

In 1971, when Marco Defunis, a 22 year-old Sephardic Jew and native of Seattle, Washington, brought suit against the University of Washington Law School (UWLS) over their refusal to admit him, the issue of affirmative action policies in college admissions became one of extreme contention both locally and nationally.¹ An investigation by Defunis' attorneys into the UWLS' admission records revealed that the University held "preferential admissions policies" for minorities, also known as affirmative action policies, and Defunis claimed that these policies created a situation in which unqualified minorities were admitted above him, therefore, making affirmative action policies discriminatory against non-minorities.² When the case of *Defunis vs. Odegard* reached the Supreme Court, issue of the use of affirmative action policies in university admissions was catapulted into national debate with minorities and non-minorities arguing over the validity, necessity, and constitutionality of such policies. In the midst of this debate, the Jewish community found itself in an incredibly tenuous position. Jews, who for decades had been subjected to quotas limiting their participation in education, were now proportionally over-represented in both undergraduate and professional studies in colleges and universities throughout the nation, thus creating the fear that Jews might be negatively affected by such policies.³ However, supporting Defunis pitted the Jewish community against minorities, such as African Americans, whom they had worked with previously for social justice and who were also strong supporters of affirmative action.

While there is a plethora of literature addressing the historical context, implementation and legality of affirmative action, a historical analysis of *Defunis vs. Odegard*, the first legal challenge of affirmative action policies in university admissions, is difficult to find. Some sources, including Ralph Rossum's *Reverse Discrimination: The Constitutional Case* only briefly mention *Defunis vs. Odegard*. Others, such as Kul Rai and John Critzer's *Affirmative*

Action and the University and J. Edward Kellough's *Understanding Affirmative Action*, completely ignore the existence of the case.⁴ The lack of coverage regarding the historical significance of the *Defunis vs. Odegaard* case may be because many writers, such as Adam Sindler, admit to feeling that the 1978 university affirmative action challenge, *Regents of the University of California vs. Bakke*, was a much more "significant" and ground-breaking case in the history of affirmative action.⁵ Sindler explains in his work *Bakke, Defunis and Minority Admissions*, that "much attention was shifted from Defunis to Bakke" because the Bakke case established important "constitutional guidelines" regarding the use of affirmative action in university admissions.⁶ These omissions, however, have limited our understanding of the ethnic divisions over affirmative action. *Defunis vs. Odegaard* not only created divisions among Jews and African Americans over affirmative action in university admissions, but also divided the Jewish community amongst itself, with remnants of the controversy still lingering today.

While the number of scholarly works on *Defunis vs. Odegaard* and the issue of affirmative action leaves much to be desired, even less is known about the Jewish community's involvement in the debate over affirmative action in the 1970's and 1980's. In her article, "How Affirmative Action Fractured the Black-Jewish Alliance," historian Cheryl Greenberg broaches the topic of Black-Jewish relations in the context of affirmative action cases. Greenberg, however, provides only a superficial investigation into *Defunis vs. Odegaard*.⁷ Greenberg acknowledges that there was some controversy stemming from the Jewish community's decision to support Defunis, but she fails to delve deeper into the issue, lacking recognition of the extent of tumult which occurred both within the Jewish community itself as well as between Jews and the African American community.⁸ This paper will go beyond such superficial acknowledgments

in an attempt to examine the true degree of discord created by Marco Defunis' lawsuit and the Jewish community's decision to involve themselves in the *Defunis v. Odegaard* case.

