# From Structural to Symbolic Dimensions of State Autonomy: Brazil's AIDS Treatment Program and Global Power Dynamics

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**ABSTRACT**

Theories of globalization debate the current role of the state in the contemporary world, specifically questioning how much autonomy or policy space the state has to enact policies considered to be in a country's interest. The problem of state autonomy becomes more acute for developing countries attempting to construct or defend rights-based social programs in the face of powerful transnational corporations, foreign diplomatic pressures and new international government organizations such as the World Trade Organization (WTO). A case study of the impact the Agreement on Trade-Related Intellectual Property System (TRIPS) on Brazil's universal AIDS treatment program is employed to assess the various theories of globalization and state autonomy. **The study reveals that, although TRIPS represents a qualitative shift in power in favor of transnational companies, centralization of power at the global level can lead to the development of domestic coalitions in defense of national projects**. **More importantly, when contesting powerful adversaries, state actors may increase their leverage by projecting symbolic power to a global audience.** The concept of *reputational dividends* is developed in this paper to emphasize that as nation-states become increasingly integrated into a global social system, the symbolic dimension of power becomes more salient in forging state autonomy.

… On May 7, 2007, Brazil took the audacious step in confronting pressures from the community of powerful transnational drug corporations who had the backing of the United States by issuing a compulsory license for a pharmaceutical product marketed by Merck Sharpe Dohme (MSD). The legal measure, rescinding the company's monopoly pricing power, allowed the Brazilian government to source the medicine from other generic producers. The action forced MSD to take an estimated loss of US $40 million for the patented drug efavirenz (brand name Stocrin). Based on a strategy of local production of medicines and aggressive price negotiations, Brazil has been able to sustain universal treatment access to around 200,000 people who are infected with the human immunodeficiency virus (HIV) and are at risk of developing the fatal Acquired Immune Deficiency Syndrome (AIDS). Brazil's challenge against the global pharmaceutical industry, despite the country's size and level of development, is no small feat for a developing country facing rising social demands and few available resources.

The Brazilian case provides a number of interesting questions about globalization and state autonomy. What is the impact of global power on programs based on social democratic principles? Inherent in the notion of globalization is the promise of economic opportunity and access to latest technologies to improve the human condition in developing countries; this is only possible if social programs based on principles of universality and inclusiveness address persistent social inequalities. Studies of globalization in developing countries produce mixed results with some arguing that economic globalization negatively affects welfare regimes (Kim and Zurlo 2009; Rudra 2007, 2002), while others argue that the impact has been more positive or negligible (Koster 2009; Avelino, Brown, and Hunter 2005).

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… **Despite the passage of the Doha Declaration which sidelined the WTO as a forum to pressure countries to uphold the corporate view of intellectual property and restrict the use of compulsory licenses, confrontations between Brazil's health ministry and patent owners continued**. The year 2005 proved a pivotal one in Brazil's AIDS treatment program. Drug costs had jumped to $500 million, and 165,000 Brazilians were in treatment. Health Minister Humberto Costa demanded discounts and/or voluntary licenses from Merck for efavirenz, from Abbott for Kaletra (ritonavir/lopinavir), and from Gilead for tenofovir. Abbott was the most intransigent during the negotiations, and on June 24, 2005, Costa threatened the use of a compulsory license for its AIDS drug. From 2002 to 2005, the number of patients using Kaletra jumped sevenfold to 23,400 and the annual expenditures reached $91.6 million. Health officials forecast that the number of patients would increase to 60,000 over the next four years. Negotiations with Abbott began in March with Brazilians demanding a price discount from $1.17/pill to $0.68/pill—the cost that state labs could allegedly produce the medicine. The talks with Abbott were complicated by the fact that Costa left office after supposedly reaching an agreement and resumed under the new Minister Saraiva Felipe.

**The Kaletra negotiations of 2005 illuminate the framing of interests, coalition formations, and potential impacts that different groups have on the state as a result of globalization. Corporate defenders of strong intellectual property rights quickly began to lobby the USTR to apply pressure on Brazil soon after Humberto Costa had placed the compulsory option on the table in March 2005**. They couched their arguments in terms of stealing property and US national interests. "This theft has gone on at the expense of the American people and the US economy," claimed Nancie Marzulla, president of Defenders of Property Rights (2005). According to this view, the victim is the US people who witness their intellectual creations suffer from Brazilian piracy. **This frame captured the attention of members of the US Congress who lobbied the USTR to fight Brazilian "theft" and "piracy" of US intellectual property as well as questioned Brazil's "emergency use" justification since its successful AIDS program kept prevalence rates comparable to those in the US (Wilson 2005)**. US legislators expressed concerns of national competitiveness being threatened by another rising economic power…

… The concern was that Brazil would begin competing against US companies for export markets
such as Africa. Indeed, Brazil had already begun to donate AIDS medicines and offer its pharmaceutical technology to other countries suffering AIDS epidemics.
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**US authorities, however, retained other instruments of pressure. The USTR produces the annual Special 301" Report that identifies countries who fail to improve intellectual property protection**.5 If a USTR investigation discovers that a country is at fault, then trading **privileges under the General System of Preferences (GSP) could be withdrawn**.6 In 2001, the agency placed Brazil on its Watch List and then in 2003 on the Priority Watch List. **During the Kaletra confrontation in 2005, members of the US Congress urged the USTR to withdraw Brazil's trade privileges provided under the GSP. Estimates of Brazilian exports affected by the possible trade retaliation range from $48 million (Boletín Farmacos 2005) to $3.6 billion (Kogan 2006).**
(pp. 17-18)

… **References**

**… Kogan, Lawrence A. 2006. "Brazil's IP Opportunism Threatens U.S. Private Property Rights."** ***Inter-American Law Review*** **38(1):1-139.**