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# How Taking from Foreigners Affects Domestic Human Rights

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## Abstract

David Hume and the founders of the market economy argued that it is critical for a government to protect the property rights of its citizens. It is unclear, however, if this applies to foreign-owned property as well. By international law, an expropriation (i.e. involuntary seizure of foreign-owned assets) is only legal if undergone for a public purpose. Government leaders often attest this is the case. But in reality, does seizing assets of foreigners typically benefit the public? We argue that it does not. This project brings together two literatures in political science, and is the first to rigorously analyze the consequences of international expropriations for domestic political, economic and labor rights. Using case studies and a variety of statistical tests, we argue that, while expropriations create short-term windfall profits for a government, they may do overall damage to the public good by chasing away welfare-enhancing investors and creating revenue for government repression. This article is an appeal to those who take for granted the welfare implications of international investment policies. It suggests that any major reconsideration of the investment regime must also consider how it affects people on the ground. Without scholars and policymakers asking these questions, it will be difficult to fully address the bigger question of the optimal design of an international investment regime.

**Keywords:** International property rights, human rights, foreign policy, foreign investment, international law, globalization, economic growth

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# 1 Introduction

For centuries, social scientists, philosophers, and designers of the market economy have extolled the benefits of protecting the property rights of a citizenry; among those benefits efficiency, freedom, and prosperity. Of a government protecting citizen property, David Hume wrote: “No one can doubt, that the convention for the distinction of property, and for the stability of possession, is of all circumstances the most necessary to the establishment of human society, and that after the agreement for the fixing and observing of this rule, there remains little or nothing to be done towards settling a perfect harmony and concord.”<sup>1</sup>

But the most outstanding challenge of protecting property rights may no longer be between governments and their citizens, but between foreign owners of property and the governments that host them. The last decades have seen a surge of foreigners investing abroad. Foreign investment now represents two-thirds of the world’s trade, with global foreign direct investment (FDI) flows going from \$13 billion in 1970 to \$165 billion in 1992 to \$2 trillion in 2007.<sup>2</sup> With more and more capital relocating abroad, governments face increasing temptation to violate the property rights of those who own assets in their country, but who are not their citizens.<sup>3</sup> While traditional property rights is an internal matter of the state - where assets gained by seizure are also lost by domestic producers, and where domestic laws represent the injured and the takers alike - international property law pits the interests of a country against those of foreigners. And given the absence of an effective global police force, and more sophisticated ways of obfuscating theft, foreign-owned assets can be especially vulnerable.

Hume and the founders of the modern economy argued that it is critical for a government to protect the property rights of its *citizens*. It is unclear if this also applies to property owned by *foreigners* - in reality, does violating property rights of *non-citizens* also degrade the quality of life of the domestic public? International law seeks to prevent this outcome. One of the oldest conditions for a just expropriation is that the assets be expropriated<sup>4</sup> for a public purpose. This applies in domestic laws, but also in international investment treaties and agreements. If seized assets are used for special interests, political war chests, or private use, the taking is deemed illegal. Unsurprisingly, leaders often state explicitly that expropriations are undergone for the public good, either out of economic necessity, to fight against an investor’s exploitation, or against a foreign government’s unwanted intervention.

But is this true: does seizing assets of foreigners typically benefit the public? We argue that it does not. This is the first paper to directly test this link with empirical rigor. Our theory suggests that, while seized assets may be assessed as a short-term windfall for the government, the negative consequences (e.g. loss of welfare-enhancing FDI and funding oppressive regimes) predominate. To empirically test our theoretical hypotheses, we use expropriation count data. Given the difficulty in quantifying the ‘public good’, as a first paper on the topic we follow the human rights literature, using their most state-of-the-art measures for our dependent variable.<sup>5</sup> We use a variety of statistical models to analyze this data. Our analysis presents robust evidence to suggest that expropriation of foreign assets is associated with a subsequent decline in civil and political rights, and specifically labor rights. It also adjudicates our theoretical mechanisms. We find evidence to support the argument that expropriation reduces FDI, which in turn leads to decreases in human rights. Evidence also suggests that while expropriation

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<sup>1</sup>David Hume, 1739. A Treatise on Human Nature.

<sup>2</sup>UNCTAD (2010).

