

and "to help develop" Tibet. While in China I also learned about internationalism and socialism which deeply impressed me. So I returned to Tibet with optimism and confidence that a peaceful and mutually beneficial coexistence could be worked out. Unfortunately, soon after my return China was embroiled in political unrest unleashed by radical political campaigns. These developments impacted the Chinese policy on Tibet resulting in more repression and rigidity leading finally to the Tibetan People's Uprising in March 1959.

My hope is that this year may see a significant breakthrough in our relations with the Chinese Government. As in 1954, so also today, I am determined to leave no stone unturned for seeking a mutually beneficial solution that will address both Chinese concerns as well as achieve for the Tibetan people a life in freedom, peace and dignity. Despite the decades of separation the Tibetan people continue to place tremendous trust and hope in me. I feel a great sense of responsibility to act as their free spokesman. In this regard, the fact that President Hu Jintao has personal knowledge about the situation and problems in Tibet can be a positive factor in resolving the Tibetan issue. I am therefore willing to meet with today's leaders of the People's Republic of China in the effort to secure a mutually acceptable solution to the Tibetan issue.

My envoys have established direct contact with the Chinese government on two trips to China in September 2002 and in May/June 2003. This is a positive and welcome development, which was initiated during the Presidency of Jiang Zemin. The issue of Tibet is complex and of crucial importance to Tibetans as well as Chinese peoples. Consequently, it requires careful consideration and serious deliberations on both sides before taking any decisions. It will take time, patience and determination to lead this process to a successful conclusion. However, I consider it of highest importance to maintain the momentum and to intensify and deepen this process through regular face-to-face meetings and substantive discussions. This is the only way to dispel existing distrust and misconception and to build trust and confidence.

Consequently, I have instructed my envoys to visit China at the earliest date to continue the process. I hope that they will be able to make this trip without delay. This will help in building trust and confidence in the present process among Tibetans as well as among our friends and supporters around the world—many of whom remain strongly skeptical about the willingness of Beijing to engage in a genuine process of rapprochement and dialogue.

The current situation in Tibet benefits neither the Tibetans nor the government of the People's Republic of China. The development projects that the Chinese Government has launched in Tibet—purportedly to benefit the Tibetan people—are, however, having negative effects on the Tibetan people's distinct cultural, religious and linguistic identity. More Chinese settlers are coming to Tibet resulting in the economic marginalization of the Tibetan people and the sinicization of their culture. Tibetans need to see an improvement in the quality of their life, the restoration of Tibet's pristine environment and the freedom to decide an appropriate model of development.

I welcome the release of Ani Phuntsok Nyidrol, even as we recognize the injustice of her sentence and continue to urge for the release of all political prisoners in Tibet. The human rights situation in Tibet has not seen any marked improvement. Human rights violations in Tibet have a distinct character of preventing Tibetans as a people from assert-

ing their own identity and culture. The violations are a result of policies of racial and cultural discrimination and religious intolerance.

Against this background we are encouraged and grateful that many individuals, governments and parliaments around the world have been urging the People's Republic of China to resolve the question of Tibet through peaceful negotiations. Led by the European Union and the United States there is growing realization in the international community that the issue of Tibet is not one of human rights violations alone but of a deeper political nature which needs to be resolved through negotiations.

I am also encouraged by the recent improvements in the relationship between India and China. It has always been my belief that better understanding and relations between India and China, the two most populous nations of the world is of vital importance for peace and stability in Asia in particular and in the world in general. I believe that improved relations between India and China will create a more conducive political environment for a peaceful resolution of the Tibetan issue. I also strongly believe India can and should play a constructive and influential role in resolving the Tibetan problem peacefully. My "Middle-Way-Approach" should be an acceptable policy on Tibet for India as it addresses the Tibetan issue within the framework of the People's Republic of China. A solution to the Tibetan issue through this approach would help India to resolve many of her disputes with China, too.

It is 54 years since the establishment of the People's Republic of China. During Mao Zedong's period much emphasis was put on ideology, while Deng Xiaoping concentrated primarily on economic development. His successor Jiang Zemin broadened the base of the Communist Party by enabling wealthy people to become part of the Communist Party under his theory of "The Three Represents". In recent times Hu Jintao and his colleagues were able to achieve a smooth transition of leadership. During the past decades China has been able to make much progress.

But there have also been shortcomings and failures in various fields, including in the economy. One of the main causes of the shortcomings and failures seems to be the inability to deal with and act according to the true and real situation. In order to know the real and true situation it is essential that there be free information.

China is undergoing a process of deep change. In order to effect this change smoothly and without chaos and violence I believe it is essential that there be more openness and greater freedom of information and proper awareness among the general public. We should seek truth from facts—facts that are not falsified. Without this China cannot hope to achieve genuine stability. How can there be stability if things must be hidden and people are not able to speak out their true feelings?

I am hopeful that China will become more open and eventually more democratic. I have for many years advocated that the change and transformation of China should take place smoothly and without major upheavals. This is in the interest of not only the Chinese people but also the world community.

