

Noted.

OBSTRUCTING JUSTICE: On May 19, Senate Republicans blocked an up-or-down vote on **Goodwin Liu**, the University of California, Berkeley, law professor nominated by President Obama to the **Ninth Circuit Court of Appeals**. Liu was the first judicial nominee to be successfully filibustered since George W. Bush was in office, when Senate Democrats blocked votes on ten nominees.

On paper, Liu's résumé was perfect: degrees from Stanford, Oxford and Yale; a Supreme Court clerkship for **Ruth Bader Ginsburg**; and a distinguished record of teaching and writing on constitutional law. Liu testified that a judge's role is "to faithfully follow the Supreme Court's instructions." Yet Republicans portrayed Liu as a fringe academic who would pursue a radical agenda from the bench.

The Liu filibuster prompted accusations of GOP hypocrisy: the same senators who opposed him were calling the filibuster unconstitutional during the Bush years. But Liu's scuttled nomination is better understood as part of a bigger problem: the ongoing crisis facing federal courts. Any one failed nomination might not matter so much if Obama had a bullpen of backups, but thus far his administration has been slow to nominate (though the pace has picked up in recent months). There are sixteen appeals court vacancies nationwide, but only ten Obama nominees pending. District court numbers are worse: seventy vacancies and thirty-seven nominees. Senate Republicans, meanwhile, have stalled confirmations through a variety of tactics less dramatic than the filibuster. **Nan Aron**, president of **Alliance for Justice**, wrote that the Liu filibuster was a travesty, and it is now "more important than ever that the President and the Senate... significantly accelerate the pace of nominations and confirmations."

Liu was nominated to fill a judicial slot added in 2009 to alleviate the crushing caseloads of the largest federal appellate court. With jurisdiction over nine states, including California, the Ninth Circuit handles one in every five federal appeals. Between Obama's cautious approach to nominations and the GOP's obstructionism,

litigants in the American West will continue to face long waits for justice. SARA MAYEUX

INCARCERATION NATION: "If we do not act we shall surely be dragged down the long, dark and shameful corridors of time reserved for those who possess power without compassion," **Martin Luther King Jr.** said in 1967, speaking at New York's Riverside Church. King was speaking against the Vietnam War, yet the metaphor could apply today to the millions of Americans living behind bars. In 1967 the US prison population was less than 200,000. Today the number is more than 2.3 million. Our incarceration rate is the highest in the world—higher than in Russia, China or Iran—and the vast majority of US prisoners are people of color.

"The American public won't wake up," says **Joseph "Jazz" Hayden**, an activist who was once behind bars. "We have the biggest prison population in the history of humankind." Hayden was the lead organizer of an event at The Riverside Church on May 21, titled "A Campaign to End the New Jim Crow." The name was inspired by the groundbreaking book *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, by **Michelle Alexander**. Speaking before a standing-room-only crowd of roughly 800 people, Alexander joined Hayden and others calling for a new civil rights movement.

"One day I believe historians will look back on the era of mass incarceration and they will say it was there, right there at the prison gates that we abandoned Dr. King's dream, and veered off the trail he had blazed," Alexander said. "Nothing short of a major social movement has any hope of ending mass incarceration in America."

Alexander argues that in the same era that brought us the first black president, the criminal justice system has reinvented the racial inequity of the Jim Crow years. "Today it is perfectly legal to discriminate against criminals in nearly all the ways that it was once legal to discriminate against African Americans," she writes. Criminal records can disqualify people from voting, serving on juries and receiving certain public services, as well as keep them from finding employment, housing and education.

As activists argue that mass incarceration is a civil rights issue, a new decision by the

Supreme Court shows it is also a human rights issue: two days after the Riverside event, the Court ruled that rampant overcrowding in California's prisons has led to "needless suffering and death," and ordered the state to release tens of thousands of prisoners. Writing for the majority, Justice **Anthony Kennedy** said, "A prison that deprives prisoners of basic sustenance...is incompatible with the concept of human dignity."

MOLLY O'TOOLE

WAR CRIES: On May 5, thousands of Mexicans took to the streets in a *marcha silenciosa* (silent march) against the drug war that stretched from Cuernavaca to Mexico City. The protest was organized by famed Mexican poet **Javier Sicilia**, whose son, Juan Francisco, was found dead evidently at the hands of drug traffickers on March 28. Sicilia wrote a poem as an elegy for his son, printed below and translated by **Camilo Pérez Bustillo**, coordinator of the International Tribunal of Conscience in Mexico City.

El mundo ya no es mundo de la palabra

The world is no longer a world of words

Nos la ahogaron adentro

It was drowned inside us

Como te asfixiaron, como te desgarraron a ti los pulmones

The same way that they asphyxiated you, that they shredded your lungs

Y el dolor no se me aparta

As the pain clings to me, I cannot shake it

Solo tengo al mundo

I have nothing left but the world

Por el silencio de los justos

In the name of the silence of those who are just

Solo por tu silencio y por mi silencio, Juanelo

Only this, alone, in the name of your silence and of my silence, Juanelo

AND THE WINNER IS... We are pleased to announce that *The Nation's* own **Joshua Kors** is the winner of a **2011 Deadline Club Award**, rewarding "the best in New York area journalism." Kors, whose reporting on veterans has won numerous accolades, was honored for his article "Disposable Soldiers," which appeared in the April 26, 2010, issue of the magazine. Congrats!

Copyright of Nation is the property of Nation Company, L. P. and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.