

# BUILDING A COALITION FOR WORKERS' RIGHTS AT KMART

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Eight African-American ministers knelt in a Greensboro Kmart store parking lot, flanked by police officers in riot gear and surrounded by a crowd of local supporters. More than any other, this image, displayed on the front page of the *Greensboro News and Record* on December 18, 1995 with the headline "Clergy Arrested in Labor Protest," would define the struggle of the workers at Kmart's Greensboro, North Carolina distribution center, and capture its contradictions: a labor protest, but with prayer not picket signs, and those in handcuffs not union leaders, but the pastors of the city's leading Black churches.<sup>1</sup> As the police officers led the pastors away to jail, the crowd sang "Victory Is Mine." This scene was repeated on successive Sundays, with Kmart workers, church members and college students all sharing in making this claim a reality.<sup>2</sup>

The victory achieved by the distribution center's 550 workers and their union, UNITE (Union of Needletrades, Industrial and Textile Employees), and the pastors of the Greensboro Pulpit Forum, the city's African-American ministerial association, has been viewed as a surprising harvest of justice, reaped in spite of an unfriendly climate. It was a significant success for organized labor in the least unionized state in the nation, and it resulted in the signing of union contract by a \$30 billion corporation that had thwarted prior organizing attempts everywhere else in the country. In broader terms, the Greensboro victory represented a successful joint venture of the civil rights and labor movements during a period of difficult times for both.<sup>3</sup>

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1. Lorraine Ahearn & Peter Krouse, *Clergy Charged in Labor Protest*, GREENSBORO NEWS & REC., Dec. 18, 1995, at A1.

2. See Peter Krouse, *Lessons Learned; Kmart Fight Leads to More than Satisfactory Labor Contract*, GREENSBORO NEWS & REC., Sept. 29, 1996, at E1 [hereinafter Krouse, *Lessons Learned*].

3. See *id.*

Yet if this victory is not to be merely savored, but repeated, it may be useful to more closely examine that which produced this defining moment in the Kmart parking lot. If these elements can be found in the Greensboro story, then perhaps other communities may prove to be more promising fields for justice as well.

As basic as it seems, it is worth recognizing that in any such struggle, sheer courage is always a fundamental prerequisite. If a person such as Rosa Parks had not sat down and said "I'm tired and I'm not moving," there would have been no bus boycott in Montgomery. From the moment that they began to form their union in the Spring of 1993, the workers at the Kmart distribution center demonstrated that they too possessed the courage necessary to effectuate change.

The landslide 249-132 vote in favor of union representation in the National Labor Relations Board (NLRB) election in September, 1993—only fifteen months after the distribution center opened—demonstrated the employees' willingness to defy Kmart's aggressive opposition to unionization.<sup>4</sup> Yet where the courage of these workers would truly be tested was in the fight to keep the union alive during the nearly three-year struggle to win a union contract.<sup>5</sup>

While no single factor produced the extraordinary abundance of commitment and leadership ability found among the union supporters in Kmart's Greensboro workforce, there were several important ingredients. Among North Carolina's urban centers, Greensboro is perhaps the one that most closely resembles a northern industrial city, and at major employers such as Lorillard Tobacco and Cone Mills, long-established unions can point to some notable victories. When Kmart employees began considering establishing a union in 1993, an employee whose relative worked at Cone contacted the Amalgamated Clothing and Textile Workers Union (ACTWU, UNITE's predecessor union), which had recently led a three-year fight to win \$15 million for an E.S.O.P. pay-out for Cone employees.<sup>6</sup>

As is often the case, one of the strongest factors motivating the workers to organize was the behavior and policies of Kmart itself. When it opened the distribution center, Kmart rightfully faced higher expectations among its new workforce than would have a smaller home-grown firm. The promise of stable employment and good benefits at a Fortune 500 employer<sup>7</sup> attracted self-confident men and women who possessed a clear

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4. See *Kmart Employees Claim Company Spied on Them*, GREENSBORO NEWS & REC., Sept. 15, 1993, at B4.

