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978-1-107-03614-7 - AIDS Drugs for All: Social Movements and Market Transformations

Ethan B. Kapstein and Joshua W. Busby

Frontmatter

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AIDS Drugs for All

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 ARV 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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Frontmatter

[More information](#)

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Contents

<i>Preface</i>	<i>page</i> vii
<i>Figures</i>	xiii
<i>Tables</i>	xiv
<i>Abbreviations</i>	xv
1. Introduction: global markets and transnational social movements	1
Appendix A: A brief history of AIDS and the AIDS treatment movement	25
Appendix B: Key dates	29
2. Industry structure and movement opportunities	32
3. Drugs = life: framing access to AIDS drugs	58
4. Movement coherence and mobilization	96
5. Advocacy strategies to address costs	135
6. Institutions to stabilize the market	169
7. Lessons for other campaigns	213
8. Conclusions: implications for research and policy	255
<i>References</i>	277
<i>Index</i>	312

Cambridge University Press

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Frontmatter

[More information](#)

Cambridge University Press

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Frontmatter

[More information](#)

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 (whom we collectively refer to 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

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Frontmatter

[More information](#)

viii Preface

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 ARVs 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 groundwork 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 ARV 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 ARVs for their entire lifetime (Over 2008, 2011; Piot 2012). As we will show, providing something approaching universal access required what must be called,

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Ethan B. Kapstein and Joshua W. Busby

Frontmatter

[More information](#)

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 ARVs 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 (Spar and La Mure 2003; O’Rourke 2005). 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 ARVs 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

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Ethan B. Kapstein and Joshua W. Busby

Frontmatter

[More information](#)

x Preface

company profits against global access to life-saving ARV 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, Chapter 1 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 2, we examine the structure of the pharmaceutical industry and market for ARVs that provided advocates with “openings” for their campaign. Chapters 3 and 4 examine how

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Frontmatter

[More information](#)

advocates made a compelling moral argument and cohered around a common set of demands. In Chapter 5, 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 6 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 7 by examining the potential for market transformation in several other issue-areas that have been the focus of advocacy movements, while Chapter 8 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 AIDS and the AIDS treatment movement, we provide a brief summary of key events and an accompanying timeline of key dates as appendices to Chapter 1.

During the writing of this book we have accumulated the usual pile of debts that overwhelms each and every author. This research was supported by a grant from Merck & Co., Inc. We thank the Merck Foundation for its generous sponsorship, and in particular, we wish to thank Leslie Hardy at the Foundation and Clinton Riley at Merck Corporation for all the help they provided. The book, however, does not in any way reflect the views of either the Merck Foundation or Merck Corporation, and we are solely responsible for its content.

Our work came to the attention of the Merck Foundation thanks to Dr. Jeffrey Sturchio, who was formerly at Merck and was deeply involved in many of the issues tackled in this book. Jeff has generously replied to every request we made of him for interviews, for material, and for his views on the accuracy and quality of our work. We cannot begin to express our gratitude for the efforts he made on our behalf and only hope that the finished product provides him with some small gratification.

One of the authors (Ethan B. Kapstein) worked on this book during a stint as a Fellow of the Niehaus Center on Governance and Globalization at Princeton University. He wishes to thank the Center’s Director, Professor Helen Milner, and its Assistant Director, Patricia Trinity, for their warm hospitality. He also benefited from his association with the Department of Management at the Wharton School, University of Pennsylvania, and in particular he thanks Professor Mauro Guillen, who (with Charles Perrow) wrote an early and courageous book aptly entitled *The AIDS Crisis*. Joshua Busby benefited from feedback on the work from presentations at George Washington University, Knowledge Ecology International, Loyola Marymount University, the University of Texas, and Uppsala University, while Ethan Kapstein presented early drafts at the London School of Hygiene and Tropical Medicine, Yale University, and the University of California at Santa Barbara. Both authors also wish

Cambridge University Press

978-1-107-03614-7 - AIDS Drugs for All: Social Movements and Market Transformations

Ethan B. Kapstein and Joshua W. Busby

Frontmatter

[More information](#)

xii Preface

to thank their academic home they shared during the writing of this book, the Lyndon Baines Johnson School at the University of Texas at Austin.

