end result can justify almost anything. I think that Azerbaijan is a stable country. And as I said in my opening statement, that the actions that they've taken, in my view, are from in fact a values standpoint unacceptable.

They just don't make sense. I mean, why is it necessary? You know, why are the Yunuses in jail? What is the Azerbaijani Government gaining from the Yunuses being in jail, other than creating difficulties in their relationships with the United States and with other Western countries? I mean, to me it seems counterproductive. I do think that among some in the Azerbaijani Government there really is a belief that we are trying to overthrow them. I think they get a stream of propaganda from their friends from the north, which help to poison the relationship. And they think that our support for NGOs is an attempt to overthrow their government. And, I mean, my response to that is, for the limited amount of support that we have given the nongovernmental organizations in Azerbaijan, if that really creates this threat, that some, I think, really do believe, then there must be a lot of insecurity.

And, you know, again, I want to go back to the positive. I don't think at this point we should give up on Azerbaijan, but I think that at a high level we have to have a very serious dialogue as to what our common interests are, what we require on both sides for us to have a strong and vibrant relationship.

And again, the Government has to believe that we're not out to get them, but on the other hand that if we're going to have that relationship, that there needs to be some progress, particularly with respect to the kinds of cases that we've been hearing about, the Yunuses and others, and progress with respect to NGOs, and in fact, that, at the end of the day, might give more stability to the government rather than less.

Ms. HAN. Thank you.

I'm going to ask a question of Ms. Bourjaily. And then, unless Mr. Aderholt has questions, we'll open it up to the floor for questions. So you can start thinking if you have questions to ask. I'll start calling on people.

Ms. Bourjaily, this phenomenon of NGO legislation is not new and it's not unique to Azerbaijan. We've seen it in Russia. We've seen it in China. We've seen it across Central Asia, and other places. But it seems to me that the extremes to which Azerbaijan has gone is not necessarily replicated elsewhere. For example, I believe that the donor registration requirements are not seen anywhere else, as far as I know. Is that according to your experience as well?

Ms. BOURJAILY. Actually, both the donor grant approval and also the approval of grants is not to be seen anywhere in Western and Central Europe or the United States. So if we talk about Eurasia, some countries in Eurasia, there are a few examples in the Eurasian region, for example in Belarus, Turkmenistan, in Uzbekistan, where pre-approval of grants from foreign sources is required. But even in this region and even in these particular countries, nowhere—there are basically three levels of procedure, three stages of procedure in order for civil society organizations basically not to receive grants from foreign sources.

Azerbaijan is the only one which would require foreign organizations to formally register their offices in Azerbaijan—and I touched very briefly how difficult it is to do in Azerbaijan—in order to give grants. So first to register offices. Second, to get government's approval, government's registration as grantors in addition to registered offices before they start giving out grants. And as I mentioned, such a procedure doesn't exist in Azerbaijan. And third, all recipients have to register, with the Ministry of Justice, every single grant and every single subgrant and every single change within the grant agreement with the Ministry of Justice. Such a three-stage system is nonexistent anywhere.

And, again, to give a very simple and straightforward answer to your first question, there is no requirement for pre-approval for foreign organizations to give out foreign aid in any country.

Ms. HAN. Thank you very much. Mr. Aderholt, anything before we——

Mr. ADERHOLT. I don't have anything. You can go ahead with the questions. Thank you.

Ms. HAN. OK, so we're going to open the floor for questions. What we're going to do is this first mic on the end is going to be the question mic. If you could wait for me to call on you, I'll call on you and you can come up and ask your question, because if we have some people lined up there, it will be in front of the camera. So if there's anyone who has questions you can raise your hand and let me know.

Yes? And if you can please identify yourself and then ask your question, thank you. And sorry it's not very convenient. You have to lean down, but I think it will work.

QUESTION. I'm Matthew Howlett [ph] from Freedom House. Two basic questions I wanted to ask. Are individuals and entities guaranteed a fair trial in Azerbaijan? We keep hearing about major steps it is taking to intervene, for example disbarred lawyers and et cetera. And the second, I just want to hear about the record of Azerbaijan in regards to rulings by the European Court of Human Rights, and if there have been any reprisal against those that participate in giving testimony and bringing cases in front of the European Court of Human Rights. Thank you very much.

