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Firms, Associations and the Governance of HIV/AIDS in South Africa[1]

1. Introduction

In the debate about globalization in the 1970s and again since the 1990s, the behavior of multinational corporations has been an issue of controversy. The relocation of production to developing countries with lower social and environmental standards is regarded as driving force behind deregulation: While countries with high levels of regulation will respond by lowering their standards, countries with weak regulatory capacities are prevented from tightening regulation in order not to threaten foreign direct investments (cf. Bhagwati and Hudec 1996; Murphy 2000; Lofdahl 2002). Many observers and critics of globalization processes fear that the alleged 'race to the bottom' will end in a systematic degradation of natural resources and a compromising of social standards for the sake of potential economic growth or the attraction of short-term foreign investment.[2] On a more general level, transnational corporations are even found to undermine the regulatory capacities of states resulting in the "retreat" (Strange 1996) or even the "end" (Ohmae 1995) of the state as the main provider of governance functions (Ruggie 1998).[3]

However, there are numerous instances in which we find firm behavior revealing just the opposite: Foreign Direct Investment (FDI) can impact on long-term growth by triggering technology transfer (Nair-Reichert and Weinhold 2001: 154). Moreover, firms sometimes do have an interest in high standards (Börzel, Héritier et al. forthcoming). Companies may then seek to impose their self-regulatory standards and pressure governments to issue stricter public regulations (cf. Vogel and Kagan 2004; Murphy 2000; Flanagan 2006).

This paper inquires under which conditions and why firms that have an interest in higher standards try to foster state capacities. More specifically, we ask what role associations play in this regard. While their presence encourages self-regulation, firms seek public regulation if there are no associations to monitor compliance with corporate regulatory standards. The paper studies the textile and automotive industries which differ with regard to the strength of business associations. Our study concentrates on South Africa and HIV/AIDS abatement.

South Africa belongs to the countries with the highest HIV/AIDS rates. With a rising prevalence of HIV/AIDS, firms experience an increase in employee turnover. Employees remain absent from work because they fall sick or because family members need to be looked after. In South Africa, only limited state capacities have been employed to comprehensively fight the disease. Therefore, firms have a basic interest in contributing to overcoming this problem.

The next section introduces the theoretical argument on associations and their role in the development of regulation (section 2). We then present the empirical setting (section 3) and discuss the relevance of associations in inducing firms to contribute to a fostering of regulation (section 4). Since our comparative study finds only partial support for the role of associations in shaping regulatory preferences, the paper concludes with a discussion of additional factors that help account for business behaviour. While associations form an important part of the opportunity structure of firms choosing to fight HIV/AIDS, firm size, exit-threat option and trade union activism are also important factors that shape their willingness to engage in a regulatory 'race to the top'.

2. Associations and the Fostering of Regulatory State Capacities

What theoretical propositions does the existing literature offer to explain firms' attempts to foster the regulatory capacities of states? We draw on research on private self-regulation and private authority in global governance (cf. Ronit and Schneider 2000) which assumes that collective organization through business associations is an important condition for private self-regulation. Associations help to solve collective action problems among firms. In the market, the temptation for an individual firm to take advantage of competitors complying with strict standards is considerable. This temptation is attenuated, however, by the discipline associations can impose. If international business associations mobilize advocacy support for corporate self-regulation, the adoption of self-regulatory standards is not only more likely (cf. Kell and Ruggie 1999: 3). Associations may also help to mitigate the free-rider problem by monitoring adherence to self-regulatory standards. By contrast, in the absence of associations, firms with an interest in high standards seek public regulation. Legal enforcement is demanded to force competitors into compliance. We expect that in sectors with strong associations, firms will be less likely to push for state regulation and to assist the state in enforcing existing regulation.

3. The Empirical Setting

3.1 HIV/AIDS IN SOUTH AFRICA

South Africa is one of the countries most heavily affected by HIV/AIDS (cf. von Soest and Weinel 2006). In 2006, HIV prevalence among adults was 18.3 percent (UNAIDS 2008). Already after the democratic elections in 1994, HIV/AIDS had been declared "Presidential lead project" (Rosenbrock 1998). However, the government has been reluctant to systematically approach the epidemic. For once, the government framed AIDS as an African disease requiring "African solutions". It also showed scepticism on the link between HIV and AIDS by expressing doubts about a report by the South African Medical Research Council on the impact of HIV/AIDS on the mortality of adults (Weinel 2005).

