AIDS DRUGS FOR ALL:
SOCIAL MOVEMENTS AND MARKET TRANSFORMATIONS

Ethan B. Kapstein* and Joshua W. Busby**
*LBJ School of Public Affairs, University of Texas at Austin and Center for Global Development
**LBJ School of Public Affairs, University of Texas at Austin

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ABSTRACT

Markets provide a mechanism for allocating goods and services, but they don't always work in the way that political and economic agents deem to be consistent with their interests. Take pharmaceutical products, the main topic of this book. Should drugs be allocated by free markets and priced accordingly, or should public agencies and the private sector seek to make them widely available according to some definition of need? Because the answers to such questions are open to debate—as exemplified by the fact that societies around the world approach the issue of access to health care quite differently—markets may become contentious, as governments, firms, and consumers all seek a hand in shaping patterns of supply, demand, and price.

This is a book about market transformations and, more specifically, about how social advocacy movements have inserted themselves into market processes with the objective of changing their outcomes or distributive effects. The particular case that we examine focuses on how the AIDS treatment movement was able to catalyze a profound transformation in the market for antiretroviral (ARV) medications at the turn of the millennium, from one whose business model was "high price, low volume" to one characterized instead by "universal access" meaning that everyone, everywhere should be able to obtain ARVs regardless of their nationality or income level. In short, ARVs were transformed from private goods into what we call "merit goods."

How and why did that dramatic change occur in the marketplace for antiretroviral drugs? And what are the lessons for other issue-areas? These are the central questions we raise in these pages. In so doing, we offer a theory of strategic moral action, which provides the conditions under which advocates are most likely to be successful in achieving sustained market transformations. Accordingly, in addition to examining the prospects for market transformation in other areas of global health, we also compare the AIDS story against a range of cases where advocates have tried to influence economic behavior and outcomes such as climate change.

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Preface

"*We must lay hold of the fact that economic laws are not made by nature. They are made by human beings*." Franklin D. Roosevelt, Presidential Nomination Address, 2 July 1932

Markets provide a mechanism for allocating goods and services, but they don't always work in a way that participants deem to be consistent with their interests. Take pharmaceutical products, the main topic of this book. Should drugs be allocated to patients according to free market dictates, or instead be guided by some overarching set of social norms such as "need"? Should all drugs be made universally available or only the select few that are "essential" or "life-saving"? Because the answers to such questions are open to debate, the markets for drugs among other products and services may become fields of contention, as governments, firms, and consumers all seek to influence patterns of supply, demand, and price.

In fact, recent years have seen an explosion in the number of advocacy campaigns aimed at changing the behavior of multinational corporations. Among other objectives, these campaigns have sought to limit fossil fuel emissions, promote "fair trade," protect global fisheries, prevent exploitation of workers, and reduce habitat destruction. What these diverse movements have in common is an effort to change the way that markets currently function.

This is a book about market transformations, or efforts by social movements to change global market processes and their distributive effects. Our main case study is drawn from the pharmaceutical industry, and, more narrowly, we examine how social activists and policy entrepreneurs in the public and private sectors (to whom we collectively refer as "advocates") decisively shaped the market for the antiretroviral drugs (ARVs) that are used to combat HIV/AIDS. Specifically, we are interested in the profound changes that occurred in this market at the turn of the millennium, from one whose initial business model was "high price, low volume" to one that was characterized by "universal access to treatment," meaning that everyone, everywhere should have access to ARVs no matter their location or income.

How and why did that dramatic shift in the market occur? How were ARVs transformed from private goods into what we call "merit goods," or products that nobody should be denied? What are the lessons from HIV/AIDS for other issue-areas where advocates seek market changes, as in climate change and carbon markets? These are some of the questions we seek to address in the chapters that follow.

Despite a recent resurgence of scholarly interest in market contention, this area of research has been surprisingly dormant for most of the postwar era. Perhaps that reflects the rending of the market from its social environment by modern economics in an effort to build more tractable mathematical models. The consequences of that separation, however, have not gone unnoticed, even by some leading economists themselves. As the Nobel Prize winner Gary Becker wrote many years ago, "the emphasis of earlier economists" on how social relations shaped economic behavior "deserved to be taken much more seriously" by the profession (Becker 1974).

To take an example from the AIDS case, economists have generally argued that what brought down the price of antiretroviral drugs around the world was entry by low-cost generic producers, just as these producers have driven prices down on many medications that are now on offer (see, e.g. Hellerstein 2004). In this version of events, the market acts "naturally" or "spontaneously," with new entrants forcing competition upon the incumbent firms. What this perspective overlooks, however, is that the ground work for generic entry was laid by advocates who sought to show in the first instance that ARV delivery in the developing world was effective, and who then helped to pool demand in order to create a market sizeable enough to be of commercial interest. Finally, they helped spur industrialized world governments to increase foreign aid funds that were earmarked for AIDS treatment, so that developing world governments could acquire the drugs at these reduced prices. Generic drugs, in short, did not "drop by parachute" into the developing world; their entry was catalyzed by advocates, that at a minimum helped save many lives by speeding drug delivery.

In this book we examine in detail the campaign that was dedicated to ensuring "universal access" to antiretroviral treatment for all People Living with AIDS (PWAs). Imagine the audacity of such a movement whose objective was nothing less than the creation of the world's first global entitlement regime, of providing drugs to all who needed antiretrovirals for their entire lifetime (Over 2008; Piot 2012; Over 2011). As we will show, providing something approaching universal access required what must be called, without hyperbole, a heroic effort on the part of social activists, policy entrepreneurs, and sympathetic corporate executives, for it required profound changes in the supply and demand of antiretrovirals, and in the way these drugs would be priced. It also required a set of new and innovative domestic programs and international institutions to support the universal access to treatment regime. In short, the move toward universal access to treatment required a profound transformation in how the market for these essential, life-extending drugs operated.

We believe that this book is among the first to trace in detail how a product market was altered by a social advocacy movement; how supply, demand, price, and institutions were decisively shaped by political agitation (for a book with some parallels, see Rao 2008). In so doing, we hope to contribute to social science by digging deep into market processes and outcomes in an effort to find the "moving parts" that are amenable to external manipulation. One phrase we often heard during our research from those we interviewed was that "the stars were aligned" in the AIDS case on behalf of the universal access to treatment regime (Piot 2009). This astrological vision suggests that the possibilities for market transformation might be few and far between, demanding those rare moments when Jupiter aligns with Mars. The issue that we raise is: what are the forces or moving parts that advocates themselves can harness to help align those stars?

There is, of course, a growing literature that examines market-oriented social movements and the conditions under which (anti-) corporate campaigns have "succeeded" in influencing firm-level behavior (O'Rourke 2005; Spar and La Mure 2003). This literature has generated a number of hypotheses about the conditions under which firms are most likely to bend to non-market pressures. These include the degree of brand recognition (the better known the brand, the more susceptible it is to pressure); the costs of changing production processes (the higher the costs, the less likely that firms will submit); and the competitive position of the firm (the better situated the firm is to use "corporate social responsibility" as a source of competitive advantage, the more likely it will negotiate with the advocates). We believe these provide useful starting points for analyzing movement activity.

We build on that literature by developing our own view of the role of advocates in spurring market transformations, what we call a theory of *strategic moral action*. Our theory argues that market transformation in the case of antiretroviral drugs required the following: *first*, a market structure or favorable set of underlying economic and industrial conditions that provided opportunities or openings for an advocacy movement; *second,* the elaboration by the AIDS movement of a compelling frame that pitted drug company profits against global access to life-saving antiretroviral medications; *third*, a political and organizational consensus or coherent "ask" on the part of the social movement that treatment should receive the highest policy priority, trumping, for example, prevention; *fourth*, a feasible strategy (defined in this case as one that minimized the costs of market transformation to the major players) for how a universal access to treatment market could be made to operate; and *finally*, a set of institutional arrangements to help set the rules for the transformed market and to stabilize its operations.

The AIDS movement thus presented a strong argument for universal access to treatment by appealing both to the emotions and to the intellect of its intended audiences in business, government, international organizations, and civil society; in other words, the movement combined a powerful ethical story about what constituted justice and fairness with what seemed to be a compelling or feasible business case. In the introductory chapter, we frame this argument in more precise terms by generating a set of hypotheses about the conditions under which social movements are most likely to be successful in generating market changes.

When one looks at the ARV example from this analytical perspective, it illuminates why some other movements – like those which seek to tackle climate change – have had greater difficulty in advancing their cause. In addition to the fact that the costs for many firms (like oil companies) of adjusting to climate change could be quite high, leading them to balk at movement demands to reduce their carbon footprint, climate change activists among themselves have, after converging on a politically intractable set of legally binding targets and timetables, subsequently divided over the appropriate "solution" or "ask" to the problem. Throughout, they have struggled to articulate a strong business model that provides a pathway from the present to the future. Some climate change activists focus on the need for deep, short-term legally binding emissions reductions by advanced industrialized countries and compensation for affected poor countries while others emphasize more phased-in, voluntary pledges of emissions reductions by all countries, including fast growing countries like China and India. We would argue, at a minimum, that the climate change movement will need to achieve a clearer strategy regarding its policy "ask" if it is to have a profound impact on the energy market.

