# Bilateral Investment Treaties (BITs):
# The Global Investment Regime and Human Rights

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Abstract

We argue that the broad and legally enforceable protection offered to investors by bilateral investment treaties (BITs) worsens the human rights practices of developing countries. In such countries, BITs lock-in initial conditions attractive to investors that tend to be linked to vertical investment flows and trade competition, and include low environmental standards or labor rights. BITs also constrain the provision of welfare benefits, basic infrastructure, investment in environmentally friendly technologies or land reform. The combined lock-in and constraining effects of BITs are sources of popular grievance and dissent in states that host foreign investment. BIT protected investor rights, however, limit the ability of governments to back-down vis-à-vis investors, lowering the relative cost of human rights violations. Finally, we argue that democracies have higher accountability and a lower threat perception for dissent, mitigating the negative effect of BITs. Evidence from 113 developing countries from 1981 to 2009 supports our hypotheses.

## 1. Introduction

Foreign direct investment (FDI) has emerged as a key economic flow in the global economy. To reduce risk and entice direct capital investment, since the 1960s countries have ratified a large number of bilateral investment treaties (BITs). Currently, the United Nations Conference on Trade and Development (UNCTAD) estimates that 178 countries are involved in at least one BIT, with more than 2900 BITs signed among these countries. Some view bilateral investment treaties as a development tool, arguing that BITs channel much needed capital to poor countries (Leo 2010). Others fear that the favorable treatment given to foreign investors through BITs can worsen the environmental or human rights practices of states (Peterson and Gray 2003). Indeed, the most methodologically sophisticated recent evidence shows that countries signing more BITs see a greater inflow of foreign direct investment (Buthe and Milner 2009, Kerner 2009, Allee and Peinhardt 2011, Haftel 2010). The potential negative externalities of the "broad and asymmetrical" (Simmons 2014, p. 12) rights granted to investors have received, however, much less attention. This paper is the first systematic theoretical and empirical investigation into whether BITs influence states' human rights practices.

Bilateral investment treaties include provisions that guarantee investor rights as well as mechanisms that investors can use to legally enforce such provisions (Elkins et al. 2006). To a great degree, then, developing countries have signed BITs to attract foreign investment and they have done so primarily because of competitive pressures (Elkins et al. 2006). Recent work shows that host states may have not fully anticipated the constraining effects and costs of such investment treaties (Jandhyala et al. 2011, Poulsen and Aisbett 2013), and started to overtly push back against the constraining effect of BITs on their domestic policy space (Simmons 2014, Poulsen and Aisbett 2013). In addition, human rights groups have charged that the hands of capital importing states are tied by investment treaties, generating important grievances and worsening governments' human rights practices. For example, the UK – Colombia BIT was signed in 2010 but is not yet ratified. Human rights and anti-poverty groups[1] are

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[1] E.g., Colombian NGO Cedetrabajo or British NGO Traidcraft.

concerned that this BIT containing an international arbitration clause will expose the Colombian government to costly lawsuits, impact Colombian land reform programs, and threaten the return of 5 million internally displaced people. Similarly, NGOs[2] have reservations about the ongoing negotiations on a US-India BIT, including about how the investor-state dispute mechanism can undermine the domestic policy space and domestic justice system. Yet, to date, there is no consistent evidence that the global investment regime has had such deleterious effects.

Our key contention is that BITs have the potential to negatively influence human rights practices because they lock in legally enforceable conditions attractive to investors, both retrospectively and into the future. The lock-in effect of BITs can force the hand of the government to favor multi-national corporations or foreign investors even at the cost of violating the rights of their own citizenry. Retrospectively, many developing countries compete for investment and trade on issues ranging from environmental regulations to labor standards and welfare spending and tend to be destinations of vertical investment seeking cost efficiencies. BITs lock in these initial favorable conditions. In addition, BIT provisions constrain future policies, from the provision of welfare benefits, basic infrastructure and investment in environmentally friendly technologies to land reform. Locked-in low standards for environmental protection or labor rights and constrained policies are important sources of popular grievance in host states. The literature on the causes of repression suggests that human rights violations are key responses of states to the manifested or just anticipated protest that can results from these grievances. We will argue however, that states' reaction to such potential dissent and the negative human rights consequences of BITs is moderated by regime type.

We test our hypotheses on a sample of 113 developing countries from 1981 to 2009. We find that countries that ratify a greater number of BITs have worse human rights practices. We also show that the effect of the cumulative number of ratified BITs is conditional on political regime: BITs are more likely to result in human rights violations in non-democracies. Our results are robust to the inclusion of a large

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[2] E.g., the Indian NGO "Forum against Free Trade Agreements", a coalition of over 75 organizations.

number of control variables, coding of BIT specific clauses[3] or focusing only on North-South BITs that likely govern over de facto investment flows, instrumental variable techniques, exclusion of outliers, variations in sample size or alternative measures of human rights practices.

The paper makes several contributions. We are the first to systematically theorize and test the effect of the global investment regime on states' human rights practices. A plausible motivation for joining international treaties, including BITs is frail domestic institutions and low credibility with investors. Yet the evidence in favor of a credible commitment rationale for BITs is weak for variables ranging from political institutions (democracy or political constraints) to economic risks (property rights or law and order) (Appendix Table A1). Specifically, no evidence exists that countries with bad human rights records sign or ratify BITs for credibility reasons (Vadlamannati 2009, Neumayer 2006). Our work however shows theoretical reasons and robust empirical evidence for an effect running from BITs to human rights violations. This research thus contributes to recent work investigating the effect of international economic treaties[4] or international organizations[5] on states' human rights practices.

Second, we unpack the specific causal mechanisms through which FDI may affect human rights practices. In our empirical models we allow for a direct effect of FDI inflows which appears to aid human rights practices. This likely occurs via better economic development and growth, as discussed in the literature (Li and Liu 2005, Alfaro 2003, Alfaro et al. 2004). FDI has, however, been linked to human rights through opposing arguments that are unlikely to be captured by the variables used in the literature. Our focus on BITs can capture directly the preferential and favorable treatment[6] that many multinationals enjoy in developing countries and that is locked in by BITs.

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[3] We code BITs that include a direct arbitration clause to the International Centre for Settlement of Investment Disputes (ICSID).

[4] Hafner-Burton (2005b), Hafner-Burton (2009), Spilker and Bohmelt (2013).

[5] Abouharb and Cingranelli (2006, 2007, 2009), Keith and Poe (2000).

[6] Simmons (2014), Van Harten (2012).

Finally, recent work argues that states ratify BITs within a bounded rationality framework and do not appreciate the degree to which their hands are tied (Poulsen and Aisbett 2013). Our evidence raises doubt with regards to these arguments, especially the strong claim of bounded rationality, because it appears that host states that have signed more BITs protect investor rights, even at the cost of violating the rights of their domestic populations.

The paper proceeds as follows: We first discuss the broader evidence on FDI and human rights practices and then elaborate on the legal protection afforded by BITs to investors. We then explain how BITs may affect human rights practices and derive two hypotheses. Data and research design are discussed next, followed by our empirical findings. The final section concludes this paper.

## 2. Foreign direct investment and human rights

The economic rationale for the globalization of trade and investment is a more efficient allocation of resources or gains from specialization and economies of scale. Supporters of globalization have also argued that it improves human rights practices, while detractors voiced concerns about human rights degradation. The evidence on the effect of FDI on human rights is mixed, although recent studies support a positive impact.[7] Work that traces itself to dependency theories and "race to the bottom" ideas argues that foreign investors co-opt local elites and extract local resources (Bhattacharya et al. 1997) or, alternatively, use exit threats as leverage for tax breaks, favorable labor policies and wages, and fewer welfare programs (Haggard and Maxfield 1996). To sustain such investor-friendly policies governments arguably need to control the masses, including through "repression and curtailment or denials of civil and political rights for the populations of developing countries" (Meyer 1996, p.379).

On the other hand, FDI is suggested to improve governments' respect for human rights through several mechanisms. A key argument is that market liberalization brought by trade openness or FDI boosts economic development, which promotes better human rights practices (Apodaca 2001). Although

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[7] A positive effect of FDI on human rights practices is identified in Richards et al. (2001), Hafner-Burton (2005a). Sorens and Ruger (2012), however, find no effect.

not unequivocally, FDI is associated with better growth outcomes in a wide range of situations[8] and the improvement in human rights may happen because development sustains the middle class, which demands more respect for political and human rights (Richards et al. 2001, Meyer 1996). Alternatively, economic development produces political stability by improving living standards, reducing the need to repress on the side of governments (Gelleny and McCoy 1999).[9]

FDI is thus linked to human rights in complex ways and through opposing arguments that are unlikely to be captured by the variables used in the literature measuring the stock or flows of FDI. In the context of the link between FDI and human rights, our focus on BITs usefully captures and empirically insulates the aspects of FDI flowing into developing countries pointed out by the "race to the bottom" literature. As we make the case below, BITs lock-in any favorable initial conditions granted to multinational corporations to attract FDI to host countries. BITs are thus one direct way to capture the effect of such alleged favorable treatment of foreign investors. Empirically, then the measures of FDI included in our empirical models, should capture the residual effect of direct investment through channels like economic development and improved living standards.

**3. Bilateral investments treaties (BITs)**

In the absence of multilateral institutions, BITs have been one of the most visible and powerful legal instruments governing the global growth of FDI (Elkins et al. 2006). These treaties offer strong protection to foreign investors while human rights provisions in BITs are marginal, at best.

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[8] Li and Liu (2005) find a direct positive effect of FDI on growth and an indirect through human capital. Alfaro (2003) shows a positive effect on growth, coming from FDI in manufacturing and a negative effect from FDI in the primary sector. Alfaro et al. (2004) also finds that FDI is likely to promote growth in countries with well-developed financial markets. Still, other work, finds no direct effect of FDI on economic growth (Carkovic and Levine 2005).

[9] Moreover, FDI may promote better human rights practices because FDI is attracted by countries with already better human rights records (Blanton and Blanton 2007, Barry et al. 2013).

Direct investment in a foreign country implies important sunk cost and BITs are designed to address investors' concern about the future behavior of host states (Elkins et al. 2006). Common policy reversals that are adverse to investors include expropriation of foreign-owned assets and discriminatory changes to performance requirements, capital taxation and regulation, tariffs or social contributions. BITs then aim to guarantee standards of protections for investors such as compensation for expropriation, national treatment of foreign investors or most favored nation treatment. Even more, investors can enforce their rights in a timely manner and through investor chosen venues that are unlikely to favor host states: Early BITs provided investor protection through state to state dispute resolution, via the establishment of tribunals or submission to the International Court of Justice. More recent BITs grant foreign investors the right to adjudicate alleged violation of rights in international tribunals, without the need to exhaust local remedies, and, in case of non-compliance with the arbitration decisions, broad rights to request the confiscation of host government's property from around the world.[10]

By the late 1980s most BITs include such dispute settlement mechanisms and between 1990 and in 2012 there were at least 564 international arbitrations filed by investors against at least 110 host states (Wellhausen forthcoming).[11] These investment arbitrations are directly related to the number of BITs ratified by states (Simmons 2014) and have important consequences. A first implication is for the budgets of host states: The size of monetary awards have been significant including recent decisions against the governments of the Czech Republic ($350 million in 2001), Lebanon ($266 million in 2005)

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[10] BITs typically also have grandfather clauses that ensure treaty obligations apply to FDI for 10 to 15 years after a treaty expires or is abrogated by a host government.