5. See generally Barry Yeoman, *No Ways Tired*, SOUTHERN EXPOSURE, Summer 1996, at 15-20.

6. See Sheila Long, *Employee Stock Dispute Settled*, GREENSBORO NEWS & REC., Feb. 27, 1993, at B6.

7. See Joyce M. Rosenberg, *Top Five Hold Their Places on Fortune 500 List*, GREENSBORO NEWS & REC., Apr. 9, 1996, at E1.

sense of their own worth. Some had run their own businesses, others held college degrees; still others had worked for years in skilled or salaried positions. These were people who would not long tolerate second class treatment or discrimination.<sup>8</sup>

However, in their new jobs as Kmart associates, they soon found themselves confronted with second-class citizenship. Employees in Greensboro were getting paid, on average, more than five dollars an hour less than employees at a similar Kmart distribution center in Newnan, Georgia.<sup>9</sup> Also, the benefits in Greensboro were far less than at other Kmart centers.<sup>10</sup> Moreover, workers in Greensboro found themselves in a work environment far less progressive than they had expected. The newly hired workers encountered racial slurs and sexual harassment from company supervisors, lack of adequate ventilation or bathrooms, and harsh and arbitrary policies.<sup>11</sup> All of these factors contributed to a growing sense of frustration and disappointment.

The workers sought out a union whose own history had prepared it well to take on this challenge. In the 1970s and 1980s, ACTWU's Southern Region had developed a leadership and an internal culture that defined itself in struggles like the one that faced the Kmart workers. It had taken on and won years-long struggles at textile firms such as J.P. Stevens, where the union had made up for what it lacked in bargaining power with sheer militancy, persistence, and creativity.<sup>12</sup>

In its Southern battles, ACTWU had found inspiration in the traditions and tactics of the civil rights movement. In its fight to organize the curtain manufacturing plants of S. Lichtenburg and Co. in rural Georgia, where in 1988 the company illegally dismissed dozens of African-American workers, ACTWU had succeeded in mobilizing strong support from leading figures of the civil rights movement, including Benjamin Hooks, Jesse Jackson, Joseph Lowery, and John Lewis.

It is hard to imagine that the workers at the Kmart distribution center, or any group of employees no matter how courageous, could successfully confront a multi-billion dollar corporation without the assistance and backing they received from ACTWU, and later UNITE. Unions give

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8. See Peter Krouse, *Fight Larger Than Kmart Pay, Protesters Say*, GREENSBORO NEWS & REC., Dec. 19, 1995, at A1 [hereinafter Krouse, *Fight Larger*].

9. See Mark Sutter, *Union's Protest Threats Obscure Genuine Issue of Low Wages in Triad*, GREENSBORO NEWS & REC., Apr. 25, 1994.

10. See Mark Folk, *Union Workers Rally, Say Kmart Pay is Low*, GREENSBORO NEWS & REC., May 25, 1995 ("Greensboro workers also say they receive 40 hours of paid sick leave and personal time instead of the 80 hours at other Kmart Centers, and seven paid holidays instead of 10.").

11. See Krouse, *Lessons Learned*, *supra* note 2.

12. See *History of Unions in North Carolina*, THE NEWS & OBSERVER, Sept. 5, 1999, available in 1999 WL 2766874.

workers access to financial resources, technical expertise, and institutional relationships that make it possible to take on a giant corporation, all of which were crucial to the Kmart workers' success.

Yet it is also doubtful that on their own, ACTWU and its members at the Kmart distribution center could have won the victory that was achieved in Greensboro. In September 1995, after over eighteen months of negotiations between ACTWU and Kmart, the question of whether the workers would ever secure a decent union contract was seriously in doubt. The situation in Greensboro was shaping up as a casebook example of how U.S. labor law fails to ensure workers' right to organize—even when it is functioning at its best.