This book unfolds in eight chapters. First, the Introduction provides an overview of the literature on social movements and market contestation, before turning to our own theoretical argument and specific hypotheses about the conditions under which these movements are most likely to catalyze market transformations. In Chapter Two, we examine the structure of the pharmaceutical industry and market for antiretrovirals that provided advocates with "openings" for their campaign. The third and fourth examine how advocates made a compelling moral argument and cohered around a common set of demands. In the fifth chapter, we explore how advocates sought to address the concerns by governments and firms about the costs of their policy "ask" for expanded treatment access. Chapter Six then turns to the institutions that were developed to help stabilize the new access to treatment regime. We try to generalize from the AIDS case in Chapter Seven by examining the potential for market transformation in several other issue-areas that have been the focus of advocacy movements, while Chapter Eight presents our conclusions and "take-aways" for the public policy, business, and advocacy communities, as well as our ideas concerning next steps for a research program on market politics. For readers less familiar with the history of this period, we provide a brief summary of key events and an accompanying timeline of key dates as appendices to the Introduction.

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A great joy in writing this book was that it led us to interview a truly remarkable group of individuals, who combined great passion with acute strategic and political acumen as they moved the international community to embrace the universal access to treatment regime. Dr. Peter Piot, formerly director of UNAIDS and now director of the London School of Hygiene and Tropical Medicine, was a tremendous supporter of this project from its inception, and was incredibly generous with his time. His own memoir of his time at UNAIDS, *No Time to Lose*, also provided a useful chronicle to draw upon. Others who assisted our efforts include Zackie Achmat, Christoph Benn, Daniel Berman, Nancy Birdsall, Paul Boneberg, Kate Condliffe, Mark Dybul, Dai Ellis, Richard Feachem, Loon Gangte, Laurie Garrett, Mauro Guarinieri, Gregg Gonsalves, Ian Grubb, Bill Haddad, Yusuf Hamied, John S. James, Sandeep Juneja, Karyn Kaplan, Michel Kazatchkine, Kate Krauss, Bob Lederer, William Looney, Ira Magaziner, Mark Milano, Stavros Nicolaou, Mead Over, Bernard Pécoul, Shailesh Pednekar, Carmen Perez-Casas, Joseph Perriëns, Ben Plumley, John Riley, David Ripin, Asia Russell, Badara Samb, Eric Sawyer, Anil Soni, Ellen 't Hoen, Andre van Zyl, and Brenda Waning. Of course, they bear no responsibility for the final product. We also had the assistance of numerous public officials, many of whom prefer to remain anonymous. We would like to thank Dylan Mohan Gray and David France, the directors, respectively, of *Fire in the Blood* and *How to Survive a Plague,* for allowing us to screen their films before wider public release. We would also like to thank Anne-christine d'Adesky, Shanti Avirgan, and Ann Rossetti for making additional interview material from the documentary *Pills, Profits, and Protests* available to us. We would also like to thank Bob Lederer and John Riley for sharing additional foundational material from Health GAP's early meetings and emails. We hope all of them will feel we have made good use of the time and materials they generously shared with us.

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EBK and JB

Austin, TX

Introduction: Global Markets and Transnational Social Movements

"In the beginning there were markets." Oliver Williamson, *Markets and Hierarchies* (Williamson 1983, 20)

"In the end, if we don't have drugs, people are going to die." AIDS Activist Gregg Gonsalves, Interview, ACT UP Oral History Project, 19 July 2004
(Gonsalves 2004)

Markets are mechanisms for allocating goods and services. But what if some people are unhappy with the outcomes of market-based distributions? How can the allocation of goods and services be changed or transformed?

Take, for example, the market for life-extending AIDS drugs, which provides our focal point. Ever since the appearance of these drugs in the 1980s, their very nature as economic goods has been hotly debated by stakeholders around the world. Are antiretroviral (ARV) drugs intrinsically private goods, like computers or cars? Or are they public goods that every member of society should have access to, like clean air or national security? Raising these questions suggests that the very nature of a good can be contested, its supply, demand, and price the subject of political debate.

This book is about a profound change that occurred in the allocation of life-extending antiretroviral medications, from a model that was "high price, low volume" to one based on "universal access to treatment." We argue that advocates, including AIDS activists around the world, policy entrepreneurs in national governments and international institutions, and even some corporate executives who became devoted to this cause, challenged the market structure for these drugs, from one based on "ability to pay" to one based on "universal access." We show how social activists and their allies in government and business (we use the umbrella term "advocates" to refer to all those who made common cause in the campaign for universal access to AIDS treatment) helped *transform* ARVs from private goods into "merit goods," or private goods which everyone *should* have access to, regardless of their ability to pay for them. We then consider the lessons from the AIDS case for several other market arenas both within and outside public health.

The idea that a product's fundamental nature as a "private good" can be contested is of fundamental importance to the study of political economy. Whereas most economics textbooks assume that the division between different types of goods (i.e. public goods vs. private goods) is straightforward and "fixed" over time, we will see that advocacy movements have managed to "problematize" these markets in several different sectors. In some markets, like those for the antiretroviral medications that combat HIV/AIDS, advocates have even succeeded in transforming what we call the "principle of access" to them, or the way these goods are allocated on a global basis. Issues of drug access are thus the real stuff of politics—of who gets what and why.

At the level of the international political economy, which is the arena that we examine in these pages, the issues of market structure and transformation are particularly compelling, since they are even more contentious and contestable. In the global economy, there is no ultimate arbiter of public opinion, no state with a monopoly on violence that can set the rules of the game for all of the many players, including national governments and multinational corporations. In this arena, transnational social movements cannot make reference to "the constitution" or file all their grievances in courts of law, for these sorts of institutions are generally weak or altogether absent. Further, at the international level, advocates may not even have legal "standing" in those organizations where quasi-legal bodies are present (for example, the dispute resolution panels at the World Trade

Organization). Indeed, this is one reason why multinational corporations have become the object of transnational advocacy movements, since they can seek to change at least some aspects of how the global economy operates—how, for example, firms care for the health and safety of their workers in the developing world—by influencing the stroke of a chief executive's pen.

In this opening chapter, we introduce the topic of how advocacy movements can influence market structures and outcomes and outline the contribution we hope to make to the growing literature in this vibrant field. We attempt to extend this literature by generating some testable hypotheses concerning why certain movements are more successful than others in achieving a fundamental market transformation. To date, much of the literature on movement success has emphasized the *internal* resources and capabilities that advocates can muster as they launch their campaigns. Our emphasis, in contrast, is on the opportunities or openings generated by market and industry structures in particular economic sectors.

Why, for example, has it proved so difficult to transform the market for carbon by setting a firm price for that substance or by taxing it more aggressively? What are the barriers to change that the climate movement faces that the access to AIDS treatment campaign was able to overcome? Was it the immediacy of the AIDS threat, its choice of "life or death"? Is it simply easier to transform pharmaceutical vs. energy markets due to the respective structures of these industries? Or is it because the AIDS movement had a more targeted and coherent "ask"? By examining such questions in this book, we hope to shed light on what factors are most important in determining the likely success of a social advocacy movement as it engages in an effort at market restructuring.

Markets and Market Transformations

This is a book about the role of social movements in transforming the global marketplace for AIDS drugs. But what is a market? And what is a market transformation? Definitions of these concepts are surprisingly absent from many contemporary textbooks, so a brief overview will provide useful guidance for the discussion that follows.

In the simplest terms, markets may be viewed as arenas where economic agents meet to exchange goods and services. This interaction can be conducted in barter terms—as has often been the case throughout history (and still is today in various corners of the planet)—but it is more often than not shaped by money-based prices. These prices provide agents with signals about the conditions of supply for the things they crave, or the relative scarcity of the good. As the Scottish essayist Thomas Carlyle (who is also credited with describing economics as the "dismal science") famously put it: "Teach a parrot the terms 'supply and demand' and you've got an economist."

In most cases, the price of a good and the demand for it are of course inversely related, and markets are said to "clear," or to be in equilibrium, at the point where, at a given price, supply is equal to demand. Further, when markets are competitive, rents or extraordinary profits are driven away (since rents induce market entry) and prices reflect marginal cost, or the cost to the firm of producing the very last good.

This leads to the normative view, broadly held by most economists, that competition should be encouraged by breaking down the barriers to entry that may exist in any given market (in fact, the introduction of competition solves many if not most economic ills, at least in theory). It should be emphasized that the competition norm has had important public policy implications for any number of industries, including pharmaceutical manufacturers, where entry by generic firms now plays a crucial role in bringing down the prices of drugs once patents have expired—and sometimes even beforehand, as we will see was the case with ARVs.

Economists have generally been less concerned, however, with the distributive effects of market transactions. The textbook view, usually implicit, is that consumers can purchase goods and services as they so choose and are only constrained by their budgets. The idea that the budgetary constraint may prevent some people from acquiring goods and services that are necessary for their survival or well-being is not one that is featured in most economic discussions. Instead, that problem has been largely left to the philosophers, like the late John Rawls, who famously argued that, if societies were organized from behind a "veil of ignorance," people would adopt a "maximin" principle, such that society would seek to maximize the life-chances of the most vulnerable among them (Rawls 1999).