[11] Most of the claims against host states are brought by investors to the International Centre for Settlement of Investment Disputes (ICSID), which is part of the World Bank. The next used option is the arbitration rule of United Nations Commission on International Trade Law (UNCITRAL) in venues such as the International Chamber of Commerce, the Stockholm Chamber of Commerce, and the London Court of International Arbitration.

(Elkins et al. 2006), or Ecuador ($2.3 billion in 2012)[12]. Second, future direct investment inflows decrease when investors allege violation of rights by the host government even at the moment of filing of an international arbitration (Allee and Peinhardt 2011). Third, because arbitration is a high-risk, high-cost option, the threat of arbitration on the side of investors can be effective in extracting concessions, even when governments may expect to win in front of a tribunal. While most such threats remain confidential, several examples have emerged and experts estimate that the practice is not uncommon.[13]

Not only do foreign investors have favorable choices to enforce their rights, but host states may be disadvantaged over investors in the litigation process. Most BITs are signed by developing and middle income states, which lack the legal capacity and experience to effectively counter the investor-states claims. Even more, in actual litigations, there is some degree of legal asymmetry towards foreign investors. For example, Van Harten (2012) examines jurisdiction issues that by definition could be interpreted either way and litigated precisely because parties cannot readily anticipate the outcome. He finds a bias towards expanding investor' rights of interpreting jurisdictions that applies to 76 percent of the cases (out of 140 cases as of 2010). Simmons (2014) uses Van Harten's data and finds that the poorer the state, the more likely an arbitration panel will rule expansively in favor of investors' rights.

In contrast to strong investor protection, very few, if any, BITs mention human rights or associated fields (Jacob 2010) and many developing countries would like to see BITs include more obligations for investors (Milner 2014). For instance, no explicit reference to human rights is to be found in the country model BIT of Germany (2008), France (2006), China (2003), India (2003), the United Kingdom (2005),

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[12] This is the largest ICSID award to an investor and a direct consequence of the US-Ecuador BIT.

[13] Recent examples include investor arbitration threats from open pit mining companies in Indonesia and Costa Rica regarding regulation changes; telecom operators in Zimbabwe over the cancellation of their license; or an energy company in India over changes to taxation policy. Also, Luke Eric Peterson, publisher of the Investment Law Reporter notes that "I would not be the least bit surprised if there were dozens upon dozens of such informal treaty-uses for every claim that actually gets arbitrated" (Gallagher and Shrestha 2011, p.5).

or the United States (2004). An exception is the 2007 draft of the Norwegian model BIT (Jacob 2010), which mentions human rights practices in preambular language.[14] However, such preambular wording, by itself, is too weak to compel compliance for either foreign investors or host states. Related provisions (labor standards, environmental protection) are increasingly mentioned in several recent BITs or template for BITs.[15] This, however, is still far from the "hard" language seen in Preferential Trade Agreements (PTAs) which explicitly link material benefits to compliance with human rights standards.

The following section leverages the strong protection offered by BITs to investors against the lack of provisions in these treaties with regards to human rights. Hafner-Burton (2005b) forcefully argues that "change in repressive behavior almost always requires legally binding obligations that are enforceable" (p.595). We apply this logic in reverse to suggest that BIT sanctioned binding legal commitments can incentivize the government to favor foreign investors (versus vulnerable domestic populations), with a net result of worsening human rights practices.

## 4. BITs and human rights

The last two decades have seen a great deal of informal polemics on whether the global investment regime and, more specifically, BITs harm human rights. Human rights organizations are particularly vocal about the effect of BITs on governments' policy autonomy to create social peace and justice.[16] We are the first ones, however, to engage in systematic theorizing and rigorous empirical testing.

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[14] "Reaffirming their (treaty parties) commitment to democracy, the rule of law, human rights and fundamental freedoms in accordance with their obligations under international law, including the principles set out in the United Nations Charter and the Universal Declaration of Human Rights" (UNCTAD IIA database).

[15] Article 11 of the 2004 Canadian model BIT mentions that "The Parties recognize that it is inappropriate to encourage investment by relaxing domestic health, safety or environmental measures. Accordingly, a Party should not waive or otherwise derogate from … such measures as an encouragement for the establishment, acquisition, expansion or retention in its territory of an investment of an investor". Similar provisions are in the 2012 US model BIT (Simmons 2014).

[16] For example, human rights NGOs opposed the Multilateral Agreement on Investment negotiated in

As we just explained, BITs include both provisions that guarantee investor rights and mechanisms for investors to legally enforce such provisions.[17] Our key contention is that BITs have the potential to harm human rights practices because they lock-in conditions attractive to investors, both retrospectively and into the future.[18] That is, as many developing countries predominantly attract vertical FDI and compete for investment and trade, BITs lock in the initial conditions favorable to investors on issues ranging from environmental regulations to labor standards and welfare spending. BITs not only act retrospectively, however. They also constrain the future policy choices of states for sustainable development, from the provision of basic infrastructure and investment in environmentally friendly technologies to land reform. The overt favoring of foreign investors and the constraints on development policies are important sources of popular grievance in host states. The governments of such states can then either anticipate dissent or experience outright protest as a result of grievance. Repression and human rights violations are key responses of states to manifested or just anticipated threats. We argue however, that states' reaction to threats and the negative human rights consequences of BITs are moderated by regime type. We detail our argument below.

*4.1 Developing countries and policies favoring investors*

Many developing countries continue to compete in trade or for foreign investment by offering low environmental regulations, taxes, and lax labor standards, and reducing welfare spending. BITs de facto lock-in such favorable treatment granted to investors.

Recent scholarship shows that there are specific issues on which developing countries engage in "races to the bottom" to attract foreign investment. For example, Davies and Vadlamannati (2013) find

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the late 1990s by the OECD (Peterson 2009). NGOs also express concern in individual BITs negotiations, as for example the UK-Colombia BIT or the US-India BIT.

[17] Even if investors have extensive legal protection, states still break contracts with multinational enterprises (Blake 2013, Allee and Peinhardt 2011, Wellhausen 2015).

[18] Others note the lock-in effect of BITs (e.g., Milner 2014). We discuss why the conditions preserved in developing countries by BITs tend to be favorable to investors.

that developing countries compete for FDI by relaxing de facto labor practices. Similarly, Klemm and Parys (2012) show that developing countries compete for capital with other countries in the same region with regards to the corporate income tax rate, as well as by offering corporate income tax holidays.

The existence of races to the bottom may further depend on the way in which countries are integrated in the global economy (Mosley 2007). Our theory thus fits best flows of vertical FDI[19], as this type of investment is particularly interested in conditions that cut production costs and recent research shows conclusive evidence that much of the investment in developing countries is indeed vertical. Supporting our contention, recent work examining country characteristics (market size, quality and quantity of labor, location, tax rates) to infer the nature of FDI (Blonigen and Wang 2005, Hanson et al. 2003). A similar conclusion is reached by UNCTAD (2004) which shows that for both manufactured goods, but also services, FDI in developing countries is increasingly vertical. In addition, Buthe and Milner (2008) find that trade flows and trade policy, on the one hand, and FDI are complements, supporting indirectly their expectation that, at least for developing countries, FDI is largely vertical, part of intra-firm cross border transactions.

The link between investment in developing countries and their trade has further implications. Multi-national corporations use developing countries as part of their global production chain, by importing inputs and exporting processed goods (Buthe and Milner 2014). Because developing countries serve as export platforms for multi-national corporations (Frieden 1991, Ruane and Ugur 2005), export promoting policies are very relevant and attractive to foreign direct investors. Again, BITs have the potential to lock-in such export promoting policies and evidence exists that there are conditions when trade competition leads to lower environmental and labor standards. Cao and Prakash (2010), for example show that countries' water pollution regulation mirrors the regulation of trade competitions. They also find that, while for water pollution regulation both a race to the bottom and a race to the top

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[19] FDI that establishes facilities in multiple countries, each producing different inputs for the firm's production process.

can be observed, air pollution regulation only responds to downward policy changes in trade competitors. Rudra (2011) finds that especially the size of exports has a negative effect on access to potable water, an effect that is mediated by income inequality and Mosley and Uno (2007) show that trade openness worsens collective labor rights.[20]

In addition to locking in past investor friendly policies, BITs constrain future government choices for sustainable development and welfare improvement. Rudra (2002) for example finds that globalization (trade openness and capital flows) lowers welfare spending in countries where labor enjoys little bargaining power vis-à-vis the government. There are also numerous anecdotes that support the loss of sovereignty due to BITs. For example, Blake (2013) argues that Denmark's subsidies to local firms in the electricity sector to develop environmentally friendly technologies may potentially contravene the national treatment clauses in BITs. In an another example, in 2007 investors from Luxembourg and Italy brought an ICSID claim against South Africa arguing that the 2002 Mining and Petroleum Resources Development Act (MPRDA) expropriated their mineral rights. MPRDA is part of South Africa's redistributive policy in favor of historically oppressed domestic social groups (the Black Economic Empowerment Policy), requiring that mining companies be partly owned by 'historically disadvantaged persons'.[21] Furthermore, right after the settlement of this claim in 2010, South Africa terminated its BITs with Belgium and Luxembourg, arguing that they limited the government's ability to pursue a transformative agenda. Additionally, there are pending BIT arbitrations arising out of disputes over the provision of water and sewage services such as Vivendi/CGE vs Argentina[22], Aguas del Tunari vs Bolivia[23], and Suez Corporation vs Argentina[24]. Also, an increasing number of requests for

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[20] Mosley and Uno (2007) also find that foreign direct investment flows improve the legal (not de facto) rights of workers to freedom of association and collective bargaining.

[21] See: http://www.lexology.com/library/detail.aspx?g=daf93855-71f9-425e-92d3-5368d104f8ff

[22] Compañía de Aguas del Aconquija S.A. and Vivendi Universal v. Argentine Republic.

[23] See for example: William Finnegan, "Leasing the Rain", The New Yorker, April 8, 2002, pg. 43

[24] "Suez to Take US $496MN Charge – Argentina", Business News America, July 1, 2002

annulment[25] of arbitration awards are argued by host states in relation to the provision of basic utilities –
water, gas, electric power and infrastructure (Simmons 2014).

*4.2 BITs clauses lock-in favorable policies*

Several specific BIT provisions act to both lock-in initial conditions and constrain the future choices of
governments. We point to three of the most prominent ones: national treatment, stabilization clauses
under the umbrella clause and indirect expropriation.

One of the most important standards of investor treatment included in BITs is the national treatment
clause, which prohibits host government from making negative differentiations between national and
foreign investors (Blake 2013). Such prohibitions can constrain development strategies significantly.[26]
For instance, host governments are restricted in asking foreign multi-national corporations to locate
investment in underdeveloped regions or employ domestic inputs in their production. In addition, BITs
restrict host governments from favoring domestic firms that match the government's environmental or
social policy goals.

