Human Rights Regimes, Reputation, and Foreign Direct Investment

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Abstract: What are the effects of international human rights regimes on foreign direct investment (FDI)? The literature generally shows a negative relationship between human rights violations and FDI, and that international regimes can have effects beyond the parties in the agreement. However, it is not clear how a country's participation in human rights regimes affects investors' decisions. This paper analyzes the effect of participation in international human rights regimes on FDI inflows. I argue that the host country's participation in human rights regimes provides a "reputational umbrella" for investors, and has a positive effect on FDI. This effect is stronger in countries with poorer human rights records. Furthermore, human rights violations do not appear to be punished by investors if the state is a party to many human rights regimes. Empirical analyses on a sample of 135 developing countries, from 1982 to 2011, provide support for the existence of these direct and indirect effects of participation in human rights regimes on FDI. The findings help to disentangle the reputational mechanism from other possible causal mechanisms. Results are robust to various model specifications, including tests for endogeneity and reverse causality.

What are the effects of international human rights regimes[1] on foreign direct investment (FDI)? Although a broad literature examines why countries commit to human rights regimes (Hafner-Burton, et al. 2008, Hathaway 2007, Nielsen and Simmons 2015), and the effects of these regimes on state behavior (e.g., Cole 2012, Hafner-Burton and Tsutsui 2007, Hathaway 2002, Mosley 2003), less research analyzes the effect of human rights regimes on third parties' behavior. Several studies examine whether third parties punish human rights *violations* (Burton and Lewis 1993, Cingranelli and Pasquarello 1985, Neumayer 2003), but we know little about the effect of participation in human rights *regimes* on other actors' behavior. This lacuna is striking given the expansion of human rights regimes (Elliott 2011), the legitimizing effect of these regimes (Hafner-Burton, et al. 2008), and their potential for indirect effects on state behavior. I argue that a country's human rights record has reputational effects on investors' decisions. Human rights violations deter FDI because of investors' fears of being associated with countries responsible for these violations. However, the host country's participation in human rights regimes provides a "reputational umbrella" for investors, and has a positive effect on FDI. This effect is particularly important for countries with higher levels of violations, in which participation in human rights regimes has a stronger positive effect. In other words, countries that violate human rights receive the highest benefits from participating in human rights regimes in terms of FDI inflows.

Human rights regimes rely on the state's commitment to respect, protect and/or promote a series of rights. Paradoxically, governments are simultaneously responsible for protecting human rights, yet also sometimes violating those rights. International regimes formalize countries' commitment to human rights protection and potentially impose exogenous limits to the state's discretion – or, at least, additional costs for human rights violations. Beyond the debate regarding the effect of ratifying human rights treaties on state practices, other less explored mechanisms can reward commitment to human rights regimes. This paper analyzes the existence and reach of one of those informal mechanisms: the reaction of foreign investors to countries' participation in human rights regimes.

[1] I define regime following Krasner (1982:185) as "principles, norms, rules, and decision-making procedures around which actor expectations converge in a given issue-area." Signing human rights conventions is the most common and easily observable form of regime participation. I use regimes, treaties and institutions interchangeably in this paper.

Do investors care about human rights treaties? The literature suggests that investors react to human rights violations (e.g., Blanton and Blanton 2007, 2009), and to human rights non-governmental organizations' (NGOs) naming and shaming (Barry, et al. 2013). However, we know little about the effect of human rights regimes on investment decisions. Participation in international regimes is a public act (Gorst 2010), witnessed not only by other participants in the regime, but also by a wider audience. Investors pay attention to human rights treaties as part of the host country's legal framework and as a reference for the human rights situation. Particularly, in recent years, FDI practices started including pre- and post-investment impact assessments.[2] For example, after buying a Guatemalan mine, Goldcorp commissioned a human rights impact assessment, contrary to what some would expect from companies engaging in extractive FDI.[3] Interestingly, this assessment describes Guatemala's participation in human rights conventions and the ratification dates as relevant information, along with the description of the general political environment (On Common Ground Consultants Inc. 2010).

This report – like many other human rights impact assessments – examines four dimensions of the human rights situation in the host country: the "formal acceptance" of human rights, measured as ratification of fundamental human rights conventions; compliance with civil and political rights (including respect for physical integrity rights); compliance with economic, social and cultural rights; and women's rights (see Appendix I). The inclusion of ratified human rights conventions is not exclusive to this assessment. Most assessment tools or guidelines elaborated by international organizations (e.g., the International Financial Corporation), NGOs (such as the Danish Institute for Human Rights) and business associations suggest including the ratification of human rights conventions.[4] Although this shows that investors can and do learn about the host

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[2] Although larger companies are more likely to engage in impact assessment or be concerned with social sustainability of their activities, smaller companies are moving in that direction (Environmental Leader 2013).

[3] Although conflicts with local groups may have spurred this study, I am interested in the content and not in the motivations for the report.

[4] The International Business Leaders Forum's and the International Finance Corporation's guidelines recommend to "identify the international conventions the host country has signed and ratified" (Abrahams and Wyss 2010:25, 28); the U.N. Office of the High Commissioner for Human Rights (2012:17) also suggests including "indicators on the number of ratifications of treaties."

country's involvement in human rights regimes, it does not *a priori* indicate how they use this information. Do investors reward or punish countries' commitment to human rights regimes? In this paper, I argue that investors reward commitment to human rights regimes.

Knowing the effect of a country's human rights international commitments on the FDI it receives is important because governments want FDI.[5] Therefore, investors' avoidance of countries that do not commit to international human rights regimes would entail a costly pressure on governments to join international conventions. Furthermore, the answer to this question sheds light on questions still open in three literatures.

First, this paper offers a contribution to the literature on international institutions. It presents evidence of a significant effect of treaty ratification on third parties (foreign investors). Although several studies explore institutions' effects of on third parties, it is not easy to distinguish different effects institutions may have (e.g., Büthe and Milner 2008, Dreher and Voigt 2011, Gray 2013). The characteristics of human rights regimes[6] allow us to distinguish theoretically and empirically three different mechanisms through which international institutions can affect third parties: information, costs, and reputation. The empirical analysis presented here allows us to rule out the informational and costs mechanisms in favor of the reputational mechanism.

Second, this paper contributes to the literature on international political economy. By analyzing the direct and conditional effects of human rights regimes on FDI, the paper further

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NomoGaia, a non-profit research organization, includes ratified treaties recognizing nondiscrimination or the right to health in its format for assessments (2012:28-9). Furthermore, news accounts show companies and business association discussing host countries international commitments (e.g., Tribune Report 2013).

[5] Governments want FDI because of its short- and long-term effects on the economy, on government financing, foreign exchange reserves, and potentially, on government approval (e.g., Bhagwati 2007, Jensen and Rosas 2007). This fosters competition among governments for these financial flows (Elkins, et al. 2006, Oman 2000).

[6] Human rights regimes generally do not target "policy externalities arising from societal interactions across borders," but instead governments' domestic activities. Additionally, although human rights treaties allow parties to demand compliance from other parties, this rarely occurs (Moravcsik 2000:217).

specifies the political determinants of FDI and the cues that investors look at: investors react both to human rights violations and to commitment to human rights regimes. Some evidence points to a direct effect of human rights violations, but this effect seems to matter particularly when countries lack other mechanisms to mend their reputation. Third, the paper also speaks to the more general question about relationships between human rights and globalization. More specifically, it suggests that these relationships are more convoluted when one considers their interactions with international institutions, and that reputation and actual practices may have independent – even contradictory – effects. Finally, it suggests a possible way for investors to foster changes in regime participation, by giving incentives for countries to join international human rights conventions (Ellis 1973).