It is the distributive consequences of market-based allocations that are often the root cause for anti-corporate campaigns. Anti-sweatshop campaigns, for example, dispute the division of rents between branded fashion companies (like Nike) and their (contract) workers (who often labor in the developing world, where wages and regulations are low by the standards of most industrialized nations). Patient advocacy campaigns, in contrast, often dispute the price of drugs, which places them out of reach for many consumers. For this reason, advocates often pursue what we call *market transformations*, or new principles of market access.[1] In the case of antiretrovirals, they sought to transform the market from one based on the "ability to pay" to one grounded on the principle of "universal access to treatment." In the case of wages for "sweatshop" labor in the developing world, they sought to transform contract workers from being treated as mere commodities into employees who deserve decent salaries along with better health and safety standards.

Our main objective in this book is to examine the opportunities for market transformation that advocates face and the strategies they adopt in pursuit of that objective. We borrow the term "market transformation" from the energy policy literature, where such a transformation has been defined as a "strategic effort" by utility companies or other organizations to promote "increases in the adoption of energy-efficient products, services or practices." According to a group of energy policy specialists, "the fundamental goal of market transformation is to change markets and thereby save substantial amounts of energy in the long-term" (York 1999).

We are similarly interested in major long-term changes*, specifically in terms of fundamental shifts in the principle of access* to life-extending drugs. Thus, a market (say for drugs) is transformed when its principle of access or allocation shifts from "ability to pay" to "universal treatment," and our dependent variable in this case is the number of people on treatment (particularly people from developing countries). Naturally, the specific objectives that advocates set for market transformation (and thus the relevant dependent variable) will differ according to the particular issue-area at stake. In the case of climate change, for example, the principle might be to seek a level playing field

[1] Here, we define access the way advocates do, in terms of the ability for people to gain access to the goods in question. Economists, for their part, define market access differently in terms of market entry for producers.

between fossil fuels and alternative energy sources (e.g. through the imposition of a carbon tax), and the dependent variable could be adoption or take-up of new energy technologies.

Market transformations are difficult to achieve for many reasons, not the least of which is that markets may serve some interests at the expense of others, such as those of the dominant or incumbent firms versus those of potential new entrants. Regulations, for example, may serve as a barrier to entry for potential competitors. For this reason, it is often the underlying institutions or sets of rules that support or, to use Neil Fligstein's term, "stabilize" market structures that are the target of advocacy movements, no less than the firms themselves (Fligstein 2002). Since these rules are often written by governments, advocates in the domestic context have long pursued "contentious politics" aimed at changing legislation or judicial opinion, for example through lobbying and law suits, instead of "private politics" aimed at changing corporate behavior (Baron 2005); increasingly, however, they are deploying both strategies.

As noted above, many scholars have argued since at least the time of Karl Marx that markets do not necessarily level the playing field among economic agents but instead represent and reproduce the underlying power configurations that shape socio-economic relations. To be sure, scholars differ with respect to who holds and reproduces power within markets; for Marx and his followers it was the "ruling class" or elites, while Fligstein focuses on incumbent or dominant firms. Both agree, however, that the market is hardly a "neutral" setting; it is tilted in the interests of some over others. Dani Rodrik of Harvard's Kennedy School of Government asserts that "…economic rules are not written by Platonic rulers…Those who have power get more out of the system than those who do not" (Rodrik 2002, 19). That makes markets and the institutions that support them a natural field for political contestation, since politics is ultimately about the distribution of power and authority.

More generally, Fligstein makes a functionalist argument that market institutions, like property rights, exist to *stabilize* the exchange process. These institutions are built by the dominant firms in a given market, as they seek to reproduce themselves over time; that is, they build institutions that they believe will enhance their own chances of long-run survival. These institutions, *inter alia*, serve to limit competition by creating barriers to entry of various kinds. At the same time, firms may try to build labor market institutions, such as the "cooperativist" social arrangements found in Northern Europe's social democracies, in order to stabilize relations between employers and workers. Firms also demand systems of property rights—e.g. patents, trademarks, copyrights, and the rule of law more generally—that fix their monopoly power for at least some period of time and provide them with the security or protection needed to conduct their operations (Fligstein 2002).

Economists now accept, at least implicitly, much of this sociological view of market structures. But an important normative gap still tends to separate the economists and sociologists. For their part, economists would hold, *ceteris paribus*, that monopolistic markets tend to be inefficient as compared to the competitive alternative. Sociologists as a group, in contrast, would probably hold that efficiency may be consistent with many different types of market structure, and that these structures are "sticky," being deeply embedded in local political and cultural configurations. Indeed, it is because there is no single way to achieve efficiency that the "varieties of capitalism" can co-exist without convergence, ranging from the Anglo-Saxon to the Scandinavian models of economic life (Hall and Soskice 2001; Fligstein 2002; Granovetter 1985). Still, the normative position held by most economists is that monopoly anywhere should be frowned upon (with the exception of "natural" monopolies like power plants, which then need to be regulated) and that steps should be taken, usually by governments, to undermine monopolistic positions in the interests of a more efficient economy.

That normative position, in turn, leads economists to assess markets in terms of their *contestability,* or the ability of competitors to threaten a monopolist with market entry, thus eroding its rents. It must be emphasized that it is the very *threat* of entry that drives down monopoly prices near the competitive level, without any regulatory actions on the part of policy-makers (Baumol 1982; S. Martin 2000). This observation implies that efficient outcomes can be approximated even in the absence of fully competitive markets.

The concept of market contestability is an intriguing one to build upon for students of market-oriented social movements, although it does not yet seem to have made much of an impact on the relevant social science literature. One powerful implication, however, is that action by "non-market" actors, like social movements, can be efficiency-enhancing to the extent that such actions erode the monopoly rents of dominant firms. In this respect, these movements might be usefully conceptualized as, to use the jargon from welfare economics, "social planners," taking over the role once reserved for formal regulatory authorities within that literature. That social planning role of advocacy movements, or role as a public goods provider, is likely to be all the more prominent and contentious in the global political economy, where international regulatory authorities are often weak or absent. As Tim Bartley succinctly asserts, “The driving forces in this account [of market contestation] are conflicts among states, NGOs, social movements, and firms about the legitimacy of various ways of regulating global capitalism” (Bartley 2007, 310).

By encouraging generics manufacturers to enter the antiretrovirals market, for example, advocates helped to generate competition and lower prices for these drugs. The specific actions that advocates took included lobbying governments to adopt a public health exception to the international intellectual property regime and organizing developing countries into a pooled set of buyers, thereby creating a viable market. At the same time, they prodded industrialized world governments and the United Nations to create procurement mechanisms and to provide funding for the purchases of these medications. Advocates provided a host of other “services” to the market as well, including gathering crucial information about the price of antiretroviral drugs that gave the market a transparency that it had previously lacked. Again we stress that these various market-oriented functions may be of particular importance in the setting of the global political economy, where international organizations do not always fill these institutional voids.

But it is also important to point out that the interactions between firms and social movements need not lead to more efficient economic outcomes. Instead, corporate executives and advocates could conspire to form a condominium, dividing the rents between them at the expense of consumers. Higher certification standards, for instance, could reward big firms at the expense of small ones as they can more easily afford to adopt the new standards, and the non-governmental organizations that promote these standards can gain rents by providing firms with the specific certification (e.g. for "fair trade" coffee or for "sustainable" forest products) that they seek for labeling purposes. From this perspective, activists can be seen as rent-seekers rather than social planners (Kapstein 2001).

Advocacy movements that target the pharmaceutical sector might undermine consumer welfare in another, "inter-temporal" way as well. Let us suppose, for example, that social movements succeed in pressuring pharmaceutical manufacturers to reduce prices for "essential medicines." That may be good for consumers in the short-run, but in the longer run it may reduce the incentives of these firms to invest in research and development, undermining public health in future (Piot 2012, 308; Waning, Diedrichsen, and Moon 2010). These inter-temporal issues are of tremendous significance, and we will discuss them in the following chapters.

Global Markets and Transnational Social Movements

Market contention is a permanent feature of economic life. Whether the issue is the commodification of labor (as emphasized by Marx and Polanyi), property rights (as emphasized by de Soto), or the role of the private sector in society (as emphasized by Berle and Means), political and economic agents have contested market processes and outcomes (Marx 1978; Polanyi 1944; de Soto 2000; Berle and Means 1932). Traditionally, consumer movements and labor unions have been among the leaders in these struggles (Friedman 1999; Glickman 2009); more recently, however, advocacy groups that are issue-specific (e.g. those that target human rights or global poverty) have begun to attack firms directly as their preferred method for promoting social change (Soule 2009).

