



UNC  
SCHOOL OF LAW

University of North Carolina School of Law  
Carolina Law Scholarship  
Repository

---

Faculty Publications

Faculty Scholarship

---

1-1-2017

## In Memoriam: Tribute to Jack Greenberg

Theodore M. Shaw

*University of North Carolina School of Law*, tedshaw@email.unc.edu

Follow this and additional works at: [https://scholarship.law.unc.edu/faculty\\_publications](https://scholarship.law.unc.edu/faculty_publications)



Part of the [Law Commons](#)

Publication: *Columbia Law Review*

---

This Article is brought to you for free and open access by the Faculty Scholarship at Carolina Law Scholarship Repository. It has been accepted for inclusion in Faculty Publications by an authorized administrator of Carolina Law Scholarship Repository. For more information, please contact [law\\_repository@unc.edu](mailto:law_repository@unc.edu).

## TRIBUTE TO JACK GREENBERG

*Theodore M. Shaw\**

On October 12, 2016, Jack Greenberg passed into immortality. Born on December 22, 1924, during a life spanning ninety-two years he helped to change the world around him and to make it infinitely better. I have often said that Jack Greenberg had as much influence on our country through the law as any attorney in American history.<sup>1</sup> His role as one of the principal lawyers who argued for the plaintiffs in the four cases consolidated under the name *Brown v. Board of Education*<sup>2</sup> guaranteed him that place in history, as did his twenty-three years as head of the NAACP Legal Defense and Educational Fund, Inc. (LDF)<sup>3</sup> during the height of the Civil Rights Movement. But if Jack had never become a civil rights lawyer he would already have earned his place in history as one of “The Greatest Generation.”<sup>4</sup>

Jack grew up in the Bronx and served in the Navy during the Second World War. During that time, he earned his college degree, in 1945, from Columbia University, as he described it, “in absentia, while at sea.”<sup>5</sup> Jack saw duty at Iwo Jima and Okinawa before the war’s end, after which he enrolled in Columbia Law School, continuing what would be a lifetime relationship with the University. In law school, Jack took a nondescript seminar taught by legendary law professor Walter Gellhorn, unrevealingly titled “Legal Survey,” in which he was introduced to civil rights and civil liberties research. After graduation, Gellhorn introduced Greenberg to Thurgood Marshall, who, looking for a staff lawyer, hired Jack in 1948.

In his majestic history of the legal struggle that culminated in *Brown v. Board of Education*, Richard Kluger wrote:

---

\* Julius L. Chambers Distinguished Professor of Law and Director of the Center for Civil Rights, University of North Carolina School of Law.

1. To be sure, each of the principal *Brown* attorneys—Thurgood Marshall, Robert L. Carter, Jack Greenberg, James M. Nabrit, Jr., and Oliver Hill—was a legal giant, inspired and trained by the great Charles Hamilton Houston; each earned his place in history. Although she did not argue in *Brown*, Constance Baker Motley also played a key role in the desegregation of public education and public life.

2. 347 U.S. 483 (1954). The fifth case, *Bolling v. Sharpe*, 347 U.S. 497 (1954), applied *Brown*’s equal protection through the Fifth Amendment to the Washington, D.C., public schools.

3. The NAACP Legal Defense Fund, Inc. was created in 1940 under the auspices of the NAACP. History, LDF, <http://www.naacpldf.org/history> [<http://perma.cc/T3A6-KCUS>] (last visited Apr. 6, 2017). In its early years, the first public interest law firm was informally known as “The Inc. Fund,” before adopting the moniker “LDF.” See *The Real NAACP Stands Up—NAACP v. LDF*, *Crisis*, May 1982, at 10, 11. The two organizations shared interlocking boards until 1957, when they were forced to separate completely. See Thurgood Marshall, LDF, <http://www.naacpldf.org/thurgood-marshall> [<http://perma.cc/8H6G-7NME>] (last visited Apr. 6, 2017).