<sup>3</sup>World Bank (2010), for example, documents a recent wave of international investment disputes.

<sup>4</sup>Crudely put, expropriation is the involuntary taking of assets, monetary or physical, from an investor. In reality, there may be sub-types of expropriation, some that involve the direct seizure of physical assets and others that are more regulatory in nature. For readers who seek a more nuanced definition, see (Duncan, 2006).

<sup>5</sup>Going forward, references to the ‘social welfare’, ‘public good’, etc. are operationalized as such. Future work can expand the breadth of this analysis to include measures such as unemployment, domestic conflict, etc.

leads to increases in government expenditure, those increases do net harm to the public.

Some questions in political science are inherently difficult to answer cleanly within existing data, but are nevertheless worthy of asking for their potential to link disparate literatures, and stimulate new considerations about a phenomenon's bottom-line. We attempt, through multiple measures, a variety of statistical models, and numerous robustness checks, to test our hypotheses and address problems for causality. Our results are largely robust but, given the inherent challenges with the data, we also include direct quotations from government officials, several case studies to demonstrate the plausibility of our argument, and a more in-depth case study, in the appendix, which addresses most parts of our theory. With clear hypotheses, a variety of empirical tests, and multiple cases, we hope that our two fields will be sympathetic to such an attempt. Without scholars asking this question, practitioners will struggle to sufficiently assess the implications of investment policies towards foreigners. And, as foreign investment swells into the century, and investment treaties become more politically salient, practitioners (whether lawyers and government officials) may be held increasingly to account for domestic quality of life implications. This is inherently difficult without rigorous research, but this article suggests a need to do so; that current policies are not functioning optimally. And to notice this is the first step to exploring *why*; and thus to policy innovation.

The paper proceeds as follows. In the next section, we review the literature in international political economy (IPE) about expropriation and foreign investment, and in international relations (IR) about foreign investment and human and labor rights. We identify the gap between each literature that grounds our contribution. Section 3 provides the motivation for our study: the conventional position that expropriation is undergone for the public good. It explains the 'public purpose' condition for expropriation in international law and provides testimony of government leaders attesting to satisfy that requirement. In section 4, we provide theory to suggest otherwise. We argue that expropriation can produce deleterious outcomes for the public at large, including future losses in foreign investment and the empowerment of already ineffective leaders. Section 5 provides empirical evidence for our hypotheses, using a variety of indicators, including measures of human rights and labor rights. Section 6 concludes.

## 2 Literature Review

This project builds a bridge between the literature in IPE that studies how property rights affect foreign investment phenomena and the literature in IR on how foreign investment affects human rights and labor standards. With extensive work done in each literature separately, we argue that our bridge is timely and can help connect these two streams of academic scholarship, whose foundations share the concern that economic policies and political decisions lead to social betterment. We begin with the IPE literature.

### International Property Rights and Foreign Investment

The explosion of global investment from multinational corporations (MNCs)<sup>6</sup> has paralleled scholarship on the relationship between MNCs and domestic politics. Research has focused on a variety of areas, including government decisions to seize foreign-owned assets for domestic use.<sup>7</sup> Such 'expropriations' can vary in size, be regulatory or physical, and may reflect more systemic regime changes (e.g.

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<sup>6</sup>UNCTAD (2008).

<sup>7</sup>Political risk may take a variety of forms, from outright expropriation to restricting the repatriation of profits (i.e. 'transfer risk').

election of a new executive). Expropriation risk may be particularly acute for direct investors, whose assets are more illiquid and difficult to remove.<sup>8</sup> Risk can also vary by industry (Truitt, 1970), investment characteristics such as location and joint-ownership (Heinsz, 2002), and by economic climate (Jodice, 1980; Jensen et al., 2014a).<sup>9</sup>

Expropriations have come in waves. Following a peak in the post-colonization period of the 1960s and 70s, and a period of calm in the 1980s (Vernon, 1988), some scholars predicted expropriations to disappear altogether (Minor, 1994). But this has not occurred. With the rise of FDI and increasing legalization through bilateral investment treaties (BITs),<sup>10</sup> expropriations and investment disputes have proliferated since 2000.<sup>11</sup> The Multilateral Investment Guarantee Agency (MIGA) of the World Bank, which insures investors against political risks such as expropriation, reports that expropriation remains worrisome to investors. A survey finds that 37% and 9% of MNC executives directly experienced a breach of contract and/or expropriation in past three years, and 57% and 34% of ex-executives claimed that the potential for breach of contract and expropriations had a very high or high impact on firm operations.<sup>12</sup>