Ms. HAN. All right. Dinara, do you want to talk about free trials? I think you gave us a little bit of a flavor of what some of the difficulties have been for your parents, but I think one of the key points is that, you know, for example, Matthew mentioned the disbarring of lawyers and the difficulty that lawyers have in representing prisoners, political prisoners, and the strain and the stress that they come under. So maybe you could talk about your parents' lawyers and what problems they've been experiencing.

Ms. YUNUS. Well, there is a constant pressure on the lawyers of my parents. Two of them were removed from the court last year. One was brought to the case as a witness but he has not been yet called on the court.

The third lawyer—one of the lawyers was disbarred from the bar association, so he can't protect, anymore, my parents or anybody else. The third lawyer was sentenced to 240 hours of community service. And he was sentenced because he was the first one who spoke about the beatings and attacks and humiliations my mom was exposed to behind bars. And the case against him was brought by my mom's inmate, who was constantly attacking my mom, and she won the case. And he received 240 hours of community service. And recently he was also disbarred.

And the court itself, well, there is no fair court. Otherwise my parents would be free now, or at least it will be open for the public. Economical charges means that the court will be public, so everybody can go and watch the court. But in my parents' case the court was actually a closed-door court. There were a lot of people inside the court that were coming from the back door while everybody was waiting at the front door to get in. Some of those unknown people are saying that they are our relatives, but when they were asked the names of my grandparents they didn't know.

Sometimes the representatives of the international community could get in, but without translators, and some of them didn't speak any Azeri or Russian so they didn't understand. They put my parents behind the glass cage, while in the normal societies—civil societies in Western countries they should have sat near their lawyers. And there were never the cases that a political prisoner could actually walk free from that court.

Ms. HAN. Thank you. I appreciate that.

And then on the European Court of Human Rights question, Natalia, do you have something to say? And if you have a comment, you can chime in as well.

Amb. MORNINGSTAR. My only comment is I think, given the work that Freedom House does, I think the questioner knows the answers to those questions that he's asked. And so it's a little bit like in an American courtroom case the lawyer is asking the question where he knows the answers. And I think it is a statement of fact that—as far as the European Court of Human Rights, that the decisions have not been followed. I state that just as a matter of fact.

Ms. HAN. Thank you for that.

Ms. BOURJAILY. [Inaudible]—of European court cases in regards to legislation relating to civil society organizations, that there were a number of rulings where Azerbaijani was. Two of the most, let's say, famous cases, for example Ramaznova, and obviously against Azerbaijan, and Israfilov, obviously against Azerbaijan, both related to the issue with establishment of new civil society organizations with a registration procedure. These cases are quite old but the same problems remain today. Even though there's 40 days—the registration authority, the Ministry of Justice, has 40 days to process the registration application. It usually doesn't meet this 40 days requirement. The registration procedure takes much longer, if registration ever takes place. And as with these two cases where Azerbaijan lost, the reasons for denial of registration are very technical and do not meet the standards for the test whether those are acceptable limitations on the freedom of association.

Ms. HAN. Great. I learned just this week that in the case of Ilgar Mammadov, who is still in prison despite the European Court of Human Rights' ruling earlier this year that the charges against him were politically motivated, his case is still being bounced back and forth between courts in Azerbaijan. And the Council of Ministers, every—I think it's every three months, has been voting—or issuing statements asking Azerbaijan to abide by the decisions on that ruling, and that has not happened yet. So I think, it's pretty clear to see right now the European Court of Human Rights is not a viable option for citizens of Azerbaijan to seek redress.

Are there any other questions? Yes? Could you come up to the mic? Thanks.

QUESTIONER. I'm from Congresswoman Slaughter's office. And what can you tell us about regional variations in Azerbaijan? Is the situation kind of the same across the whole country? Is it worse in the exclaves? Is the situation about the same in the countryside?

Amb. MORNINGSTAR. I really don't consider myself expert enough on the specific cases to compare regions in Azerbaijan. I know there are difficulties in virtually—different kinds at different times—in virtually all of the regions.

