

Pills for the Poorest

An Exploration of TRIPS and Access to Medication
in Sub-Saharan Africa

Palgrave Macmillan Socio-Legal Studies

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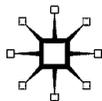
Pills for the Poorest

An Exploration of TRIPS and Access to Medication in Sub-Saharan Africa

Emilie Cloatre

Kent Law School, University of Kent, UK

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Preface

This book has two primary concerns: first, it interrogates medicines, and how those may or may not make their way to poor people. Second, it explores legal objects, and the ways in which what we have come to label as law works in contexts that had little bearing on its creation. The starting points of this inquiry are the so-called ‘margins’. The places I explore matter for and by themselves, not only for those who inhabit them, but also as specific, maybe less-explored, corners of the world. They also matter for what they can teach about the constitutive reality of phenomena, and ‘things’ we take for granted – the nature of ‘medicines’, but also the nature and modes of action of the law. It proposes a particular approach to looking at law, in terms of standpoints and in terms of methodology, that I hope is of interest for socio-legal scholars quite broadly, without a necessary interest in the subject matter of intellectual property (IP). The core themes that animated me in the process leading to this research are not inherently, in fact, linked to IP. The cross-cutting issues of inequalities, dependency, persistent dissymmetry in opportunities and possibilities that underlie most of the themes I discuss here are not specific to IP, nor to the pharmaceutical field, but illustrative of much broader questions. The ways in which law gets transformed and adopts meaning that makes it unpredictable, sometimes ineffective, sometimes overly effective, sometimes acting in new ways, are not specific to IP. By visiting them in this particular context, I hope to invite others to reattribute this complexity to the deployment of the legal in other contexts and to feed into the questions that socio-legal scholars have asked about the law for several decades.

I started the research that led to this book in 2002, in the context of a PhD at the University of Nottingham, jointly with the School of Law and the Institute for Science and Society, and therefore, in terms of academic discipline, borrowed from law and science and technology studies (STS). Like many people at the time, I was interested in exploring what global IP meant for access to medicines for the poor. Like many first-year PhD students, I started by reading very broadly the literature on the topic – already wide at the time. I had envisaged that this PhD would have an empirical dimension and be based around a selection of case studies – one of which was going to be Djibouti, as I thought it would be useful to look at those questions in the context of a least-developed state. Within a year of the PhD, I had done a first trip to Djibouti, which provided me with the opportunity to carry out a short pilot study. The few interviews I carried out at the time were in such fascinating opposition to everything I had read so far that I soon decided, with my supervisors, that this example warranted in-depth attention, and

the focus of my thesis shifted to be entirely about this particular context. At the very core of this redesigned project was a desire to question assumptions (my own, but also those of the literature I had familiarized myself with), and to re-evaluate what 'mattered', how and why. The methodological tools I chose to employ enabled me to move away from anything I assumed or knew about the law, which was essential if wanting to start research afresh in new contexts, without creating set expectations about what I might find, and I explore this in further depth in the introduction and throughout this book. The questions opened up in Djibouti led me to want to revisit IP and health-care in other new contexts, to explore further the layered complexity of this relationship, but also to carry out the methodological exploration of the law and of legal tools that the Djibouti case study had opened up. I explain in greater detail the rationale for both case studies and for studying them alongside each other in my introduction. Here, I wish mainly to draw attention to the broader curiosity that generated this project and to the aspects of it that made it a most interesting journey for me, as a researcher: by using particular standpoints, and a specific methodological toolbox, I hope to have opened up questions about the nature of law, and about how we can, could or should go about studying it. In one of my very first interviews, a French co-operant in Djibouti told me that the case study I chose was 'not any good', because Djibouti was different, because 'nothing worked', and therefore it was a 'bad example'. With this book, my starting point is in radical opposition to this: namely, there is inherent value about studying 'difference', non-representative examples, exceptions and places where things 'don't work'. Those places matter because failures, transformations and things 'falling apart' teach us a lot about expectations, assumptions and norms, as ethnomethodologists, for example, have aptly demonstrated.

