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Conflicted Capital: The Effect of Civil Conflict on Patterns of BIT Signing

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Abstract

Why do developing countries commit to costly international agreements? Massive arbitral awards and the discovery that rich countries write investment rules have led to a newfound appreciation of the costs of bilateral investment treaties (BITs). Yet, developing countries continue to sign them. This article advances a novel argument for why governments sign potentially costly agreements. We argue that civil conflict changes the decision calculus of governments by rendering them domestically insecure. This insecurity makes governments more willing to sign agreements, like BITs, that sacrifice future policy autonomy. BITs can attract foreign direct investment (FDI) and signal competence, which have important domestic political benefits. BITs are also attractive postconflict since they can be copied quickly from past templates and require few ex ante policy changes. Empirical tests of over 150 countries from 1960 to 2012 demonstrate that governments sign more BITs after civil conflict. Additional tests indicate that postconflict BITs increase FDI inflows, especially after devastating conflict. Our results provide a unique perspective on why governments cede sovereignty to international institutions.

Keywords

international treaties, civil wars, domestic politics, international institutions

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Scholars and practitioners see capturing a slice of the global market for foreign direct investment (FDI)—US$1.8 trillion dollars of capital in 2015—as important for developing countries to promote economic growth and integrate into the global economy (United Nations Conference of Trade and Development [UNCTAD] 2016). There is, however, no focal international organization governing FDI. Instead, over the past fifty years, governments have signed nearly 3,000 bilateral investment treaties (BITs), in effect creating a decentralized legal regime for the protection of investment. BITs are thought to increase signatory FDI flows since they include legal obligations that "tie the hands" of governments to respect sunk investments (see Salacuse and Sullivan 2005; Büthe and Milner 2009; Kerner 2009). Yet, BITs are costly, governments surrender their future policy autonomy and submit to provisions—including the possibility of being sued at international arbitration bodies—that lead to direct and consequential damages.

The high-profile rise of investor state dispute settlement (ISDS) has led some to question whether the benefits of BITs outweigh the costs. Several countries have begun to reevaluate their BIT programs, in some cases repudiating past agreements (see Peinhardt and Wellhausen 2016). Despite these concerns, governments continue to sign BITs.[1] Early explanations of BIT signing focused on credible commitment-making by capital-seeking developing countries (e.g., Salacuse and Sullivan 2005; Elkins, Simmons, and Guzman 2006). More recent explanations focus on the power and preferences of rich, capital exporters (e.g., Allee and Peinhardt 2010). These approaches generate different predictions concerning the desirability of BITs. The credible commitment approach suggests that BITs help developing countries constructively engage the world economy, whereas the power and preferences approach suggests that BITs are often lopsided, which can undermine state sovereignty and lead to costly arbitration.

How can we make sense of these different views on BITs? Why, given the potentially steep costs, do developing countries continue to sign them? We offer a new perspective explaining why governments sign BITs. We posit that governments face a trade-off when deciding whether to sign a BIT: they must balance their future policy autonomy against the potential benefits of the agreement. During normal times, governments are selective and bargain hard for the preservation of their autonomy. However, the onset of civil conflict fundamentally changes a government's calculus. Conflict makes governments insecure, which forces a reevaluation of the autonomy they are willing to sacrifice and the time horizon of their policy choices. In particular, the potential benefits—both economic and political—become more salient in the difficult postconflict setting. The net effect is that governments, desirous of the potential benefits that BITs can provide, discount the costs of exposing themselves to legally binding international agreements.

The policy choices that leaders make after conflict can determine whether a state plunges into a cycle of poverty and violence—the poverty–conflict trap—or attains economic recovery and stability (Blomberg and Hess 2002; Collier, Hoeffler, and Söderbom 2008; Flores and Noorudin 2009; Walter 2015). In this delicate setting,

BITs are a desirable policy choice. Not only can they generate capital flows to help boost economic growth, but they also signal to domestic and foreign audiences that the government is actively working to strengthen the economy. Several design features also make BITs unique. First, BITs can be negotiated and signed quickly by "copy pasting" from model treaties (see Allee and Lugg 2016a) and during relatively short diplomatic meetings (see Poulsen 2015). Second, the costs of BITs are slow to be realized since arbitration has to be initiated by aggrieved investors and ruled upon by an arbitral body, which can take several years (see Schreuer 2004).

Empirical analyses demonstrate the plausibility of our argument. Results of negative binomial regression models across a broad sample of countries from 1960 to 2012 indicate that governments in the postconflict setting sign more BITs than other governments. Further, regression estimates indicate that BITs signed in the postconflict period attract more FDI than BITs signed at other times. However, this effect is conditional on the intensity of conflict that precedes BIT signing.

The argument and evidence advanced here enhances our understanding of why governments accede to costly international institutions like BITs. Extant research tends to prioritize either costs or benefits, but we argue that the appeal of BITs changes along with domestic conditions. This complements scholarship showing that economic crises have important effects on whether states join international institutions (e.g., Simmons 2014; Mansfield and Milner 2015), suggesting that conflict is an underexplored source of state behavior. Furthermore, some institutions may be appealing due to inherent design features. Our findings also indicate that engagement with international economic institutions can play a role in breaking the conflict trap.

The Rise of BITs

Many governments view FDI inflows as central to their economic development. Global investment has increased dramatically, with the share destined for developing countries reaching 50 percent of the total in recent years (UNCTAD 2016). FDI is thought to be particularly beneficial for developing countries, since it can promote technology transfer and jobs in export-oriented sectors of the economy (see Alfaro et al. 2004; Hansen and Rand 2006).

One approach that governments can take to increase FDI is to sign legally binding BITs. Beginning in 1959, BITs began to replace earlier agreements like friendship, commerce, and navigation treaties that sought to protect rich country investment in the developing world. BITs go beyond these earlier treaties and customary international law by granting important legal rights to investors. These include protection against expropriation, national treatment, most-favored-nation status, streamlined entry and exit, and dispute settlement at arbitration bodies like the International Centre for the Settlement of Investment Disputes (ICSID; see Dolzer and Schreuer 2012; UNCTAD 2007).[2]

From the 1960s through 1980s, BITs were limited to Western European governments and poor states in the developing world, many former colonies (see Jandhyala, Henisz, and Mansfield 2011). Beginning in the 1990s, however, BITs proliferated with nearly 2,600 agreements signed by the mid-2000s (UNCTAD 2015). The pace of BIT signing has decreased in recent years, with several observers citing an increased appreciation of the costs as a key factor (see Jandhyala, Henisz, and Mansfield 2011; Simmons 2014). UNCTAD (2015) calls this an "era of reorientation" in the regime.

The scholarly literature offers two broad explanations for the spread of BITs. The first approach stresses the incentives of developing country governments who desire FDI. According to this view, BITs represent a "credible commitment" to respect FDI once it is sunk in a host country (e.g., Büthe and Milner 2009, 2014; Haftel 2010; Kerner 2009; Tobin and Rose-Ackerman 2011). They "tie the hands" of governments through explicit recourse to international law. This solves a time-inconsistency problem by assuring would-be investors that they will not be harmed by future policy changes (see Salacuse and Sullivan 2005; Kerner 2009). By reducing uncertainty for investors, capital can be efficiently and safely invested based on underlying economic factors. This logic has been extended to show that developing country governments became embroiled in a competition for capital that led them to emulate their peers and sign many BITs (see Elkins, Guzman, and Simmons 2006; Jandhyala, Henisz, and Mansfield 2011).

A more recent approach to understanding BITs emphasizes the preferences of rich, capital exporters in the developed world. Allee and Peinhardt (2010, 2014) find that stronger ISDS clauses are often thrust upon developing countries in the context of asymmetric bargaining. Allee and Lugg (2016a) find that powerful countries are able to insert preferred legal language from their "model BITs" when negotiating with poorer governments. Additionally, Alschner and Skougarevskiy (2016) find that developing countries are "rule takers," and Manger and Peinhardt (2017) show that capital exporters are behind greater legal precision in the regime. These studies argue that the legal content of BITs is often favorable to rich country interests, which suggests that their preferences drove the spread of these agreements.