4. Tom Brokaw, *The Greatest Generation* 11–12 (1998).

5. Jack Greenberg, *Crusaders in the Courts* 42 (1994).

White and Jewish, possessor of a firm jaw and a no-nonsense manner, Greenberg added a first-rate analytical mind to the staff and felt no discomfort amid what to outsiders seemed strictly a black man's world. His work at the Fund Greenberg saw as beyond special pleading for the Negro; basic human rights were being fought for, and there was no better spot in American law in which to help wage that fight.<sup>6</sup>

Years later Jack Greenberg would reflect on his decision to become a civil rights lawyer and to work on behalf of African Americans in the struggle for racial equality. He thought about the values his parents instilled in him and about the influences of Judaism on social activism. In the end, though, Jack could not say exactly why he chose to labor in the civil rights vineyard on behalf of black Americans, in the struggle for equality.<sup>7</sup>

Whatever may have compelled Jack Greenberg to become a lawyer in the cause of racial justice, he shared a sometimes elusive quality that distinguished many of the white attorneys who committed themselves to this work while it was still unpopular. For the most part they were not terribly self-conscious about doing it; it was just who they were and what they did. They were driven to it, yet not in the way that black men and women may have come—by what the great black historian and sociologist W.E.B. DuBois described as their identity as “race men”<sup>8</sup> (and women).<sup>9</sup>

Nevertheless, it would be naïve to say that the ranks of civil rights lawyers were completely free of racial and other tensions. Jack's selection by Thurgood Marshall as his successor to the role of Director-Counsel was controversial, and it had a lasting effect on his relationship with Robert L. Carter,<sup>10</sup> who shared a legitimate claim to leadership in *Brown* and in the legal struggle for civil rights.

---

6. Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality* 274 (Alfred A. Knopf 1976) (1975).

7. Greenberg, *supra* note 5, at 45–53.

8. The concept of a “race man” is often attributed to W.E.B. DuBois, who, in 1903, published his essay entitled “The Talented Tenth.” W. E. Burghardt DuBois, *The Talented Tenth*, in *The Negro Problem* 33, 33–75 (1903). DuBois began and ended with the proposition that “The Negro race, like all races, is going to be saved by its exceptional men.” *Id.* at 33, 75. Symptomatic of the sexism that characterized his era, DuBois used gender-loaded language even though he periodically credited women in the great struggle for equality. His thesis held that African Americans, the “Negroes” of his time, would be saved by extraordinary black individuals who devoted their lives to uplifting their race. *Id.*

9. A more contemporary and less sexist definition of race men and women by activist, fugitive, and ex-patriot Assata Shakur held that “[a] Race man or Race woman is a loyal member of the Black Race who dedicate[s] their life to directly contributing to the betterment of Black people.” *Race Man*, Guide to Africana Studies Resources, Ohio State Univ., <http://guides.osu.edu/africana/raceman> [<http://perma.cc/VK8X-MWRK>] (last visited Apr. 6, 2017).

10. Carter was as responsible as anyone for *Brown v. Board of Education*. Passed over for the top position at LDF, he became the general counsel of the NAACP, where he continued to play a leading role in civil rights litigation until he was appointed to the U.S. District Court for the Southern District of New York. See Judge Robert L. Carter, *A Matter of Law: A Memoir of Struggle in the Cause of Equal Rights* 168–70, 218–19 (2005). Carter served on the District Court for most of his remaining years. *Id.* at 220–39.

Carter and Greenberg were among the most prominent members of Marshall's small "team of rivals."<sup>11</sup> Carter saw himself as a logical successor to Marshall. An African American lawyer whose role in the *Brown* cases was central, Carter was a force in his own right.<sup>12</sup> But it was Jack Greenberg to whom Thurgood Marshall and the LDF Board turned to become the second Director-Counsel.

Institutions and individuals have their own egos, and this reality did not spare LDF. The lawyers at LDF won extraordinary victories in the struggle for racial justice, yet sometimes despite their relationships with one another as much as because of them. Interpersonal dynamics, as well as qualifications, informed Marshall's choice of a successor. Years later, the lawyers who had been part of the team that won the *Brown* cases and who bent the course of American history and law would share their own views about how Jack came to succeed Marshall.<sup>13</sup> Marshall himself never wrote about it.