Domestic policy autonomy is also restricted by the inclusion of stabilization clauses in investment
contracts[27] that prevent host states from changing domestic law as it stands at the time of investment.
Such clauses aim to reassure foreign investors in projects that demand a large amount of investment,
especially in infrastructure or natural resource exploration that domestic law will not change to the
detriment of the investor. Investors can invoke the stabilization clause from contracts with the host states

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[25] The tribunal decisions in BIT arbitrations are final and binding, with no ground for appeal. Annulment
is the only option (other than noncompliance) available to a party if it disagrees with the arbitration
decision (Simmons 2014).

[26] While the majority of countries do not carve-out exceptions to the national treatment clause, some
investment treaties do include instances when the host countries can deviate from national treatment.

[27] It is difficult to estimate the number of international contracts containing stabilization clauses.
Amnesty International (2006) estimates that stabilization clauses are more prevalent in the contracts of
poorer countries facing groups of large multi-national corporations.
https://www.amnestyusa.org/sites/default/files/pdfs/hrtradeinvestmentmatters.pdf

under the "umbrella clause" of BITs and directly go to international arbitration. About 40% BITs include such umbrella clauses (Gill et al. 2004).[28]

Finally, with direct expropriation on the decline, BIT clauses related to indirect expropriation have become key constraints on government policies. Besides guarding against weak enforcement of property rights, indirect expropriation refers to less clear-cut and potentially very broad measures such as changes in taxation, revocation of licenses or denial of access to infrastructure. The vast majority of investment treaties include language referring to indirect expropriation and governments have to compensate investors for indirect expropriation. The uncertainty over the meaning and scope of indirect expropriation has the potential to deter states from taking actions that, while in the public interest, may be regarded as indirect expropriation and requite significant investor compensation (Nikiema 2012).

*4.3 BITs, grievance and human rights violations*

The lock-in effect of BITs can force the hand of the government to favor multi-national corporations or foreign investors even at the cost of having to violate the rights of their own citizenry. First BIT provisions can simply ask the government to directly intervene and physically protect multi-national companies' investment. Second, the same conditions that were designed to be favorable to investors and attract multi-national corporations have the potential to create popular dissent or the expectation of dissent, followed by repressive counters on the side of the government.

Very directly, a common BIT provision includes an obligation to provide foreign investors with "full protection and security". This clause commits host states to exercise "due diligence" in protecting foreign assets and can be invoked by foreign investors when they encounter protests against their operations and practices in host countries. In a recent arbitration case[29], for example, a Spanish multinational enterprise sued Mexico for failing to uphold the full protection and security clause by claiming that the authorities did not act as quickly and thoroughly as possible to "prevent or put an end

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[28] The Italian model BIT includes directly stabilization clauses as an international treaty obligation.

[29] Técnicas Medioambientales Tecmed, S.A. v United Mexican States (ICSID Case ARB(AF)/00/2).

to the adverse social demonstrations" regarding the investors' controversial hazardous-waste treatment facility (Amnesty International 2006). The arbitration tribunal dismissed the claim related to the Spain-Mexico BIT's "full protection and security" clause saying that there is "not sufficient evidence supporting the allegation that the Mexican authorities … have not reacted reasonably" (Amnesty International 2006). However, the tribunal concluded that the government had to compensate the enterprise on grounds of "indirect expropriation", because, following popular protests, the government refused to renew the Spanish company's permit to operate the landfill.

Second, as explained above important BITs clauses act to preserve any incentives offered to attract investors, including low environmental protection standards, limited welfare provision and basic infrastructure development, as well as limitations on labor rights. Such locked-in conditions can create enormous dissatisfaction and the government's response to popular grievance may turn violent or abusive.[30] For example, in the 1980s, US' Coca-Cola subsidiary in Guatemala faced street protest and hunger strikes over low-pay and refusal to allow the unionization of workers (Frundt 1987). In this case, while protecting foreign investor's property, the government used violence against Coca-Cola employees. In another example, in 1997, peaceful protest against the social and environmental consequences of the power-plant built in India by the Dabhol Power company, a joint venture of three US multinationals, were met with harassment, arbitrary arrest and preventive detention.[31] Also, in the past decade, Cambodia has granted land concessions through the Economic Land Concession scheme to Cambodians with ties to government and foreign private investors (Amnesty 2011). In one high-profile case of forced eviction in 2007, about 4,200 families in the Boeung Kak Lake area were relocated to build luxury housing. The government employed intimidation and violence to force residents to accept paltry compensation and removal to a remote location.[32]

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[30] Abouharb and Cingranelli (2009).

[31] http://www.refworld.org/docid/3ae6a9884.html; Peterson and Gray (2003).

[32] http://www.hrw.org/world-report-2012/world-report-2012-cambodia

The grievance that results from policies overtly favoring investors can lead to overt dissent or the expectation on the part of government of future dissent. Dissent in the form of protest or the expectation of dissent as a consequence of popular grievance increase the perceived threat for governments seeking to preserve the status quo and generate motivation to employ repressive measures. Empirically, actual protest or potential dissent has been shown to be a key determinant of state employment of coercive measures against its own citizens (Davenport 1995, Moore 1998, Davenport and Armstrong 2004, Nordas and Davenport 2013).

The use of state repression in response to manifested or anticipated dissent is the result of authorities' assessment of the costs and benefits of rights violations versus other tools at their disposal (Davenport 1995, Nordas and Davenport 2013). Repression is thus not an automatic response. We explore the variation in the costs of repression in the next subsection. Here we argue that, ceteris paribus, when the government's hands are tied by BITs, it becomes relatively expensive to address the root causes of popular grievance by taking measures against the legally protected investors. In addition, not only are investors' rights legally protected, but these rights limit severely some of the non-repressive options that governments normally use to buy off the potential opposition, including increasing social benefits, cheap access to infrastructure services like water or electricity or providing side payments though domestic companies.

Our first hypothesis follows this discussion: *BITs are associated with a worsening of human rights practices (Hypothesis H1).*

*4.4 The mitigating effect of political regime*

Several conditions can mitigate the incentives of host states to use repression. We focus on democratic institutions, which, in the repression literature, are a key consistent variable that is shown to increase the cost of rights violations (Davenport and Armstrong 2004).

Importantly, democracies may, to begin with, be less likely to offer initial conditions that are favorable to foreign investors. Thus, Li (2006) finds that countries with better rule of law, which tend to

be democracies, offer lower levels of tax incentives.[33] Also, we argued earlier that favorable trade policies are valued by foreign investors who use developing countries as export platforms. In this context, Cao and Prakash (2012) find that in countries with low political constraints, which tend to be non-democracies, the response to trade pressures is lower de facto standards for air pollution.

Moreover, while BITs tie the hands of all governments in a similar fashion, we argue that democracies and dictatorships vary in two key dimensions that affect states' calculus of the costs and benefits of repression. First, democratic leaders and dictators are likely to have different assessments of the level of threat to their rule posed by popular grievance and dissent. All else equal, the greater the perceived threat to their rule, the more likely that governments will make use of repression (Davenport 1995, Nordas and Davenport 2013). It is likely, however, that the level of perceived threat emerging from conflict between the interests of multi-national corporations and domestic groups is higher in dictatorships. Protest or mass demonstrations, either manifested or just expected, are more likely to be seen challenges to regimes that severely limit citizens' freedom of speech and association, or voting for the political competition as outlets to express grievance.

Second, at a very fundamental level, democracies and dictatorships face different levels of accountability. In their review of the literature, Davenport and Armstrong (2004) note that "in democracies political leaders who use repression against their citizens can be removed from office through the popular vote and, at the same time, these governments contain numerous institutional checks and balances on government activity" (p. 538). Thus, in political regimes that face real political opposition and a free media, episodes of human rights abuses can be expected to be quickly and widely acknowledged, raising the political and electoral costs of repression. In democracies both mechanisms –

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[33] Li and Resnick (2003) also argue that democratic accountability reduces the ability of governments to offer 'sweet bargains' to foreign investors, which, in turn, reduces the incentives for multinationals to pick democracies as investment locations.

a low threat perception and high accountability – are likely to balance the favorable treatment afforded to investors by BITs with a high cost of repression.

We propose therefore a second hypothesis: *The negative impact of BITs on governments' respect for human rights is mitigated in democracies (Hypothesis H2)*.

## 5. Data, measurement and research design

We test the hypotheses using data for 113 developing countries from 1981 to 2009.[34] The start year is dictated by the availability of the key dependent variable. The sample includes only developing countries because rich countries have a different position in the global economy and are both sources of FDI and FDI recipients. Human rights practices also tend to be better in rich countries, making it likely that the causal process and government's trade-offs are different in the developing world.

*5.1 Dependent variable*

We use as dependent variable the Cingranelli and Richards (1999) measure of governments' respect for physical integrity rights (CIRI data, updated to 2012). We choose the CIRI data because it explicitly captures governments' human rights practices while other data only captures overall human rights conditions (Cingranelli and Richards 2010, Cingranelli and Filippov 2010, Richards et al. 2001). CIRI codes the occurrence of excessive use of force and, in particular, the use of torture, disappearance, extrajudicial killing, and political imprisonment. The variable we use is an index ranging from 0 (no respect for any of the four physical integrity rights) to 8 (full respect for all four physical integrity rights). The data is coded based on both Amnesty International's Annual Report and the U.S. State Department's annual Country Reports on Human Rights Practices. When there is a conflict between these two sources, Amnesty International assessment is treated as authoritative in order to remove a potential bias in favor of US allies (Cingranelli and Richards 2010).

*5.2 Independent variables*

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[34] Similar to Poulsen and Aisbett (2013), these are countries that the World Bank does not classify as high-income for the majority of our sample period.

We use three key independent variables. To test hypothesis one we use the cumulative number of BITs ratified by a country in a given year. The total or cumulative number of BITs that a country is subject to in a given year makes sense because our focus is on the total leverage that foreign investor interests have on the host states via the conclusion of BITs. The logic is that the greater the number of BITs a host state ratifies, the greater the potential for popular grievance and repressive tactics on the side of the government. We also use ratified BITs rather than signed BITs because only ratified BITs are legally binding (Haftel 2010). This variable is constructed using the International Investment Agreements (IIA) database on the UNCTAD website. The variable ranges from 0 to 104 and, over the period considered here, developing countries were on average subject to about 11 BITs.

We further explore the heterogeneity of BITs to get at the causal mechanism in our theoretical explanation. First, we emphasize the strength of investors' legal protection. To explore the stringency of BITs, this variable codes exclusively the BITs for which the International Centre for Settlement of Investment Disputes (ICSID) is the only option for dispute arbitration. This means that investors can use the ICSID for dispute settlements directly, without exhausting local remedies. The ICSID has leverage over developing countries because of its status as an international convention affiliated with the World Bank, provides for very limited grounds for appeal and its awards have the same effect as the judgments in national courts (Blake 2013, Allee and Peinhardt 2010). The measure is based on Allee and Peinhardt (2010) and our original coding of 420 additional BITs. The variable ranges from 0 to 24, with an average of 4. Second, we want to capture those BITs that regulate de facto investment, such that it is plausible that grievance created in host countries by favorable conditions granted to real investors. It is very likely that the BITs between developed countries on the one hand and developing nations capture an investment relationship characterized by de facto flows of capital to the capital poor developing country. We follow Poulsen and Aisbett (2013) and use as a second measure only North- South BITs, as well as the BITs of major capital exporting developing countries: Brazil, Russia, South Africa, China,

Argentina, Panama, Mexico, Malaysia, Saudi Arabia, Indonesia, Hungary, Chile, and India. The variable ranges from 0 to 66, with an average of 7.[35]

To test our second hypothesis, we use the polity2 score from Polity IV dataset. The variable ranges from -10 to 10, with larger values indicating higher levels of democracy. We include an interaction term between the polity2 score and the cumulative ratified BITs to test the conditional effect of investment treaties.