This shift in theorizing from a southern to a northern driven dynamic highlights the costs of BITs—particularly of ISDS arbitration—for many governments. A recent study on ICSID cases finds that the average claim is roughly US$490 million with an average award of US$87 million (Rosert 2014).[3] There have been over forty-five ISDS claims in the billions of dollars, most notably the controversial US$1.77 billion Occidental Petroleum decision versus Ecuador (Wellhausen 2016). Poulsen and Aisbett (2013) show that some governments reduce their BIT activity after experiencing investment claims. Others cite the costs of BITs as an explanation for the slowdown in the pace of signing (Jandhyala, Henisz, and Mansfield 2011). Simmons (2014) argues that many governments acquiesced to "asymmetrical arbitration" in light of uncertain benefits.

A newfound appreciation of the costs appears to be motivating some governments to reconsider past BITs. According to Peinhardt and Wellhausen (2016), seven countries have withdrawn from investment treaties, many of them due to domestic dissatisfaction. In a high-profile example, South Africa undertook a three-year review of its BIT program, cancelled some early generation treaties, and has vowed to exclude ISDS in future treaties (Schlemmer 2015).[4] UNCTAD (2015) argues that governments are going through a "period of reflection, review and revision."

Despite concerns with the costs, several studies find that BITs increase FDI into developing countries (Büthe and Milner 2009; Kerner 2009; Salacuse and Sullivan 2005; Kerner and Lawrence 2014) and attracting FDI remains a key component of development strategies (UNCTAD 2016). Nonetheless, inflows are often conditional on compliance with treaty terms (Allee and Peinhardt 2011), ratification (Haftel 2010), and partner choice (see Peinhardt and Allee 2012). Additionally, Tobin and Rose-Ackerman (2011) argue that BITs may not substitute for weak institutions, as the credible commitment mechanism implies, but rather serve as complements to domestic institutional reforms.

To better understand the relationship between BIT signing and FDI, studies have begun to explore domestic political considerations. This follows a long line of scholarship on the domestic sources of trade policy that emphasize that trade agreements signal competence to domestic audiences (Mansfield, Milner, and Rosendorff 2002; Mansfield and Milner 2012), reward key domestic industries (Milner 1997; Chase 2003), and increase leadership tenure (Hollyer and Rosendorff 2012). Mazumder (2016) and Arias, Hollyer, and Rosendorff (2015) find that BITs prolong government tenure in autocracies, suggesting domestic political advantages to BIT signing. Additionally, Jensen and coauthors (2014) find that politicians often claim credit for multinational corporation (MNC) investment decisions. Finally, Blake (2013) shows that legalization in BITs varies based on government time horizons.

Relatedly, scholarship in comparative politics has long emphasized a link between domestic political incentives, policy choices, and economic outcomes (Jensen 2008; de Mesquita et al. 2005). In particular, poor economic performance has been linked to increased onset and recurrence of civil war (Collier et al. 2003; Collier and Hoeffler 2004; Fearon and Laitin 2003), leadership transitions to and from democracy (Acemoglu and Robinson 2005), and electoral outcomes and volatility (Remmer 1991; Lewis-Beck and Stegmaier 2000). Studies of crisis emphasize that they "reshape how political actors pursue their interests," which has important effects on how policies are chosen (Kahler and Lake 2013, 3).

An appreciation of the costs of BITs has led some governments to renounce past agreements. But the dense network of agreements means that investors still have recourse to protections (see Peinhardt and Wellhausen 2016). Furthermore, new treaties are being signed and over fifty countries are revising their model agreements (UNCTAD 2016). These points to an acute need to better understand why governments were willing to accept the costs of international institutions like BITs and can help us better understand which countries might be willing to do so in the future.

A Theory of Civil Conflict and BIT Signing

The Postconflict Setting and Political Survival

Unfortunately, civil conflict is not a rare phenomenon. Estimates from the Uppsala Conflict Data Program (UCDP)/Peace Research Institute Oslo (PRIO) data set tally over 235 discrete conflicts since 1946 (Harbom, Melander, and Wallensteen 2008). In fact, some form of civil conflict has affected over 50 percent of countries in the world (Blattman and Miguel 2010), many of them former colonies in the developing world (Fearon and Laitin 2003).

Civil conflict represents an acute crisis for those countries affected. The economic effects are particularly severe. Empirical studies estimate that civil wars destroy an average of 250 percent of a country's economy, which takes twenty-two years to recover (Collier and Hoeffler 2004, Collier, Hoeffler, and Söderbom 2008). This creates a "development gap" associated with conflict (Gates et al. 2012). However, the effect is not confined to high intensity conflicts. Cross-country empirical work finds a robust link between instability and savings, investment, and growth (see Alesina et al. 1996; Rodrik 1999; Cerra and Saxena 2008). Even minor conflicts have destructive effects on household assets and savings (Annan, Blattman, and Horton 2006) and mobile capital flees conflict (Collier 1999). Political and economic uncertainty decreases expected returns to capital, perceptions of risk, and shortens time horizons. This reduces investment, leads to rapid deterioration of the capital stock, and consequently plunging economic growth (Blattman and Miguel 2010).

Governments emerging from conflict face a distinct and precarious political context. Their success depends on finding solutions to two particularly vexing issues: (1) preventing conflict recurrence and (2) fixing the economy. Unsurprisingly, these problems are linked. Research on conflict recidivism shows that economic growth dramatically reduces the probability of recurrence during the first decade (Collier, Hoeffler, and Söderbom 2008; Hoeffler 2012). Researchers, therefore, prioritize the immediate postconflict years as being essential (e.g., Collier 2009), but there are few universal prescriptions for success. One thing is certain: since most conflicts reignite within the first decade, governments must do something to generate economic stability. If they do not, they risk falling into a "crisis" or "conflict" trap where the economic impact of one crisis increases the probability of future crises (e.g., Cerra and Saxena 2008; Blattman and Miguel 2010; Hegre and Sambanis 2006).

As in normal times, the survival of the political elite depends on their ability to distribute resources to key domestic constituencies (Bueno de Mesquita et al. 2005). But generating economic growth after conflict is challenging as the typical country experiences capital flight, destruction of infrastructure, overinvestment in the military, and sustained deterioration of the capital stock (Collier, Hoeffler, and Söderbom 2008; Blattman and Miguel 2010). To distribute rents and maintain a winning coalition, governments need to fill the investment gap left by conflict and signal to

supporters that future resources will be forthcoming. Generating capital indigenously is difficult (Collier et al. 2003) and given the long-term nature of foreign investment, most MNCs perceive significant risks in countries with recent conflict (Jensen and Young 2008).

One way for a government to strengthen the economy is to enact policies that credibly commit the government to protect investor property rights (Flores and Nooruddin 2009; Appel and Loyle 2012). The importance of property rights in promoting economic growth has long been recognized (North 1990; Rodrik, Trebbi, and Subramanian 2002; Easterly and Levine 2003; Haggard, MacIntyre, and Tiede 2008). Property rights are endogenous to institutions, however, implying that under normal circumstances, they develop over long periods of time (e.g., Acemoglu, Johnson, and Robinson 2001). Further, market actors take time to revise expectations about policy environments (e.g., Tomz 2007).

Developing good institutions is particularly problematic in the complex postconflict setting and empirical evidence suggests that governments find it difficult to make improvements (Haggard and Tiede 2014). Sudden democratization can result in instability (Huntington 2006), which may increase the risk of civil war recurrence (Collier, Hoeffler, and Söderbom 2008; Flores and Nooruddin 2009, 2012) and the likelihood of interstate conflict (Mansfield and Snyder 1995, 2007). Additionally, building institutions takes bureaucratic capacity and government funding, both of which are in short supply in the postconflict setting (Collier 2009). Therefore, government resources are typically stretched thin and focused on a variety of uncertain and complex tasks, including developing domestic legal structures, rebuilding infrastructure, generating employment for former combatants, and unifying the state (see Samuels 2006; Collier and Hoeffler 2004).