Before *Defunis v. Odegaard* the Jewish and Black communities had shared many concerns over civil rights and had worked together on addressing many issues including segregation, restrictive housing covenants and discrimination in employment bringing the two communities together as a united front against injustice and discrimination.⁹ The case of *Defunis vs. Odegaard*, however, created a much different situation in which most major Jewish organizations sided with Defunis and thus found themselves at odds with nearly every national African American advocacy organization.¹⁰ The fact that Jews such as Marco Defunis were not considered "disadvantaged" minorities who were entitled to preference under affirmative action, combined with the fact that African Americans were firmly in support of such policies, made the Defunis case appear, to many Jews, as a double-edged sword. A response in favor of Defunis would, for the first time, publicly place Jewish groups and African American groups on the opposite sides of a civil rights issue and a response in support of affirmative action could possibly impact the Jewish community in a negative manner.¹¹ Further complicating the issue, many Jews who spoke publicly about the case found parallels between the "goals of representation" supported by affirmative action policies, which set numerical expectations for the admission of different ethnic groups, and the historical quota systems which had limited Jewish involvement in academia in the past. The *Defunis vs. Odegaard* case, therefore, served as a pivotal and anxious event for the Jewish community; Jews were not only forced to resolve tensions which existed internally, but also to decide between self-interest and the alliances shared with the African American community. The conflict over the case had long-lasting consequences, both internally and externally, for the Jewish Community.

Affirmative action, a term coined by John F. Kennedy in 1961, was a policy established by Title VII of the Civil Rights Act of 1964.¹² This Act, resulting from the many civil rights efforts of the 1950's and 1960's, was drafted in response to multiple pleas from minorities, such as African Americans, to create a "level playing field" in education, employment and many other facets of society.¹³ In an attempt to rectify the "past wrongs" that minorities had been subjected to, this Act, as Kul Rai and John Critzer's *Affirmative Action and the University* explains, "required that if the court were to find an intentional unlawful employment practice, it could order affirmative action of a remedial nature, such as reinstatement or intentional hiring of the injured group."¹⁴ While the 1964 Civil Rights Act outlined the strategy of the United States government's "commitment to equality" in regards to fair practices in employment, it was not until President Lyndon Johnson issued Executive Order 11246 in September of 1965 that colleges and universities were also included in the government's order for affirmative action.¹⁵ This order barred all "state and local governments, private businesses, colleges and universities, and non-profit institutions" from "discriminating on the basis of race, color, religion, or national origin," and encouraged these organizations to make an effort to recruit people "from all groups."¹⁶ President Johnson, claiming it was his quest to achieve "equality as a result and not just legal equality," took this order even further by establishing "a system of detailed bureaucratic rules" including "federal contract-compliance offices," which monitored the activities of these organizations to ensure they were actually providing equal opportunities to minorities.¹⁷ By the late 1960's, affirmative action had become commonplace in university admissions policies, with many universities striving to achieve higher enrollment percentages of "historically disadvantaged minorities." However, it was not until *Defunis vs. Odegaard* that these policies were challenged both in the legal arena and in the court of public opinion.

Defunis vs. Odegaard began in the spring of 1970 when Marco Defunis, a 22 year old soon-to-be graduate of the University of Washington College of Arts and Sciences, received notice that he had not been accepted to the University of Washington Law School.¹⁸ Defunis then enrolled in a University of Washington Graduate program for the 1970-1971 school year and re-applied to the UWLS, once again receiving a rejection letter.¹⁹ Claiming originally that “many candidates whose qualifications and credentials [were] much below” his own were admitted, and charging that many of these “unqualified candidates [were] not taxpayers or residents of the State of Washington,” Defunis then filed suit against the UWLS in the Superior Court of Washington, King County.²⁰ Seeking damages for the “Law School’s unjust discrimination in favor of nonresidents and nontaxpayers, and students who [did] not have the qualifications and credentials possessed by [Defunis],” Defunis asked the courts to deem the UWLS’ admissions policies unconstitutional and to force the UWLS to not only admit him, but also to provide monetary reparations.²¹ The case became much more complicated when an investigation by Defunis’ council into the UWLS’ admission policies and records revealed that not only had the university “admitted 37 minority candidates whose credentials were below” Defunis’, but also that the UWLS had used “different” processes and criteria when admitting minority candidates in order to “provide academic opportunities to disadvantaged groups.”²² In light of these findings, the Superior Court found that, in their use of affirmative action policies, the UWLS had “discriminated against” Defunis and had “not accorded to him equal protection of the law guaranteed by the Fourteenth Amendment to the United States Constitution.”²³

