Economic Interest versus Social Conscience Signing Bilateral Investment Treaties – Does Human Rights Matter?

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ABSTRACT

Both theoretical and empirical literatures have identified several channels through which bilateral investment treaties encourage FDI in developing economies like providing investment protection guarantees and so on. Economic and political interests are said to be the driving forces behind signing the investment treaties. However, there is virtually no systematic evidence on whether countries consider human rights performance of the host country while signing bilateral investment treaties. We make an attempt to examine this question by considering 87 developing countries over a period 1980-2006. Different estimation techniques like: negative binomial and poisson models are used. The results demonstrate that economic interests drive bilateral investment treaties to human rights performance. Economic interests measured by economic development, long-term investments, return on investments and macroeconomic risk are significant while human rights performance namely, political terror scale and physical integrity rights remain consistently insignificant. The results are robust to the use of alternative estimation techniques and sensitivity analysis. These results highlight that economic interests preside over social conscience while countries signing investment treaties.

Keywords: bilateral investment treaties, FDI and human rights performance.

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1. Introduction

The Foreign Direct Investments (FDI henceforth) is widely perceived as an important vehicle for expediting the socioeconomic development of a country in long run (Zebregs, 2002; Hermes & Lensink, 2003). The importance of FDI is much higher in developing and least developed countries because it help providing transfer of technology, employment opportunities, boost exports and provides new market access, promotes competition and more importantly fills the existing gap on savings-investments. For this reason, often developing countries offer various range of incentives in order to attract FDI (Chai, 1998). The FDI inflows into developing countries, according to John Dunning's eclectic OLI theory, depends on three major characteristics namely, ownership characteristics (O), location advantages (L), and internalization arguments (I). Amongst the location specific advantages, apart from other main determinants of FDI[1], bilateral investment treaties are found to be important because it help shaping institutional environment of the host country. The bilateral investment treaties are signed between the two countries wherein the host country agrees to entrust the authority of protecting the foreign investors' interest in the host country. Thus, bilateral investment treaties help increase the host country credibility to overcome the problem of highly uncertain and unpredictable business and investment environment.

Both theoretical and empirical literatures have identified several channels through which bilateral investment treaties encourage FDI in developing economies like providing investment protection guarantees and so on. Economic interests of investing country's MNCs along with the political interests of the source country are said to often drive the bilateral investment treaties between the two countries. But, it is often criticized that developed countries and MNCs from these countries do not bother about the important social issues like human rights conditions prevailing in the host country. Past evidence shows that developed countries like U.S. and other OECD countries do bother about the democratic rights and governance issues in developing countries while allocating development aid. However, there is no systematic evidence in the literature to show

[1] For an excellent review of literature on general determinants of FDI, see Chakrabati, 2001

whether countries consider human rights issues when entering into an investment agreement with a host country.

The debate over the concern of MNCs from developed countries for the human rights performance in developing countries is quite contentious. Empirical findings to date on this topic are also mixed (Richards et al., 2001; Blanton & Blanton, 2007). However, when it comes to the relationship between bilateral investment treaties and human rights, one argument is that though countries overlook the human rights issues in the host country while signing the investment agreement, the aftermath beneficial effects of the investments following the treaties result in a trickle down effect wherein the socioeconomic benefits accrue from those large investments. This in turn results in better human rights conditions. The counterargument to this is that the MNCs from developed countries are anyway not concerned about the human rights conditions in the host countries. Therefore, this is really not an issue in front of them when they enter into signing a bilateral investment treaty with a developing country. Considering both arguments, this paper addresses the question, "whether countries signing bilateral investment treaties consider the human rights performance in the host country?" How important are economic and political interests to important social issues like human rights conditions. To examine this question, we make use of cross-sectional time series analysis for 87 developing countries[2] during the period 1980 – 2006.

The rest of the paper is organized as follows: in the next section we establish a theoretical understanding on the relationship between bilateral investment treaties and human rights performance. We begin with understanding the role of bilateral investment treaties in attracting FDI and why do countries enter into such treaties. We then try understanding the contradictory linkage between these treaties and human rights conditions prevailing in the host country. Section 3 is about the research design in which our empirical models, variable selection and the data sources are explained. While section 4 discusses the empirical results, section 5 concludes the study.

[2] For the list of developing countries under study, see annexure1.