I have many people to thank for this book and for the opportunity to research on something that still fascinates me. As is often the case, personal history has largely influenced the direction that this research took. I spent a substantial part of my childhood in several former African colonies in which France has kept hospitals where my father worked as doctor. My parents' own critical eyes and open-mindedness enabled me to view both some of the successes and some of the failures (and most importantly, some of the complexity) of the health networks we encountered, and I am most grateful to them for this. This research was initiated in the course of my PhD and would never have been possible without the generous support of my supervisors, Robert Dingwall and Tamara Hervey. I still feel extremely grateful that they not only welcomed, but actively encouraged me to undertake a PhD based on a case study in Djibouti – and I am still not sure that the suggestion would have been received with such enthusiasm by a different supervisory team. I could not have hoped for better support and I am vastly indebted to

them for the help they provided me with during my PhD and ever since. I am also grateful to Robert Dingwall for his comments on a previous version of this manuscript.

Part of the research leading to this book was supported by the Economic and Social Research Council and I am grateful for its sponsorship.

This project was also shaped by the many enriching discussions I had with colleagues over the years. Versions of this work have been presented at the University of Bristol Law School, the School of Law, Birkbeck, the Ghana Institute for Management and Public Administration, the Institut de Recherche Interdisciplinaire sur les Enjeux Sociaux and various conferences, and the very helpful feedback I received from colleagues on those occasions has greatly helped me reshape my thoughts and arguments. The project benefited from much thinking and refining during visits at the Centre for the Study of Law and Society, UC Berkeley, and the ESRC Genomics and Policy Research Forum, University of Edinburgh. I am indebted to the colleagues who over the years engaged with this research, pointed me in new directions, read drafts, provided feedback and offered me the friendly support that is much needed in any such project. I was privileged to start this project with an exciting group of colleagues (and fellow PhD students) at the University of Nottingham and to finish this book in a similarly stimulating environment at Kent Law School. There are a few I wish to thank by name: Ilke Turkmendag, Murray Goulden, Michael Morrison, Cecily Palmer, Paul Martin, Irit Mevorach, Sujatha Raman, Richard Tutton, Nick Wright, Yin-Ling Lin, Paolo Vargiu, with whom much of this project started; Donatella Alessandrini, Kate Bedford, Helen Carr, Vicky Conway, Maria Drakopoulou, Emily Grabham, Francesco Messineo, Nick Piska, Sally Sheldon, who followed closely the end of this process and provided much needed support. I feel very lucky to work with such bright, thoughtful and generous colleagues. Without Mairead Enright's support, and our many writing sessions, I am not sure this book would have been finished; I feel privileged to be working with such a wonderful friend and colleague, with whom exchanging thoughts and ideas is always so enriching. A special thank you as well to Martyn Pickersgill: collaborating with him over the past two years has greatly helped me refine my thoughts on law and STS, and helped me remember that research can be exciting and rewarding when it felt hard and frustrating. My exploration of actor-network theory and STS has also been enriched by supervising truly wonderful PhD students – Catriona Rooke, Matt Howard, Will Mbioh and Gearoid O'Cuinn. I am very grateful to Dave Cowan, for his support over the years, for inviting me to publish this book, for his patience in this rather long process, and for his enthusiasm for the project as a whole. Thanks also to Rob Gibson, and to the team at Palgrave Macmillan, for the support given to this project, and their kind help throughout, to the anonymous reviewers for their helpful and

constructive comments, and to Marie Selwood, a wonderful editor, for her careful handling of my text and the many improvements she brought to it.

This book would not have been possible without the help of Jemima Agyare in collecting the data in Ghana, and the 'we' I use in this context refers to our collaboration. I am most grateful to her for helping me, but also for her friendship over the years, and for welcoming me so warmly in Accra.

At a more personal level, I am grateful for the support and understanding of my close friends and family, and for the patience of my little boy, Rémi. I am particularly indebted to Julie Godefroy for her long-lasting friendship, and for being so supportive over the many years of this project.

Finally, and most importantly, I am indebted to all those who took some of their time to speak to me over the course of this research. The generosity of many of the informants with their time, with the information they provided and with their welcoming attitude made this project possible, enjoyable and an enriching personal experience. I have done my best to faithfully reflect the many stories that they told me and to do justice to the complexity of their experiences.