Despite a professionally run anti-union campaign that attempted to intimidate workers into rejecting the union, the workers voted overwhelmingly for union representation in September 1993.<sup>13</sup> Unlike in many other cases, the NLRB had certified the election results quickly and directed Kmart to negotiate with the union. When Kmart fired union activists, the NLRB investigated and issued complaints against the company.<sup>14</sup> In 1994, when Kmart failed to reinstate the fired workers, ACTWU held an unfair labor practice strike during the week before Thanksgiving, the distribution center's busiest period.<sup>15</sup>

The Greensboro workers had used the tactics in labor's traditional repertoire of the last fifty years—filing charges with the NLRB, striking, picketing stores—but through the Summer of 1995, Kmart still was not budging.<sup>16</sup> The company's strategy seemed clear: sit tight, wait out the workers, and get rid of the union's activists, one-by-one. Yet, in July of the following year, Kmart agreed to a collective bargaining agreement that increased hourly wages for distribution center employees by up to thirty-five percent, a result not often seen in even the most hospitable negotiating environment.<sup>17</sup> What had caused Kmart's calculus to shift at the bargaining table?

In part, what occurred was that a traditional labor-management dispute was redefined as a struggle for civil rights—a moral issue with moral resonance. The meaning of the conflict was transformed through the emergence of a community coalition led by the pastors of the city's leading African-American churches, and actively supported by a diverse alliance of

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13. See Tammy Joyner, *Some Kmart Workers Opt for Unions*, THE DETROIT NEWS, Sept. 14, 1993, available in 1993 WL 6052709.

14. See Sheila Long, *Kmart Is Subject of Labor Complaint Based on Workers' Charges*, GREENSBORO NEWS & REC., Apr. 5, 1994.

15. See Scott Solomon, *Kmart Dispute: Picketing Workers Back on Job Today*, GREENSBORO NEWS & REC., Nov. 29, 1994.

16. See Folk, *supra* note 10.

17. See *Kmart, Workers Reach Accord*, THE NEWS & OBSERVER, July 26, 1996, available in 1996 WL 2889721.

parishioners, trade unionists, students, and college faculty, both white and African-American.

If the Kmart workers and ACTWU were fortunate to find each other, they were also blessed to have as partners in this coalition the pastors of the Greensboro Pulpit Forum whose moral authority and stature in the African-American community were central to this redefinition of the workers' cause. Unlike many other ministerial organizations, the Pulpit Forum was not simply an opportunity for fellowship. Instead, it was viewed by its leaders as an organization through which they could engage Greensboro's powers-that-be around the issues and needs of their congregations and community. Not content to bandage social wounds with counseling and food pantries, the Pulpit Forum viewed the Kmart workers' struggle as an opportunity to confront the lack of corporate accountability to their community.

This leadership was in keeping not only with the great tradition of social activism among African-American clergy in general, but also in their churches' own roles in the history of Greensboro's black community. Churches like Trinity AME Zion, the pastor and associate minister of which, pastor Rev. Michael Frencher and Rev. T. Anthony Spearman, were both arrested in civil disobedience protests during the Kmart struggle, had been the site of mass-meetings throughout Greensboro's civil rights movement of the 1960s.

As important as these activist traditions was the fact that the leaders of the Pulpit Forum had among their ranks pastors who possessed not only social prominence, but also solid organizing experience as well. Rev. Nelson Johnson, a leader in the student movement at North Carolina A&T in the late 1960s and a veteran of community organizing in the 1970s and 1980s, was one of the survivors of the attack by neo-Nazis and Klansmen on a Greensboro anti-Klan rally that left five dead in 1979.<sup>18</sup>

Providing a balance to Rev. Johnson's reputation as a social activist was the fact that the leadership of the Pulpit Forum also consisted of more senior clergy, such as Rev. Benjamin Foust, as well as the pastors of some of Greensboro's most prominent African-American congregations, such as Baptist minister Rev. Gregory Headen.<sup>19</sup> Together, these pastors combined moral authority and social credibility with activist politics and organizing experience. Most important of all, they shared a desire and willingness to employ their pulpits to raise awareness of issues of social injustice in their community.<sup>20</sup>

A fellowship of pastors committed to confronting 'power and

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18. See Krouse, *Lessons Learned*, *supra* note 2.

19. See *id.*

20. See *id.*; see also Lex Alexander, *Ministers Hear a Call to Speak Out*, GREENSBORO NEWS & REC., Sept. 29, 1996, at E1.

principality,' a scrappy Southern textile union drawing confidence from hard-fought victories, and a fearless cadre of worker activists: these were the main components of the coalition which would confront Kmart in Greensboro.<sup>21</sup> The success of this alliance necessitated a commitment to action, along with the coordination of partners who were not easily understood by each other.