When Thurgood Marshall left LDF for the bench, he saw to it that Greenberg ascended to the leadership role. Jack's experience at the time was formidable. He had been only a few years out of law school when, with Delaware LDF cooperating attorney Louis Redding, he litigated *Belton v. Gebhart* in the Delaware Chancery Court. And he was merely five years before the bar when, with Redding, he argued his part of the five consolidated cases heard as *Brown v. Board of Education* in the U.S. Supreme Court. The Delaware case was distinctive among the five *Brown* cases in that it was the only one in which plaintiffs, black school children, won below.

Among other matters, Jack had also assisted Thurgood Marshall on the LDF team that had represented four young black men falsely accused of raping a young white woman in Lake County, Florida.<sup>14</sup> The facts of the Groveland case were particularly compelling. A murderously violent, lawless, and racist sheriff created an atmosphere in which civil rights advocates and their LDF lawyers were in grave danger. Throughout the fifties, both before and after the *Brown* cases, Greenberg and the other LDF lawyers worked on other cases desegregating schools (such as the Little Rock case) and public facilities, as well as criminal justice cases infected by racial discrimination. And as the Civil Rights Movement gathered steam, LDF lawyers and its cooperating attorneys in communities across the South became The Movement's lawyers.

After more than a dozen years of experience during some of the most important developments of civil rights law, by the early sixties, Jack was a veteran. Yet, as Constance Baker Motley recalled in her memoirs, "Jack Greenberg's appointment as Thurgood's successor at the end of 1961 was one

---

11. Cf. Doris Kearns Goodwin, *Team of Rivals: The Political Genius of Abraham Lincoln* 280 (2005) (describing the assemblage of President Lincoln's cabinet with people who were previously Lincoln's primary competition for President).

12. It was Carter who conceived and executed some of the strategy that became crucial to the *Brown* cases.

13. See Carter, *supra* note 10, at 136–47, 168–69; Greenberg, *supra* note 5, at 293–98; Constance Baker Motley, *Equal Justice Under Law: An Autobiography* 152–55 (1998).

14. The gripping story of the Groveland case was told in Gilbert King's Pulitzer Prize winning *Devil in the Grove*. Gilbert King, *Devil in the Grove* (2012).

of the more stunning developments in the civil rights community.”<sup>15</sup> Jack would remember that the *New York Times* headline the day after the announcement of his elevation to Director-Counsel read “N.A.A.C.P. Names a White Counsel.”<sup>16</sup> Even still, Jack knew in whose shoes he walked and who had paved the way. Later, over the course of his twenty-three-years-long tenure as Director-Counsel, there may have been some who assumed that Jack’s presence at LDF’s helm reflected not only the long involvement of white lawyers in the struggle for civil rights since its earliest days but also a history of white leadership in those legal struggles. Yet though white lawyers had been involved,<sup>17</sup> the legal struggle leading to *Brown* had not been principally white driven.

For all of his life, Jack would pay tribute to Charles Hamilton Houston, the African American lawyer without whom there would have been no LDF, a Thurgood Marshall to lead it, or generations of lawyers to serve its mission. From the vantage point of time it is difficult to imagine how America would have broken free of the chains of Jim Crow segregation without the story of the NAACP and LDF. No doubt it would have happened, but the when and the how of it would have been a very different, and perhaps an even bloodier, story. The lives of millions of African Americans were changed by the work of LDF. But as hugely consequential as it was, it would be a mistake to think that was the extent of it. The lives of generations of *all* Americans were changed by the work of LDF. Its most heralded case, *Brown v. Board of Education*, stands as one of the most important events in American history. It split American history into a “B.C.” and an “A.D.,” dividing the era of legalized subordination of African Americans in the form of slavery and Jim Crow segregation from the era of constitutionally enforceable equality before the law.<sup>18</sup> Unlike most Americans, even most law students today, Jack knew about and personally