In recent decades, several of these social movements have matured and mimicked the globalization process in becoming "transnational," as exemplified by the geographic spread of such prominent groups as Oxfam, Doctors without Borders (we will use the acronym MSF, for its French name *Médicins sans Frontières*), and Greenpeace. Of course, transnational groups like the Roman Catholic Church predate modern globalization by many centuries. This "transnational activism" has become the subject of an expanding literature in social science, as scholars have sought to analyze the role that these movements play in putting such issues as human rights and environmental causes on the agendas of governments and multinational corporations (Tarrow 2005; Keck and Sikkink 1998; B. G. King and Pearce 2010; J. Busby 2010a). Economists are also placing their distinctive stamp on this literature, developing formal models that, among other things, seek to clarify assumptions about the objective functions of social movements, illuminate the costs and benefits of different movement strategies, and outline the possibilities for regulation outside the public sphere, or what David Baron has called the emergence of "private politics" (Baron 2005).

This body of literature has taught us much about what Sidney Tarrow calls "contentious politics," or the ability of seemingly marginal groups or "outsiders" to upset the political and economic *status quo* (Tarrow 2005). It has emphasized the crucial importance of how activists "frame" and "scale" their issues, like "being green" or "fighting global poverty," for elites and the broader public in an effort to promote policy changes within governments and firms (within the social movements literature, contentious politics generally refers to advocacy which is targeted at governments, whereas "private politics" refers to advocacy targeted at firms (Baron 2005; Soule 2009). We use both terms in our discussion of the AIDS movement, since governments *and* firms were both targets and their engagement was needed to make the market transformation towards universal access possible).

Scholars have also described both the internal organizations of movements on the one hand and the "political opportunity structures" in the external environment on the other that are most conducive to movement "success" (Soule 2009). Research has further demonstrated through detailed process-tracing how the norms held by transnational social movements can "cascade" onto policy agendas by creating "shared meanings" or understandings for diverse stakeholders to a political debate. In the global context, finding shared meanings is especially challenging, given that societies around the world are characterized by very different normative commitments. In that regard, Keck and Sikkink find that defense against "bodily harm" and legal "equality of opportunity" are two norms that tend to resonate on a global basis (Keck and Sikkink 1998).

Naturally, there are significant differences between domestic and transnational social movements. For their part, domestic movements are usually able to capitalize on existing political and legal structures as the basis for their claims. Successive rights-based movements in the United States, for example, made claims based upon the nation's foundational document, the Constitution. Often making use of the courts, these movements challenged the laws of the land on a constitutional basis, forcing the judicial branch and ultimately legislatures to make fundamental determinations about the standing of claimants and their grievances. From this perspective, advocates for human rights, as with other social movements, face a particularly harsh climate in the international sphere, since few global bodies exist that possess anything like constitutional power.

This point is worth further emphasis. In "attacking" the international system, advocates have few lifelines to grab hold of; they lack the frameworks provided by domestic institutions like courts and legislatures. This relative weakness of advocacy groups helps to explain why multinational firms have become favored targets, since changes in such firms can be "made global" by unilateral decisions made in the corner office. It also helps to explain why the most quasi-constitutional body in the global economy, the World Trade Organization, has also been a focal point of activity, since its agreements are among the closest thing the international community has to a legally binding set of obligations (a point emphasized by Koppell 2010). In fact, one element in the pharmaceutical industry structure that was exploited by advocates for global public health in the 1990s was the fluid nature of the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS); controversy over TRIPS provided an "opening" for advocates to enter, and they shaped the TRIPS debate by providing information and advice, particularly to developing world governments.

How and when advocates choose to threaten firms and how such contestation is resolved is a topic of growing interest both within and outside the academy (Baron 2005; Bach and Allen 2010). As Brayden King and Nicholas Pearce note:

> The focus of this research is on social movements and other change agents that bring contentiousness to markets…[F]or markets to survive, they must be able to connect people and organizations, as well as satisfy the needs that each brings to the exchange; however, because markets tend to centralize resources and power,

> because not every member of society has equal access to all markets, and because markets sometimes produce harmful externalities, markets frequently become locations of contestation and disruption (B. G. King and Pearce 2010, 250).

In order to contest the market, however, one must first “deconstruct” it in order to identify its moving parts and target its points of weakness. That exercise demonstrates the enormous challenges that advocates face in altering existing, and presumably “sticky,” market arrangements. Again, as Fligstein has emphasized, market-oriented institutions—like property rights regimes—exist to *stabilize* market interactions and to eliminate “needless” or inefficient disputes over rules and outcomes (Fligstein 2002). If market structures are endogenous to underlying systems of power, it is unclear how and when and by whom these structures can be altered to reflect alternative sets of interests.

The same can be said, of course, about political opportunity structures (POS) or the underlying conditions within a given regime which enable citizens to make their voices heard and to exert real influence over outcomes (Tarrow 2005; McAdam, McCarthy, and Zald 1996). To take a dramatic example, the political opportunity structure available to social movements in Eastern Europe expanded greatly after the Soviet bloc collapsed and democratic regimes came to power. As a general proposition, scholars assert that the political opportunities available to advocates are greater in democracies than in authoritarian regimes.

Even within democratic regimes, we might add, political opportunities to express grievances and to make claims on government may ebb and flow. In the United States, for instance, the Vietnam War discredited the nation’s elites, giving an opening to new voices in shaping political agendas and debates. Out of this opening an array of movements, including those pursuing rights for African-Americans, women, and the gay community, found new possibilities for advancing their respective causes (Hirshman 2012). The French experienced a similar opening in May 1968, which among other things set into motion profound changes in that country's approach to access to higher education (in this sense, May 1968 may have heralded a market transformation in that sector).

The POS concept has more recently been extended to the market realm as an "economic opportunity structure" (EOS) or "industry opportunity structure" (IOS) (B. G. King and Soule 2007; Schurman 2004). Just as the POS seeks to identify the political circumstances that are most amenable to social movements (e.g. democratic vs. authoritarian regimes), the EOS/IOS seeks to do the same from an economic perspective. It therefore identifies the economic conditions, market structures, and firm attributes that are most likely to provide an opening to social movement advocacy (in this book we will mainly refer instead to the "industry" or "market" structure, which we believe is somewhat more felicitous and also more recognizable to those readers from outside sociology. Further, we focus our attention at the micro- or industry level rather than at the macro- or global economy level, which some scholars use as their starting point for EOS analysis).

Drawing from the AIDS example, the campaign for universal treatment enjoyed several opportunities from a structural perspective. First, only a handful of companies initially produced the ARVs necessary for life, so if these few firms reduced their prices, as many of them did in response to advocacy pressure, such moves would dramatically change the global market and open the door to expanded access. Contrast this with other more fragmented sectors like education and water where large numbers of providers would simultaneously have to change their behavior to yield a transformed market favoring access.

Second, the patent protection regime was only extended to drugs on a global basis in the 1990s, as part of the TRIPS process at the World Trade Organization, and aspects of that decision remained sharply contested. As a consequence, controversies over the TRIPS regime, particularly with respect to public health policy, left institutional "openings" that advocates could hope to influence (Devereaux, Lawrence, and Watkins 2006). As an example, South Africa's legal challenge to the TRIPS regime (discussed in more detail in chapters 2 and 5) provided advocates with a prominent "focal point" which enabled them to win substantial media coverage for their "ask" of lower drug prices and, conversely, to deeply undermine the legitimacy of drug patents that seemingly denied drugs to those who needed them by keeping prices high.

Third, the 1990s was a period of turmoil for the pharmaceutical industry's structure and performance owing to a number of trends that all came to a head during this decade, including fading drug pipelines and the arrival of new entrants both on the demand (e.g. health maintenance organizations) and supply (e.g. biotechnology firms) sides of the equation. As a consequence, many firms engaged in global merger and acquisition (M&A) activity, disrupting existing corporate cultures and providing advocates with a space to help set the agendas of the new firms, particularly as many of these mergers required shareholder and/or regulatory approval. To take one example, J-P Garnier, who became chairman of the newly created Glaxo Smith Kline (GSK) in 2000, was very sensitive to activist critiques of the pharmaceutical industry, including shareholder activists who aimed to influence huge institutional investors like CalPers, which managed pension assets for State of California employees (B. King 2008; N. C. Smith and Duncan 2005; Liu and Lim 2003).

Fourth, the pricing structure of the pharmaceutical industry was peculiar, in that many firms practiced "differential pricing" or selling the same drug to different consumers at different prices. Advocates saw this pricing structure as an opportunity, perceiving that wealthy consumers in the North might be persuaded to help subsidize the consumption of AIDS drugs by PWAs in the South.

Advocacy strategies that aimed to transform the market for ARVs used both "contentious" and "private" politics, a common thread in many market-targeted advocacy movements. The environmental movement in the United States, for example, has used the judicial branch to great effect over the past four decades in limiting the development of nuclear power plants, while the AIDS movement disputed the property rights validity of the initial ARV patent, which the firm Burroughs Wellcome received for the drug AZT (Arno and Feiden 1992)

But how do social movements go about influencing and changing the behavior of firms, households, or governments within specific markets, even given a favorable market structure or set of permissive underlying economic conditions (and we note that much of the relevant literature focuses on advocacy movements that target *firms* rather than *industries*; more on this below)? As King and Pearce note, "corporations generally provide few 'conventional access channels' to the non-shareholder public. *Lacking insider influence, social movements respond by using extra-institutional tactics*" (B. G. King and Pearce 2010, 255). They argue that such tactics must be "both persuasive and disruptive. Persuasive tactics communicate a movement's message to a broad audience, make claims that politicize and vilify a practice, and convince third parties of the need for immediate change" (B. G. King and Pearce 2010, 255).