The UWLS, unhappy with the court’s decision, filed an appeal to the Washington State Supreme Court in 1972. In these proceedings many of the same arguments were made, however, the Washington Supreme Court felt that the Superior Court had erred because the UWLS’

decision to “provide minorities with added opportunities in no way denied Marco Defunis equal protection” under the law.²⁴ The case did not end there, for in 1973 Defunis filed for consideration by the United States Supreme Court and said consideration was granted. At this time, many groups, from children’s advocacy groups to labor unions, became involved by expressing their opinions in the form of amicus briefs that showed support to either Defunis or to the UWLS.²⁵ For African Americans, and other minorities, it was clear that the affirmative action policies implemented by the UWLS were “creating progress for the disadvantaged minority” and every national African American organization filed briefs supporting the UWLS’ “commitment to rectifying past wrongs and providing future opportunities.”²⁶ For the Jewish community, however, the decision regarding whether, and to whom, to show their support was not as straightforward.

The tensions the Jewish community felt regarding the case can be seen in the amicus briefs filed by the nationally representative organizations of the Jewish community. Most Jewish organizations sided with Defunis in challenging affirmative action. The Anti-Defamation League of B’nai B’rith (ADL), the American Jewish Committee, the Jewish Rights Council (JRC), the American Jewish Congress, and several other Jewish organizations, all filed briefs supporting Defunis’ claims that affirmative action policies were in violation of the Fourteenth Amendment.²⁷ The following reveals the crux of the legal issue for the Jewish groups who backed Defunis:

[Defunis] was denied the equal protection of the laws when his application for entry to a publicly operated university law school was subjected to criteria different from and less favorable than the criteria applied to the application of so-called “minority students” whose admission to the law school displaced and excluded him.²⁸

These Jewish groups asserted that Defunis’ right to equal access in education (as guaranteed by the Fourteenth Amendment), as well as the right of “other non-minorities,” was

being violated in order to “rectify wrongs previously made by society.”²⁹ Beyond this, their amicus briefs stressed that legally, “the only time in which an exception is to be made in the realm of equal protection is in the case of a ‘compelling state interest,’” and, according to the Jewish community and Defunis’ representation, there was “no compelling state interest” for affirmative action policies which “[did] not provide educational access to all qualified candidates.”³⁰ These briefs further explained how “the proposition that the individual’s rights can be sacrificed so flagrantly in the interest of achieving racial balance is contrary to every concept of the guarantee of individual rights.”³¹ Larry M. Lavinsky, Chairman of the National Law Committee of the Anti Defamation League of B’nai B’rith, asserted in his *Columbia Law Review* article “Defunis vs. Odegaard: A ‘non-decision’ with a message,” that affirmative action policies “[discriminated] against all people who are white... [implying] that the white majority is monolithic and so politically powerful as not to require the constitutional safeguards afforded minority racial groups.”³² One can see here that, in the context of affirmative action, Jews were grouped into the “white majority,” and Lavinsky felt this was unjust, citing the fact that:

Groups within the white majority, such as Jews...are vulnerable to prejudice and to this day suffer the effects of past discrimination. Such groups have only recently begun to enjoy benefits of a free society and should not be exposed to new discriminatory bars, even if they are raised in the cause of compensation to certain racial minorities for past inequities.³³

Here, one can see that the Jewish groups who supported Defunis felt quite strongly that affirmative action policies created a disadvantage to groups like Jews who, in the 1970s, were no longer considered a part of a “disadvantaged minority.”³⁴