1 Human rights, regimes, and FDI

1.1 Human rights and FDI

Do investors care about a country's human rights record, or about its eventual commitment to human rights? An early set of studies would be skeptical about this. This literature posits that multinational corporations (MNCs) invest and support governments in countries with repressive mechanisms, capable to maintain order and guarantee the maintenance of operations (Evans 1979, Huntington and Nelson 1976). This creates incentives for authoritarian governments to maintain and even strengthen repressive systems that guarantee cheap labor (Hymer 1972) and low levels of political organization and mobilization of the working class (O'Donnell 1973:53) to attract investment. Anecdotal evidence also provides support for the notion of ties between repressive governments and MNCs.[7] However, more recent studies suggest that human rights violations, in fact, deter FDI.[8]

[7] For example, Bhopal in India, British Petroleum in Colombia, Freeport McMoran in Indonesia, ITT in Chile, Shell in Nigeria, United Fruit in Guatemala or Unocal in Myanmar (Amnesty International 2002, Spar 1999:61).

[8] For an extensive review of the literature on human rights and FDI, see Garriga (2014).

Studies showing that a good human rights record attracts FDI can be classified in two groups. First, some scholars argue that human rights violations *indirectly* deter FDI. Human rights respect creates favorable conditions for investment, such as "an environment unconducive to violence," political instability or social conflict (Sorens and Ruger 2012:428); or better conditions for human capital development (Blanton and Blanton 2007). Other studies stress a more *direct* effect of host countries' human rights violations on investors' incentives: investing in countries that violate human rights can hurt companies' reputation. Blanton and Apodaca posit that "the global marketplace functions as an 'audience' that rewards or punishes the policy choices of states." Globalization implies more exposure to this marketplace, increasing these audience costs (Blanton and Apodaca 2007:599). Colonomos and Santiso (2005:1324) stress the "development of moral expertise in civil society;" others stress the role of NGOs directing media attention to human rights violations and making it difficult for MNCs to avoid linkages to countries responsible for said violations (the "spotlight phenomenon," Spar 1999:70-74).[9]

These studies suggest investors avoid countries with poor human rights records. Some empirical studies support this idea, but they have usually looked at small samples or particular investors. For example, many studies find a positive relationship between political rights and civil liberties and FDI inflows (Busse 2004, Harms and Ursprung 2002, Rodrik 1996). Other studies show a positive effect of countries' respect for physical integrity rights on the investment they receive. Blanton and Blanton (2007) assess both the direct and indirect effects of human rights respect on FDI and show that human rights respect attracts FDI. Blanton and Blanton (2009) find that physical integrity rights significantly determine U.S. foreign investment in developing countries in industry sectors that value higher skills and integration within the host society. Recently, Blanton and Blanton (2012) find that physical integrity rights violations deter U.S. FDI in sectors with no temporal inconsistency.

1.2 International regimes' effects on FDI

Can international regimes affect investors' decisions? The literature shows that participation in international institutions can produce effects not only among the regimes' members, but also

[9] Hathaway (2007:597) also stresses the role of NGOs when they publicize "a decision by investors to withdraw or withhold funds".

beyond them (e.g., Büthe and Milner 2008, Dreher and Voigt 2011, Gray 2013, Hafner-Burton, et al. 2008, Kerner 2009). Third parties, whether they are non-member states, NGOs or investors, can learn and update their expectations when countries formalize their commitment to international regimes.

Specifically, participation in international regimes can influence investors through different channels. First, regimes provide information about policy commitments. International agreements are "promises about future national behavior" (Lipson 1991:498). Because joining a formal regime is a visible act, investors can learn what policies a state commits to (i.e., free trade, labor standards), and assess how desirable said policies are for them.[10] Second, regimes also inform about members' compliance, reducing monitoring costs for interested third parties. For example, the United Nations' human rights conventions have a committee of experts that meet periodically to monitor the implementation of the treaties. These committees evaluate reports regularly submitted by the parties to the agreement, together with "shadow reports" submitted by interested NGOs, and discuss the human rights situation with the parties. These regular reporting activities can be complemented with the more limited petition or complaints system (receiving complaints against the state), the elaboration of "ad hoc" reports, and even fact-finding missions.

Finally, regimes can also affect a country's reputation. A significant literature explores the reputational cost of noncompliance.[11] Exposure to noncompliance costs makes international commitments more credible than unilateral declarations (Abbott and Snidal 2000:426, Garriga 2009:700), and has been argued to be the mechanism driving compliance in different policy areas, such as trade (Büthe and Milner 2008), monetary agreements (Simmons 2000), or debt (Tomz 2007). The cost of reneging on an agreement can go beyond the parties and the particular agreement, and include not only reputational costs, but also different forms of retaliation (Abbott and Snidal 2000, Lipson 1991). Less evidence, however, supports positive reputational effects of joining international regimes. Although the literature shows positive effects associated with joining institutions (e.g., Büthe and Milner 2008, Dreher and Voigt 2011, Gray 2013, Kerner 2009), it does not disentangle

[10] This does not imply that the mere adoption of international conventions shows a sincere commitment or that it necessary implies changes in state behavior (Hathaway 2002) or domestic regulation (Mosley 2003:132-134).

[11] In Lipson's (1991:511) words, "*treaties are a conventional way of raising the credibility of promises by staking national reputation on adherence*."

reputational aspects of joining those institutions from other effects such as information gains, or preference for countries that commit to policies that appeal to third actors.

Although international regimes could affect investors' decisions through either or all of these channels, this paper proposes a theory about the reputational effect of joining international human rights regimes on investors. Furthermore, I distinguish empirically the reputational from the informational and costs effects of committing to international human rights regimes.

2 The effect of human rights regimes on FDI

In this section, I argue that (a) investors react to countries' human rights record, and that (b) these reactions are based on concerns about the investors' reputation – beyond the spotlight phenomenon. Therefore, mechanisms that potentially improve a country's reputation will attract investment even in the presence of human rights violations. Because membership in human rights regimes improves a country's reputation, (c) membership in human rights regimes has a positive effect on FDI, (d) especially for countries with poor human rights records.

Do investors punish human rights violations? Although this paper studies the effect of human rights regimes on FDI, it first explores whether investors react to human rights violations. The literature distinguishes direct and indirect effects of human rights violations on FDI, and some evidence supports both types of effects, but only a few studies show an unconditional direct effect. I argue that the direct mechanism linking human rights violations to investment deterrence is based on investors' reputational concerns of being associated with countries accused of violating human rights. Although reputational considerations matter especially for companies concerned with their corporate social responsibility ranking,[12] I argue that reputational concerns affect most investors' decisions.[13] Furthermore, investors' reputational concerns go beyond the spotlight phenomenon,

[12] Corporate social responsibility ratings such as Asset4 or KLD corporate ratings (KLD 2013, Thomson Reuters Investment Management 2013) include human rights conditions.

[13] The literature on social risk suggests that many companies expect to be held at least somewhat accountable for if they are linked to countries that violate human rights (e.g., Risse, et al. 2013, Spar and La Mure 2003, Yaziji and Doh 2009, Zadek 2004).

that is, the action of human rights NGOs spurring press releases against the country and, eventually, against companies investing in said country (Spar 1999, Spar and La Mure 2003).

Limiting investors' reactions to the spotlight effect seems insufficient for two reasons. First, investors' sources of information go beyond the international press. Investors gather information through informal means of communication such as word of mouth, informal networks of elites (Davis and Ruhe 2003, Ruey-Jer, et al. 2011), local media (including radio) usually overlooked by the international press, reports from diplomatic representatives or business associations in the host country, and consultants in the field.[14] Moreover, given the bias in NGOs naming and shaming strategies (Ron, et al. 2005), and in news sources reporting human rights violations (Hafner-Burton and Ron 2013), it should not surprise us that investors gather information through other channels. Second, it seems unreasonable to consider investors as passive actors who merely react to naming and shaming from NGOs. Given the lags between human rights violations and NGOs' effect on the press, and the availability of other sources of information about human rights violations, investors can anticipate naming and shaming against a country. The fear of being linked to countries that violate human rights discourages investment.