Disruptive tactics, in contrast, focus on bringing wide public attention—and particularly media attention—to a cause. Media coverage is particularly useful to advocates because it "also brings negative information about its target to light and potentially damages the public image of the target through 'naming and shaming' (B. G. King and Pearce 2010; J. Busby 2010a). In the case of HIV/AIDS, the American group ACT UP made strategic use of the media, in part because its founder Larry Kramer had formerly been a Hollywood publicist who well understood the importance of staging media-friendly events (Kramer 2003). ACT UP's success in garnering media attention certainly spilled over to the global AIDS movement (R. A. Smith and Siplon 2006).

In attacking firm policies and activities, social movements tend to target corporate *reputations*, or the intangible goodwill that a firm holds as the difference between its stock price and its discounted cash flows (note there are many definitions of corporate reputation; while one prominent focus is on stock price premiums, other researchers have examined the ability of firms to recruit top-notch workers or to charge higher prices for goods and services than its competitors. Most important, reputation is intangible and this is what makes it difficult for other firms to copy). As a case in point, pharmaceutical firms long garnered reputational capital for "doing good" through the development of innovative new medicines that greatly extended life; incredibly, treatment activists were able to tarnish that reputation, transforming these firms into ruthless monopolists. The AIDS treatment movement ACT UP, for example, held sit-ins at the New York Stock Exchange with banners accusing particular pharmaceutical firms of being complicit in the deaths of those with the HIV virus who could not afford expensive treatments. ACT UP likened AIDS deaths to the Holocaust and compared pharmaceutical executives to Nazis (Hirshman 2012). In short, it exploited well-known moral frames as a prism for its own campaign.

One tangible objective of "reputational campaigns" might be to lower the firm's share price; think of this as the "harm" an advocate can do to a firm. King and Soule (2007), for example, "demonstrate that protests against corporations cause its stock price to decline" and they use this as a proxy measure for damage to the firm's reputation (B. G. King and Soule 2007). Yet one need not demonstrate a causal relationship between activist protests and stock price declines to argue that activism may be influential in changing corporate behavior. If one assumes that most monopolists wish to lead, in the words of John Hicks, a "quiet life," undisturbed by regulators, activists, consumers, or competitors, we can suppose that managers may take preemptive actions as necessary to head off disruptive forces before they become virulent. Evidence suggests, for example, that pharmaceutical firms have voluntarily resisted increasing the price of some of their drugs in the face of public pressures for price controls. During the early years of the Clinton administration, for example, as the President (and his wife Hillary) tried to enact a national health care program, drug companies feared that price controls could be imposed upon them as part of that plan. In their effort to fight such controls, they voluntarily reduced prices on many of their products, especially those used most commonly by the elderly, which represented an important constituency for all sides in the health care battle (Ellison and Wolfram 2006).

Similarly, Bartley shows how “voluntary” certification programs for such goods as forest products and textiles represented an effort on the part of firms to derail any attempts at formal regulation of corporate activities (and this points to why activists normally target the leading firms in a sector that they know will be especially interested in preserving their dominant position and will thus be most likely to adopt pre-emptive, voluntary restrictions on their activities) (Bartley 2007). By targeting leading firms whose value proposition is bound up in their corporate reputation (think Johnson & Johnson or Coca-Cola), social movements may gain the leverage needed to alter firm strategy on particular issues. We note in passing here that this idea of possible preemptive strategic actions by the firm points to the utility of a case study approach to research, since scholars have yet to develop good proxy measures that isolate corporate reputation and, as a consequence, we cannot conduct large-N studies of such activity by managers.

If transnational social movements are to be successful in shaping the political and economic agendas of governments and firms, they must fuse both rational/analytical and emotional/normative appeals into a single “ask.” In fact, earlier studies of the AIDS movement in the United States state that part of the movement’s relative success in advancing its claims was due to this very fusion. As sociologist Steven Epstein put it regarding American treatment activists, “Few social movements are inclined to mix ‘moral crusades’ with ‘practical crusades.’ *Treatment activism in the late 1980s was distinctive for the powerful fusion of these two forms*” (S. Epstein 1996, 232 emphasis added).

Fusing different types of appeal into a single “ask” requires some serious attention not only to how movements “frame” their “messages,” which has been the focus of much of the research on social activism to date (Keck and Sikkink 1998), but it also requires that close attention be paid to advocates' strategies for getting from point A to point B. As an example of a cause that has focused more on the message than on the strategy, take the modern anti-slave trade movement. Unlike the abolition movement of the 19th century, which had a message (slavery is immoral and corrupting) and a strategy (use the Royal Navy to stop the trans-Atlantic slave trade), today's movement only has a message (mainly focusing on the cruelty of the sex trade) without any consensus on how to stop it (Kapstein 2006b; Kaufmann and Pape 1999). Some advocates focus on penalizing prostitution, while others focus on its legalization. Some focus on penalizing the slave traders, others on penalizing the client. While sex trafficking in particular has grabbed more attention in recent years, particularly on college campuses, the advocacy movement to stop it has yet to forge consensus on a single policy ask. Interestingly, however, it does seem to be learning from its traditional lack of strategy, in that the movement is increasingly cohering around a demand for tougher penalties against those convicted of human trafficking.

In contrast, think of the AIDS treatment advocates who we examine in this book. They had a message—that it was fundamentally *unfair* for people in the South to be denied the very same life-extending drugs that people in the North had access to—and they also had a clear and seemingly *feasible* strategy: universal access to treatment on the basis of "cheap" antiretrovirals. The strategy was feasible in this case because the industry's pricing structure permitted cross-subsidization of different consumer groups, while new entrants in the form of generics manufacturers could be encouraged to enter the ARV marketplace. Obviously, not every advocacy movement has the opportunity to pursue a market transformation strategy that can be made amenable to industry actors; in such cases, however, we would argue that the movement is less likely to achieve its objectives.

As this brief analysis of the AIDS movement suggests, missing from much of the previous work on social movements is a prominent question, namely, when do some movements succeed in transforming the market environment while others fail? What makes some anti-corporate campaigns more effective than others (O'Rourke 2005; B. G. King and Pearce 2010; Eesley and Lenox 2006)? To be sure, work has been done that looks at the outcomes of anti-corporate campaigns, most notably changes in the targeted firm's stock valuation and share price (Soule). That approach, however, is problematic for several reasons; for one thing, as already noted, firms might respond *pro-actively* to an advocacy campaign, so that the share price doesn't reflect the underlying politics.

Why, we ask, was the AIDS movement so effective in creating a "universal access to treatment" regime while other contemporary movements, like those aimed at curbing climate change, have faltered at transforming the markets they critique? What, specifically, did the movement need to achieve in order to advance the access to treatment regime? In other words, what "moving parts" in market structures could activists latch onto and manipulate in support of their transformation agenda?

In raising these questions, we need to define with some precision what we mean by movement "success" or "effectiveness," and we note that we will use the terms interchangeably, even though they are not, of course, necessarily the same thing. As Craig Smith has pointed out, a consumer boycott, for example, could be *effective* in reducing a firm's sales without *succeeding* in altering corporate strategy or government policy (N. C. Smith 1990). While we accept this distinction, our focus in this book is on the ability of social movements to change market structures in some fundamental way; this is what we mean by activist effectiveness or success. We also recognize that these concepts can have an important inter-temporal dimension, in that a failure one day can seemingly evolve into a success over time ("we lost the battle but won the war") and vice-versa. Indeed, much of the existing literature on social movements omits this inter-temporal dimension in making its assessments of movement success. Again, we try to assess the durability of the market transformations we analyze, and this motivates, in part, our focus on the institutional arrangements that treatment advocates have also put in place in order to "stabilize" the new market arrangements (Fligstein 2002).

It is popularly claimed in much of the relevant social science literature, for example, that activist pressure on the oil industry during the 1990s led companies like BP to become more "green," especially following the success of Greenpeace in forcing Shell to tow a dysfunctional rigging across the North Sea that it had planned to sink in 1995 (Baron 2005; Spar and La Mure 2003). BP even changed its corporate identity from *British* Petroleum to *Beyond* Petroleum to signify its alleged commitment to alternative energies like solar and wind power. As those living in the Gulf Coast of the United States in 2010 could attest, however, BP's commitment to "green" was not even skin-deep, and in fact a previous series of spills in Alaska—not to mention a major explosion at a refinery in Texas in 2005 which killed 15 workers—suggested that the company had failed to adopt even minimal safety and environmental standards in many of its operations (PBS Frontline 2010). More to the point, advocates have yet to transform the market for fossil fuels in any fundamental way, for example through the imposition of a hefty carbon tax that begins to place the "real" cost of using these fuels on consumers. Such a tax could be transformative to the extent it levels the playing field with alternative energy sources, and in this case the dependent variable would be uptake of such alternatives within an energy grid.