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, Ken Shadlen, 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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Figures

Figure 3.1	Continuum of necessity of different goods	<i>page</i> 72
Figure 3.2	Mock ad on AIDS drug access	82
Figure 3.3	Willingness to sign a petition – first US experiment	84
Figure 3.4	Willingness to sign a petition	88
Figure 3.5	Willingness to sign a petition – India experiment	91
Figure 3.6	Willingness to sign a petition	94
Figure 6.1	Procurement patterns of d4T (1mg) – number of treatment years	194
Figure 6.2	Procurement patterns of 3TC + NVP + d4T – number of treatment years	195
Figure 6.3	Cipla Lamivudine (3TC) 150mg procurement – number of treatment years	201
Figure 6.4	Cipla Lamivudine (3TC 150mg) + Zidovudine (AZT 300mg) procurement – number of treatment years	202
Figure 6.5	Gilead Tenofovir (300mg) procurement – number of treatment years	202
Figure 6.6	Matrix Tenofovir (300mg) procurement – number of treatment years	203

Tables

Table 2.1	Types and examples of ARV drugs	<i>page 47</i>
Table 4.1	Questions to assess movement coherence	99
Table 6.1	PEPFAR appropriations by FY 2004–12	176
Table 6.2	Percentage global market share by volume of new first-line ARVs by PEPFAR, UNITAID, and Global Fund, 2008	184
Table 6.3	Percentage of generic ARV purchases, WHO Global Reporting Mechanism	191
Table 6.4	Number of products prequalified accepted	199
Table 6.5	PEPFAR purchases of ARVs 2005, 2008	210
Table 7.1	Representation of continuum from most likely to least likely cases	217
Table 7.2	Application of our approach to other cases	219

Cambridge University Press

978-1-107-03614-7 - AIDS Drugs for All: Social Movements and Market Transformations

Ethan B. Kapstein and Joshua W. Busby

Frontmatter

[More information](#)

Abbreviations

3TC – Lamuvidine
 AAI – Accelerated Access Initiative
 ABC – Abacavir
 ACT UP – AIDS Coalition to Unleash Power
 AIDS – Acquired immunodeficiency syndrome
 APIs – active pharmaceutical ingredients
 ARV – Antiretrovirals
 AZT, or ZDV – Zidovudine
 BMS – Bristol Myers Squibb
 CAN – Climate Action Network
 CDC – Centers for Disease Control
 CHAI – Clinton HIV/AIDS Initiative (later the Clinton Health Access Initiative)
 d4T – Stavudine
 DAI – Drug Access Initiative
 ddl – Didanosine
 EFV – Efavirenz
 FDA – Food and Drug Administration
 FDC – Fixed-dose combinations
 FTC – emtricitabine
 GAO – Government Accountability Office
 GAVI – Global Alliance for Vaccines and Immunisation
 GSK – GlaxoSmithKline
 HAART – Highly Active Anti Retroviral Therapy
 HIV – Human immunodeficiency virus
 IP – Intellectual property
 IPR – Intellectual property rights
 ITPC – International Treatment Preparedness Coalition
 MPP – Medicines Patent Pool
 MSF – Médecins sans Frontières (Doctors without Borders)
 NIH – National Institutes of Health

Cambridge University Press

978-1-107-03614-7 - AIDS Drugs for All: Social Movements and Market Transformations

Ethan B. Kapstein and Joshua W. Busby

Frontmatter

[More information](#)

xvi Abbreviations

NNRTIs – Non-Nucleoside Reverse Transcriptase Inhibitors

NRTIs – Nucleoside Reverse Transcriptase Inhibitors

NVP – Nevirapine

PEPFAR – the President’s Emergency Plan for AIDS Relief

PI – Protease inhibitors

PWAs – People living with HIV/AIDS

TAC – Treatment Action Campaign

TDF – Tenofovir

TRIPS – Trade-Related Aspects of Intellectual Property Rights

UNAIDS – Joint United Nations Programme on HIV and AIDS

UNFPA – United Nations Population Fund

UNICEF – United Nations Children’s Fund

WHO – World Health Organization

WTO – World Trade Organization