I would want to make one other point, though. And I thought that you were going to ask, how would you compare Azerbaijan to other countries in the region, particularly, for example, the Central Asian countries, many of which have significant problems. And one of the criticisms of the United States comes from Azerbaijan. This relates back to the European Court of Human Rights.

One of the criticisms leveled at the United States and the West by the Azerbaijani Government is that there are double standards, and that we criticize Azerbaijan more harshly than we do other countries in the region, maybe in other parts of the world. And I think it's fair to say—and there are certainly other—many other—several other countries that have abuses, but I think the difference that militates against the double standard argument is that the government—Azerbaijan is a member of the Council of Europe. They are a member of OSCE. So they have obligated themselves to comply with various standards.

And I wrote a piece three or four months ago not just about Azerbaijan but basically saying that countries that have signed on to these organizations should be held to a higher standard. And Azerbaijan does talk in terms of itself as being a democracy, constantly. And again, there have been a lot of accomplishments in Azerbaijan. You know, we have to be fair and balanced. But because of their agreeing to become members of

these organizations, I think they need to be held to a higher standard and need to comply with what they've agreed to.

Ms. BOURJAILY. I'm also not an expert in terms of the implementation, especially in the regions, but the information that I receive from our local partners from Azerbaijan—according to this information, unfortunately the restrictive legislation is being implemented quite consistently throughout the country because of its centralized manner. For example, no NGO, whether it is based in Baku, anywhere in the region can't receive a grant from a foreign source. The registration procedure is same and implementation is quite consistent.

In 2014, my colleagues celebrated the decentralization of the registration of civil society organizations, and finally which now branches of the Ministry of Justice were authorized to register new organizations, which would have saved—and is supposed to save—time and money for local groups who don't have to travel from regions to Baku on numerous occasions in order to try to register their organization. Unfortunately—again, this is only according to information from our partners because official statistics, official information, is not available—unfortunately it is still very difficult to register new civil society organizations throughout the country.

At the same time, in regards to what we consider progressive legislation, for example the citizens' participation legislation, the new law on citizen participation, here we see implementation which very much varies from one region to another. Some—[inaudible]—the local governments are much more interested in citizens' participation and do use consultations with citizens and civil society organizations than others. So we do see consistency throughout the country in regards to the restrictive legislation, but unfortunately it's not as consistent in regards to the better legislation.

Ms. HAN. Any other questions from the audience? Yes.

QUESTIONER. Thank you. My name is Hayk Nahapetyan. I am correspondent for the Armenian Public Television. My question is for Mr. Morningstar.

During the period when you were ambassador to Baku there were reports that you attempted to visit the Jugha Armenian cemetery, which is in Nakhchivan, and that the government of Azerbaijan did not allow this to happen. I was wondering if you could provide some details on this.

Number one, what was the reason for the government to stop your visiting this site? And the second question, even though they prevented this visit from happening, do you have your source of information about what really did happen in the historic Armenian cemetery in Nakhchivan? Thank you.

Amb. MORNINGSTAR. This is an issue that came up very, very shortly after I arrived in Azerbaijan. It was also a matter of testimony in my confirmation hearings, and this was something that Senator Menendez felt very strongly about.

I went to Nakhchivan within months after getting to Baku and asked for permission to go to Jugha. I was not specifically denied permission but basically was told that the government, in particular the government of Nakhchivan, made it impossible for me to go. You know, I would have basically had to have gone on my own with no security, transportation that probably—that didn't exist. So they clearly—you know, the government clearly didn't want me to go. The reasons they said was security, because it was just over the river from Iran, and they made the argument that they couldn't control what Iranian border guards might do, or whatever.

So at the time, the effort that we made—that I made and we at the embassy made, was we issued a statement—if you go back, you'll find it—saying that, yes, it was impossible to go. And what I did do immediately thereafter was to visit what had been the Armenian church in Baku where the Azerbaijanis were maintaining many of the records from pre-war. We made an effort to try and develop cooperation between Azerbaijan and Armenia to protect religious sites in both countries. And so we tried to take a balanced approach.

And that's what happened. I can't really say much more about it. This is now three years ago. That's what happened.