2. Bilateral Investment Treaties & Human Rights Performance – Theoretical Underpinnings

2.1. Evolution of Bilateral Investment Treaties:

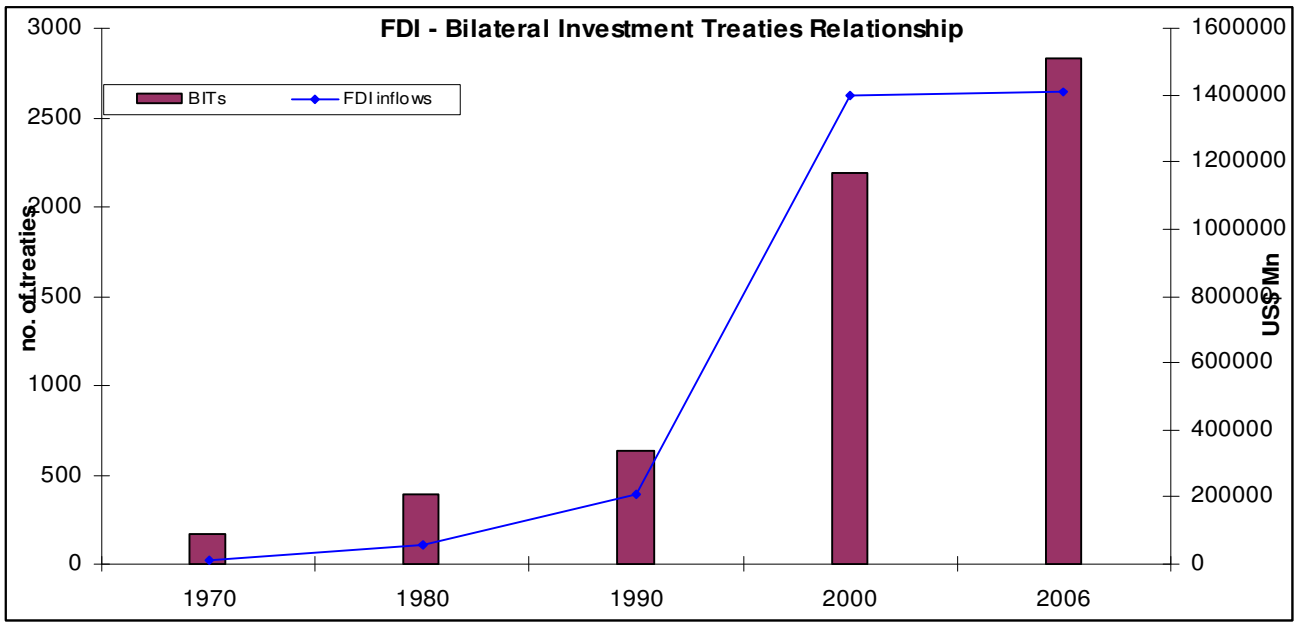
The strategic motives of firms engaging in direct investments abroad are three fold. These include, resource seeking, efficiency seeking and market seeking. Pre-1960s, the motive for FDI inflows was 'resource seeking' and the increasing level of FDI inflows in developed world was largely explained by the availability of natural resources abroad. Foreign firms often preferred FDI to trade because of the existing market imperfections like trade barriers which increased information asymmetry and transactions costs. Thus, firms preferred to circumvent these imperfections in order to make efficiency gains of sharpening the cost-efficiency of operations and maximize their profits through internalization[3]. In the late 1970s and early 1980s the wave of industrialization paved way for 'market access seeking' FDI. During this point in time, majority of the developing countries in Asia and Latin America followed import substitution polices. Thus, FDI was largely seen as a replacement for imports where the determinants of investment were related to the characteristics of the internal markets especially regarding the size and the tariff protection and the location of the head office. In this process the location specific aspects of the host country also explained the flow of FDI. Every country, according to Dunning (1988, 1993) possesses some location specific advantages which help attract FDI. Some of them include: natural resources, availability of low cost labour and human capital, skilled labour, market size and its potential, trade and investment barriers, government policies, exchange rate risk, transportation costs etc. At a broad macro-level local specific advantages has a dramatic impact on FDI inflows. In fact, the government policies of economic opening and liberalization of foreign investment regimes were also considered to be an integral part of such advantages. Many countries over the last two decades have significantly undertaken policy reforms as a part of comprehensive economic liberalization strategy. As a consequence of this process

[3] This is known to be efficiency seeking FDI which was first explained by Rugman (1980) in his "general theory of internalization" which was built upon existing works of Coase (1937); Buckley-Casson (1976) and Dunning (1973).

foreign direct investment (FDI) flows rose impressively. The total FDI inflows of developing countries rose from around 3.8 US$ bn in 1970 to just 7.5 US$ bn in 1980. But by 2007, the total FDI inflows of developing countries stood at over 500 US$ bn. Its share in world FDI grew from 13% in 1980 to over 30% by 2007 (UNCTAD, 2008).

Realizing the potential benefits of FDI generated a fierce competition among countries in developing world to attract international investments not only to finance the liquidity constraints but also to generate employment opportunities. Many countries have pursued a comprehensive international FDI policy which includes removal of investment restrictions, relaxation of sectoral caps, tax holidays, business agreements, incentives for investing in commercial zones, separate FDI law and so on and so forth. Nonetheless, the necessity to establish some firm internationally accepted rules on foreign investments took center stage. As a result of this, some multilateral investment instruments were created like: General Agreements of Trade in Services (GATT) and Trade Related Investment Measures (TRIMS) by World Trade Organization (WTO). However, due to difficulties displayed in multilateral investment agreements and failures of such agreements in the past like Multilateral Agreement on Investment (MAI), bilateral investment agreements gained utmost importance among the countries.

Graph 1



These investment treaties at bilateral level facilitate improvement of market access conditions for foreign investment in the host countries. In this sense these treaties at bilateral level have became an increasingly important instrument for the protection of foreign investment. Thus, the bilateral investment treaties started to play a determinant role in attracting the FDI flows. The total number of bilateral investment treaties signed in 1980 was 12. This increased to 182 in 2001 before coming down to 73 in 2006. The cumulative figure of bilateral investment treaties in 2007 are 2833 (UNCTAD, 2008). Most importantly, the growth of this instrument was boosted in the 1990s, alongside with the growth of FDI inflows (see graph 1).

2.2. Why Bilateral Investment Treaties?

The bilateral investment treaties are commonly known as agreements between two signatories in order to provide legal standards of protection for foreign investors. Usually, the bilateral investment treaties are designed to facilitate FDI inflows as a part of comprehensive FDI policy of the host country. These treaties not only help the developing countries to attract scarce capital to finance liquidity constraints, but also help giving signals to the multinational companies that they are committed in providing investments protection and guarantees. Thus the primary objective of a bilateral investment treaty is to act as a commitment device for the host government. In this sense, country with higher number of bilateral investment treaties suggests that investors are not confident about the host destination. As a result, to attract foreign investors the host country is engaged in legally bounded commitment in the form of guarantee that their investments and capital will be protected.