---

15. Motley, *supra* note 13, at 152.

16. Greenberg, *supra* note 5, at 296–97.

17. Brothers Joel (an academic) and Arthur (a lawyer) Spingarn had been involved in the NAACP since its early days. And in 1930, another white, Jewish lawyer—Nathan Margold—authored a seminal memorandum, “The Margold Report,” that served as a blueprint for what became the NAACP Legal Defense Fund, Inc. Nathan R. Margold, Preliminary Report to the Joint Committee Supervising the Expenditure of the 1930 Appropriation by the American Fund for Public Service to the NAACP (1931) (on file with the *Columbia Law Review*), microformed on Papers of the NAACP, Part 3 The Campaign for Educational Equality, Series A, Reel 4 (Univ. Publ’ns of Am.).

18. To be clear, the legal struggle waged by civil rights lawyers was not solely, and some would argue not even primarily, responsible for the victories of the Civil Rights Era. The Movement—social, political, intellectual, and legal—brought about this change. The role of the legal struggle and its interaction with the Civil Rights Movement cannot be disentangled from Movement activism. As surely as it was the Montgomery Bus Boycott that sparked the modern Civil Rights Movement and catapulted Dr. Martin Luther King, Jr., into national prominence, *Brown* ushered in a new era of constitutionalism that set the stage for *Gayle v. Browder*, 352 U.S. 903 (1956) (per curiam), the Supreme Court case that struck down Alabama’s law requiring segregated buses, thus ending the boycott. But see Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* 42–71 (2d ed. 2008) (asserting the ineffectiveness of litigation as a tool for social change and the impotency of *Brown*).

remembered the man without whom *Brown* would not have happened—Charles Hamilton Houston.<sup>19</sup>

Houston was a brilliant African American lawyer and teacher, the son of a D.C. attorney with whom he practiced. Houston graduated Phi Beta Kappa from Amherst College in 1915 and from Harvard Law School in 1922, where he was the first black student elected to the *Harvard Law Review*.<sup>20</sup> He worked under the tutelage of then-Professor Felix Frankfurter and would later serve as the Dean of Howard Law School, turning it into what Greenberg described as “a West Point of civil rights, producing an annual crop of lawyers rigorously trained to do battle for equal justice.”<sup>21</sup>

Greenberg’s admiration for, and crediting of, Houston as the inspiration and guiding spirit of LDF and its campaign to end Jim Crow segregation is telling and important. Although Jack’s position at the helm of LDF beginning in the 1960s was a matter of controversy and a point of criticism by some, his memoirs of his LDF years credit black leadership and conception of the legal struggle for civil rights, with white involvement.

*Brown* was the most famous of forty cases in which Jack Greenberg argued before the Supreme Court of the United States. Those forty cases were but a part of the work Jack did or supervised during his thirty-five years as an LDF attorney, twenty-three of which were as its leader. Jack led LDF during the halcyon days of the Civil Rights Movement, when it served as legal counsel to the Freedom Riders, the Sit-In Demonstrators, the Southern Christian Leadership Conference and Dr. Martin Luther King, Jr., and most of the Movement. During the 1960s LDF led the effort to desegregate public schools in the South. With its cooperating attorneys it pressed cases in trial, on appeal, and in the U.S. Supreme Court. Jack and LDF lawyers litigated and argued landmark school desegregation cases forcing compliance with *Brown*. Under his leadership LDF brought landmark employment discrimination cases pursuant to Title VII of the 1964 Civil Rights Act. Jack argued *Griggs v. Duke Power Co.*<sup>22</sup> and worked closely with LDF cooperating attorney Julius L. Chambers, who argued *Albemarle v. Moody Paper Co.*<sup>23</sup> These and other LDF cases set the legal standards in employment discrimination law. Under Greenberg, LDF planned and executed a campaign to integrate the private and public job sectors, targeting textile mills, the tobacco industry, steel manufacturers, unions, public employers, power companies, and other employers. In the arena of political participation, LDF under Jack was legal counsel for the campaign to secure passage of the Voting Rights Act of 1965 and brought many of the most important cases to enforce the Act.