And yet, despite concern from investors and looming arbitration, expropriations persist. Scholars have used multiple measures to study expropriation, from political risk scores (Jensen, 2008) to actual expropriation events (Kobrin, 1980, 1984; Minor, 1994; Li, 2009; Hajzler, 2012), and have suggested multiple mechanisms to explain the phenomenon, including low domestic political constraints on the executive (Jensen, 2003; Li and Resnick, 2003), the strength of an investor's home country (Wellhausen, 2014, 2015; Johnston, 2013), natural resource wealth (Mahdavy, 1970; Beblawi, 1987; Jensen and Johnston, 2011; Mahdavi, 2014), and poor judicial institutions (Biglaiser and Jr., 2004). Expropriation also carries reputational consequences from foreign investors (Tomz, 2007; Tomz and Wright, 2010; Jensen, 2006), jeopardizing future foreign investment.<sup>13</sup> But scholars have yet to perform rigorous analysis on deeper consequences of expropriation for a society. And human rights scholars are enabling such analysis, albeit from a different starting point.

## Foreign Investment and Human Rights

The rise in FDI in recent decades has also prompted a vigorous debate over its effects on host countries and the wellbeing of their citizens. Critics claim that host countries have not benefited from foreign capital as hoped, whether from disappointing economic outcomes (Stiglitz, 2002; Rodrik, 2006; Chang, 2010) or, worse still, foreign investors exploiting resources, supporting repressive regimes and violating human rights<sup>14</sup> of local communities (Klein, 2000; Christian Aid, 2004). On the other hand, proponents (e.g. the 'Washington Consensus') state that liberalization of trade and FDI stimulates economic development, improving living conditions, economic well-being, and strengthening human rights by exporting democratic and human rights values, and increasing expenditures in human wel-

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<sup>8</sup>For more on the 'obsolescing bargain' see Vernon (1980) and Malesky (2009) (who debates the reality of the bargain).

<sup>9</sup>For research on these trends, see Kobrin (1979, 1980, 1984), Jodice (1980) and Jensen (2006).

<sup>10</sup>Pinto et al. (2010); Manger and Peinhardt (2013) and Haftel and Thompson (2013).

<sup>11</sup>World Bank (2010).

<sup>12</sup>Multilateral Investment Guarantee Agency (2012).

<sup>13</sup>Tomz (2007), Graham et al. (2014), and Jensen et al. (2014b) all demonstrate a decrease in foreign investment following an increase in political risk.

<sup>14</sup>This study refers to human rights as defined by international law. Human rights are legally a state's responsibility directed at all individuals within its territory and jurisdiction. They cover a wide range of civil and political rights, and economic, social and cultural rights. Specific human rights are described in the UN Declaration of Human Rights of 1948 and protected through a range of international treaties, most importantly the "Covenant on Civil and Political Rights", and the "Covenant on Economic, Social and Cultural Rights" (Landman, 2006).

fare (Williamson, 1990, 2000).

Human rights scholars have conducted cross-national studies to adjudicate this debate. In large, studies provide little evidence of a negative link between FDI and human rights protection, but many find a positive effect (Hafner-Burton, 2005; Apodaca, 2001; Cingranelli and Richards, 1999; Kim and Trumbore, 2010; Neumayer and de Soysa, 2005).<sup>15</sup> Such studies argue that FDI fosters economic development and growth - increasing productivity, economic spillovers (e.g. of advanced technology, knowledge, and management skills), and creating jobs (Borensztein et al., 1998; Campos, 2002; Mehic et al., 2013)<sup>16</sup> - leading to expenditures for human well-being via tax revenues and increased economic activity (especially if development fosters democratization that redistributes wealth to living standards, health, education, and welfare Apodaca (2001); Moran (1998)). Once growth and development occur, scholars generally agree that human rights protection will improve (Mitchell and McCormick, 1988; Poe and Strirangsi, 1994; Poe et al., 1999; Apodaca, 1998; Richards et al., 2001; Kim and Trumbore, 2010; Sorens and Ruger, 2012). Scholars also argue that FDI can promote democratization through modernization, best practice exports and socio-cultural change (Lipset, 1959; Glassman, 1997),<sup>17</sup> connecting FDI to a robust finding across the literature: democracy is a positive determinant of human rights in most statistical studies in the field (Sorens and Ruger, 2012; Richards et al., 2001; Apodaca, 2001, e.g.). Apart from economic development, MNCs may also *directly* export human rights and higher labor standards<sup>18</sup> to recipient countries (Spar, 1998).