As this discussion indicates, one definition of success might be to see whether a movement transformed a firm's stated policies or procedures, whether it agreed, for example, to put environmental metrics into place. Many "socially responsible investment" funds judge firms by their policies and procedures, as opposed to their outcomes, and for them "success" is defined by the adoption of such policies. Yet another definition of success, as stated above, focuses on the *harm* that a movement did to a firm. Did its actions, for example, result in a lower share price, or in getting the firm to commit to an action (like towing a rig rather than sinking it) that it otherwise would not have done? Still another way to look at movement success is in terms of its spillover effects; did movement A catalyze the launch of movement B? (Soule 2009). Mukherjee, for example, argues that the AIDS movement has played a major role in catalyzing other disease advocates to stake their claims with government agencies and the pharmaceutical industry (S. Mukherjee 2010).

In the case of the movement aimed at achieving universal access to antiretroviral drug treatment, one must be circumspect in defining much less claiming "success" even in our sense of market transformation. After all, as of 2009, only 36% of those people living with AIDS (PWAs) were receiving ARV treatment (WHO 2009a), and it is unlikely that this number will ever reach anything close to 100 percent. Indeed, should the number of those infected with the HIV virus increase faster than the rollout of ARV treatment, this percentage will of course shrink further (WHO 2009a; Over 2011; Gudrais 2010). We will also provide some suggestive evidence that AIDS is confronting "donor exhaustion" and that funding pledges to buy antiretroviral drugs have, at best, leveled off (McNeil Jr. 2010).

This book makes a unique empirical contribution to the social movements' literature by examining in detail the transformation of a highly contentious market, looking at the changes that occurred on both the demand and supply sides of the ARV equation, along with the institutional structures that were built to underpin and "stabilize" this new market structure (Fligstein 2002)**.** On the demand side, stakeholders had to change their perception of whether ARVs would work in the developing world or "resource-constrained" setting, while on the supply side changes had to be made regarding pharmaceutical patents, pricing, and competition so that ample quantities of ARVs would be produced at prices that poor countries could afford.

This change in the market needed to be supported by institutions that made these changes credible, in particular, institutions that would ensure that funds would be made available for the purchase and uptake of high-quality antiretroviral medications at the reduced prices. In essence, the social movement surrounding the access to treatment regime entailed changing the supply and demand for antiretrovirals while contributing to institutional innovation aimed at ensuring the effectiveness of that regime, out to the distant future. It is this last, inter-temporal dimension that remains in question, however, leading us to raise the more general issue of the durability of the institutions that the AIDS movement has built (Over 2008; Shadlen 2007; Piot 2012).

Leaving aside these doubts about the long-term prospects of the ARV regime for the moment, contrast the success of AIDS activists with that of the movement that is seeking to counter global climate change. Despite the creation of "carbon markets" and various regulations aimed at curbing carbon emissions, it would be difficult to argue that the market for fossil fuels or for carbon has been altered in any major way since the onset of the climate change debate in the 1980s. Fossil fuels are still priced and traded more or less as they were before, and few public policies have made a major dent in either consumption patterns or the supply of clean energy. Carbon markets like the European emissions trading system do exist, but key countries like the United States have yet to price carbon, limiting market expansion. To be sure, wind farms and other alternative energy sources are on the rise, but even the most optimistic predictions suggest that these will make little impact on the global climate in any relevant time horizon. Indeed, a lively (and, at least in some eyes somewhat nutty) political debate still exists, mainly in the United States, over the extent to which climate change is actually induced by human activities.

Within the arena of global health, contrast HIV with an issue like diarrheal diseases, which kill over 1.5 million children per year, mainly in sub-Saharan Africa (WHO 2009c). There are, in fact, cheap treatments for these diseases, and one might think that universal access to treatment is therefore well within the grasp of the international community. Yet there has been only weak political mobilization in that direction, and few resources are devoted to this scourge. A similar story might have been told for many decades regarding maternal mortality, which received little attention from the global public health community until quite recently (Shiffman and Smith 2007).

We should emphasize, however, that we do not speak of “success” in normative or ethical terms. That is, we do not assume that success, defined as movement-led market transformation, is necessarily “good” and that movement failure is “bad” in terms of social welfare or any other aggregate measure of a polity’s aspirations. Too often in the social movements’ literature, it is simply assumed or asserted that activists are “improvers” whose work benefits society as a whole. That may or may not be the case, and we leave deeper normative debate about the “best” allocation of scarce medical resources from an ethical standpoint largely to the side in this book (Pogge 2005; Dietrich 2007). Instead, we seek to make an analytical argument about what social activists do and how they advance their objectives; in this sense our exercise is closer to positive than normative political economy. This effort, in turn, will allow us to generate hypotheses that form the basis for the empirical research that is presented in subsequent chapters.

How Transnational Movements Succeed: Some Hypotheses About Market Transformation

Thus far we have sketched some of the linkages between activists and markets and in particular on how the social movements’ literature has analyzed that interaction. Now we draw the threads together to advance several hypotheses that we will “test” in this book. We separate these into hypotheses about the market structure; framing and norms; movement coherence; advocate strategy; and institutions. In a sense, these hypotheses can be viewed as sequential steps or elements in an advocacy campaign, and it should be noted that the substantive chapters that follow also address each element in turn in greater depth. Advocates thus need to ask whether they have identified the opportunities within the industry they are targeting (Chapter 2); whether they have framed the issue in a compelling way (Chapter 3); whether they have a coherent ask (Chapter 4); whether they have a feasible strategy that addresses concerns about costs by firms and governments (Chapter 5); and whether supporting institutions need to be built (Chapter 6). More generally, the hypotheses are concerned about the conditions that favor the likelihood of market transformation.

We draw these pieces together to offer a *theory of strategic moral action* (see Sell and Prakash 2004 for an argument that AIDS treatment activists were strategic actors not dissimilar from other interest groups). Our theory draws on diverse intellectual traditions, but broadly we attempt to synthesize constructivist and rationalist theories of world politics in making our claims. Constructivist theories help us to illuminate the role of frames in advancing advocacy agendas, but rationalist theories keep us attentive to the costs and benefits of alternative actions and strategies. We hope this synthesis will inspire others to escape from their academic pigeonholes in an effort to explain important global phenomena and outcomes.[2]

Hypotheses about Market Structure

[2] We draw insights from a wide range of scholarly influences from microeconomics to social psychology. We incorporate elements of structure and agency, and we bring together insights from ideational and institutional theory. On analytical eclecticism, see (Katzenstein and Okawara 2001). On bridging rationalism and constructivism, see (Fearon and Wendt 2003).

As previously noted, much of the literature on "anti-" corporate movements focuses on attributes of particular firms that make them likely targets for advocacy pressures. Here we step back one level to consider the industry-level attributes that make entire sectors contestable from an advocacy standpoint. Although we discuss a variety of structural attributes that made the ARV market contestable, we focus on two structural issues here with respect to the industry's potential for market transformation.

H1: *The more concentrated the industry and the lower the access to its products, the more likely this market will be transformed.*

If there are only a few firms in a sector that control a large share of the market, then should these firms change their behavior, the market will be transformed quickly. Where there are large numbers of firms in a given industry with a wider distribution of sales across them, it will be harder to transform the market structure as many firms will have to change their behavior. This is akin to the observation about the number of veto players and policy change. Where there are fewer veto players, policy, though potentially resistant to change depending on the attitudes of the main players, can change quickly if those actors capable of blocking policy lift their objections (Tsebelis 2002; J. Busby 2010a).

What this hypothesis suggests is that basic "mismatches" in a market structure will generate opportunities and/or demands for change in how that industry's products are delivered to consumers. Take, for example, the "universal access" provisions that government agencies have mandated with respected to public utilities. If electric utilities or telephone companies only served a few customers, they would face pressure from other consumers to extend that service. For this reason, many regulated industries permit cross-subsidization across different classes of consumers enabling "universal access" to occur. However, many other industries – like pharmaceuticals – have not been subject to such provisions, making such industries targets for advocacy campaigns. At the same time, if a large number of people are not being served by a particular market structure, there will be incentives, all else being equal, for market entry in order to serve those consumers.

H2*: The more fluid the rules shaping the terms of market entry, the more likely the market will be transformed.*

Earlier in this chapter we spoke of the rules and institutions that shape market structures. These rules, however, are not "neutral" but may serve the interests of dominant firms. Further, the institutions that support these rules, like courts, may not provide a level playing field to claimants; in the United States, for example, it can prove very costly to sue a corporation, even if the claimant has a good chance at winning a favorable verdict. When rules are fluid, however, new entrants – like advocates – may have opportunities to influence how they are shaped. In the case of AIDS, for example, the shaping of the TRIPS regime during the 1990s provided an opening to influence its "public health" provisions. More generally, fluidity in market structures caused by internal or exogenous changes expands the opportunities for market transformation. We explore these issues of market structure in more detail in the following chapter.