---

19. See generally, Genna Rae McNeil, *Groundwork: Charles Hamilton Houston and the Struggle for Civil Rights 200–01* (1983).

20. NAACP History: Charles Hamilton-Houston, NAACP, <http://www.naacp.org/oldest-and-boldest/naacp-history-charles-hamilton-houston/> [<http://perma.cc/6K3G-D64T>] (last visited Apr. 6, 2017).

21. Greenberg, *supra* note 5, at 5.

22. 401 U.S. 424 (1971).

23. 422 U.S. 405 (1975).

One of the most important campaigns on Jack's watch was the challenge to the imposition of the death penalty. Racial discrimination in capital punishment had long been a concern for LDF. The death penalty was overwhelmingly a punishment for black men dating back to the nineteenth century. Charles Houston and Thurgood Marshall challenged death sentences for nonhomicidal offenses, almost always for rape of white women. By the 1960s Jack presided over a full-fledged challenge to capital punishment. LDF lawyers found that capital punishment cases were hopelessly infected by racial discrimination, though they also found that their involvement in these cases could not be limited to racial discrimination issues. Once in these cases, for ethical, pragmatic, and principled reasons, LDF lawyers were all in.

By the 1970s it had become clear that the death penalty was unsalvageable. Jack and LDF had become abolitionists. Tony Amsterdam, one of the most brilliant lawyers of his time, was among a constellation of extraordinary men and women working for or with LDF to abolish the death penalty. Jack and his second in command, James M. Nabrit III,<sup>24</sup> each became personally involved in litigating death penalty cases. The high point in anti-death penalty work was the 1972 Supreme Court victory in *Furman v. Georgia*, in which the death penalty as applied at the time was declared unconstitutional because it was "wanton" and "freakish" and arbitrarily applied.<sup>25</sup> All of the pending death sentences throughout the nation were vacated, and the states were forced back to the drawing board to redraft their capital punishment statutes.

For almost a quarter of a century Jack led LDF as it engaged in an offensive struggle to forge civil rights law and create new protections for black and brown people. His work, by extension, strengthened civil rights protections for women, the differentially abled, and, in time, for LGBTQ individuals. In 1980, however, the election of Ronald Reagan and a shifting judiciary heralded an assault on civil rights that put LDF and other civil rights lawyers on the defensive. In his last days as Director-Counsel, Jack saw the beginning of the end for school desegregation cases and the re-segregation of many public schools, attacks on affirmative action in employment, an assault on the Voting Rights Act, an attempted reversal of government policy denying tax-exempt status to private schools that practiced racial discrimination, and other regressive policies.

---

24. Nabrit was the son of James M. Nabrit, Jr., who argued *Bolling v. Sharpe*, 347 U.S. 497 (1954), the *Brown* case from Washington, D.C. See *supra* note 2. Jim Nabrit III served as Jack's Associate Director-Counsel throughout Jack's tenure. James M. Nabrit, 1932–2013, LDF (Mar. 24, 2013), <http://www.naacpldf.org/news/james-m-nabrit-1932-2013> [<http://perma.cc/RQV2-B8F7>]. He was the perfect complement to Jack, and they were extraordinarily close as both colleagues and friends. For several decades, Jim Nabrit was part of the heart and soul of LDF. See *id.*

25. 408 U.S. 238, 310 (1972) ("I simply conclude that the Eighth and Fourteenth Amendments cannot tolerate the infliction of a sentence of death under legal systems that permit this unique penalty to be so wantonly and so freakishly imposed.").