The coalition of the union and Pulpit Forum required the willingness of each to modify its familiar modes of activism. For the pastors, this meant watching community meetings take on the flavor of union rallies, and for union organizers, watching picket lines take on the spirit of prayer vigils. For each, it meant occasionally stepping back so that the other could take the leading role, and understanding that certain messages and certain venues required one to remain silent for the other to be heard.<sup>22</sup> Accepting this division of labor and developing the trust that it required was essential to the coalition's success.

Yet if they were committed to helping the Kmart workers win, neither pastors nor union organizers had much choice but to act in concert. The pastors clearly recognized that any gains achieved by the Kmart workers would have to be delivered at the bargaining table through negotiations between Kmart and the union.<sup>23</sup>

It was also clear to the union's leaders that going alone would mean having the struggle portrayed according to the traditional terms of labor relations, in which the workers' fight against poverty wages, degrading treatment, and retaliatory firings would be pigeon-holed into the category of a "labor-management dispute." Allowing this would result in the conflict being viewed, at best, as a threat to local economic growth, a conflict in which the larger community had little at stake. In Greensboro, where, as in so much of American society, the moral claims of workers often go ignored, it was necessary to find different messengers and a different message in order to be heard.<sup>24</sup>

When articulated by clergy, who by their very positions possess moral authority, the social relevancy of the workers' struggle was much harder to ignore. When the Kmart workers alone held a sit-in protest at the Kmart-sponsored Greensboro Golf Open in 1994, they were dismissed in the local press as making "fools of themselves" and "attacking the Greensboro community."<sup>25</sup> After the arrests of the pastors eighteen months later, the

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21. See Diane E. Lewis, *A Union of New Energy, Old Tactics Scrappy Product of Two Old-Line Textile Unions: UNITE is Winning Battles and Raising Hackles*, THE BOSTON GLOBE, Oct. 20, 1996, at F1.

22. See Alexander, *supra* note 20.

23. See *id.*

24. See *id.*

25. *Union Lost Credibility in Protest to Jaycees*, GREENSBORO NEWS & REC., Apr. 16, 1994, at A8.

same newspaper ran a much more ambivalent editorial entitled "Kmart Workers Test Objectivity of All." The article suggested that the involvement of the ministers gave the workers' demands a credibility that could not easily be denied.<sup>26</sup>

The issue of race also made it impossible to cast the conflict as "just a labor dispute." While African-American workers frequently called attention to alleged incidents of racial discrimination, inside the distribution center there was a strong tendency for union supporters, both white and black, to downplay the struggle's racial aspects and unite their coworkers around shared issues in the workplace. Yet, when it came to the way the workers' struggle was viewed outside the facility, it was clear that racial elements resonated most strongly in the broader community.<sup>27</sup>

Race, rather than the "labor-management conflict," acted as a lens through which the moral aspects of the struggle could be seen more clearly and better understood by the community at large. African-American workers who experienced discrimination at the distribution center lodged complaints not only with the NLRB, charging Kmart with retaliation for their union activities, but also with the E.E.O.C., accusing the company of racial bias as well.<sup>28</sup>

Through extensive research, ACTWU established that not only was the Greensboro distribution center the lowest paid of any Kmart facility of its type, but also was the only one with a majority non-white workforce.<sup>29</sup> In April 1996, Kmart filed suit against a number of pastors and Kmart workers for damaging business at its stores. In answering the company's charges, the defendants noted that although many white workers and ministers had participated in the boycott protests, the only defendants named in the complaint were black clergy and employees.<sup>30</sup>

Through the combination of these two elements—the public leadership of African-American clergy and a focus on the moral issues at stake in the conflict—the workers' fight with Kmart was transformed from a simple labor dispute into a community-based struggle. Contributing to this transformation were conscious moves by the union and the Pulpit Forum to develop grassroots support for their efforts and to draw on the Greensboro community's own traditions of struggle.<sup>31</sup>

The union and the Pulpit Forum did not seek endorsement from

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26. See *Kmart Workers Test the Objectivity of All*, GREENSBORO NEWS & REC., Dec. 19, 1995, at A10.