Because the evidence does not clearly support an unconditional effect of a country's human rights record on the global FDI flows it receives, I test the following hypothesis:

Hypothesis 1: *Human rights violations have a negative direct impact on the general level of FDI inflows.*

2.1 Do investors care about human rights treaties?

Joining international human rights regimes can improve a country's reputation (Hafner-Burton, et al. 2008:116), and I suggest that investors rely on the country's enhanced reputation to deflect claims (from shareholders, consumers, NGOs, etc.) regarding the country's human rights

[14] For example, the Guatemalan mine report cites among its sources the following: interviews with local individuals, companies, organizations and other representatives of the government; "the Universal Periodic Review of Guatemala, reports from OHCHR field presence…; the UN Treaty Bodies; the UN Special Procedures that have conducted field missions to Guatemala; the International Labour Organization; and civil society organizations specialized in human rights" (On Common Ground Consultants Inc. 2010:11, 21).

record. After presenting my argument, I discuss a way to distinguish the reputational from the cost and informational effects of joining an international human rights regime.

I argue that international human rights regimes can increase a country's reputation. For this to happen, three conditions need to be met: First, ratifying human rights treaties needs to be costly. Second, for the ratification to be informative, the cost of ratifying these treaties needs to be different for different types of states. Third, investors should care about potential host countries' reputation.

2.1.1 The costs of joining human rights regimes

Although ratifying a human rights treaty may be less costly than changing domestic politics, it is not cost-free (Goodliffe and Hawkins 2006:368). Formalizing commitments to human rights regimes entails at least three kinds of costs. First, treaties impose constraints on states' behavior and potentially on their sovereignty (Abbott and Snidal 2000:422, Goodliffe and Hawkins 2006:364, 366). Treaties' precision limits countries' interpretations about the extent of their commitment, and treaties' monitoring mechanisms may constrain countries' interpretations about the extent of their compliance.

Second, joining an international regime opens the door to noncompliance or to agreement-reneging costs. Said costs can go beyond the agreement's parties (Abbott and Snidal 2000), and include not only the "loss of reputation as a reliable partner" that may facilitate other cooperative agreements, and different forms of retaliation (Lipson 1991:511), but also broader consequences for violating related regimes (Keohane 1984:104), and international law (Abbott and Snidal 2000:427-8).

Third, the ratification of international agreements also entails costs. In general, formalizing the commitment is a prominent act that may have "consequences for democratic oversight, bureaucratic control, and diplomatic precedent" and may expose the matter to the public debate (Lipson 1991:500). Depending on how open the society is, the public debate exposes "the depth of national support for an agreement," and may mobilize various domestic and international actors interested in an agreement (Lipson 1991:501, Risse, et al. 1999).

2.1.2 Ratification costs likely depend on human rights record

One could argue that joining human rights regimes is non-informative because both countries intending to respect human rights (Simmons 2009) and those who do not mean to respect human rights can obtain benefits from these ratifications (Hafner-Burton and Tsutsui 2007, Hafner-Burton, et al. 2008, Hollyer and Rosendorff 2011). This goes against the literature on the "spiral model," which suggests even states that made "tactical" or symbolic ratifications of human rights treaties comply (Risse, et al. 1999, 2013). Furthermore, Simmons (2013:53) suggests that "most governments are sincere when they ratify (or sincerely refrain from doing so), while only a fraction appear to ratify without any intention to significantly change rights practices."

I argue that the three costs mentioned above may be higher for countries with worse human rights records: these countries are relatively more exposed to monitoring and publicity of human rights violations, they are more likely to suffer noncompliance costs, and they may be more negatively affected by human rights advocates' mobilization. The fact that some countries risk absorbing eventual noncompliance costs to pursue different goals (Keohane 1984:104) does not change the fact of the higher costs of joining human rights regimes for countries with worse human rights records.

2.2 Investors and country reputation

My theory requires that investors care about host countries' reputation. Note that investors' concerns about host countries reputation do not imply preoccupation about actual policies being implemented or about treaty compliance. For my argument to work, investors do not need to believe the country will not violate human rights, because they already have information about human rights violations (see hypothesis 1). The argument requires that investors can use the country's commitment to human rights regimes to shield themselves from eventual accusations and to deflect responsibility.

The literature documents the efforts of firms, regions, and countries to build reputation (van Ham 2001:2) because reputation has an independent effect on business decisions. Furthermore, anecdotal evidence shows that a host country's reputation affects companies' reputations,[15] and that companies frequently engage in reputation-building and reputation-repair operations (Dukerich and

[15] See the campaign against Ben and Jerry's for selling ice-cream in Israeli settlements (Vermonters for a Just Peace in Palestine/Israel 2013), or the reputational losses attributed to MTN's ventures in Iran and Syria (Saigol and England 2013).

Carter 2000). Therefore, it seems plausible that beyond actual human rights data, investors use participation in human rights regimes as cues for locations where they can defend their investment.

Not only socially responsible companies – whose pre- and post-investment impact assessments improve with host countries' human rights treaty ratification – care about countries' international commitments. Other companies also have financial incentives to care about host countries' participation in human rights regimes. This participation affects companies' ability to access funding from socially responsible institutional investors and some government agencies (e.g., the British Export Credits Guarantee Department). To access this funding, "third-party quantitative and qualitative assessments of firm governance practices" (Clark and Hebb 2005:2029) screen companies (and countries where they invest in). Through these assessments, host countries' human rights treaty ratification affects investment decisions. For example, investors have punished companies for operating in Myanmar or Sudan, even if said companies were not directly involved in labor or human rights violations (Chesterman 2008:580, Forum for Sustainable and Responsible Investment 2013). In other cases, companies had to justify the location of their investment (Bahreee 2014), and some companies justify their activities or their reluctance to operate in certain countries because of the country's ratification of human rights treaties (Deutsche Bank 2013).

Socially responsible investment funds' impact on corporate behavior parallels their importance in financial markets: between 2012 and 2014, global socially responsible investment assets grew from \$13.3 to \$21.4 trillion (Global Sustainable Investment Alliance 2015:7), and U.S.-domiciled assets under socially responsible investment management rose from \$3.74 trillion to \$6.57 trillion – i.e., more than one sixth of funds under professional management in the U.S. (Forum for Sustainable and Responsible Investment 2014). Socially responsible investment funds not only condition their own investment, but they also make their non-investment and disinvestment decisions public, hurting companies' stock value and countries' economies.[16]

Stating that institutional investors worry about the social impact of their investments, and that they increasingly demand companies to defend their own investments' human rights impact,

[16] For example, for various reasons including human rights, the pension fund CalPERS threatened to eliminate the Philippines from its investment-worthy countries list. In spite of the Philippines' diplomatic action to avoid this decision, CalPERS' recommendation to remove the country from the list caused a 3.3% drop in Manila's stock market (Lifsher 2004).

does not imply that these investors have a "moral agenda." Socially responsible investment funds answer to investors who are "increasingly sensitive to reputational attacks on the firms they hold in their investment portfolios" (Clark and Hebb 2005:2029). Investors' reputational concerns drive socially responsible investment (Hebb 2008, Wen 2009). *Socially responsible investment funds need to defend their investment choices in front of their beneficiaries and shareholders* (Richardson 2012:72)*, and are therefore directly interested in the companies providing them with information and arguments to justify their own decisions* (Clark, et al. 2013, Hebb 2008). Appendix II presents additional evidence on how corporate social responsibility principles, socially responsible investment funds, and government agencies provide powerful incentives for companies to use countries' human rights ratification to improve the firms' reputation, and how companies have relied on treaty ratifications to justify their investments.

Finally, recent studies show that investors rely on informational shortcuts (Biglaiser, et al. 2008, Garriga and Phillips 2014, Gray 2013), and that their perceptions about a country may be influenced by other investors' opinions and perceptions (Davis and Ruhe 2003:277). Therefore, this reliance on human rights treaties could have effects beyond companies engaged in corporate social responsibility or depending on socially responsible investment funding.

Hypothesis 2: *State participation in human rights regimes has a positive effect on FDI inflows.*

The above hypothesis suggests the existence of an independent effect of ratifying human rights regimes on FDI. However, if the reputational mechanism is at work, this positive effect on investment should vary depending on the country's human rights record. I argue that countries with worse human rights records should receive higher reputational gains from adhering to human rights conventions for two reasons. First, those countries should face higher costs when committing to human rights regimes (see above). Second, investors should not worry about commitment to human rights regimes in countries with good human rights records.