In the early 1980s, Jack experienced a painful episode, which was more difficult for him than he let on.<sup>26</sup> Harvard Law School was being pressed to hire black faculty. Of sixty tenured faculty members, one was black, as was another still on the tenure track. Jim Vorenberg, the Dean of Harvard Law School, prevailed upon Julius Chambers to teach a civil rights mini-course, and Julius in turn asked Jack to co-teach the class. Black students organized a boycott of the Chambers–Greenberg class as an insufficient response to their demand for more full-time black faculty. Derrick Bell, who had taught on the Harvard Law School faculty before serving as Dean of Oregon Law School, and who later returned to Harvard only to resign in protest of the Law School’s failure to hire black women to the faculty, supported the Chambers–Greenberg boycott.<sup>27</sup> It was a bitter dispute in which some individuals argued that because Jack was white and Jewish he should step down as the leader of LDF, which should be led by an African American. The dispute was intensified by a pending lawsuit and battle in which the NAACP had trademarked its initials and sued LDF over its name.<sup>28</sup> LDF eventually won the lawsuit over the initials, but the Harvard boycott and the superheated personal attacks on Jack Greenberg cast a shadow over his last days at LDF.

Whatever the symbolic and real merits of the imperative for black leadership at LDF, those who argued that Jack’s race and religion affected his ability to lead LDF in a manner that compromised its legal arguments and the positions it took on substantive issues were wrong.<sup>29</sup> It is unlikely that they knew what Jack Greenberg did to mentor and develop African American lawyers whose work changed their communities and the people whom they served. Of one of the greatest civil rights lawyers and Jack’s successor as Director-Counsel, Julius Chambers of North Carolina, it has been written:

It is also impossible to minimize the crucial role played by Jack Greenberg and the Legal Defense Fund in making Chambers’s accomplishments possible. The achievements of Chambers and other civil rights lawyers in the 1960s and 1970s also would not have been possible without the LDF’s half century-long desegregation campaign. Greenberg conceived and then implemented the internship program that made possible Chambers’s return to Charlotte, and

---

26. Greenberg, *supra* note 5, at 502–04.

27. Derrick Bell had been hired by Thurgood Marshall to join LDF in the late fifties and was a colleague of Jack Greenberg. In time, their relationship frayed and Bell became a harsh critic of the school desegregation work of which he was once a part. Jack and Derrick’s relationship became mutually strained. For many in the orbit of LDF’s family, the deterioration of their relationship was unfortunate.

28. David E. Anderson, *NAACP Sues NAACP Legal Defense Fund over Initials*, *United Press Int’l* (May 26, 1982), <http://www.upi.com/Archives/1982/05/26/NAACP-sues-NAACP-Legal-Defense-Fund-over-initials/3978391233600/> [<http://perma.cc/8EJZ-BTMG>].

29. A prominent black journalist, Tony Brown, was a leading critic of Greenberg and suggested that LDF was less than aggressive in pressing affirmative action cases. Brown may have believed that Jewish opposition to affirmative action, which was significant, compromised Jack. It did not. Any review of LDF’s briefs and arguments should quickly put that notion to rest. LDF was and continues to be the most effective defender of affirmative action, under Jack Greenberg’s leadership and after.

Chambers's almost full-time dedication to civil rights litigation, and then Greenberg fully supported Chambers over the years, providing essential legal and financial resources.<sup>30</sup>

I was among the last lawyers Jack hired to work at LDF.<sup>31</sup> I have always considered it to be a singular honor to have been so. I learned much about being a civil rights lawyer from Jack, Jim Nabrit, and from the LDF lawyers Jack had hired over the years. When I reflect upon the criticism of Jack and LDF when he was at its helm, I am conscious of the apparent anomaly in having an organization that filled the role of LDF led by a white lawyer. I came to describe LDF as “legal counsel to black America on issues of race.” But I am also conscious of the fact that LDF has always had a racially integrated staff, and has been legal counsel to *America* as it has struggled to overcome its greatest demons. It has had seven Directors-Counsel, of whom six have been African American.<sup>32</sup> One, Jack Greenberg, has been white. He served with great distinction.