The Logic of Postconflict BITs

Available evidence suggests that enacting policies to facilitate economic growth and stability is difficult in the postconflict setting. Growth is dependent on long-term institutional changes and can be negatively impacted by exogenous developments in the global economy. Governments, therefore, occupy a precarious position after conflict: their political survival depends on quick economic recovery, but there are few viable short-term policy options to entice this recovery. In an effort to attract growth-enhancing foreign investment, governments can turn to signing BITs. The main drawback is that this commitment comes at a price: the government must surrender future policy autonomy and expose themselves to potentially costly arbitration.

During normal times, governments covet their sovereignty and are reluctant to accede to international institutions that infringe on autonomy (e.g., Mearsheimer 1994). According to this perspective, developing country governments should only sign BITs if the potential benefits are enough to offset the costs of lost policy autonomy. Since most BITs take place between a poor "host" state and a rich "home" state, the expectation is that the strength of the legal commitment should

reflect the leverage that the richer state has over the poorer state (e.g., Allee and Peinhardt 2010). When a poor country bargains with a large capital exporter like the United States or Germany, they are likely to accede to a lopsided agreement, whereas the agreement should be more equal if negotiations are with a similarly sized partner.

A key insight is that governments should sign BITs that satisfy a utility function with respect to the trade-off between the gains the agreement might generate and the lost autonomy of the legal commitment. During normal times, governments can be selective about BIT partners and should bargain hard so that they do not sacrifice too much sovereignty in any final, negotiated agreement.

Civil conflict changes the nature of this trade-off. Leaders in the aftermath of civil conflict are insecure and face dim prospects for economic growth. The time horizon of their rule is attenuated by the effects of the conflict, which changes policy incentives with respect to international institutions (see Blake 2013). This insecurity shifts the preferences of the government making them more likely to cede sovereignty in exchange for the potential short-term benefits that BITs can provide. In effect, governments become "BIT takers" after civil conflict and will seek out BITs that were previously undesirable.

An influx of capital can help jump-start economic growth. Neoclassical models of growth suggest that foreign firms should invest in capital scarce countries, since returns will be higher. Yet, empirical models suggest that inadequate institutional safeguards often dissuade them (e.g., Daude and Stein 2007). BITs can help offset this risk in a country with recent conflict. Thus, civil conflict affected societies may be particularly attractive, especially for capital-intensive enterprises like the extractive industries. They offer high returns to capital and natural resources may have been impractical to exploit during periods of active conflict.[5]

Capital accumulation is a prime mechanism for generating growth (see Barro 1996) and FDI is thought to be particularly valuable (e.g., Alfaro et al. 2004). Growth can be used to provide benefits to government supporters and leaders can claim credit for investment inflows (e.g., Jensen et al. 2014). For democratic governments, economic growth and employment serve as resources for maintaining rule (Bueno de Mesquita et al. 2005). But even in autocracies, the economic impact of a BIT can be diverted to providing rents to supporters (Mazumder 2016). Further, there is evidence that international organizations and business analysts take into account developing country participation in BITs when they make assessments of credibility and creditworthiness (Dreher and Voigt 2011), which sends an important signal to market actors. International organizations have also taken steps to make aid disbursements contingent on the postconflict policy environment, which includes measures of property rights protections (Hoeffler 2012; Garriga and Phillips 2014). In sum, the potential economic effects of a BIT should help governments, regardless of regime type, stay in power after a civil war.

The desirability of a BIT is not limited to its economic benefits. Research shows that visible international treaties are important due to the signal they send to

domestic audiences. Mansfield and Milner (2012) argue that preferential trade agreements (PTAs) have an important effect on domestic politics by reassuring the public that the government is enacting credible policies (see also Mansfield, Milner, and Rosendorff 2002; Milner and Kubota 2005). Further, the informational role of economic agreements is pronounced after periods of economic crisis (Mansfield and Milner 2015). There are reasons to believe that BITs can play a similar informational role.[6] BITs were touted by western international organizations and were signed by countries in the developing world as a commitment to policies associated with the "Washington consensus" (see Poulsen 2015). Furthermore, most negotiated treaty texts are collected and published by governments and UNCTAD, and treaty signature is often reported in the news in both home and host states.

Beyond the positive economic and signaling effects, several design features of BITs make them attractive for governments. A first advantage is the quickness with which they can be negotiated after conflict. BITs are heterogeneous in the number and type of commitments they specify (Allee and Peinhardt 2014), but they are shorter and there is less variation in their content than in other economic agreements a government might pursue. For example, the average length of a BIT is in the 3,000 word range, whereas the average PTA is over 14,000 words long and many newer generation agreements exceed 100,000 words.[7] Furthermore, capital exporters often publish and maintain model BITs that they make available prior to negotiations (see Brown 2013). The content of model treaties represents the ideal preferences of the government and can be pulled off the shelf in negotiations. Thus, a capacity and time constrained government can open diplomatic channels with a model-wielding capital exporter, thereby circumventing the hard bargaining that would need to take place in normal times and for other types of agreements. This claim is buoyed by recent research demonstrating the ubiquity of copy pasting in PTAs (Allee and Elsig 2015; Allee and Lugg 2016b) and between model and negotiated BITs (Allee and Lugg 2016a). Additionally, Poulsen (2015) shows that governments frequently sign treaties on relatively short diplomatic visits or at summit meetings.

Bilateral investment treaties (BITs) are a relatively quick and easy policy device for governments emerging from civil conflict. Governments can seek out partners with model texts and then sign treaties during routine diplomatic visits by either adopting a partner's model or copying language from older treaties. These quickly finalized BITs can then be touted to the government's supporters and to international organizations in a demonstration of activity and competence.

Another desirable feature of BITs is that one of the primary costs of the treaty—the possibility of arbitration—is unlikely to be realized in the short-term.[8] Compared to other international agreements, BITs typically do not specify ex ante policy adjustments (Haftel 2010), and there is a long process to trigger arbitral proceedings. First, there is a waiting period, which can last up to a year, and then the parties must decide on the venue and a variety of other rules and procedures (Schreuer 2004). The arbitration itself can also be lengthy, with the average ICSID case taking 3.6 years (Sinclair, Fisher, and Macrory 2009). The cost structure of BITs means that a

cash-strapped government with a short-time horizon can accede to BITs without having to worry about costs in the short-term. There is also evidence to suggest that governments can use BITs as complements to domestic institutional change, which should also reduce any potential ex ante costs (Tobin and Rose-Ackerman 2011).

The economic and political effects of BITs make them particularly desirable for governments who have experienced civil conflict. Leaders should be more willing to sacrifice sovereignty when their tenure is insecure and will actively seek out BITs, which can be signed quickly and with limited negotiating effort. The economic effects of BITs can help reward key domestic constituencies and send a positive signal that the government is enacting policies that will create favorable economic conditions. Relative to domestic institutional reform and pursuing other economic agreements, BITs can be signed with relative ease on short diplomatic visits. For MNCs, the presence of a BIT helps offset perceptions of risk and provides assurances to capital intensive industries such as those engaged in natural resource extraction. Overall, we argue that BITs can represent a rational response by governments facing a unique governance dilemma generated by civil conflict.