*5.3 Control variables*

We use as a baseline empirical specification the variables in Hafner-Burton (2005b). Specifically, our controls include: (i) foreign investment measured as the net FDI inflows as percentage of GDP (UNCTAD)[36]; (ii) the sum of a state's total exports and imports as a share of gross domestic product (logged) (World Bank World Development Indicators - WDI); (iii) GDP per capita in constant US dollars (logged) (WDI); (iv) regime durability measured as the number of years since a state has undergone a structural regime transition, defined as a movement on the Polity scale of three points or more (Polity IV); (v) population per squared kilometer of land area (WDI); (vi) international human right agreements capture whether countries have ratified the International Covenant on Civil and Political Rights and the Convention Against Torture (Spilker and Bohmelt 2013); (vii) soft Preferential Trade Agreements measures whether a state belongs to any PTAs with soft human rights standards (Spilker and Bohmelt 2013); (viii) hard PTAs is a dummy variable that takes a value of 1 if a state belongs to any PTAs with hard  human rights standards (Spilker and Bohmelt 2013). In addition to this baseline specification, we also include key covariates from the repression literature: Two dummy variables code ongoing civil war and interstate war (Armed Conflict Dataset). Also, following Nordas

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[35] Our results are similar when we code those BITs for which ICSID is the only option or one of the options, or, alternatively only North- South BITs.

[36] Using log (FDI in millions) our results are robust in all model specification. However, the FDI variable is only statistically significant and positive in the instrumental variable models.

and Davenport (2013) we include political dissent coded as the sum of antigovernment protest, riots, and general strike (Banks CNTS). Additional relevant variables are discussed in the robustness checks.

*5.4 Model specification*

We use an OLS regression with panel-corrected standard errors (Beck and Katz 1995) and adjust for first-order auto-correlation by specifying an AR(1) process[37]. All models include country dummies to capture country-specific unobserved heterogeneity. We also include half-decade period dummy variables to account for time-specific shocks or time trends that may influence both human rights violations and BIT ratification. All independent variables are lagged one year. The empirical model takes the following form:

$$CIRI_{i,t} = \mathsf{r}_1 + \mathsf{r}_2\, BITs_{i,t} + \mathsf{r}_3\, Polity_{i,t} + \mathsf{r}_4\, BITs_{i,t} * Polity_{i,t} + [Controls] + \mathsf{v}_{i,t} + \mathsf{y}_i + \sim_t$$

We expect that $\mathsf{r}_2$ is negative indicating that BITs work to worsen countries' human rights practices. $\mathsf{r}_4$ should be positive, indicating that democracies mitigate the negative effect of BITs. Finally, based on the literature on repression $\mathsf{r}_3$ should be positive: Democracies tend to have better human rights.

## 6. Results and discussion

Table 1 presents our results. Models 1 and 2 use the cumulative number of all BITs as the key independent variable. Models 3 and 4 use an instrumental variable approach to estimate the effect of BITs on human rights practices. Models 5 to 8, on the other hand, use our alternative measures for relevant BITs, based on the ability of investors to litigate at the ICSID (BITs with ICSID; Models 5 and 6) and the likely existence of actual investment flows (Adjusted North-South BITs; Models 7 and 8). The empirical estimations support our two hypotheses. Models 1, 3, 5 and 7 include the un-interacted cumulative number of BITs and the polity2 score. Across all the models, as expected, the coefficient on the cumulative number of investment treaties is negative and statistically significant. A greater number

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[37] The results are broadly similar when autocorrelation is corrected by (i) using a panel-specific AR1 autocorrelation structure; (ii) adding a lagged dependent variable to our estimations.

of BITs ratified by a country reduces the CIRI index, showing a worsening of human rights conditions. Models 2, 4, 6 and 8 include an interaction term between the cumulative number of ratified BITs and polity2 score. The coefficient on the cumulative number of investment treaties continues to be negative and statistically significant, but the interaction term is positive and statistically significant. This supports our second hypothesis: Democracy mitigates the negative effect of BITs on host government's respect for human rights. Next we discuss our instrumental variable estimation and the scope condition when BITs influence human rights conditions.

Very important, the relationship between BITs and human rights violations is open to the charge of endogeneity and may be spurious. It may be that states with low level of respect for human rights are in a greater need for the credibility afforded by ratifying BITs in the first place. Although there is no clear evidence in the literature that states with high level of human right violation are more likely to conclude BITs (Neumayer 2006, Vadlamannati 2009, Appendix Table A1), we show instrumental variable estimations to address the potential endogeneity problem. We use two instruments for our key independent variable - the cumulative number of ratified BITs. The first instrument measures the average of the total ratified BITs in neighboring states in a given year. Following Kerner (2009) we define neighboring countries using the Correlates of War coding for type 1 or type 2 contiguity, which includes countries that share a land border or are separated by 12 miles of water or less. This instrument aims to capture the competitive nature of BITs signing (Elkins et al. 2006) and the correlation of the instrument with our independent variable is 0.69. The second instrument uses the three year lagged (year t-2, t-1 and t) total of new BITs ratified in other countries in the world. This instrument intends to capture the trend of BITs ratification and the opportunities of concluding BITs. The correlation of this instrument with the key independent variable is 0.29 in the sample used in our model. We use Stata command xtivreg2 and the results shown in Table 1 (Models 3 and 4) continue to support our hypotheses. The chosen instruments perform well: The Hansen test of over-identifying restrictions tests the overall validity of the instruments (including the choice of exogenous variables) and failure to reject

the null hypothesis gives support for the model. For Model 3 and 4, the Hansen J statistic Chi-sq(2) p-value is 0.38 and, respectively, 0.54 , so we can not reject the null hypothesis. In instrumental variable models, while chosen instruments may be exogenous they may be weak, biasing the estimated coefficients. For both Models 3 and 4, the weak identification Kleibergen-Paap rk Wald F statistic is above 42. This value easily passes the "rule of thumb" (Staiger and Stock 1997) that the F statistic should be at least 10 for weak identification not to be considered a problem.[38] In addition to models 3 and 4, we use similar instrumental variables for our modified independent variables (BITs with ICSID and Adjusted North-South BITs) and the results shown in Table 1 are largely robust.

More than just examining multiplicative interaction terms for direction and statistical significance, Brambor et al. (2006) prescribe that inference should be done with meaningful marginal effects and standard errors to determine the conditions under which the variable of interest has a statistically significant effect. Figures 1(a, b, c, d) show the marginal impact of BITs on governments' respect for human rights conditional on the level of democracy. Figures are based on Model 2, 4, 6 and 8, respectively. The marginal effect of cumulative BITs is negative and highly statistically significant in less democratic states, whereas in democracies the effect is much smaller and only marginally statistically significant. Very relevant for our argument, the size of the marginal effect from Figure 1(a) is smaller than that in Figures 1(c & d). This means that the effect of BITs with ICSID is about three times as large as the effect of all BITs, while the effect of adjusted North-South BITs is about 1.3 as

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[38] Our results are robust to the use of a third instrument following Buthe and Milner (2008): Based on Jandhyala, Henisz, and Mansfield (2011)'s dyadic dataset of BIT signing, we first calculate for each dyad-year the probability that the two countries in the dyad will become members of a BIT in that year. We then add up the predicted probabilities for each country and year and divide that (monadic) sum by the number of possible BIT partners the country could have had for the given year. This calculation is our third instrument, as it yields a measure of the average probability that a country signs a BIT with all other countries in the world in the given year.

large.[39] This is consistent with our theoretical story that governments react to the legal protection of investors in international tribunals and that the effect of BITs should be larger as these treaties actually regulate de facto inflows of capital to developing countries.

To further assess the substantive effect of our key independent variable, we use Models 2, 6 and 8 to predict human rights conditions as we vary the cumulative number of BITs and the level of the Polity democracy score (Table 2). We vary the cumulative number of all BITs, BITs with an ICSID clause and the adjusted North-South BITs, as well as the Polity 2 score one standard deviation above and below the mean. All other variables are held at mean values. In non-democracies, varying the number of BITs by one standard deviation around the mean accounts for about 8% of the variation in the CIRI dependent variable. For example, for BITs with the ICSID clause, moving from no BITs to 7 BITs that include the restrictive clause on investment arbitrations reduces the predicted level of physical integrity rights from 3.94 to 3.28, or about 8% of the 0 to 8 range of the dependent variable. For democracies, on the other hand, the same variation in the number of BITs has a smaller effect of about 4% of the variation in the CIRI dependent variable. In democracies, for BITs with the ICSID clause a move from zero to 7 reduces the predicted level of physical integrity rights from 4.95 to 4.62. The differences in predictions are statistically significant at the 95% confidence level and, for non-democracies in particular, the size of this effect is important. For comparison, we compute the effect on the human right conditions of democracy, a key determinant of human rights in the repression literature. A move of one standard deviation above and below the mean in the Polity2 score (keeping BITs and all other variables at mean values), accounts for about 13% of the 0 to 8 range of the dependent variable (from 4.86 to 3.75).

Finally, regarding our control variables, we find that soft PTAs may increase repression levels. On the other hand, we find no impact for hard PTAs. In addition, ratification of human right treaties is associated with worse practices across our models. Also, we find that the level of democracy, trade

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[39] When use North-South BITs rather than the adjusted North-South BITs, the marginal effect is more than 3 times larger than in Model 2.

openness, GDP per capita, population density, civil war, and political dissent are all significant predictors of human rights practices and take on expected signs. Importantly, we find that net FDI inflows are associated with better human rights. This effect, and the results supporting our hypotheses, maintain when we use the ten-year lagged moving average of FDI inflows to mitigate the potential endogeneity between FDI and human rights practices.

*Robustness*

We verify the robustness of the empirical results against additional threats to inference. These include the timing of when BITs started to give investors access to international arbitration without the requirement to exhaust local remedies; the operationalization of the dependent variable; and, finally, the presence of outliers and the effect of additional variables.

First, we restrict our sample to begin from 1990 onward because it was not until the late 1980s that BITs began to give investors access to investor-state arbitration without first having to exhaust local remedies. This strategy is similar to Poulsen and Aisbett (2013), who note that, after 1990, the vast majority of BITs include a binding consent to investor-state arbitration. Our theory centers on the leverage of multinational corporations have on host states and therefore the magnitude of lock-in effect of initial policies. It may be argued therefore that focusing on BITs with access to investor-state arbitration is a more appropriate way to capture the foreign investors leverage through BITs. Model 9 and 10 in the Online Appendix Table A2 restrict our sample to BITs ratified after 1990 and show that our results are robust.