27. See Alexander, *supra* note 20; see also Krouse, *Fight Larger*, *supra* note 8.

28. See Sheila Long, *Kmart is Subject of Labor Complaint Based on Workers' Charges*, GREENSBORO NEWS & REC., Apr. 5, 1994, at B5; Kelly Simmons, *Charges Filed in Kmart 660 Protest*, GREENSBORO NEWS & REC., Apr. 25, 1994, at A7.

29. See Krouse, *Lessons Learned*, *supra* note 2.

30. See Alexander, *supra* note 20.

31. See *id.*

national organizations like the AFL-CIO or NAACP leading up to their call for a Christmas season boycott of Kmart in the fall of 1995. Instead, they called only for a boycott of Kmart's six local stores in the Greensboro area, and prior to announcing the boycott, collected over 10,000 signatures of local residents on a petition to Kmart supporting the workers.<sup>32</sup> As a setting for the press conference announcing the boycott, they chose the former Woolworth store that had been the site of the historic 1960 lunch counter sit-in.

As the boycott progressed, the authenticity of this locally-rooted effort, led by a group of pastors drawing on a community's own tradition of struggle, drew attention to the struggle far beyond Greensboro. In March 1996, the campaign garnered coverage in publications as diverse as the *Los Angeles Times* and *Black Enterprise* magazine.<sup>33</sup>

Kmart feared that the images defining this local struggle, such as of African-American pastors being arrested while praying in a Kmart parking lot, were ones that would also strike a chord with customers outside of Greensboro, and especially African-American consumers. This fear clearly played a key role in the company's decision to reach a settlement with the union. Kmart, like many retailers, understood the importance of its image, and obviously had no desire to become the next Denny's or Texaco.

In their contract settlements with Kmart, the first in 1996 and then a renewal in 1999, the Greensboro workers made gains which substantially corrected the disparities in wages and benefits which had existed before unionization. By the end of the current union contract, top pay for general warehouse workers will be over twelve dollars per hour, an increase of nearly fifty percent from 1996 levels. Workers have also achieved parity in benefits with other Kmart distribution center employees, doubling their yearly allowance of paid leave. Greensboro is the only Kmart distribution center where employees enjoy Martin Luther King Day as a paid holiday.

Just as significant is the inspiration that the Greensboro workers' victory has provided other Kmart employees around the country. In the last two years, workers at two other Kmart distribution centers in Morrisville, New Jersey and Warren, Ohio have organized with the United Auto Workers (UAW). During both union campaigns, the UNITE local at the Greensboro facility sent its president, Sullivan Hamlet, to meet with their fellow Kmart workers and share the story of their struggle.

The Greensboro experience provides not just inspiration, but concrete lessons as well. First is the recognition that because such battles are fought

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32. See Meredith Barkley, *Ministers May Boycott Area Kmart's*, GREENSBORO NEWS & REC., Nov. 15, 1995, at B4.

33. Mike Clary, *Workers Say Kmart Short-Changing Them*, LOS ANGELES TIMES, Mar. 31, 1996, at A23; Yana Ginburg, *Kmart Boycott Spreads Nationally*, BLACK ENTERPRISE, July, 1996, at 17.

out in the arena of public opinion, the framing of the struggle is essential to the victory. Would the Kmart workers' fight be seen as a labor-management dispute or a civil rights campaign? Would Kmart's practices in Greensboro be viewed as providing jobs or perpetuating discrimination? The outcome of the conflict often lies in its definition.

Second is to appreciate that coalitions work best by partnering organizations whose strengths are complementary—such as the clergy with its moral authority and the union with its experience—in confronting corporate power. Seizing the potential of such a coalition requires a willingness to reconsider usual ways of acting, and compromises are necessary to bring the power of the church to the picket line and vice versa. The resulting combination, in this case of strategic resources and public credibility, can create power that is unavailable to either partner individually.

Such coalitions are most authentic when the participants bring to them their own traditions of struggle, such as the hard-fought history of southern union organizing, and the heritage of Greensboro's home-grown civil rights movement. For the Greensboro Kmart workers, claiming their victory meant claiming both legacies as their own.