While many of the Jewish organizations claimed that the UWLS’ alleged discrimination against Defunis was pertinent to “all Americans,” the concerns expressed by Jewish groups in the amicus briefs filed on Defunis’ behalf clearly conveyed that the issue held a special

significance to the Jewish population.³⁵ By the 1970's, many universities included in their affirmative action policies "goals of proportionality" which outlined their intention to attempt to mirror, within their universities, the percentages of different racial groups within the general population of the United States.³⁶ At first glance, one would assume that the Jewish community, having experienced many past struggles in gaining access to higher education, would view these attempts at providing proportional representation of all groups as positive. Realistically, however, many Jews actually viewed them as threatening. In fact, according to the pro-Defunis Jewish groups themselves, these "goals" represented a threat to the Jewish community in two ways. The first concern expressed by the Jewish pro-Defunis organizations recognized that the Jewish population was actually overrepresented in university attendance in the 1970's. The notion of Jewish "overrepresentation" is explained in sociologist Stephen Steinberg's 1971 *Commentary* article, "How Jewish Quotas Began," which the ADL brief referenced as an informative document.³⁷ Steinberg explains that while "Jews comprise[d] only 3 percent of the national population," attendance in higher institutions of learning "[was] practically universal" in the 1970's, as well as the fact that in professional schools "such as medicine, laws and social science, [where] the proportion of Jews [ran] as high as one-third."³⁸ Therefore, if universities were to seek proportionality in their admissions, the Jewish community could quite possibly see a decline in the number of Jewish students admitted to colleges and universities for reasons irrespective of merit.

While this possible decline in admissions seemed to be quite an important issue to the Jews taking the pro-Defunis stance, the legal briefs from these organizations focused much more on the parallels which some Jews saw between these goals and the quotas that the Jewish community had been subjected to in the past.³⁹ For example, in the brief filed by the Anti-

Defamation League, the image of a “long history of discrimination against Jews by the use of quotas, both in Europe and the United States” is invoked to show how affirmative action goals of proportionality could once again “lead to quotas for Jewish students.”⁴⁰ The Jewish Rights Council also expressed their concerns over quotas in their amicus brief, not only mentioning the possibility of affirmative action becoming another quota system, but also expressing a fear among the Jewish community that “goals of proportionality” could actually be used as tools of “anti-Semitism,” which would result in the “malicious...exclusion” of Jews from “institutions of higher learning.”⁴¹ These quotas, also known as *numerus clauses*, are explained by Steinberg as “systems of persecution,” found in both Europe and the United States in the late 18th and 19th centuries, that “limited the number of Jews who could access institutions of higher learning.”⁴² According to the author, quotas had, in the past, acted as “anti-Semitic protocol aimed at limiting the ‘influence’ Jews could have within society.”⁴³

In his article, “Racial Quotas,” Nathan Glazer, a Harvard professor of education and sociology and contributor to the ADL amicus brief, used a different kind of logic to discuss the connection between affirmative action and minority groups.⁴⁴ While Glazer does not explicitly state that he is speaking on behalf of the Jewish population, his article complements the points that he and his colleagues made about quotas in the ADL amicus brief by expressing not only how quotas could apply to “all people” if they were allowed “to thrive and grow,” but also how they represented a “serious threat” to those deemed part of the “white majority,” a classification that applied to Jews.⁴⁵ Glazer explains how those opposed to affirmative action policies, as they were applied in the Defunis case, are often called “anti-minority,” when, in reality, they are “simply against statistical goals...which could one day” make the warning ‘no whites or males need apply’ acceptable within society.⁴⁶ Glazer argues that many “against affirmative action are

not against the progress of Blacks” or other minorities, but instead are interested “in progress only through measures of equality for all.”⁴⁷ Furthermore, Glazer acknowledges that with governmental action, such as “the affirmative action clause” in the Civil Rights Act of 1964, employers and admissions personnel “feel obligated to *show* that they are following said policies” and “overcompensate” by lowering expectations and requirements for minorities, sometimes even “raising expectations of the performance” of those not categorized as a “disadvantaged minority.”⁴⁸