Second, we use an alternative measure of human rights violations - the Political Terror Scale (PTS) (Gibney et al. 2012). The PTS database has two separate indexes: one based on US State Department Country Reports and another based on Amnesty International's Annual Report. An ordinal five category variable that captures personal integrity rights is constructed for each PTS index, with a larger value indicating a higher level of repression. To be consistent with the interpretation of CIRI data used in the main analysis, we invert both PTS indexes so that a larger value reflects a higher respect of human

rights. PTS' two sources have slightly diverging coverage, and both have been criticized for possible

biases: State Department Reports protect the US and its allies (Poe et al. 2001). Amnesty International

Reports have often not rated countries with few human rights violation in the 1970s and 1980s (Wood

2008). Scholars thus differ in how they use the two PTS indexes. Some use them separately – either the

US State Department Country Reports (Nordas and Davenport 2013, Conrad and DeMeritt 2013) or

Amnesty International's Annual Report (Nordas and Davenport 2013, Wright 2014). Others use the

average of these two indexes to counterbalance biases (Blanton 2005, Apodaca 2001). We employ all

three ways of dealing with the PTS data. Table A5 in the Online Appendix shows our estimates. The

coefficient for cumulative BITs remains negative, but loses statistical significance in the non-interaction

model. However, the interacted models remain very similar to our findings in Table 1, supporting

Hypothesis 2. We maintain, however, that the CIRI data is more appropriate for testing our hypotheses

because the PTS indexes cannot differentiate the human rights practices of governments from broader

human right conditions (Richards 2001, Cingranelli and Richards 1999).

Finally, we exclude outlier countries and include additional control variables. Our results are

substantively similar if we exclude the countries that are above the 99th percentile in terms of cumulative

BITs ratified (China, Romania, the Czech Republic) or above the 95th percentile (China, Romania, the

Czech Republic, Turkey, India, Egypt). We also test the robustness of our hypotheses by including

additional control variables: (i) Simmons (2014) finds that states are more likely to sign restrictive BITs

during economic downturns. Economic crisis may also induce governments to repress social unrest. We

control for the 3 year lagged average economic growth (WDI). (ii) Abouharb and Cingranelli (2006,

2007, 2009) find that IMF or World Bank adjustment programs tend to worsen human rights in loan

receiving countries. We control for the number of years that countries are under either IMF or WB

programs. Following Abouharb and Cingranelli (2006, 2007, 2009) we also control for British or French

colonial legacy. (iii) The "shaming" activities of human rights international NGOs may also improve

states' human rights practices. We control for this by using a new dataset of shaming events of more

than 400 human right NGOs towards governments (Murdie and Davis 2012). Table A2 shows that our results are largely robust to the inclusion of additional control variables.

## 7. Conclusion

This paper is a first theoretical and empirical investigation into how and whether the global investment regime, and, in particular the ratification of BITs, affects human rights in developing countries. In these countries, we argue that BITs have the potential to worsen human rights practices because they lock in initial conditions attractive to investors, both retrospectively and into the future. Retrospectively, many developing countries still compete for investment and trade on issues ranging from environmental regulations, taxes, labor standards, and welfare spending and BITs lock in these initial favorable conditions. In addition, BITs provisions can constrain the future policy choices of states for sustainable development, from the provision of basic infrastructure and investment in environmentally friendly technologies to land reform. Low standards for environmental protection or labor rights and constraints on development and social policies can be important sources of popular grievance. Moreover, repression and human rights violations are key responses of states to the manifested or just anticipated protest and dissent that can result from such grievances. We argue however, that states' reaction to threats and the negative human rights consequences of BITs will be moderated by regime type. Democracies are less likely to offer investors more initially favorable conditions, as seen in tax incentive policies or de facto environmental standards. Also, relatively low perceived threat of protest or dissent to the regime stability and a high level of political accountability in democracies increase the cost of state repression and are more likely to balance the favorable treatment afforded to investors by BITs.

Using a sample of 113 developing countries from 1981 to 2009, we find support for our theoretical arguments. Countries that have ratified a higher number of BITs have worse human rights practices. This effect holds and is larger when we restrict our BITs count to only those treaties that have stringent arbitration clauses (ICSID arbitration) or are likely to govern over de facto investment flows (North-South BITs). In addition, we find that the effect of the cumulative number of ratified BITs is conditional

on political regime: BITs are more likely to result in human rights violations in non-democracies. The results are robust to alternative modeling techniques, inclusion of controls and variations in the sample.

Our research draws attention to the unintended externalities of concluding BITs. Investment treaties were drafted to facilitate cross-border capital flows and promote development through foreign investment. Yet we bring robust evidence that ratifying BITs tends to worsen the human rights practices of developing countries, very likely because they tie the hands of governments, supporting thus the concerns of human rights NGOs. Our findings also back the recent move to incorporate human rights standards in the content of BITs, either by explicitly referencing human rights[40] or by including related provisions with regards to labor standards or environmental protection[41].

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[40] 2007 Norwegian model BIT mentions human rights practices in *preambular* language  (Jacob 2010).

[41] See 2004 Canadian model BIT, 2004 US model BIT.

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## Tables and Figures

Table 1.  Effect of BITs on governments' respect for human rights in developing countries 1981-2009

| | All BITs | | IV | | BITs with ICSID | | Adjusted North-South BITs | |
|---|---|---|---|---|---|---|---|---|
| | Model 1 | Model 2 | Model 3 | Model 4 | Model 5 | Model 6 | Model 7 | Model 8 |
| BITs | -0.0161 | -0.0194 | -0.0501 | -0.0614 | -0.0596 | -0.0741 | -0.0322 | -0.0348 |
| | (0.0038)*** | (0.0040)*** | (0.0095)*** | (0.0108)*** | (0.0154)*** | (0.0169)*** | (0.0076)*** | (0.0078)*** |
| Polity2 | 0.0777 | 0.0702 | 0.0824 | 0.0696 | 0.0790 | 0.0724 | 0.0783 | 0.0724 |
| | (0.0093)*** | (0.0098)*** | (0.0101)*** | (0.0114)*** | (0.0093)*** | (0.0100)*** | (0.0093)*** | (0.0098)*** |
| BITs * Polity2 | | 0.0011 | | 0.0017 | | 0.0034 | | 0.0013 |
| | | (0.0004)*** | | (0.0005)*** | | (0.0018)* | | (0.0007)* |
| HR treaty | -0.1488 | -0.1365 | -0.1564 | -0.1437 | -0.1337 | -0.1292 | -0.1491 | -0.1396 |
| | (0.0684)** | (0.0682)** | (0.0640)** | (0.0647)** | (0.0680)** | (0.0678)* | (0.0684)** | (0.0687)** |
| Soft PTA | -0.4514 | -0.4608 | -0.4954 | -0.5197 | -0.4492 | -0.4507 | -0.4603 | -0.4661 |
| | (0.1563)*** | (0.1556)*** | (0.1246)*** | (0.1248)*** | (0.1565)*** | (0.1556)*** | (0.1566)*** | (0.1562)*** |
| Hard PTA | 0.0634 | 0.0749 | 0.0629 | 0.0772 | 0.0736 | 0.0950 | 0.0510 | 0.0610 |
| | (0.1620) | (0.1623) | (0.1326) | (0.1324) | (0.1621) | (0.1623) | (0.1623) | (0.1625) |
| FDI inflow | 0.0166 | 0.0162 | 0.0208 | 0.0205 | 0.0158 | 0.0158 | 0.0162 | 0.0160 |
| | (0.0076)** | (0.0076)** | (0.0096)** | (0.0096)** | (0.0076)** | (0.0076)** | (0.0076)** | (0.0076)** |
| Trade openness | 0.7095 | 0.7009 | 0.8598 | 0.8686 | 0.6666 | 0.6647 | 0.7153 | 0.7080 |
| | (0.1306)*** | (0.1322)*** | (0.1386)*** | (0.1396)*** | (0.1285)*** | (0.1290)*** | (0.1298)*** | (0.1312)*** |
| GDP per capita | 0.2596 | 0.3301 | 0.7649 | 0.9854 | 0.1669 | 0.1826 | 0.2887 | 0.3397 |
| | (0.1881) | (0.1898)* | (0.2198)*** | (0.2466)*** | (0.1935) | (0.1922) | (0.1897) | (0.1927)* |
| Durability | 0.0061 | 0.0051 | 0.0068 | 0.0052 | 0.0061 | 0.0058 | 0.0064 | 0.0056 |
| | (0.0044) | (0.0045) | (0.0037)* | (0.0038) | (0.0044) | (0.0044) | (0.0044) | (0.0046) |
| Population | -0.0123 | -0.0124 | -0.0132 | -0.0134 | -0.0114 | -0.0113 | -0.0121 | -0.0121 |
| | (0.0014)*** | (0.0014)*** | (0.0013)*** | (0.0013)*** | (0.0014)*** | (0.0015)*** | (0.0014)*** | (0.0014)*** |
| Interstate war | 0.0443 | 0.0170 | -0.1828 | -0.2738 | 0.0885 | 0.0856 | 0.0448 | 0.0274 |
| | (0.1962) | (0.1940) | (0.2000) | (0.2110) | (0.1992) | (0.1981) | (0.1949) | (0.1935) |
| Civil war | -0.9653 | -0.9633 | -1.3888 | -1.3874 | -0.9655 | -0.9690 | -0.9574 | -0.9564 |
| | (0.1279)*** | (0.1278)*** | (0.1095)*** | (0.1102)*** | (0.1285)*** | (0.1287)*** | (0.1279)*** | (0.1278)*** |
| Political dissent | -0.0371 | -0.0345 | -0.0545 | -0.0492 | -0.0343 | -0.0329 | -0.0359 | -0.0342 |
| | (0.0091)*** | (0.0092)*** | (0.0100)*** | (0.0102)*** | (0.0090)*** | (0.0090)*** | (0.0090)*** | (0.0091)*** |
| $R^2$ | 0.55 | 0.55 | 0.17 | 0.17 | 0.55 | 0.55 | 0.55 | 0.55 |
| *Countries* | 113 | 113 | 113 | 113 | 113 | 113 | 113 | 113 |
| *N* | 2,679 | 2,679 | 2,677 | 2,677 | 2,679 | 2,679 | 2,679 | 2,679 |
| Kleibergen-Paap rk Wald F statistic | | | 79.6 | 42.1 | | | | |
| Kleibergen-Paap rk Wald F statistic interaction term | | | | 159.1 | | | | |
| Hansen J p-value | | | 0.38 | 0.54 | | | | |

Note: All model except 3&4 are OLS with panel corrected standard error along with AR (1), intercepts, country and half-decade fixed effects. Model 3 and 4 are instrumental variable models (Stata command xtivreg2). The numbers in parentheses are standard errors. All independent variables are lagged one year. *** p <= 0.01; ** p <=0.05; *p<=0.1