Hypothesis 3: *State participation in human rights regimes has a stronger positive effect on FDI inflows in countries with more human rights violations.*

Finally, support for hypothesis 3 may imply that, against the original intentions of human rights institutions' creators and of promoters of corporate social responsibility practices, human rights regimes curb the negative effect of human rights violations on investment. In other words, if human rights regimes attract more FDI in countries with a poorer human rights record, they may also mitigate the negative effect of human rights violations on FDI inflows. Therefore, I also test the following hypothesis:

Hypothesis 4: *State participation in human rights regimes curbs the negative effect of human rights violations on FDI.*

2.3 Alternative mechanisms

Hypotheses 2 and 3's expected effects are not necessarily intuitive and only correspond to the reputational mechanism. Alternative mechanisms linking human rights ratification and investors' incentives allow us to derive the following alternative hypotheses.

Some treaties can reduce costs for third parties (Moravcsik 2000:217), either by providing information on compliance or by enforcing commitments that may interest investors (e.g., the WTO enforcing free trade). Human rights treaties, however, can *increase costs* for investors. A country's participation in human rights regimes may impose additional constraints on companies' activities, such as better labor conditions (especially for migrant workers, women and people with disabilities), the implementation of mechanisms to ensure non-discrimination, or to protect children's or unionization rights. Furthermore, the host country participation in human rights regimes subjects countries' and firms' activities to international monitoring, increasing the probability of being linked to human rights violations. These costs should be larger in countries with worse human rights records, which also have a higher probability of exposure to naming and shaming. If costs were the mechanism linking participation in human rights regimes and FDI, then state participation in human rights regimes should have a *negative* effect on FDI inflows, and this negative effect should be stronger in countries that violate human rights.

> ***Alternative hypothesis 1 (costs):*** *State participation in human rights regimes has a negative effect on FDI inflows.*
>
> ***Alternative hypothesis 2 (costs):*** *State participation in human rights regimes has a stronger negative effect on FDI inflows in countries with more human rights violations.*

Hypothesis 3 also allows us to disentangle human rights regimes' reputational and informational effects. Human rights regimes' monitoring procedures produce information about their members' compliance. If better information is the mechanism linking participation in human rights regimes with FDI (and assuming investors care about a country's human rights record), then one should observe different effects. First, participation in human rights should not necessarily have a positive effect on FDI: if human rights commitments indicated sincere "promises about future national behavior" (Lipson 1991:498), they could attract FDI. However, as stated above, there is no consensus regarding significant effects of participation in human rights on states' behavior. Second, and more importantly, the informational effects of human rights regimes should make human rights violations more visible for countries that participate in human rights regimes. Therefore, human rights regimes should reinforce the deterrent effect of human rights violations.

Alternative hypothesis 3 (information): *State participation in human rights has a negative effect on FDI inflows in countries with more human rights violations.*

Table 1 summarizes the expectations for different mechanisms.

Table 1: Mechanisms and expected direction of the regime variables

Mechanism	Regimes	Violations*Regimes
Reputation	+	+
Costs	–	–
Information	+/0	–

3 Empirical analysis

I test the theory on a sample of 135 countries between 1982 and 2011. The dependent variable is *FDI* measured as the natural log of net flows in 2005 U.S. dollars. I use aggregate FDI flows because the theory does not suggest different effects for different kinds of FDI. Although it would be ideal to test the theory in different sectors to identify differences in "sensibility" to human rights records across sectors, there is no comprehensive sectoral data.[17] Finally, the literature uses similar operationalization (Barry, et al. 2013). All of the economic variables come from the World Bank (2012), except where indicated otherwise.

Physical Integrity Violations measures human rights violations using CIRI's physical integrity rights index (Cingranelli and Richards 2010). The CIRI dataset adds countries' yearly scores from the torture, extrajudicial killing, political imprisonment, and disappearance indicators in a cumulative scale ranging from 0 (no government respect for these four rights) to 8 (full government respect for these four rights).[18] I reversed the index so 0 equals absence of human rights violations, and 8 indicates the maximum level of human rights violations. Although I acknowledge the problems associated with the use of indices to measure countries' human rights records, the CIRI data are satisfactory for the purposes of this paper and are widely used in the literature.

To test hypothesis 2, two variables capture the country's commitment to human rights regimes. First, *HR treaty count* codes the number of core international human rights instruments (Office of the High Commissioner for Human Rights 2015) ratified by a country in a given year.[19] Because I do not include obscure agreements, *HR treaty count* does not conflate countries that ratified several unimportant treaties with others that ratified fewer but more important ones. Furthermore, these treaties cover issue areas that do not overlap, which justifies an additive measure. Second, *HR treaty percentage* is equal to *HR treaty count* divided by the total number of human rights conventions open for signature in a given year. Interactive terms test hypothesis 3 and 4.

I control for a series of factors that the literature associates with FDI levels (Blanton and Blanton 2007, Büthe and Milner 2008, Jensen 2003, Li and Resnick 2003). *Market size* is the natural logarithm of the country's population. *Economic development* reflects the country's GDP per capita in constant 2005 U.S. dollars. *GDP growth* is the percentage of change in the country's GDP in the previous year. *Trade* measures a country's exports plus imports over GDP. I also control for regime type using scores from both Freedom House (2012), and Polity2 (Marshall and Jaggers 2012) in

[17] Although some studies explore sectoral effects using U.S. FDI outflows data (Blanton and Blanton 2009), other studies suggest that U.S. FDI has characteristics that differentiate them from investment from other countries (Biglaiser and Lektzian 2011).

[18] For the definitions and coding of these variables, see Appendix III.

[19] For the list of treaties and descriptive data on the variable, see Appendix IV.

alternative specifications. I reverse Freedom House scores so that 0 indicates the least-free category, and 6 the most-free category. Finally, *Political instability* counts the number of disturbances such as riots, strikes, anti-government demonstrations or assassinations in a country in a given year (Banks 2011). Instability also controls for an indirect mechanism linking human rights record and FDI (Blanton and Blanton 2007). Although instability should make foreign firms less likely to invest in a country (Schneider and Frey 1985), evidence on this matter is mixed (Asiedu 2006, Büthe and Milner 2008, Feng 2001).

Alternative model specifications control for other factors that may affect the relationships under study.

I run OLS regressions with fixed effects and control for AR(1) disturbances.[20] All independent variables are lagged one year. For descriptive data and a correlation matrix, see Appendices V and VI.

3.1 Findings

Table 2 shows the results. Model 1 presents a parsimonious baseline for comparison of the determinants of FDI. FDI is positively associated with *Market size, Trade, Capital openness* and *Democracy*. It is negatively associated with *Economic development* and *Instability*. *Growth* does not achieve statistical significance. Model 2 includes the human rights variables. The coefficient associated with *Physical Integrity Violations* is negative and statistically significant at the .1 level. This provides some support for hypothesis 1, stating an unconditional negative relationship between human rights violations and FDI inflows. The coefficient associated with the count of ratified human rights treaties is positive and statistically significant, suggesting that human rights treaties attract FDI, in line with the expectation of a legitimating effect of these treaties (hypothesis 2), and against the alternative hypothesis suggesting that the cost of adapting to a more stringent legal framework would deter FDI.

[20] Hausman tests show a systematic difference between models with random and fixed effects, and that random effects seem to be inconsistent. Wooldridge tests show first-degree serial autocorrelation to be a problem (Baltagi 2005:84-5).