China's emergence as a regional and global power is also accompanied by concerns, suspicion and fears about her power. Hosting the Olympic Games and World Exposition will not help to dispel these concerns. Unless Beijing addresses the lack of basic civil and political rights and freedoms of its citizens, especially with regard to minorities, China will continue to face difficulties in reassuring the world that she is a peaceful, re-

sponsible, constructive and forward-looking power.

The Tibetan issue represents both a challenge and an opportunity for a maturing China to act as an emerging global player with vision and values of openness, freedom, justice and truth. A constructive and flexible approach to the issue of Tibet will go a long way in creating a political climate of trust, confidence and openness, both domestically and internationally. A peaceful resolution of the Tibetan issue will have wide-ranging positive impacts on China's transition and transformation into a modern, open and free society. There is now a window of opportunity for the Chinese leadership to act with courage and farsightedness in resolving the Tibetan issue once and for all.

I would like to take this opportunity to express my appreciation and gratitude for this consistent support that we have been receiving throughout the world. I would also like to express once again on behalf of the Tibetans our appreciation and immense gratitude to the people and the Government of India for their unwavering and unmatched generosity and support.

With my prayers for the well-being of all sentient beings.

TIBETAN DAY OF COMMEMORATION

Mrs. FEINSTEIN. Madam President, I rise today to commemorate the 45th anniversary of the Tibetan Uprising of 1959. I sincerely hope that Chinese and Tibetan leaders will take this opportunity to work together in a spirit of cooperation and dialogue to overcome differences that have plagued relations between China and Tibet for too long.

After the Chinese invasion of Tibet in 1949–1950, China and the Tibet Government signed the "Seventeen Points Agreement" to make Tibet an autonomous region in the People's Republic of China and grant the Tibetan people the right of autonomy in determining the shape of their religious, cultural, and social institutions.

Nevertheless, in the ensuing years the Chinese Government did not fulfill its commitments, leading to the 1959 Lhasa Uprising and the flight of the Dalai Lama. Forty-five years later, tens of thousands of Tibetan refugees have been forced to flee their homeland in the face of repeated oppression and human rights abuses and those that remain are still unable to practice their religion freely and preserve their cultural autonomy.

Despite this tragedy, the Dalai Lama has consistently stated that his goal is not independence for Tibet but rather cultural and religious autonomy for the Tibetan people and negotiations within the framework enunciated by Deng Xiaoping in 1979.

Last year, in his speech to commemorate the Lhasa Rebellion, the Dalai Lama said:

As far back as the early seventies in consultation with senior Tibetan officials I made a decision to seek a solution to the Tibetan problem through a "Middle Way Approach." This framework does not call for independence and separation of Tibet. At the same time, it provides genuine autonomy for the six million men and women who consider themselves Tibetans, to preserve their distinctive identity, to promote their religious

and cultural heritage that is based on a centuries-old philosophy which is a benefit even in the 21st century, and to protect the delicate environment of the Tibetan plateau. This approach will contribute to the overall stability and unity of the People's Republic of China.

I have worked on behalf of Tibet and the Tibetan people for over 20 years and I have done everything in my power to bring China and Tibet together to settle their differences peacefully at the negotiating table. I have personally carried messages from the Dalai Lama to China on these issues and there is no doubt in my mind that he is fully prepared to negotiate with China to achieve a just and lasting peace for the Tibetan people.

It is disappointing that another year has gone by and more progress has not been achieved in settling these issues. The road ahead of us is long but we must persevere to ensure that the Tibetan people will one day achieve the freedom and autonomy to shape their own society. It is my sincere hope that China will cooperate with the Dalai Lama in resolving their differences on Tibet.

FULL FAITH AND CREDIT CLAUSE OF THE CONSTITUTION

Mr. KENNEDY. Madam President, I welcome this opportunity to call the attention of the Senate to an impressive article in yesterday's Wall Street Journal by Professor Lea Brilmayer of Yale Law School on the proposed amendment to the Constitution on same-sex marriage.

Supporters of the amendment claim that same-sex marriages in one State must be recognized in all other States. That claim is not true. As Professor Brilmayer explains, "Longstanding precedent from around the country holds that a state need not recognize a marriage entered into in another state with different marriage laws if those laws are contrary to strongly held public policy." States have broad discretion in deciding to what extent they will defer to other states when dealing with sensitive questions about marriage and raising families.

There is no need to amend the Constitution on this issue. States across the country are clearly dealing with the issue and doing so effectively, according to the wishes of the citizens in each of the 50 States. If it is not necessary to amend the Constitution, it is necessary not to amend it.

Professor Brilmayer testified on these constitutional issues at our Judiciary Subcommittee hearing last week, and I ask unanimous consent that her article in the Wall Street Journal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 9, 2004]

FULL FAITH AND CREDIT
(By Lea Brilmayer)

Last Wednesday's hearing before the Senate's "Subcommittee on the Constitution,

Civil Rights and Property Rights" was billed as the occasion for a serious discussion on the need for a constitutional amendment to limit the interstate effects of Goodridge, the Massachusetts court decision recognizing a state constitutional right to same-sex marriage. Why else would the hearing's organizers invite me, a professor with no particular published opinion on gay rights but dozens of technical publications on interstate jurisdiction? Prepared to do battle over the correct interpretation of the Constitution's Full Faith and Credit Clause, I found myself instead in the middle of a debate about whether marriage is a good thing, and who really loves America's kids the most—Republicans or Democrats.

