

H A R L A N R I C H A R D S

It's About Time: Filibuster of Nominees Ended In U.S. Senate

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One of the worst aspects of the U.S. Senate is its rules which require a 60% majority to get anything done. This essentially gives 40% of the senate a tyranny over the other 60%. No where has this been more apparent and caused more harm than in the confirmation of judicial appointees.

Countless fair-minded judicial nominees have been denied a chance to serve as federal judges because right wing ideologues in the senate have frozen the nomination process through the use of filibuster. They are aware that there currently is a preponderance of right wing judges on federal benches who are determined to deprive everyone but corporations of their civil rights.

The standards formulated and decisions issued by these zealots have essentially gutted the Bill of Rights. Our rights to a fair trial, due process, privacy and freedom from restraint have been severely circumscribed by increasingly draconian decisions. Each like-minded judge builds on the framework erected by his or her predecessors, shifting our country ever further into the realm of a fascist police state.

For most citizens, it is no big deal. Very few citizens are ever parties to a federal lawsuit and haven't got a clue about the impact federal judicial decisions have on their lives. But for those of us under the boot heel of state oppression, it is all too clear.

For one thing, it affects the states' criminal justice systems. Nobody cares whether trials are fair or whether defendants are receiving overly harsh sentences until they become defendants themselves.

Many times I have met men who have come to prison for the first time in their 40s or older. Invariably, the same conversation ensues. They say: "I had no idea the criminal justice system was so corrupt and unfair." I usually reply: "No I don't suppose you did. But neither did you ever give it a second thought or care whether it was. As long as you knew you'd never be in prison, it didn't matter to you. Now that you're here and it's too late, you are ready to speak out."

The federal courts determine what rights state defendants have, whether they receive fair trials and whether they are treated fairly while in prison. The senate filibusters of judicial candidates has permitted the current conservative judges to eviscerate our rights while preventing fair-minded judges from being confirmed.

This entire process is exacerbated by President Clinton's signing of the anti-terrorism and death penalty act. Under the guise of getting tough on crime, he signed a law which all but deprived state defendants from overturning their state conviction in federal habeas corpus. Had it not been for the new retroactive standard he signed into law, I would not have spent the last 29 years in prison.

Let's hope Obama and the senate use this opportunity to fill all the judicial vacancies and swing the federal courts back from the radical right where it currently resides.