Other critiques of Jack's leadership at LDF were both optical and substantive, although some of the charges assumed, almost certainly incorrectly, that Thurgood Marshall or Julius Chambers would have done otherwise. The most controversial internal LDF debates concerned decisions by Jack to reject involvement in two high profile cases. Jack decided not to represent Angela Davis after a nationwide manhunt led to her arrest for her allegedly conspiring in a violent courthouse shoot-out that left a judge and three others dead.<sup>33</sup> Jack also decided not to represent Julian Bond when the Georgia legislature refused to seat him because of his public opposition to the Vietnam War. In both instances the staff overwhelmingly wanted to represent the would-be clients and Jack decided otherwise.

But in both cases the decision was driven by “small c” institutional conservatism, which had long been a characteristic of LDF leadership under Thurgood<sup>34</sup> as well as Jack. Thus, one of the lessons I learned from Jack that I recalled when I became LDF's fifth Director-Counsel was that organizations

---

30. Richard A. Rosen & Joseph Mosnier, *Julius L. Chambers: A Life in the Struggle for Civil Rights* 292 (2016).

31. Not long before me, Jack hired Lani Guinier, who, like me, had worked in the Justice Department's Civil Rights Division. Lani was one of the leading voting rights lawyers in the country and, after working at LDF for a number of years, entered academia. Lani later became the first African American woman tenured on Harvard Law School's faculty. See Lani Guinier, Harvard Law Sch., <http://hls.harvard.edu/faculty/directory/10344/Guinier> [<http://perma.cc/RG9Q-NYGD>] (last visited Apr. 6, 2017). Deval Patrick was Jack Greenberg's last attorney hire. He later served two terms as governor of Massachusetts.

32. Thurgood Marshall, Julius L. Chambers, Elaine R. Jones, Theodore M. Shaw, John A. Payton, and now, Sherrilyn Ifill. History, LDF, <http://www.naacpldf.org/history> [<http://perma.cc/T3A6-KCUS>] (last visited Apr. 6, 2017).

33. See generally, Ronald Radosh, Jury Isn't Out on Angela Davis, *Wash. Times* (Mar. 11, 2012), <http://www.washingtontimes.com/news/2012/mar/11/jury-isnt-out-on-angela-davis/> [<http://perma.cc/Y257-X3PE>].

34. Marshall was extraordinarily cautious, as was LDF's parent organization, the NAACP, about LDF involvement with matters in which it might be vulnerable to charges of radical and communist influence. See Greenberg, *supra* note 5, at 102–06.

are not run by popular vote. Indeed, when I was hired, some of the staff were in conflict with Jack about not being included in hiring decisions. It was not personal, or even about me. Just as LDF's lawyers sought to be able to decide what cases LDF brought when the Angela Davis matter arose, they sought some form of democratic decisionmaking in hiring when I arrived. When confronted with the argument that an organization seeking to protect voting rights acted inconsistently when its staff was not allowed to make hiring decisions, Jack, in his nonplussed manner, saw no such inconsistency: "I think democracy is great—for countries."

I learned other things from Jack. He believed that lawyers played a distinctive role in assisting the work of civil rights advocates. Activists were in the streets; lawyers were in the courtrooms. One could not be in the same place at the same time. Their roles were complementary, as in the Montgomery Bus Boycott. LDF's relationship with Martin Luther King and civil rights activists further exemplified the activist-lawyer relationship. During the Selma campaign for voting rights, Jack counseled Dr. King about an injunction prohibiting the march, but he did not tell him what to do. Dr. King would decide whether to march, knowing that LDF would represent him and the marchers if they did. Jack and LDF lawyers worked closely with Dr. King and his colleagues as they planned the Selma campaign, but their roles were clearly understood.<sup>35</sup> There are other models of lawyering, but the line drawn in the activist-lawyer relationship was drilled into the marrow of LDF lawyers.

Jack believed, as did Thurgood Marshall, that the credibility of a lawyer was his or her stock in trade. If the courts were supposed to be apolitical, civil rights lawyers should also be apolitical. Jack was certainly not politically naïve. He had a deep respect for the law as a vehicle for social change, and he believed that through the practice of law with the highest standards of excellence, LDF could command enough respect that even conservative judges would open their minds to the facts and apply the law in favor of its clients.