Adding FDI to a country may have positive net effects, but scholars also find negative effects from removing existing FDI. For example, Howard-Hassmann (2010) argues that withdrawal of FDI can lead to job loss, a decline in government tax revenues (and therefore reduced funding for health, education etc.), a decline in civil society activity, and social distrust and unrest, which could trigger repressive acts of the government. The link between expropriation and subsequent loss of FDI (as hypothesized by IPE scholars) may therefore entail negative effects for human welfare. Statistical studies on such consequences, to the best of our knowledge, do not exist in the human rights literature.

Given the size of the literatures in IPE and human rights, respectively, and their common focus on foreign investment, it is surprising that scholars have seldom collaborated across fields to connect the two, and to do so with empirically rigorous methods. This article represents such an attempt. The next section begins by looking at how international law justifies expropriation and how government leaders explain their rationale for taking.

### 3 Law, Leader Testimony, and Public Opinion

There are a variety of reasons to think that expropriations can deliver overall benefits to a society. First and foremost, seized foreign-owned assets register in the host's gross domestic product (GDP). This appears as a windfall benefit, on the short-term. Second, expropriation can combat worker exploitation from foreign owners that are not beholden to advance citizen rights (Simma, 2009). It can also create

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<sup>15</sup>Some studies find that FDI is not a significant determinant of rights (Mitchell and McCormick, 1988; Sorens and Ruger, 2012; Cao et al., 2013; Mosley and Uno, 2007; Neumayer and de Soysa, 2006).

<sup>16</sup>For an overview of the literature on FDI and growth, see de Mello Jr. (1997); Lim (2001).

<sup>17</sup>For example, one argument is that increasing wealth leads to the creation of a larger, more stable middle class. The middle class is a part of society that is often connected to higher levels of education and literacy, which can strengthen beliefs in democratic norms Lipset (1959). A growing middle class is therefore likely to support a stable democratic society and can work as a counter weight to repression. This can lead to more respect for human rights (Richards et al., 2001).

<sup>18</sup>According to the "UN Covenant on Economic, Social and Cultural Rights" labour rights encompass, for example, non-discrimination, fair wages and equal pay for equal work, safe and healthy working conditions, the right to form and join trade unions, and the right to strike.

jobs for domestic workers (see Venezuela example, below) and help a government avoid destabilizing capital flight. Each of these can, in theory, lead to redistribution of wealth and increased rights to the larger public. There are, however, numerous ways to subvert these gains, and use the seized assets for private consumption, instead. Nevertheless, international law affords governments the right to seize foreign assets, subject to several requirements.

In various areas of international investment law (found in investment treaties, trade agreements, conventions, and domestic laws), one of the oldest conditions for a *just* expropriation is that the assets be expropriated for the public good. The requirement of ‘public purpose’ dates back to Ancient Greece.<sup>19</sup> As Martinez-Fraga and Reetz (2015) explain, in their excellent book on the clause, the ‘public purpose standard’ concerns the “exercise of sovereignty under the banner of the public good.”<sup>20</sup> It is central to many bilateral investment treaties (BITs), which have become the closest approximation of a global investment regime.<sup>21</sup> From Article 6 (‘Expropriation and Compensation’), paragraph 1, of the 2012 US Model BIT:

“Neither Party may expropriate or nationalize a covered investment either directly or indirectly through measures equivalent to expropriation or nationalization (expropriation), except: (a) for a public purpose; (b) in a non-discriminatory manner; (c) on payment of prompt, adequate, and effective compensation; and (d) in accordance with due process of law and Article 5 [Minimum Standard of Treatment] (1) through (3).”