Table 2: Determinants of FDI net flows. Developing countries

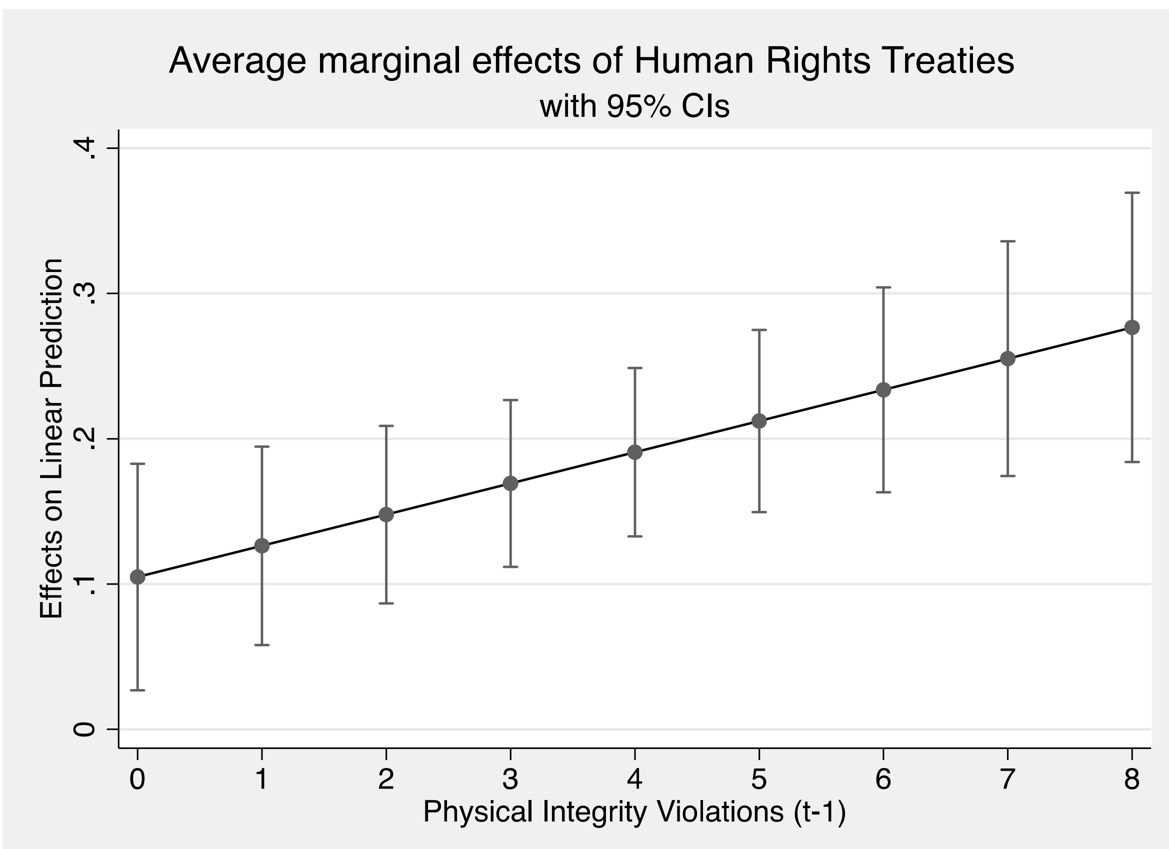
	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7
PI Violations$_{t-1}$		**-.031**	**-.102**	**-.108**	**-.100**	**-.095**	**-.094**
		(-1.82)*	**(-3.23)*****	**(-3.53)*****	**(-3.11)*****	**(-2.29)****	**(-2.24)****
HR treaty count$_{t-1}$		**.177**	**.105**	**.105**	**.098**	**.140**	**.127**
		(6.06)***	**(2.63)*****	**(2.91)*****	**(2.34)****	**(2.45)****	**(2.17)****
PI Violations$_{t-1}$* HR treaty count$_{t-1}$			**.021**	**.024**	**.021**	**.023**	**.023**
			(2.67)***	**(3.09)*****	**(2.59)*****	**(2.15)****	**(2.11)****
Market size$_{t-1}$	**.710**	**.692**	**.700**	**.688**	**.689**	**.693**	**.672**
	(39.55)***	**(37.93)*****	**(37.92)*****	**(29.57)*****	**(31.34)*****	**(29.83)*****	**(25.33)*****
Ec. development $_{t-1}$	**-.098**	-.066	-.063	**-.111**	-.081	**-.147**	**-.157**
	(-1.95)*	(-1.36)	(-1.31)	**(-2.94)*****	(-1.56)	**(-2.77)*****	**(-2.88)*****
GDP growth$_{t-1}$	.005	.005	.005	**.009**	.005	.004	.004
	(1.13)	(1.14)	(1.17)	**(2.06)****	(1.10)	(0.70)	(0.64)
Trade$_{t-1}$	**.011**	**.009**	**.010**	**.007**	**.009**	**.008**	**.007**
	(6.04)***	**(5.14)*****	**(5.16)*****	**(4.29)*****	**(4.96)*****	**(2.87)*****	**(2.69)*****
Capital openness$_{t-1}$	**.173**	**.142**	**.142**	**.131**	**.145**	**.155**	**.143**
	(4.54)***	**(3.80)*****	**(3.80)*****	**(4.08)*****	**(3.72)*****	**(3.54)*****	**(3.18)*****
FHouse$_{t-1}$	**.119**	**.081**	**.086**	**.106**	**.078**	.072	.068
	(3.05)***	**(2.11)****	**(2.22)****	**(3.02)*****	**(1.98)****	(1.50)	(1.41)
Political instability$_{t-1}$	**-.013**	**-.012**	**-.012**	-.009	**-.012**	-.007	-.007
	(-1.80)*	**(-1.66)***	**(-1.67)***	(-1.24)	**(-1.69)***	(-0.94)	(-0.98)
FDI$_{t-1}$				**.073**			
				(3.18)***			
IO participation$_{t-1}$					.044		.127
					(0.63)		(1.58)
Fuel&Ores$_{t-1}$						**-.296**	**-.284**
						(2.00)**	**(-1.82)***
Property rights$_{t-1}$						**.206**	**.210**
						(3.59)***	**(3.61)*****
Naming and shaming$_{t-1}$						-.016	-.015
						(-0.71)	(-0.69)

	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7
$Conflict_{t-1}$						-.000	-.001
						(0.00)	(-0.01)
Constant	**1.871**	**1.893**	**1.904**	**1.019**	**2.054**	**1.515**	**1.600**
	(12.86)* **	**(12.67)*** **	**(12.75)*** **	**(5.87)*** **	**(13.33)*** **	**(9.03)*** **	**(9.38)*** **
Observations	2222	2222	2222	2044	2117	1342	1318
Countries	135	135	135	135	121	89	85
R^2 within	0.556	0.574	0.576	0.689	0.566	0.682	0.680
R^2 between	0.730	0.758	0.761	0.734	0.776	0.615	0.595
R^2 overall	0.612	0.642	0.646	0.653	0.651	0.567	0.553
F	372.55	310.94	281.59	381.84	235.59	189.48	172.48
Mean VIF	3.45	5.45	9.48	51.06	11.12	11.84	13.48
AIC	5533.072	5493.872	5488.118	4701.296	5294.98	3198.756	3154.712
BIC	5578.722	5550.934	5550.885	4768.767	5362.873	3276.785	3237.654

Notes: Linear regression with AR1 correction and fixed effects (Stata 12). T-values are between parentheses. Statistical significance indicated as follows: *p<.10, **p<.05, ***p<.01.

Model 3 includes an interaction term to test hypothesis 3. As expected, ratifying human rights treaties not only has a positive direct effect on FDI inflows, but this positive effect is greater in countries registering more human rights violations. These results also indicate that human rights conditions especially matter in instances where the value of the treaties variable is 0, that is, in countries that have not ratified any human rights instrument. Also, other factors held constant, ratifying an additional treaty is associated with increases in FDI at all levels of human rights violations. Figure 1 shows the marginal effect of ratifying an additional human rights treaty, depending on the country´s human rights record. The marginal effect is .11 in countries without human rights violations, but it is .28 in countries registering the highest levels of human rights violations. These effects are significant at the .0001 level.