Data and Methods

To test the effect of civil conflict on BIT signing, we motivate and test several regression models. The primary dependent variable is coded from the UNCTAD's International Investment Agreement (IIA) database. *BITs signed* tracks the count of BITs signed per country in a given year between 1960 and 2012.[9] Depicted in Figure 1, this variable is significantly right skewed with the average country signing between zero and one BIT per year.[10]

Years since conflict is our primary independent variable and is derived from the UCDP/PRIO Armed Conflict data set (Gleditsch et al. 2002). It represents the number of years since the incidence of civil conflict within a country. Incidence here is defined as an ongoing conflict incurring at least twenty-five battle deaths. This variable takes the value of 1 in the year after a conflict's end and counts subsequent years of peace thereafter.[11] Importantly, the relationship between years since conflict and BITs signed is curvilinear since developed countries where conflict is unlikely tend to sign BITs with developing countries where conflict is more prevalent. We model this nonlinearity explicitly by including the variable *years since conflict squared.*

In a separate set of tests presented in the Online Appendix, we included the variable *years since high intensity conflict* and its square. This variable tracks the number of years since a civil conflict incurring at least 1,000 battle deaths. As conflict intensity increases, the economic destruction incurred likely increases. This allows for potential heterogeneity in postconflict BIT signing behavior stemming from variation in conflict intensity.

Several control variables enter the model to isolate the effect of the primary independent variables. In the baseline specification, *Polity* is included to control for

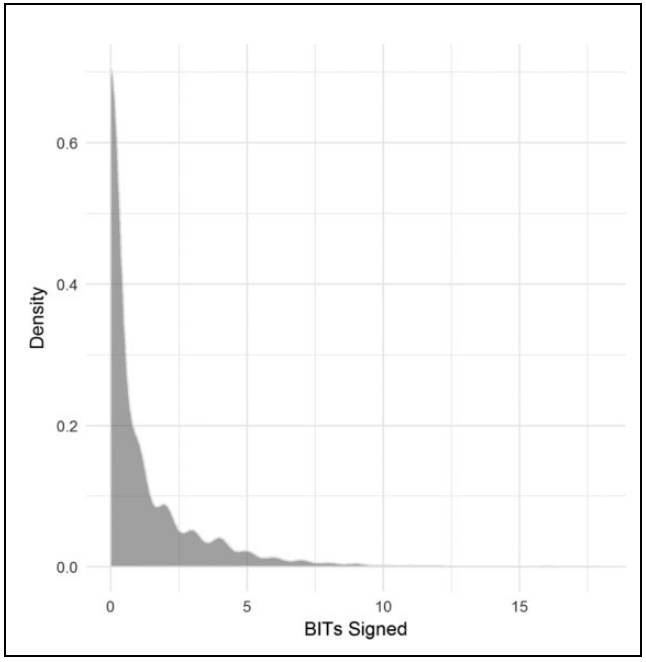


Figure 1. Density of bilateral investment treaties signed.

regime type. This variable ranges from −10 (autocratic) to 10 (democratic) and captures variation in political institutions cross-nationally and over time. Democratic regimes may be more receptive to international liberalization and the signing of international economic agreements. However, autocratic regimes may be more prone to utilize BITs as substitutes for their domestic institutional structure (Neumayer and Spess 2005). Given the potential for regime type to influence BITs signed in both directions, no initial expectation is made. As argued by Flores and Nooruddin (2009, 2012), regime change—especially democratization—increases the likelihood of conflict recurrence and slows economic recovery. Since a similar process may covary with our primary independent and dependent variables, we also control for *Polity change,* which measures the change in Polity score from the previous year.

Additionally, the log of per capita gross domestic product (log(*pcGDP*) is included to control for variation in development and propensity to sign BITs. For example, poor, capital-scarce countries may be more apt to sign BITs in an effort to make up for their weak market position. Similarly, *GDP growth* enters to control for yearly variation in economic development as several studies have posited a link between economic growth and BIT signing (see Simmons 2014). Finally, a dummy variable for membership in the Organization for Cooperation and Development (OECD) is included to control for the specific characteristics of highly developed

countries, who tend to sign BITs as capital exporters rather than capital importers (Elkins, Guzman, and Simmons 2006).

In subsequent specifications, we include a variable for the total number of PTAs signed by a given country—*total PTAs*—to control for a state's general propensity to engage with international institutions. Additionally, *global BITs* is added to control for international diffusion mechanisms (Elkins, Guzman, and Simmons 2006). This variable counts the number of BITs signed in the global economy in a given year and should yield a positive coefficient. *Trade* and *log(oil and gas)* are included to control for variation in states' economic structure. Trade measures a country's total trade as a percentage of GDP, while log(oil and gas) is the total value of oil and gas within a country and comes from Ross and Mahdavi's (2015) global data set. We also swap in the variable *law and order* for Polity, which ranges from 0 to 6 and is compiled by the PRS group to track variation in strength of legal and political institutions. Credible commitment logic implies that states with poor reputations for law and order will be likely to substitute international law by signing BITs. Finally, we introduce cubic polynomials—*time*, *time*^{2}, *and time*^{3} (Carter and Signorino 2010)—which control for potentially confounding time trends in patterns of BIT signing that parallel patterns in civil conflict.

Given the count nature of our dependent variable, a simplified presentation of the primary models takes the following form:

$$\ln[E(\text{BITs signed}_{i,t})] = a + \beta_1 \text{Years since conflict}_{i,t-1} + \beta_2 \text{Years since conflict}^2_{i,t-1} + \beta X_{i,t-1} + \varepsilon_i.$$

where $\ln[E\{\text{BITs signed}_{i,t}\}]$ denotes the log of the expected value of BITs signed in country i in year t and is estimated using negative binomial regression. The negative binomial is preferable to other types of count models for our purposes given that BITs signed is overdispersed (Long 1997).[12] All independent variables are lagged one year to account for issues related to simultaneity.[13]

Results

The primary results are depicted in Table 1. We first explore the parsimonious specification in model 1 and then address more demanding specifications in turn.[14] As indicated by the negative coefficient on years since conflict, as time progresses postconflict, countries are predicted to sign fewer BITs, all else constant. The positive sign on years since conflict squared suggests that this negative relationship turns positive after a number of years postconflict. Both of these estimates are statistically significant at the .01 level. Turning to the control variables, Polity and Polity change are both positively related to BITs signed, though only Polity is statistically significant at conventional levels. Log(pcGDP) is positive and statistically significant, while GDP growth and OECD are both negative and significant.

Table 1. Negative Binomial Estimates, Years Since Conflict, and BITs Signed.

Variable	(1)	(2)	(3)	(4)
Years since conflict	−.0431***	−.0259***	−.0138***	−.0194***
	(.0055)	(.0046)	(.0046)	(.0052)
Years since conflict sqd.	.0009***	.0003***	.0002**	.0003***
	(.0001)	(.0001)	(.0001)	(.0001)
Polity	.0244***	−.0028	.0030	
	(.0046)	(.0041)	(.0041)	
Polity change	.0185	−.0013	.0073	.0157
	(.0168)	(.0158)	(.0159)	(.0197)
Log(pcGDP)	.2834***	.2408***	.1355***	.0488
	(.0247)	(.0223)	(.0268)	(.0301)
GDP growth	−.0170***	−.0040	−.0027	.0207***
	(.0049)	(.0044)	(.0046)	(.0065)
OECD	−.6677***	.2080**	.1018	−.3796***
	(.0879)	(.0830)	(.1026)	(.1192)
Total PTAs			.0107***	.0138***
			(.0022)	(.0022)
Global BITs			.0026***	.0006
			(.0003)	(.0005)
Trade			.0007	−.0006
			(.0005)	(.0006)
log(Oil and Gas)			.0262***	.0219***
			(.0028)	(.0030)
Law and Order				.2788***
				(.0285)
Constant	−1.9768***	−3.1224***	−3.6125***	−33.4178***
	(.1774)	(.2720)	(.3539)	(5.6728)
Observations	5,259	5,259	5,045	2,652
Cubic Polynomials	No	Yes	Yes	Yes

Note: BIT = bilateral investment treaty; GDP = gross domestic product; OECD = Organization for Cooperation and Development; PTAs = preferential trade agreements.
***$p < .01$.
**$p < .05$.
*$p < .1$.