Figure 1. The marginal effect of BITs on governments' respect for human rights conditional on regime type
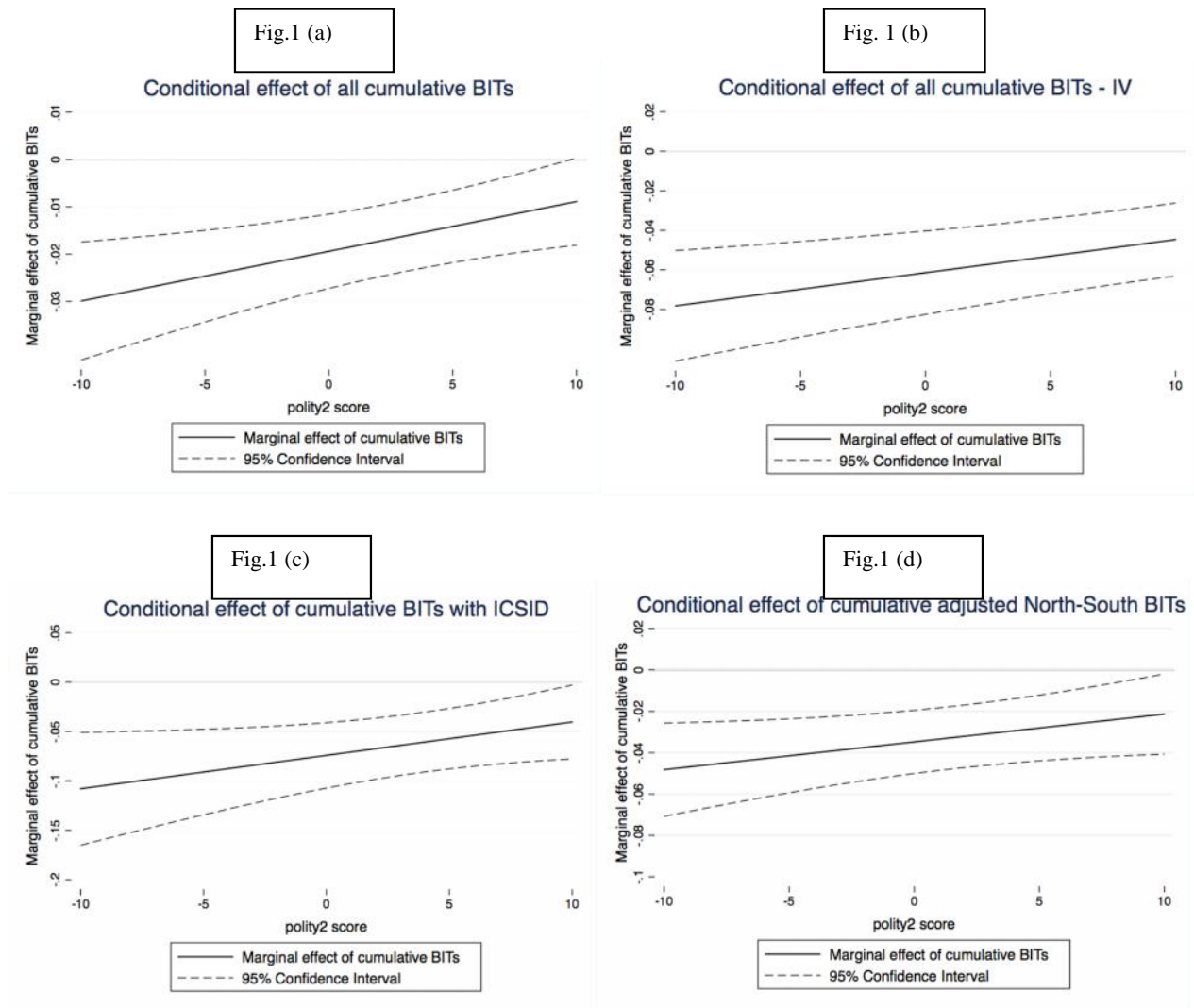


Note: Figure 1 (a) is based on Model 2, Figure 1 (b) is based on Model 4, Figure 1 (c) is based on Model 6, Figure 1 (d) is based on Model 8.

Table 2. Predicted human rights conditions: Vary BITs and Democracy

| | | **Democracies** Polity2 score 1 SD above mean (8) | **Non-Democracies** Polity2 score 1 SD below mean (-6) |
|---|---|---|---|
| Model 2 – all BITs | BIT count 1 SD above mean (25 BITs) | 4.68 | 3.33 |
| | BIT count 1 SD below mean (0 BITs) | 4.96 | 3.98 |
| | Column Difference | -0.27 (-0.48, -0.064) | -0.64 (-0.90, -0.39) |
| Model 6 – BITs with the ICSID clause | BIT count 1 SD above mean (7 BITs) | 4.62 | 3.28 |
| | BIT count 1 SD below mean (0 BITs) | 4.95 | 3.94 |
| | Column Difference | -0.33 (-0.57, -0.094) | -0.66 (-0.98, -0.34) |
| Model 8 – Adjusted North-South BITs | BIT count 1 SD above mean (15 BITs) | 4.64 | 3.34 |
| | BIT count 1 SD below mean (0 BITs) | 5.00 | 3.98 |
| | Column Difference | -0.36 (-0.63, -0.095) | -0.64 (-0.92, -0.36) |

Note: Predictions are calculated using Stata command margins. The numbers in parentheses are 95 percent confidence intervals. .

Table A1. Evidence that host countries with low credibility sign BITs (credibility argument)

| Variable operationalizing lack of credibility in host states | Support for the credibility argument | No effect | The opposite to the credibility argument |
|---|---|---|---|
| | | | |
| Human rights (CIRI and PTS indexes) | None | Vadlamannati (2009) Neumayer (2006) | None |
| Democracy (polity2 score), and Political Constraints (Henisz 2002) | Lupu and Poast (2013) Jandhyala, Henisz, and Mansfield (2011) during 1970-1987 and 2000-2007 Rosendorff and Shin (2015) | Neumayer (2006) Jandhyala, Henisz, and Mansfield (2011) during 1988-1999 Elkins, Guzman, and Simmons (2006) Neumayer and Plumper (2010) Tobin and Busch (2010) | Neumayer, Nunnenkamp, and Roy (2014) Allee and Peinhardt (2010, 2014) |
| Economic risks (Institutional Investors Magazine's country credit risk index; Expropriation risk, Law and order, investment risk profile, corruption, and bureaucracy quality from ICRG; Contract-intensive money; Quality governance from Kaufmann et al.) | Bergstrand and Egger (2013) Lupu and Poast (2013) Swenson (2009) during 1995-1999 | Allee and Peinhardt (2010, 2014) Ginsburg (2005) Swenson (2009) during 1990-1994 | Vadlamannati (2009) Poulsen and Aisbett (2013) Elkins, Guzman, and Simmons (2006) Freeman (2009) Ginsburg (2005) |

Table A2. Robustness check for a restricted sample and additional control variables – all cumulative BITs

| | Model 9 | Model 10 | Model 11 | Model 12 | Model 13 | Model 14 | Model 15 | Model 16 |
|---|---|---|---|---|---|---|---|---|
| BITs | -0.0168 | -0.0237 | -0.0165 | -0.0190 | -0.0200 | -0.0229 | -0.0175 | -0.0229 |
| | (0.0039)*** | (0.0044)*** | (0.0039)*** | (0.0041)*** | (0.0043)*** | (0.0047)*** | (0.0048)*** | (0.0054)*** |
| Polity2 | 0.0694 | 0.0561 | 0.0829 | 0.0767 | 0.0786 | 0.0737 | 0.0737 | 0.0580 |
| | (0.0122)*** | (0.0119)*** | (0.0093)*** | (0.0098)*** | (0.0106)*** | (0.0110)*** | (0.0138)*** | (0.0141)*** |
| BITs * Polity2 | | 0.0016 | | 0.0009 | | 0.0010 | | 0.0013 |
| | | (0.0004)*** | | (0.0004)** | | (0.0005)* | | (0.0004)*** |
| HR treaty | -0.1671 | -0.1437 | -0.1566 | -0.1470 | -0.1418 | -0.1301 | -0.2123 | -0.1907 |
| | (0.0750)** | (0.0749)* | (0.0694)** | (0.0693)** | (0.0744)* | (0.0742)* | (0.0771)*** | (0.0770)** |
| Soft PTA | -0.1545 | -0.1692 | -0.4728 | -0.4798 | -0.5855 | -0.5810 | -0.0755 | -0.0835 |
| | (0.1535) | (0.1510) | (0.1572)*** | (0.1565)*** | (0.1713)*** | (0.1708)*** | (0.1642) | (0.1618) |
| Hard PTA | 0.0436 | 0.0630 | 0.0296 | 0.0424 | 0.2696 | 0.2747 | -0.0334 | -0.0149 |
| | (0.1714) | (0.1688) | (0.1603) | (0.1604) | (0.1688) | (0.1693) | (0.1893) | (0.1855) |
| FDI inflow | 0.0148 | 0.0140 | 0.0173 | 0.0170 | 0.0210 | 0.0210 | 0.0146 | 0.0140 |
| | (0.0083)* | (0.0084)* | (0.0077)** | (0.0077)** | (0.0097)** | (0.0097)** | (0.0095) | (0.0095) |
| Trade openness | 0.6975 | 0.6719 | 0.6884 | 0.6799 | 0.6744 | 0.6612 | 0.8084 | 0.7876 |
| | (0.1616)*** | (0.1653)*** | (0.1327)*** | (0.1343)*** | (0.1475)*** | (0.1499)*** | (0.1783)*** | (0.1835)*** |
| GDP per capita | 0.0226 | 0.1184 | 0.2382 | 0.2997 | 0.3570 | 0.4237 | -0.1500 | -0.0756 |
| | (0.2531) | (0.2621) | (0.1866) | (0.1869) | (0.2038)* | (0.2055)** | (0.3126) | (0.3221) |
| Durability | 0.0003 | -0.0015 | 0.0074 | 0.0066 | 0.0092 | 0.0088 | 0.0070 | 0.0055 |
| | (0.0049) | (0.0049) | (0.0044)* | (0.0045) | (0.0053)* | (0.0054) | (0.0063) | (0.0062) |
| Population | -0.0071 | -0.0070 | -0.0127 | -0.0128 | -0.0140 | -0.0141 | -0.0059 | -0.0057 |
| | (0.0021)*** | (0.0021)*** | (0.0014)*** | (0.0015)*** | (0.0017)*** | (0.0017)*** | (0.0026)** | (0.0026)** |
| Interstate war | -0.1205 | -0.0895 | 0.0603 | 0.0380 | -0.0175 | -0.0404 | -0.1423 | -0.1241 |
| | (0.2702) | (0.2724) | (0.1966) | (0.1947) | (0.2064) | (0.2053) | (0.2701) | (0.2724) |
| Civil war | -0.5961 | -0.6006 | -0.9509 | -0.9506 | -1.0204 | -1.0211 | -0.5204 | -0.5328 |
| | (0.1344)*** | (0.1347)*** | (0.1290)*** | (0.1289)*** | (0.1539)*** | (0.1536)*** | (0.1520)*** | (0.1525)*** |
| Political dissent | -0.0255 | -0.0203 | -0.0379 | -0.0357 | -0.0369 | -0.0352 | -0.0188 | -0.0155 |
| | (0.0117)** | (0.0118)* | (0.0092)*** | (0.0093)*** | (0.0099)*** | (0.0099)*** | (0.0141) | (0.0142) |
| *Growth* | | | 0.0020 | 0.0017 | | | | |
| | | | (0.0085) | (0.0085) | | | | |
| *IMF/WB years* | | | | | -0.0285 | -0.0311 | | |
| | | | | | (0.0156)* | (0.0156)** | | |
| *British colony* | | | | | -0.7397 | -0.7408 | | |
| | | | | | (0.6036) | (0.6115) | | |
| *French colony* | | | | | -3.9002 | -3.6949 | | |
| | | | | | (0.8272)*** | (0.8382)*** | | |
| *NGOs shaming* | | | | | | | -0.0350 | -0.0303 |
| | | | | | | | (0.0253) | (0.0249) |
| | | | | | | | | |
| *R²* | 0.64 | 0.64 | 0.55 | 0.55 | 0.56 | 0.56 | 0.67 | 0.68 |
| *Countries* | 113 | 113 | 112 | 112 | 111 | 111 | 112 | 112 |
| *N* | 1,939 | 1,939 | 2,629 | 2,629 | 2,148 | 2,148 | 1,639 | 1,639 |