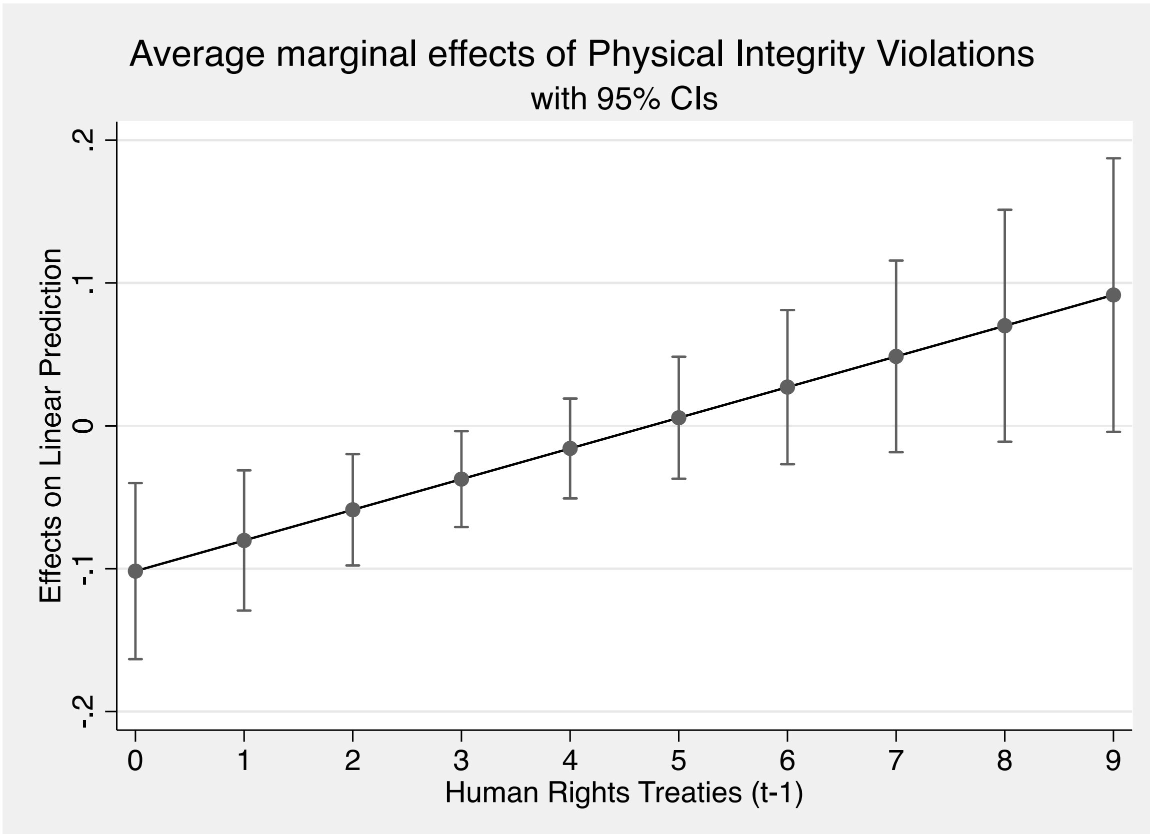
Figure 1: Average marginal effects of *HR treaty count* at different levels of *Physical Integrity Violations* (Hypothesis 3)



This suggests that the reputation argument finds support, while the alternative hypotheses (cost of increased exposure to naming and shaming, and information about compliance) do not. If the main effect of ratifying human rights regimes was the increased investments costs of adapting to a more stringent legal framework and the possibility of magnifying the companies' exposure to naming and shaming, then the effect of the interaction should be negative. Additionally, if participation in human rights regimes affected FDI through the information about compliance channel, the interaction term should have a negative effect: if investors avoid countries that violate human rights, and human rights regimes provide information about those violations, human rights violations should become more visible for countries participating in (more) human rights regimes.

As indicated by hypothesis 4, the positive interaction term also suggests that joining human rights regimes may curb the negative impact of human rights violations on FDI inflows. Figure 2 plots the marginal effect of human rights violations at different levels of commitment to human rights regimes. Once models include the conditional effect of treaty ratification, the negative effect of human rights violations on FDI remains statistically significant only for countries that have ratified fewer than four treaties. In other words, the human rights record seems to matter only for countries with low levels of commitment to international human rights regimes (47% of the observations included in the sample, see Appendix IV).

Figure 2: Average marginal effects of *Physical Integrity Violations* at different levels of *HR treaty count* (Hypothesis 4)



3.1.1 Robustness checks

Results hold when I include the lagged dependent variable (model 4).[21] *HR treaty count* could be indicative of a country's more general tendency to participate in international regimes.[22] Therefore, model 5 includes *IO participation*, the number of non-human rights international regimes

[21] Methodological reasons (Keele and Kelly 2006) and high levels of collinearity make this model not preferred.

[22] Countries more involved in international organizations are more likely to join international environmental agreements (Bernauer, et al. 2010).

in which the country participates in a given year (Ulfelder 2011).[23] According to Conrad and Ritter (2013:404), this variable affects human rights regimes commitment but not violations. *IO participation* does not achieve statistical significance and does not alter the main results, suggesting that participation in human rights regimes (a) sends a signal of a different nature to investors, and (b) does not indicate some latent propensity to engage in international regimes that could have positive effects on investors' assessment of the country.

Model 6 incorporates a series of controls for indirect ways in which a country's human rights record could affect FDI. Scholars arguing for an indirect effect of human rights record suggest the need to distinguishing the effects of human rights violations and property rights (Barry, et al. 2013). *Property Rights* is the index for Chain area 2, from the Economic Freedom of the World index (Fraser Institute 2012).[24] Human rights may also affect FDI through the formation of human capital, proxied by female life expectancy (Barry, et al. 2013, Blanton and Blanton 2007). *Human capital* measures this in years.[25] As expected, both *Property Rights* and *Human capital* have a positive and significant effect on FDI inflows.[26] The results are also robust to the inclusion of controls for natural resources (*Fuel&Ores*, as in Garland and Biglaiser 2009), and for naming and shaming, measured as *Naming and shaming,* the number of mentions of human rights violations in the New York Times (Nielsen 2013). To separate the effect of human rights violations from the effect of

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[23] The variable sums a state's membership in a given year in the Arab League, Asia-Pacific Economic Cooperation, Association of Southeast Asian Nations, Economic Community of West African States, European Union, GATT/WTO, Geneva Convention, International Court of Justice, NATO, Organization for Economic Cooperation and Development, Organization for Security and Cooperation in Europe, Organization of American States, Organization of Islamic Cooperation, Organization of the African Union, Organization of the Petroleum Exporting Countries, Partnership for Peace, South East Asia Treaty Organization, and the Southern Cone Common Market (MERCOSUR).

[24] Before 2000, I linearly interpolated this variable.

[25] Data from the World Bank (2012), completed with the CIA fact sheets (Central Intelligence Agency 2013) and the World Life Expectancy (2013). I linearly interpolated missing years.

[26] *Human capital* and *Fuel & ores* cannot be included in the same model. For space considerations, Table 1 does not show models with *Human capital.*

conflicts that might be associated both with the level of human rights violations and the withdrawal of FDI, I include *Conflict,* a dichotomous variable indicating whether the country experiences a civil conflict that results in at least 25 battle-related deaths in a single year (Gleditsch, et al. 2002), or inter-state war that results in 1,000 or more battle-related deaths (Sarkees 2000). Although the coefficients associated with *Naming and shaming* and *Conflict* are negative, neither of them achieves statistical significance. Model 7 includes all controls, and results hold.

I re-run the models replacing *HR treaty count* with *HR treaty percentage.* The results generally hold. Figure 3 plots the marginal effects of *HR treaty percentage* (replicating Figure 1). The marginal effect is not statistically significant for countries that do not violate human rights (*Physical integrity violation*s=0). The rest of the curve, however, is highly statistically significant. Figure 4 reproduces figure 2 and similarly shows that human rights violations are associated with less FDI at lower levels of commitment with human rights. The negative association between human rights violations and FDI is significant for countries that have ratified up to 40% of the treaties opened for adhesion.