FDI, while mobile *ex ante*, is relatively illiquid *ex post* (Vernon, 1971). That is, before the foreign investor commits the investment, he has upper hand in terms of bargaining power compared to the host country government in extracting the investment incentives. The host country like wise also promises good conditions such as offering wide range of incentives and other such things. But once the capital is invested, it becomes sunk cost for the foreign investors and on the other hand, the bargaining power of the foreign

investors is also reduced due to the investment subject to various kinds of risks ranging from economic, financial and political. The host country government may then extract rents from the foreign investors up to the value of the total sunk costs. In this backdrop, the investment treaties assume greater importance because it gives protection to the investors in the host country especially during the disputes with the host government by engaging both parties through dispute settlement resolution mechanism. The disputes may occur due to range of issues like host country government engaging in the process of either direct or indirect expropriation such as nationalization of foreign investment projects (direct expropriation); undue extraction of rents from the MNCs and / or increasing the taxes exponentially (indirect expropriation). Other such risks include: failure to protection of property; caps on repatriation of profits and dividends to the head office in home country; removal of the tax benefits promised by the government under the contract of investments; removal of providing tax holidays; failure to increase tariffs paid to the investor as agreed in contract; denial of licenses to expand the business; denial of providing land at concession rates highlighted in the contract and backtracking on similar such infrastructural and financial issues as promised earlier. The dispute settlement mechanism is usually constituted outside the host country in order to ensure level playing field to the foreign investor. If the foreign investors feels that the host country has engaged in the act of deviating from the investment contract signed and ratified can appeal in the international tribunal for arbitration. This tribunal is usually managed by International Center for the Settlement of Investment Disputes (ICSID), which is a part of the World Bank Group, or the United Nations Commission on International Trade Laws (UNCITRAL) Arbitration Rules. One of the greatest advantages of this is that foreign investor can chose one of the three panel members of the international arbitration tribunal, while consensus with the opposite party (the host government) is required for selecting third member. This in comparison to approaching the host country judiciary system, where the investor will not have any say what so ever in the judiciary process, puts them in an obvious disadvantageous position. As on May 1st 2009, there are total 287 arbitration cases brought in by foreign investors against host governments under an international investment treaty (UNCTAD, 2008). Out of which 162 cases are solved and 125 cases are still pending before the tribunals. Interesting

observation is made by Minor (1994) that as bilateral investment treaties increased in the 1980s and 1990s, outright expropriations of foreign investments, which were quite common in 1960s and 1970s specially in Latin countries, came down quite drastically.

UNCTAD (1998) also highlights the importance of bilateral investment treaties as they:

i. Facilitate and encourage bilateral FDI between the two countries. Thus, the bilateral investment treaty guarantees foreign investors fair and equitable, non-discriminatory treatment in addition to access to international means of dispute resolution.

ii. Provide legal protection of both physical and intellectual properties of foreign investors under international law and investment guarantees with a special focus on the transfer of funds and expropriation.

iii. Facilitate and act as risk reduction factors for foreign investors. Thus, allowing the foreign investor to discount the risk factor while investing in a country which has a bilateral investment treaty.

iv. Not only reduce the risk factor involved in foreign investments, but also significantly reduce the costs associated with such investments.

v. Provides not only incentives for the host country by allowing governance reforms process, but also guaranteeing protection to foreign investors.

Thus, bilateral investment treaties are of great importance to both the investors and developing countries (host country) because they help attract FDI inflows especially from advanced countries, whose benefits would be illustrated in the next sub-section and guarantee the investment protection to the MNCs, thus signaling the efficiency and credibility of the host country.

2.3. Countries Signing Investment Treaties care for Human Rights?

According to the liberals like Heo & DeRouen (2002) foreign investments, especially from an advanced country can provide numerous benefits to the developing country. First, FDI brings in much required capital compensating for the lack of investable resources in the host country to finance the liquidity constraints. Since investments are a key element in economic growth, financing the liquidity constraints would have an automatic trickle down effect. Second, FDI help provide new capital, allowing additional investment in both human and physical capital, which can be very beneficial for developing and least developed countries. Thus, FDI help creating employment opportunities to the people in the host country by establishing its operations. Third and the most important is that the growth effects of FDI come from transfer of new technology from abroad, especially from advanced countries. The theory of the multinational firm proposes that multinational corporations from advanced countries have technological advantage over local firms that outweighs the cost of doing business in external markets (Caves, 1996; Markusen, 2002). Thus, FDI inflows are generally seen as a means to incorporate new knowledge from abroad. The transfer technology adapted by the local firms stimulates technical efficiencies and thereby improving the productivity. This in turn can lead to increase in research and development facilities paving way for local technical innovations in the host countries. Fourth, by establishing their production units in the host countries, FDI paves way towards exports leading to new market access and international contacts.

Proponents of economic liberalism believe that foreign investments from abroad have significant positive impact on economic growth and prosperity of the host country. It is argued that since FDI brings in these many benefits to the host country, every effort must be made to attract FDI by credibly committing to provide investor protection. While in some cases, though human rights performance of the host country are overlooked while signing bilateral investment treaty, the aftermath effects of FDI once the investments are made would be huge, as illustrated above. The contribution of FDI towards higher economic growth and development in turn encourage the developing countries breaking

down the market and social distortion policies in favor of market creating policies. Investments not only create jobs, but also influence consumer choices, provide much needed financing to improve health, education conditions for the local communities (Rothgeb, 1989). The improvement in socioeconomic conditions help create peaceful environment in the home through lower social unrest and economic insecurity (Flanagan & Fogelman, 1971; Jacobsen, 1996) and thus reducing the dissent and thereby increasing government respect for basic human rights. Thus, countries signing investment treaties might overlook human rights performance of the host country but once investments are made, they indirectly influence human rights by fostering socioeconomic development.

In contrast, the alternative perspective is that FDI from MNCs hampers economic growth and development prospects in developing countries. According to these critics, MNCs exploit the developing and least developed countries to secure their dominance. The developed countries enter into the least developed countries in the form of foreign investments and active trade to extract the existing resources in those countries leaving the host country is disadvantaged position (Frank, 1979). The second criticism against the MNCs operating in the developing countries is that they are greedy and are highly indifferent towards the social impact of their operations and also towards environmental degradation, labors, and consumers' interests. Most often these big MNCs engage in arm twisting tactics with the local political and governmental fraternity by operating behind the doors and outside the democratic control in formulating the policies favorable to them. In the process encourage the government functionary to suppress any kind of opposition and dissent against their policies and investment motives. Blanton & Blanton (2007) provides some historical examples of such cases in their study. They cite the case of United Fruit Company in Guatemala and IT&T in Chile which were engaged in "restoration of anti-labour, oppressive governments that were hostile to human rights" (Falk, 2002; cited by Blanton & Blanton, 2007) when efforts were made to dispute the privileges of these investors. In addition, O'Donnell (1979) argued in his theory of 'bureaucratic authoritarianism' that authoritarian state was the first and foremost guarantor of the interests of the MNCs. Testing this argument, Oneal (1994) found that U.S. FDI during a long period from 1950 to 1986 was largely concentrated in autocratic

regimes which suppress human rights because the profits and returns on their investments were higher. This, according to many, delayed political as well as economic development. The other negative externalities of FDI were also said to result in high income inequalities in the society (Chase-Dunn, 1975; London & Robinson, 1989). Thus, it is no surprise that the developed countries do not consider human rights performance of the host country while signing the investment agreement. On the contrary, studies in the literature like: Apodaco & Stohl (1999); Svensson (2000) and Neumayer (2003) found that good governance matters for the developed countries like the U.S. and co. when it comes to the development assistance. However, similar such studies exclusively on human rights and investment treaties are absent in the literature.