However, not all Jewish groups opposed affirmative action. The Union of American Hebrew Congregations (UAHC) and the National Council of Jewish Women (NCJW) chose to file a joint brief co-drafted by the Children’s Defense Fund, the United American Workers and the United Mine Workers of America, in support of the UWLS’ use of affirmative action policies.⁴⁹ The NCJW and the UAHC prefaced their brief making it clear that not only had they “strongly supported civil rights legislation in the past,” but also that their involvement in the Defunis case was “yet another way in which [they could] show a commitment to civil rights and minority progress.”⁵⁰ Contrary to the Jewish groups who supported Defunis, those in support of the UWLS insisted that, “[the UWLS’] use of affirmative action [was] not a case of preference for one minority, but instead provided an opportunity to give qualified students from racial minority groups...more than only token membership in Law school and the legal profession.”⁵¹ These Jewish organizations agreed with the arguments expressed by both the Council on Legal Education Opportunity and the National Association for the Advancement of Colored People, believing that “Governmental race consciousness is constitutionally permissible in fashioning remedies for racial isolation and imbalance.”⁵² Further explaining that in the 1970s “society [was] not yet racism-free,” these groups felt that affirmative action policies were critical to

ensuring that universities were “achieving the reality (and not merely the appearance) of equal opportunity.”⁵³ Jewish groups who supported the UWLS’ case expounded that not only was affirmative action not in violation of equal protection, but it was instead a “tool of enforcement of the fourteenth amendment,” which was “not only prudent, but perhaps constitutionally required.”⁵⁴ These groups claimed that if the UWLS “did *not* institute differential treatment of minority applicants, a combination of a low minority acceptance rate, and selection criteria which were known to have questionable predictive value” could keep the UWLS from admitting any minorities at all, causing “litigation by members of excluded groups” asking for “less discriminatory policies.”⁵⁵

The groups that supported the UWLS’ disagreed with the anti-affirmative action arguments expressed in pro-Defunis briefs. For example, while in the pro-Defunis briefs we see a call for “a collegiate system based purely upon merit,” the pro-UWLS briefs expressed claim that, during the 1970’s, the society in which these universities operated was not “color-blind” and “still” presented many challenges to those who were “not of the white majority.”⁵⁶ They claimed that admitting applicants purely based upon merit was unrealistic, leaving affirmative action as the only way in which the United States could “achieve minority progress in education.”⁵⁷ Furthermore, the pro-UWLS briefs argued that affirmative action was “necessary” in order to compensate for the “harsh injustices” experienced by minorities, claiming that this history of discrimination entitled minorities to “any and all” advantages which could be provided by affirmative action policies.⁵⁸ These statements made it clear that, to the Union of American Hebrew Congregations, the National Council of Jewish Women, and other groups that joined in the brief, any policy for admissions which did not include affirmative action was “unfair and unjust” to minorities.

Regarding the issue of quotas, the NCJW and the UAHC disputed the claims made by the ADL and other Jewish groups that affirmative action was tantamount to quotas, explaining that “affirmative action is not a quota system,” but instead “a system which ensures the opportunity for education exists for *all students*.”⁵⁹ To combat their opponents’ claim that “no compelling state interest” existed in the case of *Defunis*, the NCJW and the UAHC countered that, “consideration of race in law school admission reflects a compelling state interest in that there is a gross under-representation of minorities in law schools and the legal profession.”⁶⁰ Here, it appears that the NCJW and the UAHC did not feel Jews were threatened by affirmative action policies, or if they did, they found their alliance and support of the African American community more important than any possible disadvantage affirmative action could bring to the Jewish community. The stark difference of opinion between the concerns expressed in the brief submitted by the NCJW and the UAHC and those by the Jewish groups who supported *Defunis* shows that this case brought much tension to the Jewish community itself, presenting a divided Jewish front not only to the Supreme Court, but to the entire country.

There was not simply a divide among Jews on the national level, but internal disagreements existed within these organizations as well. For example, in an interview conducted in 1981, Carl G. Koch, a member of the National Executive Council of the American Jewish Committee and a member of the Executive Council of the Seattle division of the American Jewish Committee, spoke of such tensions, describing the American Jewish Committee as “a divided house” when it came to *Defunis vs. Odegaard*.⁶¹ However, Koch explains that, “the nation wanted to know what the American Jewish Committee thought...and the organization had to take an official stance.”⁶² Because many shared the opinions felt by the NCJW and the UAHC, feeling that “affirmative action was positive” because it helped African Americans, while others

supported Defunis “mainly because of quotas,” Koch explains that reaching a consensus was “difficult” for the American Jewish Committee with no overwhelming consensus existing on either side.⁶³ Eventually, Koch recalls, the American Jewish Committee was able to reach a position via “a plebiscite of the chapters” through which the organization “did eventually come down on the side of Defunis.”⁶⁴ From Koch’s experiences with both the national and regional branches of the American Jewish Committee, one sees that the Jewish community’s “national policies” were not universal opinions, but instead, controversial decisions often forced by external pressure.⁶⁵