The government has not only lacked the willingness but also the necessary resources to address the disease. Moreover, the fragmentation of competencies across different departments and levels of government rendered coordinated action difficult (cf. Rosenbrock 1998). The 'HIV/AIDS/STD (Sexually Transmitted Disease) Strategic Plan for South Africa 2000-2005', finally launched by the government at the end of the 1990s (see Department of Health 2000) focused on prevention but still lacked an explicit commitment to treatment such as antiretroviral therapy[4] (Hickey et al. 2003). Nor did the Plan include measurable plans and budgets for implementation of the formulated policies (Hickey 2002).

In an attempt to improve the implementation of HIV/AIDS policies, the government introduced several additional initiatives, for example inter-departmental and inter-ministerial HIV/AIDS committees at the national and provincial level as well as the South African National Aids Council. However, similar to the Strategic Plan, these initiatives did not include any commitment to the provision of treatment. As a result, the provision of treatment was ensured only for holders of private health insurance (Stewart and Loveday 2005). Due to national as well as international critique, the government was then forced to explicitly place antiretroviral therapy on the agenda. Building on the 'Strategic Plan for South Africa' the corresponding 'Operational Plan for Comprehensive HIV and AIDS Care, Management and Treatment for South Africa' was formulated in 2003 (cf. Department of Health 2003). The provinces are to a large extent in charge of implementation. However, most of them continue to lack the resources to fulfil this task. The local level is confronted with insufficient availability of medication and skilled personnel. Most people on public health insurance still face long waiting lists for access to treatment. By 2005, there was only 23% drug coverage.[5]

In sum, the South African government has not developed a comprehensive approach to fight HIV/AIDS in general, nor did it issue regulations which specifically govern the disease in the workplace (Dickinson and Stevens 2005). An exception is the 'Code of Good Practice on Key Aspects of HIV/AIDS and Employment' which aims to ensure that individuals with HIV infection are not discriminated against in the workplace. Generally, the regulative framework driving corporate behavior is based on human rights legislation. Especially anti-discrimination laws are strong in South Africa (Dickinson and Stevens 2005). However, apart from this, obligatory regulation concerning HIV/AIDS workplace programs is largely absent.[6]

3.2 THE AUTOMOTIVE AND TEXTILE INDUSTRY IN SOUTH AFRICA

The Automotive Industry is one of the largest economic sectors and the largest of all manufacturing sectors in South Africa, accounting for approximately 28% of the country's manufacturing output (see U.S.-Department of Commerce 2005). In 2005, the industry contributed 7% to the Gross Domestic Product (GDP) and 13,5% to the total exports (see NAACAM 2006). The original equipment manufacturing (OEMs) sector, in which companies like VW or General Motors operate, employs 36.000 persons, while the car producing industry including suppliers has 100.000 employees and contributes 1-2% to the total employment in the country (see Lorentzen and Barnes 2004; Meyn 2004). In terms of sector structure, the OEM sub-sector is characterized by a high degree of concentration. Seven OEMs operate assembly plants in South Africa: BMW, Daimler AG, Ford, General Motors, Nissan, Toyota and VW. The second subsector within the automotive industry, which supplies OEMs with parts and components, is much more fragmented and constituted of more than 500 companies (see NAACAM 2006). Hence, the automotive industry is characterised by both high and low concentration of firms.

Similarly, the textile industry can be sub-divided into a well-organized (textile retailing) and a comparatively weak sector (textile manufacturing). The wholesale, retail, catering and accommodation sector is one of the five biggest industries in terms of GDP contribution and has shown constant growth (Statistics SA 2007). Retail trade sales increased from ZAR 222,074 million in 2001 to ZAR 447,769 million in 2007. At the same time, the sector is marked by a high level of concentration. A market share of circa 70% is accounted for by seven retailers: Edcon, Woolworths, Truworths, Pick'n Pay, Mr Price, Pep Stores and Foschini.

While retail sales have considerably increased, the textile industry supplying the retailers and competing with Asian imports has been in decline for years (Statistics