Note: All models are OLS with panel corrected standard errors and AR (1), intercepts, country and half-decade fixed effects. Models 9 and 10 restrict sample to include only BITs that are ratified after 1990. Models 11 and 12 control for economic growth. Models 13 and 14 control for number of years under IMF/WB structural adjustment program, British colony and French colony. Models 15 and 16 control for shaming activities of human right NGOs. Numbers in parentheses are standard error. All independent variables are lagged one year. *** $p <= 0.01$; ** $p <= 0.05$; *$p <= 0.1$

Table A3. Robustness check for a restricted sample and additional control variables – BITs with ICSID

| | Model 17 | Model 18 | Model 19 | Model 20 | Model 21 | Model 22 | Model 23 | Model 24 |
|---|---|---|---|---|---|---|---|---|
| BITs | -0.0584 | -0.0784 | -0.0562 | -0.0684 | -0.0906 | -0.1025 | -0.0777 | -0.0929 |
| | (0.0151)*** | (0.0175)*** | (0.0154)*** | (0.0167)** [a] | (0.0179)*** | (0.0206)** [a] | (0.0192)*** | (0.0218)*** |
| Polity2 | 0.0714 | 0.0593 | 0.0844 | 0.0788 | 0.0801 | 0.0762 | 0.0755 | 0.0621 |
| | (0.0122)*** | (0.0123)*** | (0.0093)*** | (0.0101)** [a] | (0.0105)*** | (0.0112)** [a] | (0.0140)*** | (0.0148)*** |
| BITs * Polity2 | | 0.0053 | | 0.0029 | | 0.0027 | | 0.0039 |
| | | (0.0020)*** | | (0.0018) [a] | | (0.0024) [a] | | (0.0020)* |
| HR treaty | -0.1399 | -0.1298 | -0.1414 | -0.1376 | -0.1319 | -0.1287 | -0.1914 | -0.1837 |
| | (0.0731)* | (0.0726)* | (0.0692)** | (0.0690)** | (0.0740)* | (0.0741)* | (0.0746)** | (0.0739)** |
| Soft PTA | -0.1546 | -0.1562 | -0.4659 | -0.4665 | -0.5810 | -0.5772 | -0.0674 | -0.0676 |
| | (0.1545) | (0.1521) | (0.1573)*** | (0.1565)*** | (0.1700)*** | (0.1694)*** | (0.1659) | (0.1637) |
| Hard PTA | 0.0544 | 0.0923 | 0.0376 | 0.0576 | 0.2778 | 0.2856 | -0.0029 | 0.0307 |
| | (0.1712) | (0.1687) | (0.1607) | (0.1608) | (0.1686)* | (0.1692)* | (0.1874) | (0.1853) |
| FDI inflow | 0.0138 | 0.0138 | 0.0168 | 0.0169 | 0.0197 | 0.0197 | 0.0136 | 0.0137 |
| | (0.0083)* | (0.0084)* | (0.0077)** | (0.0077)** | (0.0097)** | (0.0097)** | (0.0094) | (0.0094) |
| Trade openness | 0.6391 | 0.6342 | 0.6367 | 0.6354 | 0.6617 | 0.6533 | 0.7556 | 0.7473 |
| | (0.1565)*** | (0.1585)*** | (0.1313)*** | (0.1317)*** | (0.1470)*** | (0.1494)*** | (0.1712)*** | (0.1739)*** |
| GDP per capita | -0.1467 | -0.1332 | 0.1477 | 0.1623 | 0.3328 | 0.3495 | -0.3070 | -0.2888 |
| | (0.2428) | (0.2432) | (0.1911) | (0.1893) | (0.2160) | (0.2157) | (0.2969) | (0.2981) |
| Durability | -0.0002 | -0.0009 | 0.0074 | 0.0071 | 0.0087 | 0.0085 | 0.0063 | 0.0058 |
| | (0.0049) | (0.0048) | (0.0044)* | (0.0044) | (0.0053) | (0.0053) | (0.0063) | (0.0062) |
| Population | -0.0059 | -0.0056 | -0.0119 | -0.0118 | -0.0125 | -0.0127 | -0.0044 | -0.0041 |
| | (0.0020)*** | (0.0020)*** | (0.0015)*** | (0.0015)*** | (0.0018)*** | (0.0018)*** | (0.0025)* | (0.0025) |
| Interstate war | -0.0708 | -0.0671 | 0.1024 | 0.0998 | 0.0125 | 0.0175 | -0.0962 | -0.0908 |
| | (0.2764) | (0.2768) | (0.1996) | (0.1988) | (0.2093) | (0.2090) | (0.2788) | (0.2793) |
| Civil war | -0.6001 | -0.5996 | -0.9517 | -0.9561 | -1.0083 | -1.0119 | -0.5107 | -0.5161 |
| | (0.1359)*** | (0.1353)*** | (0.1296)*** | (0.1297)*** | (0.1538)*** | (0.1546)*** | (0.1533)*** | (0.1519)*** |
| Political dissent | -0.0223 | -0.0185 | -0.0353 | -0.0341 | -0.0334 | -0.0324 | -0.0178 | -0.0144 |
| | (0.0116)* | (0.0117) | (0.0091)*** | (0.0090)*** | (0.0096)*** | (0.0096)*** | (0.0138) | (0.0139) |
| *Growth* | | | -0.0004 | -0.0004 | | | | |
| | | | (0.0084) | (0.0084) | | | | |
| *IMF/WB years* | | | | | -0.0348 | -0.0348 | | |
| | | | | | (0.0158)** | (0.0159)** | | |
| *British colony* | | | | | -0.7972 | -0.7729 | | |
| | | | | | (0.5786) | (0.5845) | | |
| *French colony* | | | | | -0.4631 | -3.7605 | | |
| | | | | | (0.9501) | (0.8687)*** | | |
| *NGOs shaming* | | | | | | | -0.0340 | -0.0316 |
| | | | | | | | (0.0258) | (0.0255) |
| | | | | | | | | |
| $R^2$ | 0.64 | 0.64 | 0.55 | 0.55 | 0.56 | 0.56 | 0.67 | 0.68 |
| *Countries* | 113 | 113 | 112 | 112 | 111 | 111 | 112 | 112 |
| *N* | 1,939 | 1,939 | 2,629 | 2,629 | 2,148 | 2,148 | 1,639 | 1,639 |

Note: All models are OLS with panel corrected standard errors and AR (1), intercepts, country and half-decade fixed effects. Models 17 and 18 restrict sample to include only BITs that are ratified after 1990. Models 19 and 20 control for economic growth. Models 21 and 22 control for number of years under IMF/WB structural adjustment program, British colony and French colony. Models 23 and 24 control for shaming activities of human right NGOs. Numbers in parentheses are standard error. All independent variables are lagged one year. *** p <= 0.01; ** p <=0.05; *p<=0.1; [a] jointly statistically significant.

Table A4. Robustness check for a restricted sample and additional control variables – Adjusted North-South BITs

| | Model 25 | Model 26 | Model 27 | Model 28 | Model 29 | Model 30 | Model 31 | Model 32 |
|---|---|---|---|---|---|---|---|---|
| BITs | -0.0363 | -0.0432 | -0.0322 | -0.0340 | -0.0419 | -0.0435 | -0.0400 | -0.0450 |
| | (0.0082)*** | (0.0089)*** | (0.0078)*** | (0.0080)** [a] | (0.0085)*** | (0.0088)** [a] | (0.0101)*** | (0.0110)*** |
| Polity2 | 0.0709 | 0.0607 | 0.0834 | 0.0786 | 0.0781 | 0.0749 | 0.0755 | 0.0639 |
| | (0.0123)*** | (0.0120)*** | (0.0093)*** | (0.0098)** [a] | (0.0106)*** | (0.0111)** [a] | (0.0141)*** | (0.0144)*** |
| BITs * Polity2 | | 0.0022 | | 0.0011 | | 0.0010 | | 0.0016 |
| | | (0.0008)*** | | (0.0008) [a] | | (0.0010) [a] | | (0.0009)* |
| HR treaty | -0.1702 | -0.1529 | -0.1565 | -0.1489 | -0.1466 | -0.1400 | -0.2183 | -0.2031 |
| | (0.0747)** | (0.0749)** | (0.0695)** | (0.0698)** | (0.0745)** | (0.0747)* | (0.0770)*** | (0.0774)*** |
| Soft PTA | -0.1615 | -0.1695 | -0.4817 | -0.4852 | -0.5982 | -0.5962 | -0.0829 | -0.0862 |
| | (0.1533) | (0.1517) | (0.1576)*** | (0.1571)*** | (0.1718)*** | (0.1713)*** | (0.1632) | (0.1617) |
| Hard PTA | 0.0263 | 0.0420 | 0.0159 | 0.0260 | 0.2571 | 0.2620 | -0.0466 | -0.0348 |
| | (0.1718) | (0.1696) | (0.1609) | (0.1610) | (0.1685) | (0.1690) | (0.1902) | (0.1873) |
| FDI inflow | 0.0142 | 0.0135 | 0.0170 | 0.0169 | 0.0208 | 0.0208 | 0.0139 | 0.0135 |
| | (0.0083)* | (0.0084) | (0.0077)** | (0.0077)** | (0.0097)** | (0.0097)** | (0.0094) | (0.0095) |
| Trade openness | 0.7106 | 0.6890 | 0.6908 | 0.6837 | 0.6846 | 0.6780 | 0.8290 | 0.8111 |
| | (0.1609)*** | (0.1636)*** | (0.1322)*** | (0.1337)*** | (0.1471)*** | (0.1490)*** | (0.1767)*** | (0.1806)*** |
| GDP per capita | 0.1005 | 0.1690 | 0.2635 | 0.3105 | 0.3985 | 0.4368 | -0.0534 | -0.0063 |
| | (0.2549) | (0.2639) | (0.1890) | (0.1910) | (0.2058)* | (0.2126)** | (0.3177) | (0.3278) |
| Durability | 0.0007 | -0.0008 | 0.0077 | 0.0070 | 0.0093 | 0.0089 | 0.0073 | 0.0063 |
| | (0.0049) | (0.0050) | (0.0044)* | (0.0045) | (0.0053)* | (0.0054)* | (0.0064) | (0.0064) |
| Population | -0.0068 | -0.0067 | -0.0125 | -0.0125 | -0.0137 | -0.0138 | -0.0056 | -0.0054 |
| | (0.0021)*** | (0.0021)*** | (0.0014)*** | (0.0015)*** | (0.0017)*** | (0.0017)*** | (0.0025)** | (0.0025)** |
| Interstate war | -0.1263 | -0.0973 | 0.0611 | 0.0463 | -0.0242 | -0.0354 | -0.1573 | -0.1388 |
| | (0.2716) | (0.2729) | (0.1954) | (0.1942) | (0.2045) | (0.2044) | (0.2706) | (0.2724) |
| Civil war | -0.5873 | -0.5884 | -0.9425 | -0.9438 | -1.0131 | -1.0135 | -0.5085 | -0.5157 |
| | (0.1340)*** | (0.1340)*** | (0.1290)*** | (0.1290)*** | (0.1536)*** | (0.1536)*** | (0.1504)*** | (0.1503)*** |
| Political dissent | -0.0239 | -0.0196 | -0.0367 | -0.0353 | -0.0358 | -0.0350 | -0.0179 | -0.0160 |
| | (0.0116)** | (0.0118)* | (0.0091)*** | (0.0092)*** | (0.0098)*** | (0.0098)*** | (0.0141) | (0.0142) |
| *Growth* | | | 0.0014 | 0.0008 | | | | |
| | | | (0.0085) | (0.0084) | | | | |
| *IMF/WB years* | | | | | -0.0253 | -0.0271 | | |
| | | | | | (0.0155) | (0.0155)* | | |
| *British colony* | | | | | -0.6931 | -0.6823 | | |
| | | | | | (0.5921) | (0.5975) | | |
| *French colony* | | | | | -0.2177 | -3.6661 | | |
| | | | | | (0.9448) | (0.8726)*** | | |
| *NGOs shaming* | | | | | | | -0.0355 | -0.0321 |
| | | | | | | | (0.0253) | (0.0252) |
| | | | | | | | | |
| $R^2$ | 0.64 | 0.64 | 0.55 | 0.55 | 0.56 | 0.56 | 0.67 | 0.68 |
| *Countries* | 113 | 113 | 112 | 112 | 111 | 111 | 112 | 112 |
| *N* | 1,939 | 1,939 | 2,629 | 2,629 | 2,148 | 2,148 | 1,639 | 1,639 |