Like many political debates, the discussion was framed in absolutist terms. Conservatives say that without a constitutional amendment, Goodridge goes national. Gays will travel to Massachusetts to get married and then their home states will be forced (under the Full Faith and Credit Clause) to recognize their marriages. Traditional marriage (apparently a frailer institution than I'd realized) will be fatally undermined unless we act now to prevent the Massachusetts Supreme Judicial Court from imposing its will upon the whole nation. Either amend the Constitution to adopt a national, and traditional, definition of marriage (they say) or there will soon be gay and lesbian married couples living in your own neighborhood. Either it's their nationwide standard—anyone can marry—or it's ours.

The fly in the ointment was that nobody bothered to check whether the Full Faith and Credit Clause had actually ever been read to require one state to recognize another state's marriages. It hasn't. Longstanding precedent from around the country holds that a state need not recognize a marriage entered into in another state with different marriage laws if those laws are contrary to strongly held local public policy. The "public policy doctrine," almost as old as this country's legal system, has been applied to foreign marriages between first cousins, persons too recently divorced, persons of different races, and persons under the age of consent. The granting of a marriage license has always been treated differently than a court award, which is indeed entitled to full interstate recognition. Court judgments are entitled to full faith and credit but historically very little interstate recognition has been given to licenses.

From a technical legal point of view, the debate at last week's hearing was entirely unnecessary. But inciting a divisive and diversionary debate over whether America's children will only thrive in traditional marriages (on the one hand) or whether people who oppose gay marriage are bigots (on the other) was probably a central objective in certain quarters. Social conservatives, in particular, have a vested interest in overstating the "domino effect" of Goodridge. This is particularly true in an election year. Only an ivory tower academic carrying a text full of footnotes would notice anything odd.

The assumption that there must be a single national definition of marriage—traditional or open-ended—is mistaken and pernicious. It is mistaken because the existing constitutional framework has long accommodated differing marriage laws. This is an area where the slogan "stages rights" not only works relatively well, but also has traditionally been left to do its job. We are familiar with the problems of integrating different marriage laws because for the last 200 years the issue has been left, fairly successfully, to the states. The assumption is pernicious because the winner-takes-all attitude that it engenders now has social con-

servatives pushing us down the constitutional-amendment path. For those who see the matter in terms of gay rights, this would be a tragedy. But it would also be a tragedy for those who genuinely favor local autonomy, or even those of us who genuinely favor keeping the constitutional text uncluttered by unnecessary amendments.

If today's proponents of a marriage amendment are motivated by the fear of some full faith and credit chain-reaction set off in other states by Massachusetts, they needn't be. If they are motivated by the desire to assert political control over what happens inside Massachusetts, they shouldn't be. In our 200-year constitutional history, there has never yet been a federal constitutional amendment designed specifically to reverse a state's interpretation of its own laws. Goodridge, whether decided rightly or wrongly, was decided according to Massachusetts' highest court's view of Massachusetts law. People in other states have no legitimate interest in forcing Massachusetts to reverse itself—Massachusetts will do that itself, if and when it wants to—and those who want to try should certainly not cite the Full Faith and Credit clause in rationalizing their attempts.

Unlike most other hotly contested social issues, the current constitutional marriage debate actually has a perfectly good technical solution. We should just keep doing what we've been doing for the last 200 years.

SBA EMERGENCY AUTHORIZATION EXTENSION ACT OF 2004

Mr. KERRY. Madam President, yesterday I introduced a bill, S. 2186, to keep the SBA, its two largest lending programs, the 504 and 7(a) Loan Guarantee Programs, and the Women's Business Centers up and running through the remainder of this year, September 30, 2004. I ask unanimous consent that a letter of support from the trade association of 7(a) lenders, the National Association of Government Guaranteed Lenders, be printed in the RECORD. Along with NAGGL, I thank the American Bankers Association, the Independent Community Bankers of America, U.S. Chamber of Commerce, and the many other small business associations, that have helped us find solutions, demonstrating great cooperation in a difficult position, to help small businesses.

There being no objection, the material was ordered to be printed in the Record, as follows:

NATIONAL ASSOCIATION OF
GOVERNMENT GUARANTEED LENDERS,
Stillwater, OK, March 10, 2004.

Re SBA 7(a) Funding Crisis and S. 2186.

Hon. JOHN F. KERRY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KERRY: As Congress considers how to solve the ongoing SBA 7(a) program funding crisis, we are writing to express our support for S. 2186, which includes provisions that both Small Business Committees and the 7(a) industry have already agreed are equitable.

While NAGGL is generally opposed to programmatic fee increases, the 2004 budget for the 7(a) program has made his concession necessary. NAGGL testified in 2003 that 2004 program demand would be nearly \$12 billion, but the Administration adamantly disagreed with our estimate, providing program level