Figure 3: Average marginal effects of *HR treaty percentage* at different levels of *Physical Integrity Violations* (Hypothesis 3)

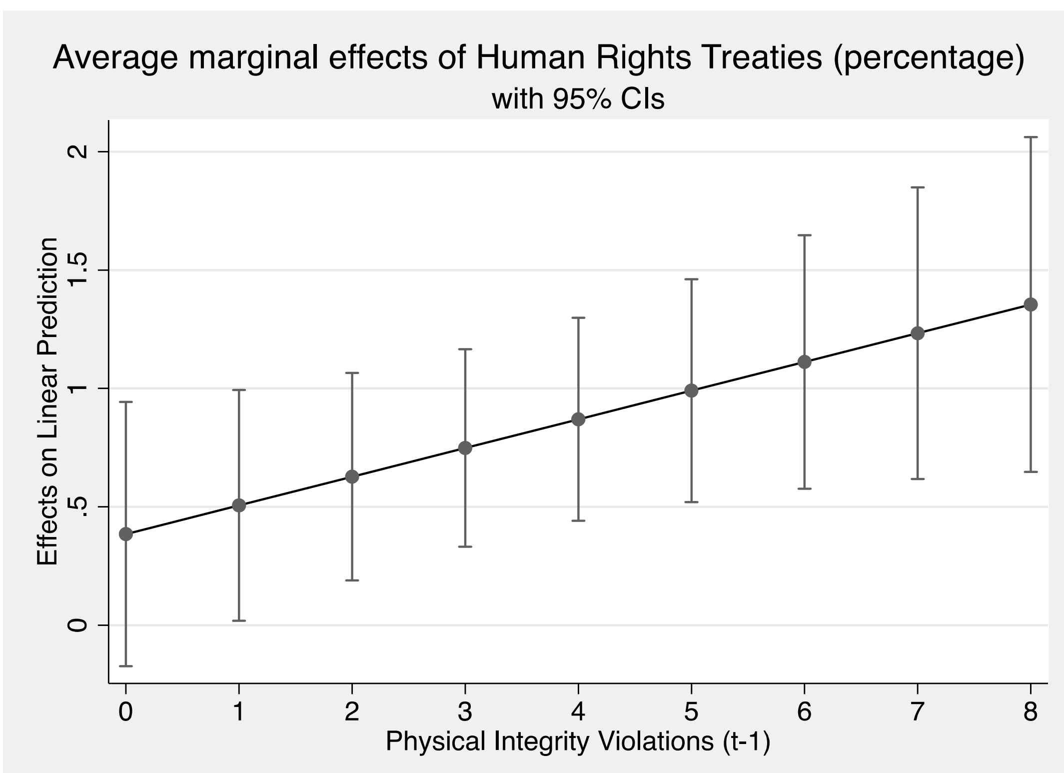
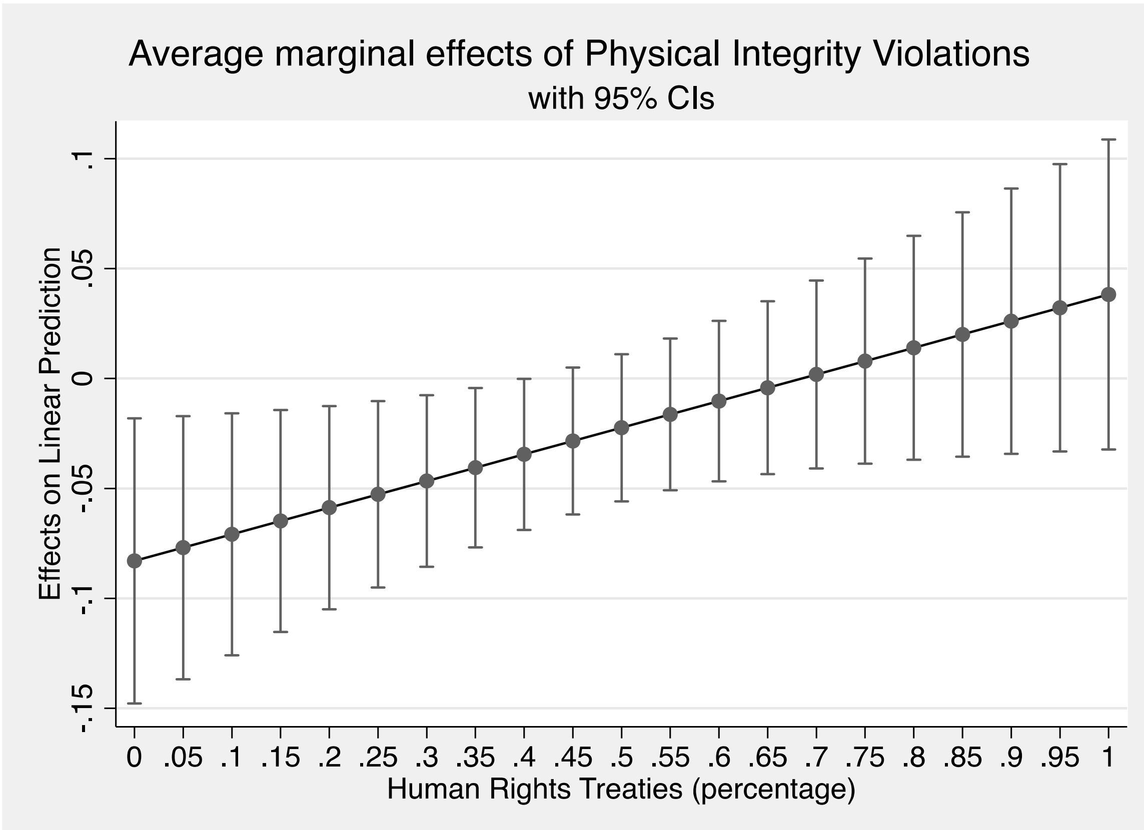


Figure 4: Average marginal effects of *Physical Integrity Violations* at different levels of *HR treaty percentage* (Hypothesis 4)



Results hold with a different measure of regime type (*Polity*).[27] It is worth noting the two "roles" that Freedom House and Polity play in the literature on FDI and on human rights. In the FDI literature, these are regular controls that attempt to account for the effect of democratic institutions on a country's credibility or commitment capacity (Jensen 2006, 2008), and in some cases, for the enforcement of rights (Li and Resnick 2003). However, another literature uses measures Freedom House scores as indicator of respect for political rights and civil liberties (e.g., Adam and Filippaios 2007, Busse 2004, Harms and Ursprung 2002, Rodrik 1996). In this paper, I focus on physical integrity rights; therefore, the regime type variables work as controls commonly

[27] Appendix VII shows additional models.

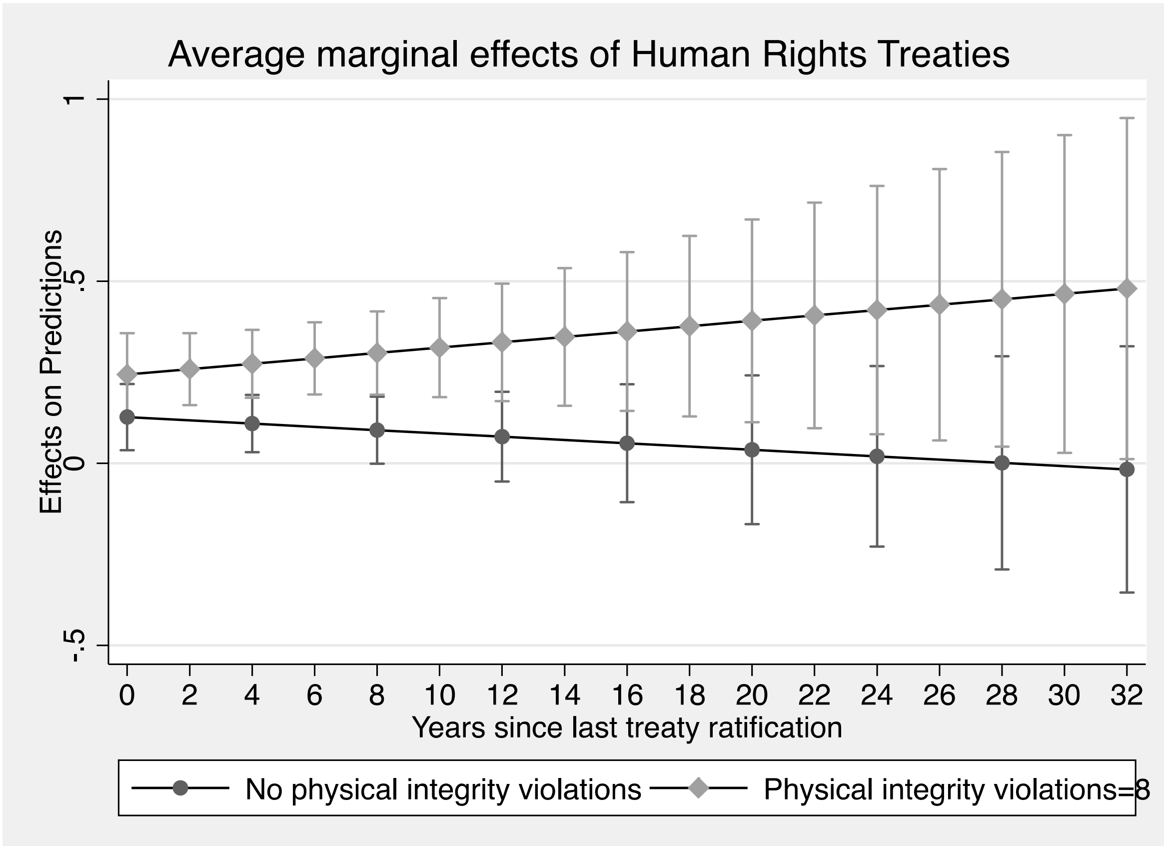
used in the FDI literature. That explains the similar results for the coefficients associated both to Freedom House and Polity in these models.