3. Research Design: Data & Models

In this study we use pooled cross-section time series dataset containing information about 87 developing countries for the annual period 1980 – 2006. Owing to the richness of the data we use, our N is 2349. We make use of negative binomial regression model to examine the relationship between bilateral investment treaties signed and human rights performance in developing countries. We choose the negative binomial model over other options model for several reasons. First, because our dependent variable is a count, the number of bilateral investment treaties signed each year by the X-country with rest of the world, a linear model is not appropriate. Second, given the proportion of 0's in our dependent variable (i.e. bilateral investment treaties) and a high variance of this variable, the negative binomial is preferred over the poisson, as the negative binomial allows for the possibility of over-dispersion (for more see: Cameron & Trivedi, 1998). However, alternatively we also make use of poisson and Pooled OLS models for robustness check.

$$\mathbf{BIT}_{it} = \delta_0 + \psi_1 \mathbf{Human\ Rights\ Performance}_{it} + \psi_2 \mathbf{Economic\ Development}_{it} + \psi_3 \mathbf{Economic\ Risk}_{it} + \psi_4 \mathbf{Trade}_{it} + \psi_5 \mathbf{Long\text{-}term\ Investments}_{it} + \psi_6 \mathbf{Return\ on\ Investments}_{it} + \psi_7 \mathbf{Democracy}_{it} + \psi_8 \mathbf{Conflicts}_{it} + \psi_9 \mathbf{Natural\ Resources}_{it} + \zeta_{it}$$

Where, $i\ t$ = country "i" at time "t"; δ = intercept; ψ = regression coefficients for variable "n"; ζ = error term for country "i" at time "t".

BIT $_{it}$ is Bilateral investment treaties, the dependent variable in above equation measured by the count of number of bilateral investment treaties signed by X-country with rest of the countries in year "t". The bilateral investment treaties signed by each country are reported in UNCTAD's international finance dataset for all countries from 1980 to 2006.

Human Rights Performance $_{it}$ takes into consideration: "integrity rights of people" and "state terrorism". To capture these two broad aspects, we consider the following:

a. Physical Integrity Rights Index:

The physical integrity rights index reported in the Human Rights Database (CIRI data) contain information about the pattern and sequence of government respect for physical integrity rights in addition to the level. Here, the Pattern is defined as "*the association of different levels of government respect for several physical integrity rights with a single, overall scale score*" (Cingranelli & Richards, 1999). Sequence is defined as "*the order in which governments have a propensity to violate particular physical integrity rights*" (Cingranelli & Richards, 1999). The CIRI data are based on the human rights practices of governments and any of its agents, such as police or paramilitary forces. The CIRI measure is an additive index constructed from observations on torture, extrajudicial killing, political imprisonment, and disappearances. It ranges from 0, meaning no government respect for these four human rights to 8, or full government respect for these four human rights.

b. Political Terror Scale:

The next measure of human rights abuses deals with state terrorism. We use data from the Political Terror Scales (PTS). The PTS data focus on the amount of respect a society gives to personal integrity rights, specifically the freedom from politically motivated imprisonment, torture and murder. This is developed by Gibney & Dalton (1997) providing data from 1980 onwards and later extended it back from 1976. The PTS scores include two components. One is based on a codification of country information from Amnesty International's annual human rights reports to a scale from 1 being best to 5 is

worst. The other scale is based on information from the U.S. Department of State's Country Reports on Human Rights Practices.

The final codification is as follows:

Score 1 : Countries under a secure rule of law, people are not imprisoned for their view, and torture is rare or exceptional. Political murders are extremely rare.

Score 2 : There is a limited amount of imprisonment for nonviolent political activity. However, few persons are affected, torture and beatings are exceptional. Political murder is rare.

Score 3 : There is extensive political imprisonment, or a recent history of such imprisonment. Execution or other political murders and brutality may be common. Unlimited detention, with or without a trial, for political views is accepted.

Score 4 : Civil and political rights violations have expanded to large numbers of the population. Murders, disappearances, and torture are a common part of life. In spite of its generality, on this level terror affects those who interest themselves in politics or ideas.

Score 5 : Terror has expanded to the whole population. The leaders of these societies place no limits on the means with which they pursue personal or ideological goals.

The major contentious issue with respect to PTS is which indicator amongst the two should be used. It is noteworthy to highlight the advantages and drawbacks of both these indicators. Poe et al. (2001) points out that the State Department data is biased. They argue that the U.S. State Department reports lower values (1 – best) for the countries which are allies of U.S. on international political and diplomatic front. This effectively means that the Amnesty International data is unbiased. However, Neumayer (2005) point out that Amnesty International data though unbiased, covers only few countries in the early years, leaving aside those countries in which there were no or less human rights abuses. In this indecisive framework, we take the average score of both State Department and Amnesty International scores.

Economic development $_{it}$ is proxied by Percapita GDP levels of the countries. It is measured using log Percapita GDP in current US$ of the source countries. The data comes from World Development Indicators (WDI hereafter), World Bank, 2007.

Country Risk $_{it}$ indicates the operating risk in terms of macroeconomic environment of the country. It is measured using Institutional Investors Magazine's country credit risk index ranked on the scale of 0 – 100. While 0 means very high risk environment and 100 is no risk or risk free environment.