QUESTION. I was just wondering if you have information whether the Armenian monuments still exist in Nakhchivan in Jugha Cemetery, or if they have been abolished, as the reports—evidence suggests. Thank you.

Ms. HAN. Yes.

Amb. MORNINGSTAR. Yes, I'm not really in a position to talk about it. There are photographs taken. I can't tell you exactly what they mean. There's conflicting evidence on both sides and I'm really not in the position to make a judgment.

Ms. HAN. Any other questions from the floor? I wanted to ask Ambassador Morningstar a question.

You know, one of the things that we're getting increasing reports about, not only the persecution of these civil society activists by using the judicial system to persecute these civil society activists, but also, now that they're in jail and on trial, their families are also being persecuted.

We're getting increasing reports about the relatives of these people who are losing their jobs—a large number of people, and some parents are being asked to denounce their own children. And it seems like this is a throwback to perhaps the Stalin era, and certainly not a development that we would want to see in a democratic country.

And I'm wondering—the question is really that—we look at this as a legal issue. These are trials that are being conducted. But perhaps this is better geared to the political lens, that this is more of a political issue. And then if it is a political issue, how do we solve this litigation?

Amb. MORNINGSTAR. I've heard—certainly at different times have heard the same reports that you've heard. I really can't say anything more than that, other than having heard in the reports what you heard. But I think you're right that, at the end of the day, the solution to these problems, at least at this point, will not be through legal means but will be through political means. And that's why I come back to the point that I harped on during my opening statement, that we have to look at these issues.

As difficult as these issues are, we have to look at it pragmatically. We have to look at it and argue it from the standpoint of what's in Azerbaijan's interests, and really, at a high level, conduct a dialogue talking about what's in each country's interests and how resolution of these issues politically really is necessary—or is necessary to have a very strong, vibrant relationship, which I think is important to both countries. It's just as important, I think, to Azerbaijan as it is to the United States.

And, you know, I think we have to try. If it doesn't work, it doesn't work. You know, we have done our best to—I think the policy has been to compartmentalize issues for the democracy and human cases, not spill over into energy and counterterrorism and the like.

And in order to maintain that, I think there has to be a re-evaluation of the relationship on both sides and some real progress on the democracy and human rights.

Ms. HAN. Great. Thank you. Yes?

QUESTION. Hello. My name is Araf Hildobonzaid [ph] and [inaudible]. My question is to Ambassador Morningstar. Sir, have you ever tried to visit cemeteries, or vandalized cemeteries, in Nagorno-Karabakh of Azerbaijanis? There are many, many cemeteries of many villages, Azerbaijani villages, that were vandalized. Have you tried to do this? Do you have any statements about this? And also one more. There's also many cemeteries that—Azerbaijani cemeteries in the current Armenian Republic. Do you have any views? Have you had any statements about that? Thank you very much.

Amb. MORNINGSTAR. The answer is, have I tried to visit the cemeteries? No, but what I can say is this—and I said it at the time, that I did not visit Jugha. What I said was that there is clear evidence that there have been problems on both sides with respect to cemeteries, and that what was important was that Azerbaijan and Armenia agree that the religious sites are off limits as far as abusive actions.

So I think there probably is enough blame to go around—but the answer to your direct question is, no, I have not tried to visit any other cemeteries.

Ms. HAN. OK, I'm going to wrap up with the last question, for Dinara.

Obviously the responsibility for your parents' well-being and their safety in the prison, and also the responsibility for their trial, rests in the hands of the Azerbaijani Government, but what would you like to see the U.S. and the EU agree to, to help their situation? How can we be helpful?

Ms. YUNUS. My parents are very ill. They need hospitalization and medical treatments. The treatment behind bars is a joke. Azeri doctors are not helping my parents. I think the international community should be more vocal in calling for their releases. There should be a common call, be more vocal—thank you.

Ms. HAN. Great. Thank you very much. And thanks, everyone, for attending. I thank Ms. Bourjaily and Ambassador Morningstar, Dinara and Mr. Aderholt. Thank you for coming. And our briefing is concluded.

[Whereupon, at 3:11 p.m., the briefing ended.]

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