

more infused into our Nation's increasingly diverse identity.

This week, the U.S. Supreme Court reaffirmed the principle that diversity is a compelling national interest and that race can be a factor in higher education admissions decisions. The Court upheld the admissions policy at the University of Michigan Law School in *Grutter v. Bollinger*.

Justice Sandra Day O'Connor, on behalf of the 5-to-4 majority and citing *Brown*, wrote: "This Court has long recognized that 'education . . . is the very foundation of good citizenship.'"

Justice O'Connor and the Supreme Court found the use of race in the Michigan Law School admissions policy consistent with the aspirations of the 1954 Supreme Court in deciding *Brown*. O'Connor stated for the Court:

In order to cultivate a set of leaders with legitimacy in the eyes of the citizenry, it is necessary that the path to leadership be visibly open to talented and qualified individuals of every race and ethnicity. All members of our heterogeneous society must have confidence in the openness and integrity of the educational institutions with which the law interacts . . . Access to legal education (and thus, the legal profession) must be inclusive of talented and qualified individuals of every race and ethnicity, so that all members of our heterogeneous society may participate in the educational institutions that provide the training and education necessary to succeed in America.

The Court's decision keeps this country on a path toward the day when our children and our children's children will not be able to envision a pre-*Brown v. Board of Education*. In fact, Justice O'Connor cites the *Brown* opinion in writing the *Grutter* decision. Justice O'Connor's words reflect a powerful American value that is really a strength of our Nation—diversity. It is in the best interest of all Americans to seek diversity in all segments of our society, including educational institutions, the military, and the workplace. To fail to do so, in fact, would be to misrepresent our national identity.

I am heartened, by the large number of amicus briefs filed in support of affirmative action. These briefs showed the Court the deep importance of diversity to so many people and institutions across the Nation. I am pleased to have had the opportunity to join Senator KENNEDY and several of our colleagues in signing one such brief, urging the court to uphold the Bakke decision and support Michigan's admission policies.

One of the greatest strengths of our Nation is its guarantee of equal educational opportunities for all students. Our Nation's colleges and universities are the envy of the world for their rigorous courses of study and high-caliber professors, but also for their enriching environment of students from a range of racial, ethnic, and social and economic backgrounds representing every part of America, if not the world. I am proud that the Court has affirmed the importance of campus diversity and deemed it a constitutionally permissible governmental interest.

In the *Grutter* case, the Court decisively allowed race and ethnicity to be considered in combination with other factors in an admissions decision. I don't believe that the decision striking down the specific point system used in the undergraduate admissions policy will be a serious impediment to the implementation of race-sensitive admissions policies at colleges and universities.

In the 50 years since the walls of segregation began to crumble, we have traveled many miles on the road toward guaranteeing civil rights to all Americans. But this week's decision affirming diversity as a compelling national interest—and thus declaring affirmative action constitutional and viable—confirms our Nation's progress in ways unmeasurable by miles or years. The Court's decision is more than a victory. It is a milestone. It is a testament to the strength of *Brown* and our Constitution's equal protection guarantees.

HONORING AMERICAN AND KOREAN VETERANS OF THE KOREAN WAR

Ms. MURKOWSKI. Mr. President, today marks the 53rd anniversary of the official beginning of the Korean war.

Korea has often been called the forgotten war, but for the thousands of Alaskans who are veterans of that war it is hardly forgotten. The memory is with them daily.

The heroic American and Korean veterans of that war fought under the most adverse circumstances to free the people of the Republic of Korea from the yoke of Communism.

These veterans learned the hard way the lesson that is engraved on the Korean war Memorial here in Washington, "Freedom is not free."

While today marks the beginning of the Korean war, this anniversary does not mark the beginning of the war between freedom and Communism in that troubled country. From the moment that the Korean peninsula was divided in 1945, that battle had begun.

While Korea was one of the first examples of Imperial Japan's lust for land when it became a Japanese possession in the wake of the Russo-Japanese War at the beginning of the twentieth century, it was a side show in World War II. The U.S. had no plan for what to do with Korea when the war was over.

Although we had had U.S. representatives—governmental, business and missionary—in Korea from 1882 until the outbreak of the war, we made no plans for what would happen when at war's end, we might return to Korea.

The United States remained committed to the December 1945 decision of the Allied foreign ministers in Moscow that a trusteeship under four powers, including China, should be established with a view toward Korea's eventual independence. As a result, we were slow

to draw-up long-range alternative plans for South Korea.