I re-run models 3 and 5 changing the specification in the following ways. First, I include decade dummies. All the decade dummies are statistically insignificant; however, the main results presented in table 2 do not change. Second, I add a *Post-conflict* variable indicating the 5-year period after a conflict (Garriga and Phillips 2014). This variable is statistically significant, but does not change the results presented above. To separate the effect of actual human rights violations from the naming and shaming effect, I replace *Physical Integrity Violations* with *Naming and shaming*, both alone and interacting with *HR treaty count*. Neither the naming and shaming variable nor the interaction term achieve statistical significance. Finally, I run models including a *WTO dummy* variable, and the number of bilateral investment treaties that a country has signed with an OECD country (Barry, et al. 2013). Although both variables are statistically significant, they do not alter the results reported above.

Finally, I test whether the effect of human rights treaty ratification on FDI is a short-term effect or it persists through time. I include a year count since the last treaty ratification (alone and interacted with the variables of interest). The time variable is never significant, and does not change the results: the reported relationship between human rights treaties and FDI is significant up to 34 years after the ratification, except for countries without human rights violations: for these countries, the effect of treaties on FDI becomes insignificant eight years after the ratification. See figure 5.[28]

[28] Additional figures in Appendix VII.

Figure 5: Average marginal effects of *HR treaty count* at different levels of *Physical Integrity Violations* through time since ratification



3.1.2 Note on endogeneity and reverse causality

Beyond the many robustness tests already described, I also test for the possibility of endogeneity and reverse causality. Appendix VIII shows a series of further tests, based on Model 3. Models in the paper use independent variables lagged one year, but that may not be enough to address reverse causality issues. I first replace *HR treaty count* with deeper lags of this variable, and the results hold. Second, I run Arellano-Bond dynamic panel-data estimations, treating all independent variables as endogenous. The independent variables are instrumented by generating one instrument for each time period, variable, and lag distance. The results hold when replicating the primary models. Finally, I reverse the models, and alternately predict *Physical Integrity Violations* and *HR treaty count*, including FDI as an independent variable. FDI does not achieve statistical significance in any of the models.

4 Conclusions

This paper analyzes the legitimizing effects of human rights regimes in the eyes of investors: Do international human rights regimes have an effect on FDI inflows? As a preliminary step, the paper explores the existence of a negative direct effect of human rights violations on FDI inflows and argues that investors' reputational concerns link human rights violations to FDI. However, because participation in human rights regimes has a positive effect on countries' reputations, ratification of human rights treaties attracts FDI independently from their level of violations. This positive effect is especially strong in countries with the worst human rights records.

The results and anecdotal evidence support the idea that investors reward host countries' commitment to human rights regimes. Knowing the reactions of investors to countries' human rights violations, and to their commitment to human rights regimes, matters because governments want FDI, and they try to implement policy changes to attract investment. If investors avoid human rights violators, one might hope that competition for FDI could lead to more respect for human rights. However, if investors perceive commitment to human rights regimes as a positive signal, independent from the level of human rights violations, then countries would have a less costly policy (adhering to an international regime) producing similar effects.

These contrasting effects of human rights violations and treaty ratification on FDI suggest the possibility for countries to exploit the "expressive role" of human rights treaties without changing policy (Hathaway 2002), "to appease a domestic or international constituency" (Chayes and Chayes 1993:187). The fact that countries do not join human rights regimes in spite of important rewards for ratification is puzzling: countries avoid ratification even when these regimes do not entail serious enforcement mechanisms. This suggests that ratifying human rights treaties is costly, even for countries that do not intend to comply, and represents a contribution to the literature on treaty adoption.

The results support the idea of reputational mechanisms at work. First, the evidence shows that violations of physical integrity rights deter FDI. However, this effect exists in countries with relatively low levels of commitment to human rights regimes. It is noteworthy that this effect does not disappear when controlling for naming and shaming and, the naming and shaming variables do not seem to matter. This suggests that the impact of human rights violations may go beyond the spotlight phenomenon, and opens questions regarding the channels through which investors gather information about their host countries.

Second, investors seem to reward countries' commitment to human rights regimes either because they care about their own reputation, or because they can use the host country's improved reputation to deflect responsibility in front of others (e.g., shareholders, potential investors, or consumers). This also shows that countries receive "tangible rewards" from treaty ratification (Nielsen and Simmons 2015). This effect is not short-lived, especially for countries with the worst human rights records. The persistent effect of human rights regimes on FDI is puzzling in the light of the spiral model literature. Further research can unveil the long-term interactions between reputational gains and incentives for domestic reform derived from participation in human rights regimes.

The positive effect of commitment to human rights regimes on FDI subsists after endogeneizing violations and participation in human rights regimes. The countries' propensity to participate in international institutions does not absorb the human rights regimes' effect on investment. Furthermore, the positive effect of human rights regimes on FDI flows is more important for countries with worse human rights records. Given the literature suggesting that human rights convention ratifications do not improve states' behavior (Hafner-Burton and Tsutsui 2007, Neumayer 2005), it seems reasonable to interpret this effect as reputational. My results suggest that FDI could be also an intermediary variable explaining, for instance, why governments who participate in human rights treaties survive longer in office than those that do not participate (Hollyer and Rosendorff 2011).

Third, the empirical analysis also suggests an undesirable effect of human rights treaties on investors' punishment of human rights violations: participation in human rights regimes curbs the negative effect of human rights violations on FDI. (This effect could explain some mixed evidence in the literature regarding a direct effect of human rights on FDI.) This finding suggests that treaties may not be working as mere cognitive shortcuts to investors assessing the human rights situation, and supports the possibility of treaties providing some type of reputational cover for investors, *especially* in cases in which actual human rights practices do not match international commitments. This also questions the effectiveness of corporate social responsibility and socially responsible investment practices: as long as impact evaluations and screenings rely on standardized tools that highly weight participation in human rights regimes, these well-intentioned practices may give countries the wrong incentives, with pervasive and self-defeating effects.

A note about the generalizability of the paper's findings: this paper refers to the effect of participation in human rights regimes on FDI, and I have argued about the particular nature of human rights treaties. However, I found anecdotal evidence suggesting that other international regimes could similarly affect investors' decisions, particularly, environmental and non-proliferation treaties (e.g., Deutsche Bank 2013). Further research could determine the extent of reputational effects of other kinds of international institutions on third parties, particularly investors. Efforts in this direction should especially focus on mechanisms in order to disentangle "pure" reputational effects from costs and informational effects.

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