Figure 2 plots the predicted number of BITs signed at varying levels of years since conflict. As recommended by Hanmer and Kalkan (2013), these predictions, as well as the marginal effects of discrete changes that follow, are estimated by manipulating years since conflict and years since conflict squared while setting all other variables at their observed values in the sample. Confidence intervals indicate the estimates from the middle 95 percent of 1,000 simulations. A country just emerging from conflict is predicted to sign around 1.2 BITs per year. As time progresses, the predicted count falls to its minimum at around 0.7 BITs per year at around year 25. At this point, the curve begins to turn positive. Only countries with

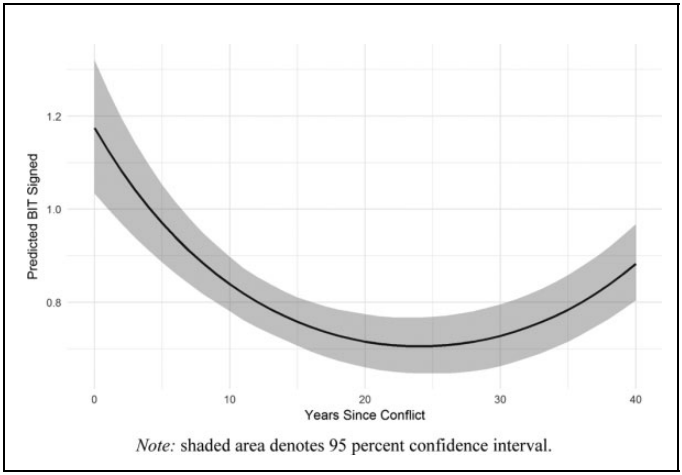


Figure 2. Predicted count of bilateral investment treaties signed across years since conflict.

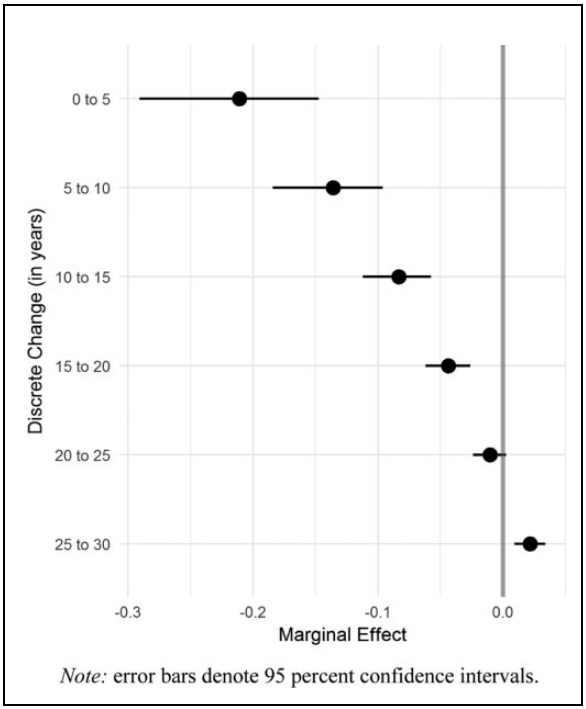


Figure 3. Marginal effect of discrete changes in years since conflict.

a significant number of peace years in the sample sign more BITs than those recovering from civil conflict.

To more stringently test the hypothesis, Figure 3 plots the marginal effects of five-year discrete changes in years since conflict.[15] A country moving from the immediate postconflict period to five years postconflict is estimated to sign around 0.20 fewer BITs per year. Compared to a country five years postconflict, a country ten years removed is estimated to sign around 0.12 fewer BITs per year. Additional five-year increases away from conflict diminish the marginal effect similarly. After twenty-five years of peace, the marginal effect of a five-year discrete change turns positive. In sum, as countries move away from the immediate postconflict period, the marginal effect of years since conflict decreases until between twenty-five and thirty years of peace, thereby confirming the relationship plotted in Figure 2.

To make the substantive significance clear, consider the following examples. Imagine a non-OECD democratic country with a per capita income of US$1,500. This is comparable to countries like Nicaragua and Indonesia between 2000 and 2010. In the period between conflict termination and five years of peace, this hypothetical country is expected to sign nearly seven total BITs. Compare this to the interval between years 20 and 25 postconflict for the same country in which it is estimated that only four total BITs will be signed. Thus, a twenty-year shift away from conflict nearly halves the predicted number of BITs signed. Compare this further to the estimated behavior of countries considered to be strongly pro-BIT like South Korea in the early 1990s. This type of country had experienced a relatively long period of sustained peace (around forty years for South Korea) and was moving up the development ladder—per capita income was over US$12,000, and democratic institutions were beginning to take hold. Between years 40 and 45 postconflict, this South Korea-like country is predicted to sign just over five BITs. Our estimates therefore indicate that a developing country in the immediate postconflict period will exhibit stronger pro-BIT behavior than even the most prototypical BIT-signing countries.

Models 2–4 in Table 1 assess the results from alternative specifications. Notably, all subsequent models include time cubic polynomials—*time, time^2, and time^3*—each omitted from the table for presentation purposes. Introducing these time controls in model 2 produces similar estimates for years since conflict and years since conflict squared, though the size of both coefficients are diminished slightly. This implies that the effect of postconflict dynamics on patterns of BIT signing likely covary with general changes in patterns of BIT signing. Importantly, the effect of years since conflict and its square remain sizable and strongly statistically significant. Introducing a battery of control variables in model 3 produces similar results, though the effect size is diminished. As shown in Figure A3 in the Online Appendix, the marginal effects of five-year discrete changes in years since conflict depict a similar pattern to those in Figure 2. Finally, swapping Polity for law and order in model 4 results in nearly identical estimates.

Conflict has become ubiquitous since the 1960s, affecting over half of all countries in the world (e.g., Blattman and Miguel 2010), which suggests that the phenomenon we uncover is widespread. Indeed, over 70 percent of the countries in our sample that experienced a civil conflict signed at least one BIT in the subsequent five-year window and around 50 percent signed over ten. To further demonstrate the plausibility of our argument in the context of these results, consider a few cases of what Beth Simmons (2014) calls "BIT signing sprees" that our models help explain. After the end of the twelve-year civil war in 1992 the government of El Salvador, led by the Nationalist Republican alliance, signed eighteen total BITs between 1993 and 1999 after only signing one previously. The estimates from model 3 just miss predicting the size of this signing spree, predicting the government to sign around sixteen BITs over this period. The model also performs well in capturing the post-conflict dynamic in Georgia, which has experienced recurrent bouts of civil conflict since 1991. Between 1991 and 2008, Georgian leaders signed twenty-eight BITs, while our model predicted this number to be just under twenty-seven. Similarly, our model predicted the Nicaraguan government emerging from conflict in 1991 to sign over fifteen BITs by 2000, while in reality, leaders signed sixteen after previously signing only four BITs total. These dynamics are common in our data as countries from diverse regions and with varying levels of conflict see a dramatic uptick in BIT signing immediately following conflict.[16]

Robustness Checks

The results from the baseline model are robust to the introduction of additional controls for the underlying time trend, international political engagement, domestic economic structure, and to alternative measures of domestic institutions. However, the estimates may be biased due to omitting time-invariant characteristics unique to each country. To ensure that this is not the case, Table 2 presents the results of multiple specifications that control for country heterogeneity, all of which include the full set of control variables as well as controls for the underlying time trend. As shown in model 1, the estimate on years since conflict from a random effects negative binomial including time cubic polynomials is negative and statistically significant at the .05 level. Conditional negative binomial (fixed effects) estimates with time cubic polynomials are employed in model 2. Years since conflict remains signed in the hypothesized direction and narrowly misses conventional levels of statistical significance. Further, a likelihood ratio test confirms that years since conflict and its square are jointly significant.[17]

Conditional negative binomial estimates, however, may not represent "true" fixed effects estimates (Allison and Waterman 2002; Greene 2007; Allison 2009). Therefore, in columns 3 and 4, we present ordinary least squares (OLS) models with country fixed effects. Although these estimates ignore well-known problems with modeling count variables in a linear framework (e.g., Long 1997), we can be confident that country-specific heterogeneity is being captured. In

Table 2. Robustness to Country Heterogeneity, Years Since Conflict, and BITs Signed.