We had made no decisions on how to govern Korea, or to assist Korea in governing itself. We had not made plans for the defense of the country, nor for its economic development. We didn't even have a plan for how we might accept a Japanese surrender on the peninsula.

The most convenient way to deal with the surrender issue was to allow the Soviets to accept the surrender in the north and for U.S. forces to take the surrender in the south. Such a division of Korea, which to modern eyes, seems so normal on our maps, was totally foreign to the long history of Korea. Further, the division, which was drawn on a large-scale map in the Pentagon and had no rational basis on the actual terrain, did not represent any known political division of the peninsula. When it took place, it left freedom loving Koreans in the north and communist insurgents in the south.

The Korean war did not begin with the full scale invasion of the Republic of Korea on June 25, 1950. It had been underway as an insurgency in the south since, at least, 1946. One of the first tasks facing the United States was to train and replace existing Japanese police and security forces. The United States, with insufficient forces in-country to deal with the insurgency problem, acted quickly to stem the insurgency by creating a Korean defense force to combat it.

This Korean Constabulary, consisting of Korean veterans of the various armies who had fought World War II in the area, was led by U.S. officers and fought under U.S. orders. The Constabulary had an initial force of 2,000 men in 1946, but built up to approximately 26,000 over the next two years.

It was equipped with the very little military materiel left behind by U.S. forces as they withdrew. The young American officers, mostly reservists, with few regulars had little in the way of education, language or experience for their task, but they had good will and a devotion to duty which they infused in their Korean troops. In contrast, the army that the North Koreans were forming north of the divide was well equipped with Soviet equipment and led by well trained and well indoctrinated communist zealots.

While all out invasion would wait until 1950, substantial insurgency and guerrilla warfare was a constant theme in the southern half of the peninsula from 1946 to 1948. When the Republic of Korea was founded in August of 1948, the Korean Constabulary became the Korean Army and brought with it a level of devotion to country and duty which has been, since that time, the envy of most of the world's fighting forces.

Today is a time, therefore, not just to remember the heroic men and women who served from 1950 to 1953, but to honor the heroic Koreans and Americans who defended Korean freedom in the days before 1950.

CIVIL LIBERTIES IN HONG KONG

Mr. FEINGOLD. Mr. President, 8 months ago I took the floor in this Chamber to call attention to some disturbing trends with regard to democracy and civil liberties in Hong Kong. I said that Hong Kong's rulers, at the behest of Beijing, were set upon a path that risked destroying the spirit and vitality that make Hong Kong unique. I urged those who care about Hong Kong, and about freedom, to speak out and alert Hong Kong authorities to the error of their ways. Many did so.

Today, I regret to report, Hong Kong is one step closer to becoming just another Chinese city. Hong Kong's Legislative Council is expected to vote into law next month antisubversion legislation that would significantly erode the barriers that insulate Hong Kong's residents from the antidemocratic legal concepts and practices of the People's Republic of China.

As I said here last October, China's leaders pressured their hand-picked Chief Executive in Hong Kong, Tung Chee-Hwa, to introduce this legislation last year. Hong Kong authorities maintained that they had no choice but to comply, since Article 23 of the Basic Law that became Hong Kong's constitution after the territory reverted from British to Chinese control in 1997 required Hong Kong to adopt laws to protect national security. Many Hong Kong legal experts disagreed. But be that as it may, the same Basic Law says the territory will move toward electing its legislature and executive by universal suffrage. At present, only one-third of the legislators were chosen by direct popular vote, and only 800 of Hong Kong's 7 million residents were allowed to cast ballots in Tung Chee-Hwa's reelection as Chief Executive last year. The Government has yet to announce any plans to expand suffrage.

The sequence of these steps is important. Pushing through legislation curtailing civil liberties to comply with Article 23 before establishing a democratic legislature per Article 68 violates the most fundamental tenet of popular rule—that governmental authority is derived from the consent of the governed. The Hong Kong authorities invited public comments on the legislation, both in its initial outline form and later detailed drafts. But despite serious objections from journalists, lawyers, chambers of commerce, human rights activists, religious groups, and other interested parties, the bill on which the Legislative Council is expected to vote next month reflects only minor revisions from the Government's original draft. Without a legislature accountable to the citizenry, the people were free to speak their views, but the Government was free to ignore them.