This paper focuses squarely on the first condition. While the public purpose requirement is explicit and *de jure*, do expropriations characteristically improve domestic welfare?<sup>22</sup> Leaders argue that they do.

Contemporaneous with expropriation, leaders often argue that seizing foreign assets is undertaken for the good of their country and their people. When announcing the armed seizure of a Spanish-owned power company, Red Eléctrica Española, in 2012, Bolivarian President Evo Morales justified the seizure as for the Bolivian people: “As a fair homage to the workers and the Bolivian people that has fought for the recovery of their natural resources and basic services, we nationalize the Power Transmission company.”<sup>23</sup> Argentine President Cristina Kirchner used a similar justification, immediately following the 2012 nationalization of Yacimientos Petrolíferos Fiscales (YPF), which was owned by Spanish energy company Repsol. To cheering crowds, President Kirchner argued that the nationalization was for the Argentine people: “We are the only country in America, and basically in the whole world, that

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<sup>19</sup>See Martinez-Fraga and Reetz (2015).

<sup>20</sup>Their book includes the major sources of international investment law, focusing specifically on the North American Free Trade Agreement (NAFTA), which embodies “the fundamental precepts of the public international law of trade and investment protection.” (11) The NAFTA applies the “‘public purpose doctrine’ broadly throughout the whole of its treaty framework...[It] both references and relies on the public purpose doctrine directly in the most pristine form of its nomenclature as ‘public purpose’ and less explicitly pursuant to the doctrine’s multiple iterations, such as ‘public order,’ ‘public morals,’ and ‘social welfare.’” While the NAFTA’s Chapter Eleven explicitly references the clause, it is addressed in nine other places (see pg. 13 of Martinez et al), helping the clause to be more objectively assessed (e.g. Article 1101 (4)). The ‘public purpose’ clause represents a challenging area in international law, with confusion over how to integrate it into modern legal deliberations. It is largely overlooked by lawyers and practitioners, and this article may add urgency to confronting this challenge. If this article is successful, subsequent research can study how better to measure and adjudicate the public purpose. Notice that the clause may overlap with other executive rules, such as their oath of office (or, separately, eminent domain clauses). Thus, our theory may provide insight into the effectiveness of such clauses, with respect to the decision to expropriate. We leave these thoughts for further research.

<sup>21</sup>See Milner (2014).

<sup>22</sup>Again, here ‘welfare’ refers to political, civil, and labor rights.

<sup>23</sup>During the May Day celebration at the Government Palace in La Paz. “Bolivia seizes Spanish owned power company, but promises fair compensation”, MercoPress, 2 May 2012.

doesn't control its own natural resources."<sup>24</sup> Two days later, from a speech, the press quoted other government officials saying that: "Argentina is expropriating YPF for the public good."<sup>25</sup> As reported by Reuters, "Buenos Aires says it needs to control YPF in order to guarantee enough domestic oil and gas output to keep the economy expanding in the face of slower demand from key trade partner Brazil and fallout from Europe's debt crisis."<sup>26</sup>

Beyond testimony, there are reports to suggest that even waves of nationalization can deliver substantial benefits to the public. In 2011 *El Universal* reported how Venezuelan expropriations had created jobs in the public sector: "In the past six years the expropriation of private companies has raised by 36.2 percent the number of public servants in Venezuela."<sup>27</sup> And journalists sometimes report that the sentiment of 'public good' has permeated deeply into the public at large. Reuters, for example, reported dramatic public support for the YPF nationalization; that most Argentines favored the expropriation and that the Senate voted sixty-three to three to approve the measure.<sup>28</sup> The *Economist* reported on how Argentine propaganda justified the nationalization as an act of sovereignty to redress a wrong: "On the day of the announcement, posters went up around Buenos Aires reading 'True sovereignty means taking back what is ours' above the YPF logo."<sup>29</sup> From these articles and reports, one might conclude that expropriations are tough decisions that sovereigns make for the good of their people.

But does expropriation typically lead to social-betterment; are we to infer from legal agreements, government testimony, and public support that nationalizations indeed empower the public, on the whole? Some journalists and practitioners also report reasons why we should be skeptical. As one writes, about a recent expropriation in Belize: "While nationalisation may be desirable from a protectionist approach, is this for the common good?"<sup>30</sup> Below, we argue that skepticism is warranted; that there are a variety of reasons to expect nationalizations to have the opposite impact. The next section explains two key reasons. In section 5, an empirical analysis will test the overall impact of expropriation on several measures of domestic welfare.