Hypotheses about Framing and Norms

As Finnemore and Sikkink have written, "Arguments about which substantive normative claims will be more influential in world politics have varied widely"

(Finnemore and Sikkink 1998, 907). Based on their review of several transnational activist movements, Sikkink and co-author Margaret Keck conclude that two sets of norms are likely to be most effective: “norms involving (1) bodily integrity and prevention of bodily harm for vulnerable or ‘innocent’ groups, especially when a short causal chain exists between cause and effect, and (2) legal equality of opportunity” (Finnemore and Sikkink 1998, 907; Keck and Sikkink 1998). With respect to the bodily harm norm, it is interesting to note that treatment activists gained much of their traction after equating people living with AIDS to Holocaust victims and, by extension, implying that the behavior of the pharmaceutical companies was as heinous as that of a Nazi regime that killed millions of innocents (Kramer 2003). When it was discovered that AIDS could be passed to babies *in vitro*, this argument about the death of the innocents because of an inability to acquire cheap drugs acquired even more moral suasion.

These arguments may be cast into the following “moral” hypothesis:

H3: *The greater the immediate bodily harm caused by existing market allocations (e.g. of pharmaceuticals), the more likely a social movement will succeed in generating a market transformation (e.g. towards universal access to medicines) will occur.*

As we explore in Chapter 3, another way to think about this is whether or not the good in question is essential for life. To the extent that the particular good is necessary for a person’s survival, the more likely a campaign for access will be successful. We unpack this idea in Chapter 3.

Hypotheses about Movement Coherence

To become a political force capable of transforming markets, a social movement must at some point evolve to possess unity or coherence around a common objective. The degree of "organization" can be temporary rather than permanent; it can be a coalition of actors brought together to achieve a specific purpose, which then disbands once its objective is achieved (Tarrow 2005). The organization can also be "informal" rather than formal, providing disparate groups with an umbrella for their joint activities and opposed to a single structure in which everyone must now work. What is most crucial to success is that the coalition achieve consensus on which goals are being pursued and which are being left dormant. To put this in strategic terms, movements need focal points (Schelling 1960).

Rather surprisingly, this essential point seems to have been lost on some activist movements. Tarrow, for example, has examined the inability of the global justice movement to have much influence over world politics. He argues that "the global justice frame lacks a clear directive toward a strategic repertoire of social justice" (Tarrow 2005, 75). Similarly, the Occupy Wall Street movement that emerged with much publicity in 2011 fizzled in part because it was regarded as lacking a set of demands (Buckley 2011; Buckley and Moynihan 2011; Gitlin 2012). Likewise, climate change activists, after early convergence on legally binding targets and timetables for emissions reductions, have increasingly become divided on the appropriate strategy toward reduced carbon emissions. In contrast, AIDS treatment activists came to the conviction early in their campaign that access to treatment first depending on getting the prices of ARVs down. These points lead to our next hypothesis:

H4: *The more coherent or focused the social movement is on its shared objective or "ask," the more likely it is to succeed.*

This theme of movement coherence forms the basis for Chapter 4.

Hypotheses about Strategy

Moral arguments that are diffuse do not succeed; they need focus and organization for collective action. But these are insufficient as well; they also need a feasible strategy that relates means and ends. What this suggests is that to be successful or effective, social movements also need a compelling business strategy, a feasible model of how to get from point A to point B. The precise elements of such a strategy, of course, will depend on the issue-area at stake, along with the associated parameters. Here, we focus on two hypotheses concerning key elements in a successful strategy. The first focuses on lowering the transactions costs of advocates' ask for both firms and government actors. The second focuses on raising the opportunity costs of inaction of target actors through reputational damage.

H5: *The higher (lower) the transaction costs associated with market transformation, the less (more) likely that transformation will occur.*

As an example, Spar and La Mure cite the case of the Free Burma Coalition (FBC), which demanded the closure of Unocal's natural gas operations in Myanmar. Unocal refused to buckle in this case, given the high cost associated with developing alternative gas fields (Spar and La Mure 2003). Similarly, AIDS "treatment activism" could only credibly pursue "universal access" once generic drugs came on the scene which substantially lowered the costs of antiretroviral medications (see York 1999). We discuss this hypothesis in Chapter 5 on movement strategy. In that chapter, we suggest that it is useful to think about the costs to firms and the costs to donors. In terms of firm-level costs, we distinguish between the costs to incumbent firms as well as the costs to potential new market entrants.

Actors who are targeted by advocates, whether firms or government agencies and officials, must take into account not just the transaction costs associated with a given action but the potential or opportunity costs associated with *inaction* as well. Advocates can raise the opportunity costs of inaction through a variety of strategies, including protests, boycotts, "naming and shaming" activities, and threatening corporate business models, e.g. by attacking patent rights regimes. A pharmaceutical firm, for example, might determine that while lowering the price on an antiretroviral medication has real financial costs, the opportunity cost of not doing so could be even higher, if it leads to lawsuits aimed at their patent rights or to the mobilization of activist shareholders who create controversy and "bad" publicity for the firm and its management at annual meetings. These observations lead us to the following hypothesis:

H6*: The greater (lower) the opportunity costs of corporate or political inaction in the face of demands for market transformation, the more (less) likely that the transformation will occur.*

Taking H5 and H6 together, we see that *advocates can best advance their cause by lowering the financial costs of action and raising the opportunity costs of inaction*. To put this in other words, advocates advance their cause by changing the cost-benefit assessment of target firms regarding the best response to advocate demands.

Hypotheses About Institutions

Even if activists succeed in building a coherent organization with a targeted message and credible strategy, what is to ensure that the movement will be successful over the long run? After all, any "wins" could be fleeting if market transformations are not somehow *institutionalized*. As Fligstein reminds us, capitalism rests upon institutions that stabilize the interactions of economic agents, lowering transactions costs and making it possible to engage in mutually beneficial exchange (Fligstein 2002). It is for this reason, for example, that AIDS activists rejected corporate *donation* schemes as the basis for a universal access to treatment regime; they feared that it was all-too-easy for firms, operating under this model, to turn off the spigot. This suggests our final hypothesis:

H7: *The more capable the institutions are of stabilizing a transformed market structure, for example by having enforcement or financial power, the more likely it is that the new principles on which the market is based will endure.*

To provide a concrete example, in market economies intellectual property rights (IPR) provide inventors with the incentive to make costly investments in product development; the combination of IPR and legal enforcement thus provides necessary institutional underpinnings of an "innovation economy." As we noted earlier in this chapter, an array of institutions are needed to support markets, and in the case of the universal access to treatment regime these institutions had to provide such functions as financing, information gathering, and property rights protection. We discuss this hypothesis in Chapter 6 on the role of institutions. In sum, in this book we advance several hypotheses and make a number of broader claims about what is required in order to cause a market transformation or to change a market in a fundamental way (e.g. in the terms of access to that market). We will show that even in the presence of a relatively open economic opportunity structure, advocates will still need to overcome numerous hurdles in order to succeed. At a minimum, they will need a compelling moral message, a coherent ask, a strategy to address cost concerns, and a set of supportive institutions. These points are suggestive of the immense challenges facing any advocacy movement that seeks to engage in the process of market transformation.

Conclusions

Markets are social institutions in which political and economic agents seek to advance their interests. While many market interactions are dominated by firms and households, others are contested by a host of other actors, including advocacy movements, all seeking to shape patterns of supply, demand, and price. That contention over who gets what is the very stuff of politics.

This is a book about a profound change that occurred in the allocation of life-extending antiretroviral medications, from a model that was “high price, low volume” to one based on “universal access to treatment.” Beyond that, however, it is about the conditions under which social movements are effective in influencing or transforming market structures. By using the ARV case as the basis for our analytical framework, and then expanding upon it by discussing other illustrative examples, we hope to say something of more general significance about the role of social movements in modern economic life. In the following chapters we thus address in some detail how a group of dedicated AIDS treatment activists, along with sympathetic policy entrepreneurs and corporate executives, managed to transform ARVs from private goods into merit goods.

Appendix A: A Brief History of AIDS and the AIDS Treatment Movement

On June 5, 1981, the Mortality and Morbidity Weekly Report (MMWR) of the Centers for Disease Control (CDC) contained the following stark report: “In the period October 1980-May 1981, 5 young men, all active homosexuals, were treated for biopsy-confirmed Pneumocystis carinii pneumonia at 3 different hospitals in Los Angeles, California. Two of the patients died” (CDC 1981). Over the following weeks, more and more such cases were reported, with gay men suffering and dying not just from pneumonia but from a very rare form of cancer – Kaposi’s sarcoma – as well. Based on the observation that it was only gay men who were affected by the disease, it was initially termed GRID (gay-related immune deficiency) in the United States. However, in July 1982, the CDC suggested the name Acquired Immune Deficiency Syndrome (AIDS). By 1984, researchers in France and the United States had identified the virus that causes AIDS.

In March 1986, the largely gay advocacy group ACT UP initiated its first action on Wall Street demanding access to treatment and an end to discrimination for those living with AIDS. That same year saw encouraging clinical trials of the first AIDS treatment drug, azidothymidine (AZT), originally developed as an anti-cancer medication in the 1960s. In March 1987, AZT was approved for use by the Food and Drug Administration. This drug, the sole of its kind at the time, was priced by its manufacturer, Burroughs Wellcome, at more than $10,000 per patient per year, which was well beyond the reach of many of those living with (and dying from) AIDS. These high prices spurred further protests, including at corporate headquarters.