Trade $_{it}$ denote the total imports and exports of the host country with rest of the world is measured as a percentage of GDP. The data on trade is collected from UNCTAD's statistical database on trade & development.

Long-term investments $_{it}$ is measured by the values of log FDI inward into the source country from rest of the world in year "t" in current US$ millions. Two types of FDI values are reported in UNCTAD statistical database: FDI inflows and FDI inward stock. Since FDI inward stock represent the total investments from past several years flown into the country, we prefer FDI inward stock to FDI inflows, which is the amount of investments made in the current year and do not capture the past investments.

Return on investments $_{it}$ it is presumed that FDI will go into the countries which can generate highest returns on their investments. However, finding an appropriate measure for this variable is quite impossible. Thus, we also follow the method adopted by Edwards (1990); Jaspersen et al. (2000) and Asiedu (2002) and use the inverse of real Percapita GDP and multiply it with 1000. The basic premise behind usage of this variable is that "marginal product of capital is equal to the return of capital" (Asiedu, 2002). Meaning, keeping other things constant countries with higher Percapita income would yield lower return on investments. Using this inverse measure, Schneider & Frey (1985) find positive relationship with FDI.

Democracy $_{it}$ is measured using the data from Polity IV constructed by Marshall and Jaggers (2002). We then follow Londregan & Poole (1996) by subtracting Polity IV's autocracy score from its Democracy score, giving rise to the final democracy score that ranges from +10 to –10, wherein, +10 being the most democratic, +5 being partially democratic and -10 is fully autocratic.

Conflicts $_{it}$ empirical studies have found significant negative impact of conflicts on short term economic growth and development (Collier, 1998). Conflicts affect growth and development process in many ways. It leads to diversion of productive resources for unproductive purposes where the returns on such investments are nothing but nil (Grossman & Kim, 1996). Conflicts also leads to increase in military spending which crowds-out private and foreign investments creating huge negative fiscal impact and hamper the prospects of socioeconomic development (Deger & Sen, 1983; Klein, 2004). We introduce conflict variables as dummy coded 1 if there was conflict in the country in that year and 0 otherwise. The data for this variable is from Uppsala dataset on conflicts updated by International Peace Research Organization (PRIO).

Natural Resources $_{it}$ to capture the presence of natural resources in the host country, we consider oil wealth as a dummy variable taking the value 1 if oil exports exceed one third of the total export revenue, and 0 if not. The data is from La Porta et al. (1998).

The pooled time-series cross-sectional (TSCS) data may exhibit Heteroskedasticity and serial-correlation problems (White, 1980). But these problems do not bias the estimated coefficients as pooled regression analysis in itself is a more robust method for large sample consisting of cross section and time series data. However, they often tend to cause biased standard errors for coefficients, producing invalid statistical inferences. To deal with these problems, we estimate all the models using Huber-White robust standard errors clustered over countries. These estimated standard errors are robust to the problem of heteroskedasticity (Rogers, 1993 and Williams, 2000).

4. Empirical Results & Discussion

The results of regression estimates using negative binomial method in assessing whether countries care for human rights performance signing bilateral investment treaties are presented in seven different models in table 1. We also control for heteroskedasticity using Huber-White heteroskedasticity-consistent standard errors & covariance. The summary of data is provided in annexure 3 along with a simple correlation matrix of all variables in annexure 4. Couple of correlations is above 0.45. The country risk (0.56) and FDI inwards (0.45) are the variables with marginally high correlations. The variable country risk was also identified as potential problem variables by variance inflation factor analysis. However, dropping these two variables or any of the other control variables with high correlations from the model hardly affects our results. In order to mitigate the possible problem of simultaneity, we also ran the main results using one lag. The results presented in model 6 and 7 include all independent variables lagged to one year.

The results of multivariate regression analysis are presented in table 1. In model 1 we include all the independent variables except the main variables of human rights performance, which determine countries signing investment treaties. As seen from model 1, we find that improvement in country risk is associated with countries signing bilateral investment treaties. The country risk variable is an index coded on a scale of 0 – 100, where zero represent high country risk and 100 represent low or no country risk. Therefore the positive effect of country risk suggests an improvement in country risk of host country. Since this variable is an index with a very high variance across the countries, normal interpretation of the results could be misleading. This is because an improvement in country risk by 1% for example in the case of India (from say 60 to 61) would have a different effect compared to 1% increase in this variable for Nigeria (from 38 to 39). Therefore, we consider how much a standard deviation increase in risk would affect countries signing investment treaties. The analysis shows that for one standard deviation increase in country risk would raise bilateral investment treaties by 0.22%. We also find that economic development also plays an important role.