Note: All models are OLS with panel corrected standard errors and AR (1), intercept, country and half-decade fixed effects. Models 25 and 26 restrict sample to include only BITs that are ratified after 1990. Models 27 and 28 control for economic growth. Models 29 and 30 control for number of years under IMF/WB structural adjustment program, British colony and French colony. Models 31 and 32 control for shaming activities of human right NGOs. Numbers in parentheses are standard error. All independent variables are lagged one year. *** p <= 0.01; ** p <=0.05; *p<=0.1; [a] jointly statistically significant.

Table A5. Robustness check for an alternative measure of physical integrity index – PTS scale

| | Model 33 | Model 34 | Model 35 | Model 36 | Model 37 | Model 38 |
|---|---|---|---|---|---|---|
| BITs | -0.0015 | -0.0033 | -0.0007 | -0.0033 | -0.0022 | -0.0033 |
| | (0.0021) | (0.0022) [a] | (0.0027) | (0.0027) [a] | (0.0021) | (0.0021) |
| Polity2 | 0.0372 | 0.0331 | 0.0363 | 0.0304 | 0.0429 | 0.0405 |
| | (0.0046)*** | (0.0048)** [a] | (0.0052)*** | (0.0054)** [a] | (0.0048)*** | (0.0051)** [a] |
| BITs * Polity2 | | 0.0006 | | 0.0009 | | 0.0004 |
| | | (0.0002)** [a] | | (0.0002)** [a] | | (0.0002)* [a] |
| Human right treaty | -0.0651 | -0.0586 | -0.0373 | -0.0274 | -0.0923 | -0.0882 |
| | (0.0293)** | (0.0294)** | (0.0335) | (0.0337) | (0.0349)*** | (0.0351)** |
| Soft PTA | -0.2216 | -0.2269 | -0.2731 | -0.2813 | -0.1901 | -0.1935 |
| | (0.0713)*** | (0.0710)*** | (0.0809)*** | (0.0802)*** | (0.0755)** | (0.0753)** |
| Hard PTA | 0.0073 | 0.0135 | 0.0429 | 0.0526 | -0.0193 | -0.0153 |
| | (0.0774) | (0.0779) | (0.0878) | (0.0881) | (0.0836) | (0.0840) |
| FDI inflow % GDP | 0.0042 | 0.0040 | 0.0037 | 0.0034 | 0.0047 | 0.0046 |
| | (0.0030) | (0.0030) | (0.0036) | (0.0036) | (0.0033) | (0.0033) |
| Trade openness (log) | 0.2792 | 0.2754 | 0.2874 | 0.2808 | 0.2683 | 0.2656 |
| | (0.0548)*** | (0.0551)*** | (0.0657)*** | (0.0661)*** | (0.0601)*** | (0.0603)*** |
| GDP per capita (log) | 0.2157 | 0.2513 | 0.1588 | 0.2128 | 0.2841 | 0.3064 |
| | (0.0767)*** | (0.0783)*** | (0.0950)* | (0.0973)** | (0.0849)*** | (0.0863)*** |
| Regime durability | 0.0057 | 0.0052 | 0.0061 | 0.0053 | 0.0057 | 0.0054 |
| | (0.0018)*** | (0.0018)*** | (0.0021)*** | (0.0021)** | (0.0020)*** | (0.0020)*** |
| Population density | -0.0030 | -0.0031 | -0.0023 | -0.0024 | -0.0038 | -0.0038 |
| | (0.0006)*** | (0.0006)*** | (0.0007)*** | (0.0007)*** | (0.0007)*** | (0.0007)*** |
| Interstate war | -0.0980 | -0.1081 | -0.0169 | -0.0359 | -0.1962 | -0.2034 |
| | (0.0864) | (0.0850) | (0.1132) | (0.1108) | (0.0918)** | (0.0912)** |
| Civil war | -0.4463 | -0.4448 | -0.5239 | -0.5243 | -0.4707 | -0.4701 |
| | (0.0455)*** | (0.0455)*** | (0.0533)*** | (0.0534)*** | (0.0503)*** | (0.0504)*** |
| Political dissent | -0.0028 | -0.0019 | -0.0037 | -0.0022 | -0.0055 | -0.0049 |
| | (0.0037) | (0.0036) | (0.0047) | (0.0046) | (0.0042) | (0.0042) |
| | | | | | | |
| $R^2$ | 0.55 | 0.55 | 0.48 | 0.48 | 0.53 | 0.53 |
| Countries | 113 | 113 | 113 | 113 | 113 | 113 |
| N | 2,978 | 2,978 | 2,978 | 2,978 | 2,978 | 2,978 |

Note: All models are OLS with panel corrected standard errors and AR (1), intercepts, country dummies and half-decade dummies. Models 33 and 34 use average score of PTS. Models 35 and 36 use PTS from Amnesty International. Models 37 and 38 use PTS from US Department. Numbers in parentheses are standard errors. All independent variables are lagged one year. *** $p \le 0.01$; ** $p \le 0.05$; * $p \le 0.1$; [a] jointly statistically significant.

## Table A6. Summary statistics

| VARIABLES | N | mean | sd | min | max | Data Source |
|---|---|---|---|---|---|---|
| Cumulative number of BITs | 2,679 | 11.39 | 16.00 | 0 | 104 | UNCTAD IIA database (2015) |
| Cumulative number of after-1989 BITs | 2,014 | 12.21 | 16.26 | 0 | 85 | UNCTAD IIA database (2015) |
| Cumulative number of BITs with ICSID | 2,679 | 2.436 | 4.087 | 0 | 24 | UNCTAD IIA database (2015) |
| Cumulative number of after-1989 BITs with ICSID | 2,014 | 2.243 | 3.385 | 0 | 18 | UNCTAD IIA database (2015) |
| Cumulative number of adjusted North-South BITs | 2,679 | 6.739 | 8.506 | 0 | 66 | UNCTAD IIA database (2015) |
| Cumulative number of after-1989 BITs adjusted North-South BITs | 2,014 | 6.895 | 8.972 | 0 | 63 | UNCTAD IIA database (2015) |
| Human rights respect | 2,679 | 4.289 | 2.134 | 0 | 8 | CIRI (2015) |
| Polity2 | 2,679 | 1.065 | 6.747 | -10 | 10 | Polity IV (2014) |
| Soft PTA (lagged) | 2,679 | 0.355 | 0.479 | 0 | 1 | Spilker and Bohmelt (2013) |
| Hard PTA (lagged) | 2,679 | 0.342 | 0.474 | 0 | 1 | Spilker and Bohmelt (2013) |
| Human right treaty (lagged) | 2,679 | 1.216 | 0.806 | 0 | 2 | Spilker and Bohmelt (2013) |
| FDI inflow % GDP | 2,674 | 2.819 | 4.733 | -14.68 | 85.96 | UNCTAD (2012) |
| Population density | 2,679 | 83.01 | 125.5 | 1.444 | 1,152 | WDI (2015) |
| Trade openness (logged) | 2,671 | 4.138 | 0.541 | 1.844 | 5.636 | WDI (2015) |
| GDP per capita (logged) | 2,678 | 7.162 | 1.143 | 4.917 | 9.778 | WDI (2015) |
| Regime durability | 2,679 | 15.14 | 16.29 | 0 | 103 | Polity IV (2014) |
| BITs*Polity2 | 2,679 | 36.58 | 146.7 | -728 | 770 | |
| After-1989 BITs * Polity2 | 2,014 | 49.04 | 152.2 | -595 | 770 | |
| Interstate war | 2,679 | 0.0228 | 0.149 | 0 | 1 | Armed Conflict Dataset (2014) |
| Civil war | 2,679 | 0.187 | 0.390 | 0 | 1 | Armed Conflict Dataset (2014) |
| Political dissent | 2,674 | 1.115 | 2.976 | 0 | 49 | CNTS (2010) |
| 3 year average economic growth | 2,647 | 3.642 | 4.519 | -28.20 | 52.74 | WDI (2015) |
| Years under IMF/WB program | 2,148 | 6.698 | 5.763 | 0 | 24 | Abouharb and Cingranelli (2007) |
| British colony | 2,148 | 0.276 | 0.447 | 0 | 1 | Abouharb and Cingranelli (2007) |
| French colony | 2,148 | 0.219 | 0.414 | 0 | 1 | Abouharb and Cingranelli (2007) |
| NGO shaming | 1,621 | 0.265 | 1.079 | 0 | 15 | Murdie and Davis (2012) |
| PTS-average | 2,670 | 3.217 | 0.968 | 1 | 5 | PTS (2015) |
| PTS-Amnesty | 2,670 | 3.194 | 1.034 | 1 | 5 | PTS (2015) |
| PTS_statedept | 2,670 | 3.239 | 1.019 | 1 | 5 | PTS (2015) |
| Average total ratified BITs in neighbor (instrument_1) | 2,679 | 11.57 | 14.74 | 0 | 84 | |
| Moving total of 3yr new BITs in other countries in the world (instrument_2) | 2,678 | 465.3 | 290.0 | 38 | 948 | |
| ICSID BITs * Polity2 | 2,679 | 7.118 | 32.05 | -112 | 190 | |
| Adjusted North-South BITs * Polity2 | 2,679 | 20.31 | 79.71 | -462 | 370 | |