	Negative Binomial		OLS	
Variable	(1)	(2)	(3)	(4)
Years since conflict	−.0114**	−.0091	−.0166***	−.0136***
	(.0053)	(.0057)	(.0050)	(.0050)
Years since conflict sqd.	.0001	.0000	.0001	.0001
	(.0001)	(.0001)	(.0001)	(.0001)
Polity	.0148**	.0152**	.0091	.0059
	(.0060)	(.0068)	(.0061)	(.0061)
Polity change	−.0039	−.0038	−.0041	−.0079
	(.0139)	(.0142)	(.0131)	(.0131)
Log(pcGDP)	.1609***	.0540	.7633***	.7618***
	(.0445)	(.0605)	(.0854)	(.0847)
GDP growth	−.0040	−.0038	−.0070*	−.0059
	(.0038)	(.0039)	(.0038)	(.0039)
OECD	.4997**	.8948***		
	(.2087)	(.2750)		
Total PTAs	−.0073**	−.0107***	.0204***	.0220***
	(.0031)	(.0034)	(.0039)	(.0038)
Global BITs	.0025***	.0025***	.0047***	.0043***
	(.0003)	(.0003)	(.0003)	(.0006)
Trade	.0013	.0021**	−.0006	−.0005
	(.0008)	(.0010)	(.0011)	(.0011)
Log(oil and gas)	.0109**	−.0020	−.0104*	−.0096*
	(.0044)	(.0054)	(.0058)	(.0058)
Constant	−3.4720***	−2.7874***	−5.1328***	−5.3115***
	(.4198)	(.5117)	(.6176)	(.6368)
Observations	5,045	4,932	5,045	5,045
Time Controls	Cubic Polys	Cubic Polys	Cubic Polys	Year Dummies
Model	RE	FE	FE	FE

Note: BIT = bilateral investment treaty; GDP = gross domestic product; OECD = Organization for Cooperation and Development.
***$p < .01$.
**$p < .05$.
*$p < .1$.

model 3, we include the full set of controls and cubic polynomials. Years since conflict depicts a negative and strongly significant estimate, while years since conflict squared is positive, thereby adding support to the previous results. Finally, in model 4, we swap the cubic polynomials for yearly dummy variables. Though a more restrictive strategy, the estimates remain consistent to those in model 3. In sum, the hypothesis is supported across various strategies controlling for country heterogeneity. Further, all specifications appear to converge on a similarly sized estimate on years since conflict of around −0.01, therefore adding substantial plausibility to the results presented before.

Table 3. Robustness to Alternative Dependent Variables, Years Since Conflict and BITs Signed.

	BITs Ratified	North–South BITs
Variable	(1)	(2)
Years since conflict	−.0140***	−.0101**
	(.0051)	(.0051)
Years since conflict sqd.	.0002**	.0001
	(.0001)	(.0001)
Polity	.0124***	.0040
	(.0045)	(.0050)
Polity change	−.0079	.0118
	(.0184)	(.0197)
Log(pcGDP)	.1896***	.3090***
	(.0298)	(.0331)
GDP growth	−.0009	−.0062
	(.0050)	(.0051)
OECD	−.0365	.2777**
	(.1074)	(.1115)
Total PTAs	.0095***	.0130***
	(.0022)	(.0021)
Global BITs	.0024***	.0013***
	(.0003)	(.0003)
Trade	.0008	.0008
	(.0006)	(.0006)
log(oil and gas)	.0283***	.0093***
	(.0031)	(.0031)
Constant	−3.9743***	−4.6869***
	(0.3749)	(0.3758)
Observations	5,238	5,235
Cubic Polynomials	Yes	Yes

Note: BIT = bilateral investment treaty; GDP = gross domestic product; OECD = Organization for Cooperation and Development.
***$p < .01$.
**$p < .05$.
*$p < .1$.

Next, we explore different conceptualizations of our primary dependent variable BITs signed. First, as noted elsewhere (e.g., Haftel 2010), BITs may need to be ratified in order to encourage FDI. Ratified BITs generate a stronger credible commitment and signal of preferences and intentions. To address this, we limit BITs signed in Table 3, column 1 to BITs that were also ratified. The effect of years since conflict remains consistently estimated and highly statistically significant. Second, BITs are more likely to increase FDI inflows and provide information if signed with a capital exporting country. Thus, in model 2 in Table 3, we limit BITs signed to

only North–South treaties, therefore controlling for BITs signed by two largely capital importing countries.[18] The estimated coefficient remains similarly sized and statistically significant at the .05 level. Thus, the statistical relationship between BIT signing in the postconflict period is not due to any one particular measure of the dependent variable.

BITs and FDI Postconflict

Our results indicate that leaders tend to sign more BITs in the postconflict period. However, it is not obvious that this increased tendency to engage in the international arena is beneficial. A vibrant debate remains about the potentially conditional nature of BIT effectiveness (Rose-Ackerman and Tobin 2005; Kerner 2009; Neumayer and Spess 2005; Büthe and Milner 2014; Haftel 2010; Allee and Peinhardt 2012). Moreover, there is a growing concern, mostly by developing countries, about whether the benefits of BITs outweigh the costs (Guzman 1998; Simmons 2014; Poulsen and Aisbett 2013; Poulsen 2015).

To address the effectiveness of BITs postconflict, we rely on two measures of FDI, both log transformed. The first is *FDI stock*, which measures the total value of direct investment held by foreign investors in a given country year. The second—*FDI flows*—tracks the net value of financial transactions between multinationals and a given foreign country in a given year.[19] The independent variable *BIT count* captures the cumulative number of BITs signed by a given country up to a given year.[20] Years since conflict is included and is measured as described prior. Additionally, the interaction between BIT count and years since conflict is included to model the conditional effects of BIT effectiveness across varying years of peace. Years since high intensity conflict is modeled as well to capture heterogeneity in conflict destruction.

Control variables include *Polity, log(pcGDP), and log(Population).* Country and year fixed effects are used to control for time-invariant characteristics of each country and common shocks over time. Therefore, the model captures the effect of additional BITs on FDI *within* each country as the number of years since conflict increases. Further, the lagged dependent variable is included to control for previous levels of FDI. All FDI models are estimated using OLS and include panel-corrected standard errors (Beck and Katz 1995). All independent variables enter the model lagged one year.

Presented in Table 4, columns 1 and 2 employ *log(FDI stock)* as the dependent variable, while columns 2 and 3 use *log(FDI flows)*. In all specifications, lagged FDI is a significant and positive predictor of FDI. Further, BIT count is positive and significantly related to FDI in all specifications but model 3. However, more importantly for our purposes are the interactive effects between BIT count and both measures of time since conflict. The negative coefficients on the interactive terms indicate that BITs signed postconflict have a stronger positive effect on FDI than BITs signed at other times. We rely on the marginal effects plots in Figure 4 to interpret these effects (see Brambor, Clark, and Golder 2006). Further, we follow Hainmueller, Mummolo, and Xu (2017) and plot the results from a binning estimator