It is clear from the hesitant and explanatory language found in the amicus briefs filed on behalf of the national Jewish organizations in support of Defunis, such as the ADL and the American Jewish Committee, that Jewish groups were acutely aware of the contentious nature of their decision to oppose affirmative action. For example, when introducing their “interest” in the case, the ADL describes themselves as an “organization of American Jews,” further expressing the purposes of their organization as advancing “the good will and mutual understanding among Americans of all creeds and races, and to combat racial and religious prejudice in the United States.”⁶⁶ In adopting this language, the brief appears to be a declaration designed to refute suspicions of Jewish self interest, projecting to other minority groups that the ADL was an organization looking out for the protection of all minorities, rather than exclusively Jewish interests. The ADL emphasized that they had filed many “amicus briefs...urging the unconstitutionality or illegality of racially discriminatory laws,” in cases such as “*Brown v. Board of Education*.”⁶⁷ In this same vein, the Jewish Rights Congress mentions that their “leadership...includes Rabbis who marched with the late Reverend Martin Luther King...for the equality of all persons before the law,” and affirms “that there must never be the slightest retreat

from the principle of *Brown v. Board of Education*.”⁶⁸ By creating links between the Jewish community and such prominent and prosperous memories as the civil rights marches of Martin Luther King and the landmark case of *Brown v. Board of Education*, Jewish groups tried to qualify their anti-affirmative action stance with strong claims about their commitment to civil rights. Such concerted efforts to declare that these organizations are “friends” of the civil rights movement show a deft awareness of the potentially explosive nature of the Jewish community’s support of Defunis.

Despite these efforts, the Defunis case became a flashpoint of ongoing tensions among Jews and African Americans. African American newspapers, such as *the Chicago Defender*, reveal that the anxiety expressed in the Jewish amicus briefs was not baseless paranoia. Instead, they were revealed to be perceptive concerns that reflected “the African-American outcry” to follow the Jewish community’s support of Defunis.⁶⁹ For instance, Frank Stanley, an African American writer whose weekly opinion article, “Being Frank,” appeared in *The Chicago Defender* for much of the 1970’s, severely criticized the Jewish community’s action in the Defunis case. Stanley acknowledged that the Jewish community was “a long time ally of civil rights battles,” but further elaborated that “Jews are now supporting Defunis mostly because he is a Jew.”⁷⁰ Another African American opinion columnist, Ethel Payne, also saw the Jewish community as siding with Defunis “because he is a Jew,” and “becoming party to the new battle cry by whites” of “reverse discrimination.”⁷¹ While Payne clearly acknowledges that “the Jewish community is by no means monolithic” even citing “studies [that] show that the Jewish people are the least anti-black group in the nation,” she further references Jews as “wholly integrated into the white majority.”⁷² In Payne’s opinion, this caused Jews to “lose perspective on the issue of less privileged minorities.”⁷³ Vernon E. Jordan Jr., civil rights activist and director of the

National Urban League, shared these opinions and claimed in his 1974 *Chicago Defender* commentary “To Be Equal” that the Jewish community’s focus on having “admissions purely on objective criteria” whereby students would be selected exclusively on the basis of merit, could only “properly exist” in a nation in which “all gains are through personal merit alone, and a nation in which there are clear, objective means with which to determine an individual’s personal ability.”⁷⁴ Jordan argued that the Jewish community was so incredibly removed from the “concerns” of the African American community that they did not realize that in arguing for a purely merit-based system, they were in fact “arguing about a non-existent America...an America which [had] never existed.”⁷⁵