Table 1: Bilateral Investment Treaties & Human rights equation function

Dependent Variable: Number of Bilateral Investment Treaties signed

Variables	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6 #	Model 7 #
	Negative Binomial	Negative Binomial	Negative Binomial	Negative Binomial	Negative Binomial	Negative Binomial	Negative Binomial
Constant	-2.939 *** (0.39)	-2.837 *** (0.40)	-2.907 *** (0.41)	-2.827 *** (0.40)	-2.929 *** (0.42)	-2.984 *** (0.41)	-2.955 *** (0.42)
Country Risk	0.012 *** (0.00)	0.012 *** (0.00)	0.012 *** (0.00)	0.012 *** (0.00)	0.012 *** (0.00)	0.010 *** (0.00)	0.009 *** (0.00)
Log (Economic Development)	0.069 + (0.05)	0.084 * (0.05)	0.067 (0.05)	0.088 * (0.05)	0.067 + (0.05)	0.135 ** (0.05)	0.120 ** (0.05)
Trade	-0.003 *** (0.00)	-0.003 *** (0.00)	-0.003 *** (0.00)	-0.003 *** (0.00)	-0.003 *** (0.00)	-0.003 *** (0.00)	-0.004 *** (0.00)
Log (FDI inward stock)	0.261 *** (0.02)	0.249 *** (0.02)	0.262 *** (0.02)	0.243 *** (0.02)	0.261 *** (0.02)	0.230 *** (0.02)	0.241 *** (0.02)
Log (Return on Investments)	0.073 * (0.04)	0.077 ** (0.03)	0.073 ** (0.03)	0.078 ** (0.03)	0.072 * (0.03)	0.095 ** (0.04)	0.093 ** (0.04)
Democracy	0.025 *** (0.00)	0.027 *** (0.00)	0.025 *** (0.00)	0.027 *** (0.00)	0.025 *** (0.00)	0.024 *** (0.00)	0.023 *** (0.00)
Conflicts	-0.052 (0.09)	-0.127 (0.11)	-0.041 (0.10)	-0.155 + (0.11)	-0.048 (0.10)	-0.093 (0.10)	-0.019 (0.10)
Oil Exports share	0.041 (0.11)	0.029 (0.11)	0.043 (0.11)	0.017 (0.11)	0.040 (0.11)	-0.035 (0.11)	-0.018 (0.11)
Physical Integrity Rights	---	-0.035 (0.02)	---	-0.051 ** (0.02)	---	-0.022 (0.02)	---
Political Terror Scale	---	---	-0.010 (0.05)	---	-0.004 (0.05)	---	-0.028 (0.04)
Δ Physical Integrity Rights	---	---	---	0.177 ** (0.08)	---	---	---
Δ Political Terror Scale	---	---	---	---	0.045 (0.08)	---	---
R-squared	0.093845	0.095701	0.093792	0.098065	0.094750	0.066480	0.064585
Adjusted R-squared	0.090358	0.091833	0.089916	0.093820	0.090489	0.062486	0.060582
Log likelihood	-2903.444	-2902.279	-2903.426	-2900.069	-2903.290	-2931.708	-2932.019
Number of Countries	87	87	87	87	87	87	87
Total No. of Observations	2349	2349	2349	2349	2349	2348	2348

Note: *** Significant at 1% confidence level; ** Significant at 5% confidence level; * Significant at 10% confidence level; + Significant at 15% confidence level. White Heteroskedasticity-Consistent Standard Errors are reported in parenthesis. **# denotes variables in model 6 & 7 are lagged to one year**.

Though the relationship between economic development and countries signing bilateral investment treaties is positive it is significant only at 15% confidence level. We find some correlation between the two variables (i.e. country risk and economic

development). Thus, we also ran two separate models (not shown here, but provided upon request) each with economic development and country risk separately. We find that when we ran both models separately, both variables are not only positive but are highly significant. Interesting results are found in the case of trade and investments. While trade reduces the propensity of countries signing investment treaties, FDI strongly encourages signing the treaties. Both are statistically significant at 1% confidence level across all the models. However, the effect of FDI on number of treaties signed is much stronger than total trade. When countries serve the local market through trade, it is logical to presume that investment treaties role would be minimal. However, when countries establish their base of operations with subsidiaries in the host country, naturally once the investments made would be sunk cost for the company. This exposes the company to the potential risks involved in terms of expropriation or host country government deviating from the investment agreements / contracts previously agreed upon. Therefore, higher the FDI in the host country, the prospects of countries signing bilateral investment treaties are greater. The return on investments has a significant positive impact on bilateral investment treaties signed. For a standard deviation increase in return on investments is causing 0.11% increase in bilateral investment treaties. This variable is consistently robust across the board. We now move towards the political interest variable starting with democratic regimes. We find support for the argument that democratic regimes are associated with higher bilateral investment treaties signed. The results with respect to democratic regime are significant at 1% confidence level in all the models in table 1 and 2. However, future research should focus on disaggregating types of democracies (including not only autocratic vs. democratic, but also civilian vs. military regimes), as differing democratic institutions produce varying policy outcomes (de Soysa, 2003). We also find that conflicts have a correct sign but are not statistically significant. Outbreak of conflicts increases the risk perception of the foreign investors and the more intensifying the conflicts prove to be discouraging for countries entering investment treaties. We also could not find any support that countries with one third oil exports share encourages countries to sign the investment treaties. Though positive, no statistical significance could be found in any of the models across the table.

We now move to our model 2 in which we include our main independent variable namely, the human rights performance of the host country government. In model 2, we include CIRI's physical integrity rights index. This index is coded on a scale of 0 – 8 where in zero means higher human rights abuses and 8 means lower abuses of human rights by the government. Thus, as shown in model 2, a negative sign suggests a decline in the human rights performance of the host country. However, we could not find any statistical significance for this variable even close to 15% confidence level. In model 3, we replace CIRI's physical integrity rights index with Gibney & Dalton's Political Terror Scale coded on a scale of 1 to 5 in which countries with a score of 1 means lower state terror and 5 means higher state terror. Thus, a positive sign of this variable means deterioration in human rights performance in the host country. The results in model 3 with respect to human rights performance indicator are also same as in model 2. No statistical evidence could be found in support of the positive results highlighted in model 3. However, there is some evidence to show that human rights do matter in model 4. In model 4 and 5 we introduced a new measure of human rights along with the traditional indicators of physical integrity rights and political terror scale. We presume that these indices define the current state of human rights performance of the host country governments. But the indices do not give the information on the changes in human rights performance of the host country governments in the immediate next year. To capture this effect we create dummy values coding 1 for those countries in which physical integrity rights index increases from t to t+1 and 0 otherwise. Similarly, for political terror scale, we give the value 1 when the index declines from t to t+1 and 0 otherwise. This means that this dummy captures the years in which there is an improvement in human rights performance. The results of inclusion of these variables into the models are mixed. Though we could find positive impact of physical integrity rights dummy on countries signing bilateral investment treaties in model 4, we could not find any statistical significance for the political terror scale dummy in model 5.

These models from 1 to 5 in table 1 could face theoretical and methodological criticism. The theoretical critic could be that countries sign bilateral investment treaties based on the information on the host country in t-1 year but not of t year. The methodological

criticism would be the potential problem of simultaneity between some of the variables like FDI and investment treaties. Thus, we lag all the independent variables including human rights performance variables to one year. The results are presented in models 6 and 7. We find that after lagging the variables, the explanation power and coefficient values of some variables marginally improved. Also, neither we could find any great variability in the coefficient values nor any change in the coefficient signs and significance levels. The results of both the human rights performance variables in model 6 and 7 still remain statistically insignificant suggesting that countries do not consider human rights performance as a prerequisite when signing bilateral investment treaties.