By 1995, ample evidence had accumulated that people could become resistant to AZT on its own and that AZT might offer few benefits to people in the early phase of the disease. Further, it had strong side effects in many cases. However, a so-called "combination therapy" (or "cocktail") with 3TC (lamuvidine) was found to be more effective and was approved for use in November 1995. These drugs attacked the disease in new ways and were called "antiretrovirals." A month later, saquinavir, the first of a new line of AIDS drugs called "protease inhibitors" was approved for use by the FDA.

This set the stage for the introduction of Highly Active Antiretroviral Therapy (HAART), where a combination of antiretroviral drugs are taken to attack the virus in different ways. In 1996, wide-scale rollout of HAART would begin in the United States and other advanced industrialized countries, which would dramatically reduce the number of AIDS-related deaths and convert AIDS from a death sentence into a chronic condition. Again, these therapies all cost over $10,000 per patient per year, but by this time many patients in the industrialized world were covered by insurance. That, of course, was not the case with most developing countries, with the exception of Brazil, where low-cost generic substitutes were made available to the local AIDS community. Global health specialists thus began to turn their attention to how these drugs could be rolled-out to poorer nations.

The mid 1990s were a time of a flux in the international community's response to HIV/AIDS, with some movement in the direction of attacking the disease but paltry funding. Early in 1996, UNAIDS, a combined joint program by a number of United Nations agencies was launched. The following year, this new agency would begin a series of pilot projects to test the efficacy of antiretroviral treatment in resource poor settings through its "Drug Access Initiative" (DAI). Similar efforts were being sponsored by organizations like Partners in Health in Haiti.

But even as promising treatments were becoming available in the advanced industrialized countries, the high costs were preventing widespread rollout in the developing world. As a nascent global AIDS movement began to coalesce, it sought to understand the reasons for these high prices. One culprit that emerged was the so-called Trade-Related Aspects of Intellectual Property Rights (TRIPS) accord, negotiated as part of the new World Trade Organization in 1995. This accord would require all nations to issues patents on pharmaceutical products, though the agreement gave developing countries ten years to phase in the rules. Still, the monopoly power conferred by patents seemingly provided one source for the high price of AIDS medications.

In 1998, AIDS advocates interested in access to treatment in the developing world had their cause bolstered by a singular, galvanizing event. In South Africa, the government of Nelson Mandela, having passed a Medicines Act intended to deal with the high cost of drugs in the fight against AIDS and other diseases, found itself in February 1998 on the receiving end of a lawsuit from a group of global pharmaceuticals companies, which charged that the Act violated companies' constitutional rights as well as South Africa's obligations under TRIPS. By year's end, South African AIDS activists would come together to form the Treatment Action Campaign (TAC), which would evolve into a globally influential group. Aided by such non-governmental organizations as Doctors Without Borders (MSF), the South African government would vigorously defend itself, generating terrible publicity for "big pharma" which eventually dropped the suit. Nonetheless, the reputational damage had been done and it likely spurred big pharma into actively seeking ways to help reduce AIDS drug prices.

Just as affected groups in countries like South Africa emerged to support access to treatment, activist groups in Europe and the United States also began to organize. In 1999, veterans of ACT UP along with supporters from other organizations like CP Tech would come together in the United States to form the Health GAP coalition. In November 1999, MSF launched its own Access Campaign with the proceeds of the Nobel Prize the organization won earlier that year. At the end of the year, anti-globalization campaigners disrupted the meetings of the World Trade Organization in Seattle, Washington, prompting U.S. President Bill Clinton to announce greater support for TRIPS flexibilities to support public health.

Growing awareness of the seriousness of the AIDS crisis led the United Nations Security Council to convene in January 2000 to discuss the problem, its first ever meeting on a health topic. Later that year, UNAIDS along with five branded pharmaceutical companies launched the Accelerated Access Initiative as a way of bringing down prices and providing wider treatment access to people in developing countries. In July, South Africa hosted the biennial International AIDS Society conference, during which time AIDS activists put treatment access squarely on the international agenda, in a series of public protests.

In September 2000, the Indian generic company Cipla, prompted by activists, would make a historic offer at a European Commission meeting to reduce the costs of antiretroviral drugs to between $600 and $800 per patient per year. The following February, Cipla would go further and offer the same drug for less than a dollar day, a move that garnered headlines around the world. The introduction of generic substitutes for antiretroviral medications would prove to be an important moment in terms of access to treatment; still, the case had to be made that these drugs would prove effective in the developing world setting.

In June 2001, the UN General Assembly would further strengthen the international community's commitment to expanded access to antiretroviral medications, declaring that universal treatment access should be a goal. And in the wake of the terrorist attacks of September 11, 2001, a meeting of the World Trade Organization was held in Doha in November to review the impact of the TRIPS accord on global health. At this meeting, countries agreed to the so-called health exception to TRIPS which reaffirmed governments' flexibilities to overcome drug patent laws in the midst of a health emergency. Delegates also extended the period for least-developed countries to comply with TRIPS provisions on pharmaceuticals until 2016.

With generic antiretrovirals now available at low cost, donor nations were now more willing to fund access to these medications. In January of 2002, the Global Fund to Fight AIDS, Tuberculosis, and Malaria was formally created as an independent financing agency, with its secretariat in Geneva. In October of that year, the Clinton HIV/AIDS Initiative (CHAI) was initiated, and a year later, CHAI would announce its first agreements with generic drug companies for bulk purchasing prices of ARVs.

In early 2003, U.S. President George W. Bush announced the creation of the President's Emergency Plan for AIDS Relief (PEPFAR), pledging $15 billion over five years for the program. And in September 2006, UNITAID, another financing instrument in the fight against HIV/AIDS, was created. UNITAID's unique basis of support was a tax on airline flights, making it the world's first global tax scheme. As a result of these funding programs, coupled with the availability of generics, widespread rollout of AIDS drugs was in reach. By the end of 2008, more than 4 million people were on treatment in low- and middle-income countries.

By the beginning of the new millennium's second decade, AIDS advocates could look toward the future with mixed emotions. On the one hand were a series of concerns. First, while generic drugs had reduced the costs of the current generation of AIDS antiretrovirals, it was unclear what would happen as new and more advanced drugs came on-line. Would these also be affordable? Second, with the financial crisis of 2008 and the economic slowdown that followed, it seemed unlikely that the resources to sustain a global treatment regime would be made available. Third, in 2011, the Global Fund confronted a management crisis after the media reported a small percentage of funds were misappropriated by recipients. The long-term effects of this crisis were uncertain as a new Executive Director, Dr. Mark Dybul of the United States, was appointed in November 2012, but it could reduce confidence in that organization.

On the other hand, it could not be forgotten that the net result of the global scale-up of treatment by the end of 2011 was that an estimated 8 million people in low- and middle- income countries had access to ARVs. That same year, the UN issued a political declaration to put 15 million on ARVs by 2015. Those numbers were reaffirmed in 2012 when Washington, DC hosted the International AIDS Society meeting, the first time the United States had done so since finally lifting travel restrictions for those living with HIV in 2009. While the fight against AIDS had come a very long way in the three decades following its discovery, there was still no end in sight.

Appendix B: KEY DATES

1981/1982
First cases of AIDS identified

1986
ACT UP begins actions in the United States

1987
First AIDS drug AZT approved for use

1995
TRIPS agreement enters into force, ten-year phase-in for developing countries

1996
HAART introduced
Partners in Health pilots HAART in Haiti
January - UNAIDS created
July - Vancouver International AIDS Society meeting
December - Brazil begins universal ARV therapy

1997
November - Drug Access Initiative launched

1998
February - South African government sued over its "Medicines Act"
June-July - International AIDS Society meeting held in Geneva
December - South Africa's Treatment Action Committee (TAC) formed

1999
MSF Pilot projects
January - Health GAP formed
March – Doctors without Borders (MSF), Health Action International (HAI), and the Consumer Project on Technology (CPTech) host Geneva meeting on compulsory licensing
November - MSF Access campaign initiated
November - MSF, HAI, and CPTech host Amsterdam meeting on access to medicines
December - Seattle WTO meeting, Clinton announces will support TRIPS flexibilities

2000
January - UN Security Council meeting on AIDS
May - Accelerated Access Initiative announced
May - Clinton signs Executive Order stopping trade sanctions against countries with health emergencies
June – July - Presidential candidate Al Gore dogged by Health GAP on campaign trail

July - Durban AIDS meeting
September - Cipla offers $600-800 price for generic AIDS drugs at European Commission meeting

2001
February - Cipla announces dollar a day triple cocktail
March - WHO prequalification scheme created
April - South African lawsuit withdrawn
April - Abuja meeting where Annan calls for Global Fund
June - UN General Assembly meeting on AIDS, political declaration supports universal treatment access
November - Doha health exception agreed

2002
January - Global Fund created
October - CHAI created

2003
January - PEPFAR announced
August - WTO enacts so-called “paragraph 6” decision on patent exceptions for importing countries
October - CHAI first agreements announced
December - WHO/UNAIDS launch “3 by 5” initiative

2004
May - FDA approval fast track approval process created

2005
India now has to comply with TRIPS provisions

2006
September - UNITAID created

2008
July - PEPFAR reauthorized

2011
UN political declaration to put 15 million people with AIDS on ARVs by 2015