As a result, most of the concerns I raised about the legislative proposal last October remain unaddressed:

Definitions of offenses such as "subversion," "sedition" and "secession" are extremely vague, permitting secu-

rity officials to prosecute people arbitrarily, as they do on the Mainland.

Merely "handling" publications the authorities consider to be "seditious" would be a criminal offense, as would "intimidating" the Government in Beijing or acting to "disestablish" the "basic system" of China—meaning the political monopoly of the Communist Party—or endangering China's "stability."

"Inciting" subversion, even if only through speech, would be criminalized. In China, workers have been given long prison sentences for "inciting subversion" for simply demanding to be paid. Others have received 10-year terms for criticizing the Government on the Internet.

Hong Kong affiliates of organizations that Beijing decides threaten national security may be banned. This provision is likely to be used to ban Falun Gong, and conceivably it could be applied to the Roman Catholic Church if it does not renounce its ties to Rome. Hong Kong groups that monitor human rights and labor conditions in China have also been labeled "hostile foreign elements" by Mainland authorities and thus could be targeted.

Police will be permitted to enter and search private residences and seize property without a warrant.

Journalists and others could be prosecuted for the unauthorized disclosure of official secrets or information related to Hong Kong affairs that are the responsibility of the Central Government. Recall that for 5 months, Mainland authorities treated information about SARS as an official secret, and the world learned about the epidemic only after it spread to Hong Kong. Disclosing that information was clearly in the public's interest. But this bill does not allow a public interest defense, nor is there any counterbalancing right-to-know or freedom-of-information legislation. If this bill becomes law, how long will it take us to find out about China's next epidemic?

These proposed revisions to Hong Kong's laws, demanded by Beijing, run counter to China's commitment in the 1984 Sino-British Declaration to preserve Hong Kong's civil liberties for at least 50 years following the handover. They would significantly undermine such internationally recognized basic human rights as freedom of expression, freedom of association, and freedom of conscience, and potentially threaten freedom of religion and the right to due process as well.

Hong Kong's democratic politicians, activists, attorneys, journalists, and other professionals are understandably alarmed about this legislation. To hear some of them tell it, passage of this bill will mean the end of Hong Kong as we know it. In reality, I suspect most Hong Kong residents would wake up on July 10 to find life in their city essentially unchanged. The effects of this legislation will appear only gradually and incrementally. The first to feel the impact will probably be groups on the

margins of Hong Kong society, such as Falun Gong practitioners. Perhaps most Hong Kongers will say nothing, because they are not Falun Gong practitioners. But over time, they will come to find themselves living in a poorer place, and the world will be poorer as a result.

If this legislation passes in its present form, it promises to make Hong Kong poorer in more ways than one. Last December, the American Chamber of Commerce in Hong Kong wrote the Government to express its concern about the bill's potential impact on the free flow of information, which it said was essential for the operation of Hong Kong's markets and for maintaining its competitiveness as a business location. The letter came a few weeks after a senior analyst at Bank of China International resigned after China's Premier criticized one of his reports. The British Chamber of Commerce warned Hong Kong could become "a much less favorable location for international business" if investors could not obtain free and unfettered information. Some analysts have suggested that investment on the Chinese Mainland could suffer as well, since foreign firms operating in China often rely on their Hong Kong offices for uncensored information about the Mainland.

Through the United States-Hong Kong Policy Act of 1992, Congress made support for human rights and democratization in Hong Kong a fundamental principle of United States foreign policy. As a concrete expression of support for Hong Kong's continued autonomy, the act stipulated that Hong Kong would continue to receive the same treatment under most United States laws after the handover as it had before. However, it allowed the President to suspend that provision on a case by case basis, whenever he determined that Hong Kong was no longer sufficiently autonomous to justify being treated differently from the rest of China under a particular law. This is not a decision the President should take lightly. However, if the proposed legislation compromises the independence of Hong Kong's judicial system or the integrity of its financial markets, as some analysts fear, the President would have no choice but to review specific United States statutes to evaluate whether separate treatment for Hong Kong can still be justified.

I hope we never get to that point. I hope that Hong Kong's freedom and its creativity can be preserved and that its people will be given more say in how they are governed, not less. For that reason, I urge those in the Hong Kong Government and Legislative Council who care about Hong Kong's future—and I am sure most of them do—to turn back from the course they are on before it is too late.