Table 2: Bilateral Investment Treaties & Human rights in oil vs. non-oil countries

Dependent Variable: Number of Bilateral Investment Treaties signed

Variables	**Model 8**	**Model 9**
	Negative Binomial	**Negative Binomial**
Constant	-2.785 *** (0.43)	-2.848 *** (0.40)
Country Risk	0.012 *** (0.00)	0.012 *** (0.00)
Log (Economic Development)	0.065 (0.05)	0.084 * (0.05)
Trade	-0.003 *** (0.00)	-0.003 *** (0.00)
Log (FDI inward stock)	0.257 *** (0.02)	0.246 *** (0.02)
Log (Return on Investments)	0.070 * (0.03)	0.075 ** (0.03)
Democracy	0.025 *** (0.00)	0.026 *** (0.00)
Conflicts	-0.040 (0.10)	-0.123 (0.11)
Oil Exports share	-0.340 (0.32)	0.202 (0.21)
Political Terror Scale	-0.037 (0.05)	---------
Political Terror Scale ✕ Oil-rich countries	0.128 (0.10)	---------
Physical Integrity Rights	---------	-0.027 (0.02)
Physical Integrity Rights ✕ Oil-rich countries	---------	-0.045

		(0.04)
R-squared	0.093710	0.095598
Adjusted R-squared	0.089444	0.091341
Log likelihood	-2902.489	-2901.806
Number of Countries	87	87
Total No. of Observations	2349	2349

Note: *** Significant at 1% confidence level; ** Significant at 5% confidence level; * Significant at 10% confidence level. White Heteroskedasticity-Consistent Standard Errors are reported in parenthesis.

In table 2, we capture the interactive effects of human rights performance in oil-rich countries. The basic idea is to test whether human rights matter in countries with rich natural resources or not. Having found earlier that human rights performance do not matter in comparison to economic and political interests when signing investment treaties, we believe the same would be the case even in countries with rich natural resources. These results are highlighted in table 2. As seen from models 8 and 9 we could not find any significant effect of neither the human rights performance variables nor their interactions with oil exports dummy. The same is true in the case of both models where we introduce separate human rights performance variables viz., physical integrity rights and political terror scale indices. However, we could not find any change in the results of the other independent variables to what was found in earlier models in table 1.

4. 1. Robustness Check

We ran several tests of sensitivity. First, we ran all models by replacing both human rights indicators – physical integrity rights and political terror scale with the political terror scale indices of both U.S. State department and Amnesty International seperately. The results of these are presented in annexure 5. When we introduce the index coded by Amnesty International, the number of observations comes down from 2349 to 2244. This is because for some country-years the coding was not available. The results in models 10 and 11 show that all the major economic and political factors lead to increase in countries signing bilateral investment treaties. However, we could not find any statistical significance for neither of the political terror scale indices viz., U.S. State department and Amnesty International. In models 12 and 13, we lag all the independent variables to one year including both the human rights performance variables. Despite this, we find that

both the variables still remain statistically insignificant. Finally, we also ran another set of models separately by changing the estimation techniques. We ran the same results using pooled ordinary least squares regression and poisson methods[4]. We obtain identical results using both methods. That is neither of the human rights indices are found to be significant. On the contrary, we do not find any change in the results related to economic and political interest factors.

In summary, the results taken together seem remarkably robust to sample size, specification, and testing procedure. Both the human rights variables remained unchanged in their significance levels despite several alternative specifications. On the other hand, both economic and political interest factors continue to remain statistically significant despite these changes. Our results taken together support those who argue that human rights potentially do not matter while countries entering into a bilateral investment treaty agreements.

5. Conclusion

The association between countries signing bilateral investment treaties and human rights performance of the host country is not only interesting but is also most controversial and ignored topic in the domain of international political economy. On the one hand, the bilateral investment treaties are deemed to be very important because they not only provide guarantee to the foreign investors but would facilitate such investments into the host country. Once the investments are made, the long-term growth effects of such foreign investments are well known. Thus, some argue that though human rights issues are overlooked while signing the investment treaties, the aftermath beneficial effects of the investments following the treaties are huge. These also help improve the human rights conditions in the host country through numerous indirect channels. On the other hand, skeptics contend that developed countries enter the developing countries through foreign investments to exploit the resources and secure their dominance. This, according to them creates uneven development and progress thereby further widening the gap between

[4] Results not shown here due to brevity, but are be provided upon request.

'haves and have nots'. Thus, they believe that the developed countries are anyway insensitive towards the human rights performance of the host country and hence it does not matter while signing the bilateral investment treaties.

In this study, we examine the claims of both these arguments by considering 87 developing countries during the period 1980 – 2006. We examine whether countries consider human rights performance of the host country while signing bilateral investment treaties. Since bilateral investment treaties are count, the number of investment treaties for a given country-year, a linear model was felt to be inappropriate. Therefore, we use negative binomial regression model. Given the proportion of 0's in bilateral investment treaties could show high variance, the negative binomial was preferred over the poisson, as the negative binomial allows for the possibility of over-dispersion. The contribution of this study is that this exclusively examines the relationship between bilateral investment treaties and human rights performance in a more systematic manner. The major findings of the study are that economic interests drive bilateral investment treaties to human rights performance. Economic interests measured by economic development, long-term investments, return on investments and macroeconomic risk are significant while human rights performance namely, political terror scale and physical integrity rights remain consistently insignificant. The results are robust to the use of alternative estimation techniques and sensitivity analysis. These results highlight that economic interests preside over social conscience while countries signing investment treaties. One potential and major limitation of this study is that it is aggregate in nature. Thus, we suggest avenues for further research. Future research should also focus on two important things with respect to human rights performance and bilateral investment treaties. They include: one, to extend the same study by applying country-to-country analysis in spatial framework. Two, to determine whether our findings uphold in the case of a developed country like U.S signing investment treaties specially with developing countries.