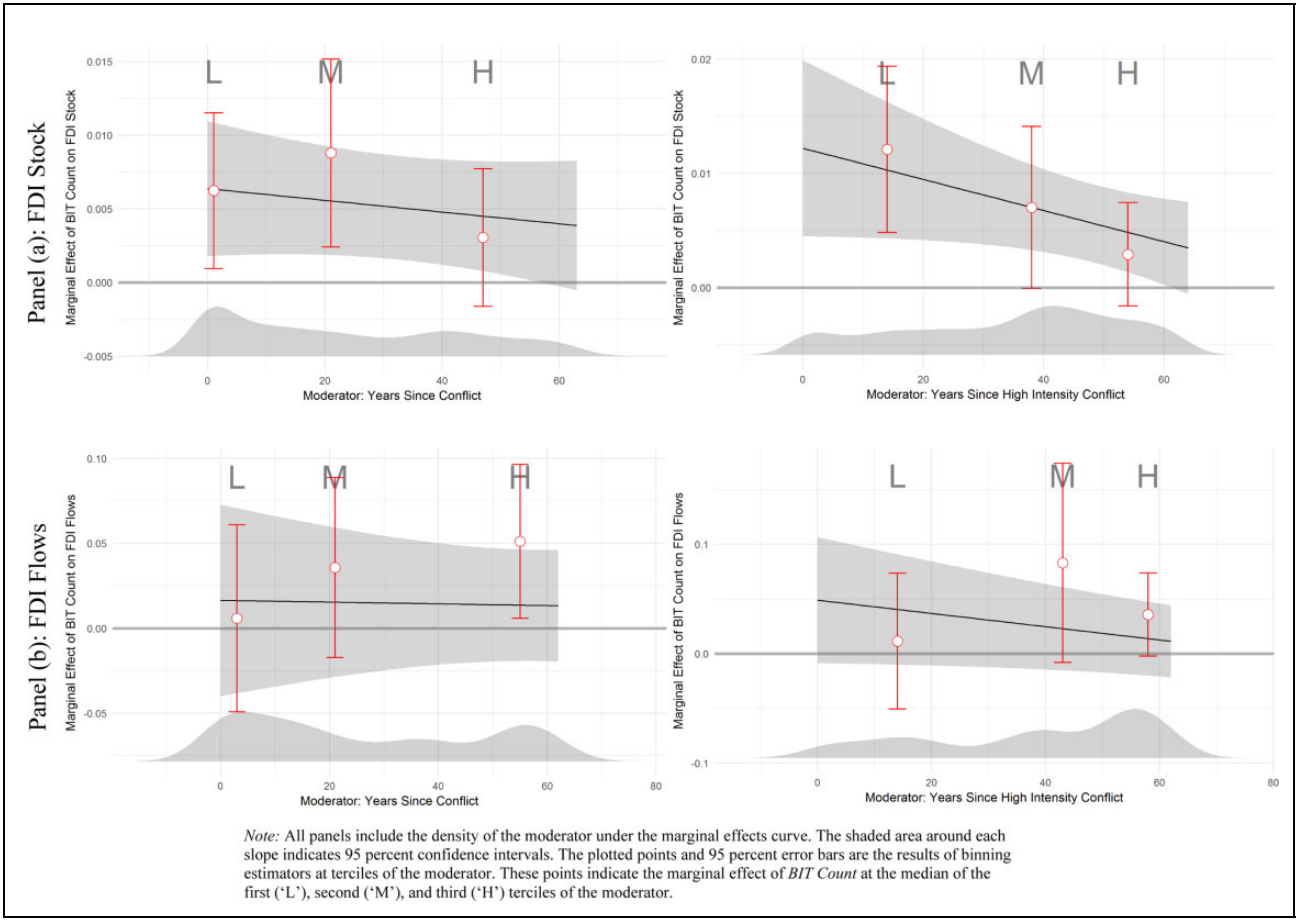
Table 4. BIT Count, Years Since Conflict, and FDI.

	FDI Stock		FDI Flow	
Variable	(1)	(2)	(3)	(4)
Log(FDI)	0.784***	0.784***	0.265***	0.260***
	(0.0130)	(0.0130)	(0.0390)	(0.0390)
BIT count	0.006***	0.012***	0.016	0.049*
	(0.0020)	(0.0040)	(0.0210)	(0.0260)
Years since conflict	0.008**		−0.011	
	(0.0040)		(0.0360)	
BIT count × years since	−0.00004		−0.0001	
Conflict	(0.0001)		(0.0004)	
Years since high intensity		0.0040		0.0010
Conflict		(0.0040)		(0.0200)
BIT count × years since		−0.0001*		−0.0010
High intensity conflict		(0.0001)		(0.0004)
Polity	0.029***	0.025***	0.090**	0.083*
	(0.0070)	(0.0070)	(0.0440)	(0.0440)
Log(pcGDP)	0.485***	0.519***	2.104***	1.979***
	(0.1260)	(0.1270)	(0.7430)	(0.7170)
Log(population)	−0.373**	−0.399**	−1.691	−2.081
	(0.1820)	(0.1970)	(1.6910)	(1.4700)
Observations	2,561	2,561	803	803
R^2	0.71	0.71	0.12	0.12

Note: All models include country and year fixed effects. All independent variables lagged one year. Panel corrected standard errors are in parentheses. BIT = bilateral investment treaty; FDI = foreign direct investment; GDP = gross domestic product.
***$p < .01$.
**$p < .05$.
*$p < .1$.

that interacts BIT count separately with dummy variables that indicate terciles of years since conflict. This allows for years since conflict to condition the effect of BIT count nonlinearly.[21]

Panel (a) in Figure 4 presents the marginal effect of BIT count on log(FDI stock) across years since conflict and years since high intensity conflict. As indicated by the negative slope, the positive effect of BIT count diminishes as years since conflict increase. The confidence intervals (95 percent) around this line indicate that this relationship is significant at the .05 level. However, as indicated by the stronger marginal effect in the second tercile (denoted "M") as compared to the first tercile (denoted "L"), the conditional effect of BIT count across years since conflict is likely nonlinear. On the contrary, the marginal effect of BIT count across years since high intensity conflict strongly decreases as years since high intensity conflict increases. This relationship is statistically significant at all values of years since high intensity conflict and the binned estimates follow the slope of the full marginal



Note: All panels include the density of the moderator under the marginal effects curve. The shaded area around each slope indicates 95 percent confidence intervals. The plotted points and 95 percent error bars are the results of binning estimators at terciles of the moderator. These points indicate the marginal effect of *BIT Count* at the median of the first ('L'), second ('M'), and third ('H') terciles of the moderator.

Figure 4. Marginal effect of bilateral investment treaty count across years since conflict.

effects, implying that the conditional effect is linear. Thus, additional BITs appear to significantly increase FDI stock in the postconflict period, but the relationship is partially conditional on the intensity of conflict.

Panel (b) in Figure 4 presents the results with log(FDI flows) as the dependent variable. There is no discernable interactive effect between BIT count and years since conflict on FDI. The negative effect is clearer for years since high intensity conflict, but the estimated slope narrowly misses statistical significance at the .05 level across most of the distribution. However, the binned tercile estimates suggest that this effect may be driven by a nonlinear interactive effect. Specifically, observations in the middle tercile experience a stronger marginal effect than those in the third tercile.

Taken together, the results suggest that civil conflict conditions the effectiveness of BITs in an important but complex way. BITs appear to increase a government's ability to attract FDI in normal times, but BITs signed after a destructive conflict increase FDI to an even greater extent. BITs, therefore, may be valuable for governments in the postconflict setting. Not only might these postconflict BITs help leaders signal important information to their domestic audiences, they also help attract new capital, which can have an important effect on stabilization and recovery. In sum, although civil conflict thrusts leaders into an acute governance dilemma, BITs seem to act as a viable option to increase capital flows and avoid falling into further economic and political crisis.

Conclusion

Our argument—that civil conflict changes the decision calculus of governments with respect to BITs—contributes to a growing body of research on why countries accede to international institutions. This is especially relevant given the high-profile rise of ISDS and ongoing reorientation in the investment regime. Despite this reorientation, however, new BITs are being signed and civil conflict remains a recurrent feature of the international landscape. Our results suggest that civil conflict helps explain why some countries exposed themselves to BITs during their heyday. Whether this continues to be the case is an important question moving forward.

Current explanations of BIT signing tend to privilege either the costs or benefits. We believe that the attractiveness of BITs varies over time and can be better understood by looking at how domestic conditions affect government incentives. This helps explain why governments find signing a BIT appealing at one point, but end up reevaluating the costs later. This corroborates findings by Simmons (2014) and Mansfield and Milner (2015) who demonstrate that economic crises affect international economic engagement. Future studies should look for similar dynamics across different institutions and develop alternative causal pathways linking crises and leaders' economic policy choices.