Some of Jack's ways that molded LDF's institutional personality would not stand the test of time today. Jack was not without ego, but he was also in some ways shy and somewhat reticent. He did not seek media attention. His expressed attitude toward those who were unfamiliar with LDF was, "Those who count know who we are, and those who don't know, don't count." In a twenty-four-hour news-cycle world in which funding is tied to public profile, Jack's approach to media seems antiquated today. Advocacy is no longer limited to the courtroom. The media scrum outside of the Supreme Court is just as much a part of the litigator's job as is the argument before the Justices. Yet for most lawyers who worked for Jack Greenberg, and for LDF, I suspect that there remains an instinct to avoid publicity for publicity's sake and to be strategic about media.

Over the course of his career Jack's commitment to principles of nondiscrimination took him beyond civil rights struggles of black Americans. He helped to establish other legal defense funds patterned after LDF: the

---

35. *Id.* at 355–60.

Mexican American Legal Defense Fund (MALDEF); the NOW Legal Defense Fund (now known as Legal Momentum, which protects the rights of women); the Puerto Rican Legal Defense and Educational Fund (PRLDEF, now known as LatinoJustice); the Asian American Legal Defense and Educational Fund (AALDEF); and others.

Jack grew beyond a civil rights lawyer to become a human rights lawyer and advocate. He created opportunities to send Columbia Law School students around the world to do human rights work. Through his friendship with South African lawyer Arthur Chaskalson, he helped to establish a South African public interest law firm modeled after LDF, the Legal Resources Centre. When apartheid fell, Chaskalson left the Centre to become the first President of South Africa's new Constitutional Court and later Chief Justice of South Africa. In 1976, as part of a delegation sponsored by the National Conference on Soviet Jewry, Jack and his wife Debby traveled to the USSR and met with dissident Anatoly Scharansky and other human rights advocates. And on a trip to Japan with Patrick O. Patterson, another former LDF colleague, to speak on employment discrimination, our hosts pulled out a copy of *Crusaders in the Courts* and talked with great enthusiasm and admiration about Jack Greenberg.

In his later years, Jack took up the cause of the Roma, consulting with the Budapest-based European Roma Rights Centre, also inspired by LDF. Jack pulled me into this work, and I spent time with him in Eastern Europe on several occasions. One of my treasured memories was a trip to South Africa for a conference on Landmark Cases in 2004 at the Constitutional Court in Johannesburg, after which we visited Cape Town. There, with Table Mountain behind us and the infamous Robin Island across the bay, Jack, Arthur Chaskalson, and I strolled the beach together and put aside law for a moment to talk about our lives.

As Jack entered his later years he conceded only what he was forced to concede to age and the challenges of failing health. He continued to teach, creating a Roma Rights seminar at Columbia and then a seminar on discrimination writ large. I had the honor of co-teaching these seminars for a while, as did Columbia Law School Professor Kendall Thomas, who was a loving and supportive colleague for Jack when teaching became ever more difficult. Like Kendall, I would always tell the students, most of whom at their stage in life could not yet begin to understand how in time we are all betrayed by our bodies—that they should not be misled by how soft Jack's voice had become, or by the walker he used, or by the rest of his physical condition. Jack was all there until the very end. I would tell them to lean in:

This is Jack Greenberg who is teaching you—one of the greatest lawyers in the history of the United States, and indeed the world. He is one of the lawyers who argued *Brown*, and changed America. This is one of the great honors of your life, and at the end of the twenty-first century, those of you who are still here will tell how you were taught by Jack Greenberg.

Any tribute to Jack Greenberg must pay homage to his life partner and wife, Debby. In her own right, Debby Greenberg has been a powerful force as a civil and human rights lawyer and a teacher. Debby was with Jack in more ways than we can know, through good times and through bad. They were a power couple, rooted in the fight for justice, which took them around the world. Jack and Debby made it better together.