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Annexures

Annexure 1: Countries under Studies

Albania	Ecuador	Malaysia	South Africa
Algeria	Egypt	Mali	Sri Lanka
Angola	El Salvador	Mauritius	Sudan
Argentina	Ethiopia	Mexico	Swaziland
Bahrain	Gabon	Morocco	Syria
Burkina Faso	Ghana	Mozambique	Taiwan
Bangladesh	Guatemala	Myanmar	Tanzania
Benin	Guinea	Nepal	Thailand
Bolivia	Haiti	Nicaragua	Togo
Botswana	Honduras	Nigeria	Trinidad & Tobago
Brazil	Hungary	Oman	Tunisia
Bulgaria	India	Pakistan	Turkey
Cameroon	Indonesia	Panama	Uganda
Chile	Iran	Papua New Guinea	United Arab Emeritus
China	Israel	Paraguay	Uruguay
Colombia	Jamaica	Peru	Venezuela
Congo Democratic Republic	Jordon	Philippines	Zambia
Congo Republic	Kenya	Poland	Zimbabwe
Costa Rica	Republic of Korea	Romania	Chad
Cote D' Ivoire	Kuwait	Senegal	Niger
Czech Republic	Liberia	Sierra-Leon	Burundi
Dominican Republic	Malawi	Singapore	

Annexure 2: Data Sources

Variables	**Data Source**
Country Risk Index	Institutional Investor Magazine
Log (Economic Development)	World Development Indicator, 2007
Trade	UNCTAD, 2008
Log (FDI inward stock)	UNCTAD, 2008
Log (Return on Investments)	Author's own construction
Democracy	Marshall, M.G. & Jaggers K. (2002): POLITY IV
Conflicts	PRIO, 2008
Oil Exports share	La Porta et al. (1998)
Physical Integrity Rights	CIRI, 2007
Political Terror Scale	Gibney & Dalton (1997)

Annexure 3: Descriptive Statistics

Variables	Mean	Median	Maximum	Minimum	Standard Deviation	Observations	Countries
BIT	0.974	0.000	17.000	0.000	1.819	2349	87
Country Risk	31.267	27.000	91.000	4.100	18.290	2349	87
Log (Percapita GDP)	7.050	7.038	10.721	4.124	1.376	2349	87
Trade Openness	70.644	59.097	473.510	1.531	47.971	2349	87
Log (FDI inward)	7.187	7.273	14.009	-2.303	2.283	2349	87
Log(Return on Investments)	1.992	2.102	5.141	-4.193	1.457	2349	87
Democracy	0.328	0.000	10.000	-10.000	6.954	2349	87
Civil war	0.257	0.000	1.000	0.000	0.437	2349	87
Oil exports	0.172	0.000	1.000	0.000	0.378	2349	87
Political Terror Scale	2.859	3.000	5.000	1.000	1.003	2349	87
Physical Integrity Rights	4.174	4.000	8.000	0.000	2.221	2349	87

Annexure 4: Correlation Matrix

Variables	Country Risk	Log(Percapita GDP)	Trade Openness	Log (FDI)	Democracy	Civil war	Oil exports	PTS	PIR
Country Risk	1.000								
Log(Percapita GDP)	0.568	1.000							
Trade Openness	0.434	0.439	1.000						
Log (FDI inward)	0.450	0.450	0.222	1.000					
Democracy	0.172	0.201	0.014	0.293	1.000				
Civil war	-0.200	-0.223	-0.253	-0.033	-0.018	1.000			
Oil exports	0.087	0.251	0.078	0.082	-0.212	-0.031	1.000		
Political Terror Scale	-0.317	-0.321	-0.321	0.030	-0.106	0.492	0.027	1.000	
Physical Integrity Rights	0.264	0.299	0.345	-0.062	0.125	-0.565	-0.003	-0.771	1.000

Annexure 5: Robustness check - Bilateral Investment Treaties & Human rights

Dependent Variable: Number of Bilateral Investment Treaties signed

Variables	Model 10	Model 11	Model 12 #	Model 13 #
	Negative Binomial	Negative Binomial	Negative Binomial	Negative Binomial
Constant	-2.980 *** (0.40)	-3.108 *** (0.44)	-2.942 *** (0.41)	-3.408 *** (0.42)
Country Risk	0.012 *** (0.00)	0.010 *** (0.00)	0.009 *** (0.00)	0.007 ** (0.00)
Log (Economic Development)	0.071 + (0.04)	0.104 ** (0.05)	0.120 ** (0.05)	0.182 *** (0.05)
Trade	-0.003 *** (0.00)	-0.003 *** (0.00)	-0.004 *** (0.00)	-0.004 *** (0.00)
Log (FDI inward stock)	0.258 *** (0.02)	0.2701 *** (0.02)	0.243 *** (0.02)	0.247 *** (0.02)
Log (Return on Investments)	0.072 * (0.03)	0.089 ** (0.04)	0.093 ** (0.04)	0.120 *** (0.04)
Democracy	0.026 *** (0.00)	0.023 *** (0.00)	0.023 *** (0.00)	0.019 *** (0.00)
Conflicts	-0.067 (0.10)	-0.002 (0.10)	-0.012 (0.10)	-0.021 (0.10)
Oil Exports share	0.037 (0.11)	0.042 (0.11)	-0.016 (0.11)	-0.043 (0.11)
Political Terror Scale U.S. State Dept.	0.014 (0.04)	---------	-0.035 (0.04)	---------
Political Terror Scale Amnesty International	---------	-0.044 (0.04)	---------	-0.023 (0.04)
R-squared	0.093851	0.083636	0.064657	0.051532
Adjusted R-squared	0.089976	0.079532	0.060654	0.047282
Log likelihood	-2903.401	-2780.622	-2931.899	-2807.414
Number of Countries	87	87	87	87
Total No. of Observations	2349	2244	2348	2244

Note: *** Significant at 1% confidence level; ** Significant at 5% confidence level; * Significant at 10% confidence level; + Significant at 15% confidence level. White Heteroskedasticity-Consistent Standard Errors are reported in parenthesis. **# denotes variables in model 12 & 13 are lagged to one year**.