The findings also add to the literature on the rational design of international institutions (Koremenos, Lipson, and Snidal 2001), which has only recently been applied to BITs (e.g., Peinhardt and Allee 2014). Our results suggest that design

features—like negotiating speed and cost structure—make BITs desirable instruments after a crisis. Research into the content of economic treaties indicates that governments often copy–paste language from previous agreements (Allee and Elsig 2015; Allee and Lugg 2016b), which should allow them to quickly adopt treaty language when facing difficult situations and short-time horizons. It seems promising to link variation in the content of economic treaties with the domestic circumstances surrounding their negotiation.

Our study also adds to the literature on postconflict reconstruction. Currently, the literature suggests that postconflict efforts should prioritize economic recovery (Collier, Hoeffler, and Söderbom 2008). Yet, in practice the focus is often domestic and political, privileging an active role for outside assistance and domestic policy reform (see Collier et al. 2003; Hoeffler 2012). We take a different approach by contemplating foreign economic policy options. Our results demonstrate that the unique postconflict environment can alter how governments adjudicate between rival policies and indicate that engagement with the international economy is a viable option. Preliminary tests show that governments that sign BITs are able to attract much-needed capital into their countries. This suggests scope for additional research exploring alternative foreign policy choices and how these interact with domestic reforms to encourage growth and stability.

Finally, we add to an emerging debate that views international institutions like BITs as products of bounded rationality (e.g., Jupille, Mattli, and Snidal 2013; Poulsen 2014, 2015). We suggest that countries become "BIT takers" after experiencing a crisis, which helps explain why past treaty behavior may look suboptimal in retrospect. Our argument is broadly rationalist since we posit that governments are generally aware of the costs of BITs, but discount them due to the unique postconflict setting. However, there is currently a vibrant debate about the extent to which leaders behave rationally with respect to changing time horizons (see Hafner-Burton et al. 2017; Kertzer 2017). Some argue that governments were largely unaware of the costs of BITs until after arbitration became more prevalent (Poulsen and Aisbett 2013).[22] In our empirical tests, we guard against this with a variety of temporal and country-specific controls. Nonetheless, conflict may work primarily by changing the calculus with respect to the benefits of BITs, which would generate similar empirical expectations. Thus, we do not view our tests here as a definitive resolution of this debate.

Therefore, we suggest that future studies explore the microfoundations of agreements like BITs that were signed during times of crisis to explore the process that governments employ as they select among rival policies. This should cast light on whether governments were aware of the potential costs of these agreements, but chose to discount them and how. Additionally, postconflict BITs may be particularly likely to trigger costly legal arbitration as future governments find it hard to abide by commitments made under duress. Regardless, our results show that the FDI effects of postconflict BITs are positive—albeit conditionally—suggesting that they may be useful for governments in the short-term.

Our study offers a novel mechanism for why some governments sign BITs. The findings illustrate the utility of exploring the nexus between international institutions and conflict, demonstrating the viability of conflict as an understudied source of foreign economic policy. Perhaps surprisingly, the unique domestic incentives facing governments can lead them to pursue engagement with international economic institutions. In the case of BITs, this provides an explanation for why some governments acceded to a legal regime that some are now questioning. Only time will tell whether this manner of engagement ultimately proves beneficial for the countries involved or whether it will lead to a further erosion of the legitimacy of the investment regime.

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Notes

1. Twenty-five new bilateral investment treaties (BITs) were signed in 2015 according to UNCTAD's International Investment Agreement database.
2. There are multiple venues for investor state dispute settlement (ISDS) arbitration, including the London Court of International Arbitration, the International Chamber of Commerce, and the Hong Kong International Arbitration Centre. Some BITs specify ad hoc arbitration under United Nations Commission on International Trade Law (UNICTRAL) rules. However, ICSID is the most commonly used forum. As of September 2016, ICSID has heard 739 cases. Approximately 26.5 percent have been decided against states. http://investmentpolicyhub.unctad.org/ISDS.
3. Claims are typically larger than final awards, but interest is often applied which can inflate the size.
4. South Africa has terminated BITs with the United Kingdom, the Netherlands, Switzerland, Germany, France, Denmark, Austria, Belgium-Luxembourg, and Spain.
5. Evidence suggests that multinational corporations engaged in natural resource extraction find BITs particularly useful, as the most common economic sector listed for ICSID cases is oil, gas, and mining with 26 percent of all cases in 2015 (World Bank 2016).

6. It is unlikely that the informational effect of a BIT is as strong as a PTA. But since PTAs require greater government capacity and longer time frames to negotiate, BITs are likely a cheaper informational device in the postconflict setting.
7. We analyze approximately 650 BITs and find that their mean length is 3,380 words. The mean length of approximately 438 PTAs contained in the DESTA database is 14,340 (Dür, Baccini, and Elsig 2014). Newer generation PTAs are typically in the 100,000 words plus range.
8. Investment arbitration is one of several potential costs of BITs. They have been viewed suspiciously by many in the developing world given previous conflicts over foreign direct investment (FDI) and expropriation, perceptions of gunboat diplomacy, and previous colonial relationships (see Johnson and Gimblett 2012).
9. Our data do not include other treaties that contain investment provisions, such as PTAs, since we posit that BITs have unique features that make them desirable in the postconflict setting.
10. A full set of summary statistics are presented in Table A1 in the Online Appendix.
11. Since the UCDP/PRIO data set begins in 1945, countries that enter the data set in 1960 that have did not experience civil conflict between 1945 and 1960 are coded as 15 for years since conflict. This decision resembles the coding of the peace years variable in the UCDP/PRIO data set (Gleditsch et al. 2002).
12. The presence of overdispersion was confirmed using the function dispersion test in the Applied Econometrics with R (AER) package in R. The dispersion parameter α from the baseline model was estimated to be around 2.40.
13. Given that a number of the variables that enter the model as controls are potentially posttreatment, we present several models that lag all controls two years, while only lagging years since conflict and years since conflict squared one year in Table A5 in the Online Appendix and note that the results are nearly identical to those presented in this article.
14. The results from models including years since high intensity conflict and its square are shown in Table A2 in the Online Appendix. Though the baseline relationship appears similar, the estimates are smaller and more variable than with years since conflict. Further, once controlling for country-specific heterogeneity, the estimates are no longer consistent across specifications. Thus, we focus on the results from our primary models here.
15. Confidence intervals (95 percent) are plotted around marginal effect estimates. All intervals that do not cross the vertical line at zero indicate a statistically significant estimate at the .05 level.
16. Other notable examples include Trinidad and Tobago, Guatemala, Venezuela, Paraguay, Croatia, Bosnia, Romania, Azerbaijan, Senegal, Guinea, Mozambique, Egypt, Turkmenistan, Cambodia, Laos, and Indonesia to name but a few.
17. Prob. $> \chi^2 = .015$. We also estimate an unconditional negative binomial including country dummy variables (Alison 2009). The results remain similar, with an estimated coefficient on years since conflict being -0.008 ($SE = 0.0058$). Years since conflict and years since conflict squared also remain jointly significant (prob $> \chi^2 = .05$).

18. We identify North–South BITs as those occurring between country-pairs where the World Bank classifies one signatory as high income. The threshold is a Gross National Income (GNI) per capita of US$12,275 or greater in 2010 US dollars.
19. As argued by Kerner (2014), different measures of FDI can change the results of empirical tests. Therefore, we employ both common measures to avoid establishing relationships specific to various definitions of FDI.
20. Figure A4 in the Online Appendix presents results when limiting BIT count to only BITs that have been ratified, while Figure A5 shows the results when limiting BIT count to "North–South" BITs. Given that the results are nearly identical, we present and interpret the results from employing all BITs here.
21. The binning estimator and marginal effects plots were generated using the interflex package in R. We can be confident that the marginal effect of the moderator is linear when the estimates at each tercile follow the slope of the marginal effects curve. If the estimates at the terciles do not follow the slope of the marginal effects curve, the moderating effect is nonlinear.
22. We thank an anonymous reviewer for emphasizing this point.

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