



Nomination of Goodwin Liu to the Ninth Circuit Court of Appeals Talking Points

- **Supports the use of foreign law in US courts**
 - He wrote: “The use of foreign authority in American constitutional law is a judicial practice that has been very controversial in recent years. The U.S. Supreme Court has cited foreign authority in cases limiting the death penalty and invalidating criminal laws against homosexual sodomy, among others. The resistance to this practice is difficult for me to grasp, since the *United States can hardly claim to have a monopoly on wise solutions to common legal problems* faced by constitutional democracies around the world.” *Developments in U.S. Education Law and Policy*, 2 Daito L. Rev. 18, 27 (2006).
- **Rejects the plain text of the constitution**
 - In a 2009 interview at the Brennan Center for Justice, Liu said: “I think that to say that all we do is we look at *the text and we read the words literally*, or all we do is we look at the text and ask how did the people in 1789 or the people in 1868 understand it – that I think *misses an entire range of experience* that the nation has itself learned and that judges can *rightly take into account...*”
- **Wants to read a constitutional right to homosexual marriage into the constitution**
 - Liu wrote an amicus brief in support of homosexual marriage and against Proposition 8, the California Constitutional Amendment preserving marriage between a man and woman. In a 2008 *LA Times* article titled, “The Law and Prop. 8,” he wrote “The more familiar we become with gay spouses and their children -- as our friends, neighbors and co-workers -- the more gay marriage will become an unremarkable thread of our social fabric. Proposition 8 may then come to be viewed, in the long run, not as an enduring constitutional principle *but as the will of a narrow and ultimately temporary majority.*”
- **Believes cultural trends drive our constitutional rights**
 - In a 2008 *Stanford Law Review* article, he argued that judges should “determine, at the moment of decision, whether our collective values on a given issue have converged to a degree that they can be persuasively crystallized and credibly absorbed into legal doctrine.” *Rethinking Constitutional Welfare Rights*, 61 Stan. L. Rev. 203-04 (2008).
 - In that article he argues for a **constitutional right to welfare**