Payne, Stanley and Jordan saw the Jewish community’s support of Defunis as creating “increased hostility” within the relationship of Jews and Blacks.⁷⁶ While, as Cheryl Greenberg is correct to point out, during and after the *Defunis vs. Odegaard* case “Jews continued to file supporting briefs in desegregation and voting rights cases;” these commentaries in the African American press show that an African American suspicion of Jewish motives now permeated such relations.⁷⁷ “How are we to work with those who oppose our advance?” Payne asks, answering only that “the Black/Jewish relationship is something which should be further investigated and explained because without a dialogue of understanding, hostility between the groups will increase.”⁷⁸ Stanley further warned that the tensions between Blacks and Jews had become a “hideous sweltering divide which will only lead to damage for both Jews and Blacks.”⁷⁹ These commentaries are simply a sampling of the numerous parallel sentiments that appeared in *The Chicago Defender* and other national African American periodicals. Judging from the national print media, voices of protest within the African American community

generally criticized the Jewish community's overall inability to support affirmative action policies that would "[provide] long-denied opportunities for minorities."⁸⁰

One can definitively see that toward the end of the *Defunis vs. Odegaard* case that, in the eyes of the African American community, the Jewish Community's decision to support Defunis had seriously eroded the alliance between the two groups. The harm inflicted by the Defunis case created an atmosphere of alienation, isolation and an adversarial position for the Jewish community which both Jewish and African leaders attempted to rectify.⁸¹ In the 1974 *Seattle Times* article "Defunis Case at U.W. Put Spotlight on Rift Between Jews, Blacks," the journalist notes that conferences were "being organized across the nation" between "rights activists" from both the Jewish and the African American communities to "discuss the fall-out from *Defunis vs. Odegaard*."⁸² According to the article, the call for a meeting between "Black and Jewish leadership" came from multiple sources. For instance, the Reverend Jesse Jackson "urged a meeting" between "lawyers, activists and many others" of both the Jewish and African American communities and the civil rights organization, The People United to Save Humanity, agreed with Jackson's sentiments, suggesting that "a summit meeting was needed between both groups."⁸³ The rift grew between the Jewish and African American communities, for many other leaders from both communities recognized, as Jesse Jackson framed it, "the necessity of discussions regarding Defunis and other issues interrupting the Black-Jewish alliance."⁸⁴ Jackson, providing a reason for the conference he was helping to organize between "civil rights attorneys" and the ADL in Chicago in May of 1974, commented that, "the rift between Jews and Blacks all too often has been swept under the rug. Defunis has put us on a direct collision course, but I don't think either of us can afford to go to war, and one way to avoid a war is a summit meeting."⁸⁵ Jackson's words, combined with the emergence of numerous conferences similar to the one

which Jackson organized, reflect the great divide which the Defunis case had created in the once cooperative relationship between Blacks and Jews.

The issue of Jewish response to affirmative action has often been perceived as a contentious one; what has commonly been over-looked is the truly divisive nature of the *Defunis v. Odegaard* case for the Jewish community. First and foremost, not every Jewish individual and group agreed with how to react to affirmative action, which caused divisions both on the local and national levels of well-known Jewish organizations. Once a general consensus was expressed by the majority of the national Jewish organizations in the form of amicus briefs supporting Defunis, several other difficulties arose. In these briefs, no amount of reminiscent language harkening images of a Black-Jewish civil rights alliances or of historical Jewish persecution under quota systems could distract the African American community from the fact that groups claiming to be civil rights allies were opposing something the African American community deemed positive. The Jewish community's choice to focus, as many saw it, on self-interest rather than supporting their African American allies, shifted the positioning of Jews in the minds of many minorities. To the African American community, the Jewish community transformed from a civil rights advocate and fellow minority, to a group within the "white majority" who had lost perspective on minority causes.

