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Excerpt
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1 Introduction: global markets and transnational social movements

> In the beginning there were markets.
>
> Oliver Williamson, *Markets and Hierarchies*, 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

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 ARV 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 ARV 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 unilaterally 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 (WTO)). 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 of 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 ARVs, 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.

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

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 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 directly (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 (Granovetter 1985; Hall and Soskice 2001; Fligstein 2002). 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; 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 ARV 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 ARV 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 (Waning, Diedrichsen, and Moon 2010; Piot 2012, 308). These inter-temporal issues are of tremendous significance, and we will discuss them in more detail 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 (Berle and Means 1932; Polanyi 1944; Marx 1978; de Soto 2000). 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 (hereinafter we will use the acronym MSF for its French name, *Médecins sans Frontières*), and Greenpeace. Of course, transnational groups like the Roman Catholic Church pre-date 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 (Keck and Sikkink 1998; Tarrow 2005; King and Pearce 2010; 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 WTO, 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. (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 (McAdam, McCarthy, and Zald 1996; Tarrow 2005). 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