While the Supreme Court eventually ruled the *Defunis v. Odegaard* case to be moot because Defunis had since been admitted to the UWLS, the rift between Jewish and African American groups persisted. While the summit meetings held in the mid-1970s did help re-establish the ties broken by the Defunis case, the tensions have been long-lasting. In the 1990 article, "African Americans and Jews A TATTERED ALLIANCE," Playthell Benjamin, an African American journalist, reflected upon the impact of *Defunis vs. Odegaard* in the popular

African American magazine, *Emerge*. Benjamin commented, “it was the Defunis case of the early seventies that first exposed the conflicting perspectives held by Jews,” adding that it is with this case that the Jews “opened wounds [in the relationship between Jews and African Americans] which have yet to, and may never, heal”⁸⁶ While such sentiments may not be accepted by all, it is obvious that during *Defunis v. Odegaard* the Jewish community lost much credibility within minority circles and developed a reputation which was not easily forgotten.

¹ Ann Fagen, ed. *DeFunis versus Odegaard and the University of Washington; the university admissions case: the record*, vol. 1 (Dobbs Ferry: Oceana Publications, 1974), 3.

² Ann Fagen, ed. *DeFunis versus Odegaard and the University of Washington; the university admissions case: the record*, vol. 1 (Dobbs Ferry: Oceana Publications, 1974), 15; 47.

³ Stephen Steinberg, “How Jewish Quotas Began,” *Commentary* v. 52; #3 (Sept. 1971): 68.

⁴ J. Edward Kellough, *Understanding Affirmative Action*. (Washington, D.C.: Georgetown University Press, 2006); Kul Rai and John Critzer, *Affirmative Action and the University*. (Lincoln, Nebraska: University of Nebraska Press, 2000); Ralph Rossum, *Reverse Discrimination: The Constitutional Debate*. (New York, NY: Marcel Dekker, inc, 1980).

⁵ Adam Sindler, *Bakke, DeFunis, and Minority Admissions: The Quest for Equal Opportunity*. (New York: Longman Publishing, 1978), 2.

⁶ Adam Sindler, *Bakke, DeFunis, and Minority Admissions: The Quest for Equal Opportunity*. (New York: Longman Publishing, 1978), 2.

⁷ Cheryl Lynn Greenberg, “How Affirmative Action Fractured the Black-Jewish Alliance,” *The Journal of Blacks in Higher Education*, Iss. 52 (Summer, 2006), pg. 85-89, <http://proquest.com>.

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⁹ Cheryl Lynn Greenberg, *Troubling the Waters: Black-Jewish Relations in the American Century*. New Jersey: Princeton University Press, 2006; Playthell Benjamin, “African Americans and Jews A TATTERED ALLIANCE.” *Emerge*, October 1990, Vol. 2, Iss. 1; pg. 73, <http://proquest.com>.

¹⁰ Ann Fagen ed. *DeFunis versus Odegaard and the University of Washington; the university admissions case: the record*, vol. 2 (Dobbs Ferry: Oceana Publications, 1974), 470-471.

¹¹ Cheryl Lynn Greenberg, “How Affirmative Action Fractured the Black-Jewish Alliance,” *The Journal of Blacks in Higher Education*, Iss. 52 (Summer, 2006), pg. 85-89, <http://proquest.com>.

¹² Greg Stohr, *A Black and White Case: How Affirmative Action Survived Its Greatest Challenge*. (Princeton: New Jersey, 2004), 62; Kul Rai and John Critzer, *Affirmative Action and the University*. (Lincoln, Nebraska: University of Nebraska Press, 2000), xix; Nathan Glazer, “Racial Quotas,” in *Racial Preference & Racial Justice*, ed. Russell Nieli (Lanham, MD: National Book Network, 1984), 5.

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- ⁶⁴ Carl G. Koch, interview by Carl Galland, Seattle, Washington, 28 August 1981.
- ⁶⁵ This interview provides a tantalizing look into the internal divisions among Jews on the regional level, however, this is the only information Carl G. Koch provides us with. Further inquiries into the papers of the American Jewish Committee and other Jewish organizations is needed in order to gain a complete understanding of these tensions.
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