## 4 Theory: Expropriation, FDI Loss, Repression, and the Public Good

As explained above, the public can gain from expropriation by getting an injection of assets, either monetary or physical, to use towards domestic productivity, by reducing dependence on foreign actors, which may not have the public's interest in mind, and by giving the government more control to address economic instability. Recent work has shown, however, that governments do not typically expropriate to combat economic duress (Jensen et al., 2014a). And, while corporate exploitation exists, it is unclear to what extent 'reducing foreign dependence' helps the public, more generally: human rights scholars find that FDI is associated with *improvement* in rights protection, rather than deterioration. Nevertheless, the injection of new capital (from the seized assets) may value in the billions of dollars. But while this benefit may be substantial, there are a variety of reasons why it is difficult to realize for the public. If, for example, governments use the capital for private gain, it would not be surprising if expropriations undermine the public. Even for expropriations in 'good-faith' (where governments

<sup>24</sup>"Argentina's oil industry: Feed me, Seymour" *The Economist*, 16 Apr 2012.

<sup>25</sup>"Argentina Update: YPF Repsol Seized, Seeking Alpha" *Pater Tenebrarum*, 18 April 2012.

<sup>26</sup>"UPDATE 3-Argentine Senate, house committee back YPF takeover" *Reuters*, 26 Apr 2012.

<sup>27</sup>"Thicker government's payroll after nationalizations: Public sector has absorbed more than 600,000 workers over the past six years," Suhelis Terejo Puentes, *El Universal*, 31 March 2011.

<sup>28</sup>"UPDATE 3-Argentine Senate, house committee back YPF takeover" *Reuters*, 26 Apr 2012. Whether these sentiments stem from aggressive government campaigns is unclear.

<sup>29</sup>"Argentina's oil industry: Feed me, Seymour" *The Economist*, 16 Apr 2012.

<sup>30</sup>"Telemedia and Belize Electricity Limited: The Economics of Nationalization", Christopher Coye, 9 February 2012.

intend to improve the public good), short-term benefits may obscure larger long-term damages. This section elaborates on two reasons why expropriations may do more harm than good: loss of future investment and empowering already repressive governments. We begin with the first.

### **Loss of Foreign Investment**

One of the few commonly held beliefs among political risk scholars is that contract breach (e.g. expropriation) has reputational consequences with foreign investors, and thus for FDI flows (Tomz, 2007; Jensen, 2008). At the same time, human rights scholars have found evidence that FDI benefits human rights in the host country. If there is indeed a connection between contract breach and FDI, and between FDI and human rights, we should expect an indirect negative effect between contract breach and human rights (via decreased FDI flows).

As Tomz and Wright (2010) explain, “If a government engages in sovereign theft, foreigners may infer that the government is a ‘bad type’ that assigns a low value to future loans and good relations with foreign investors. Having learned about the government’s preferences, foreigners refrain from making new investments, not because they are participating in a coordinated retaliatory embargo, but simply because they now think that further investment would be a money-losing proposition.” While widely supported, scholars have yet to fully explore the empirical connection between expropriation and subsequent FDI loss.<sup>31</sup> We test this further in the following section.

If we suppose expropriation chases away FDI, then what? As Section 2 discusses, once FDI leaves, it may take a variety of welfare-improving consequences with it; from loss of revenue streams (e.g. tax revenue) for public goods (e.g. education and healthcare) to financing for domestic investors. But the costs of transition can also be large. Once executed, the transition from foreign-ownership to state-ownership may entail managerial replacement (e.g. permanent loss of managerial expertise), expert replacement (e.g. brain drain and knowledge loss, especially at the top), worker replacement, and replacement of business partners (e.g. those along the supply chain, both foreign and domestic). After the execution and transition periods, even larger public costs may follow if the enterprise is no longer disciplined by global markets. Expropriations can also create enterprises with limited accountability for state owners, and limited restraint against covering potential losses (of these newly inefficient enterprises) by dipping into the public coffer.<sup>32</sup> Reducing the competitive discipline of global markets may also decrease pressure for good working conditions. Foreign investors often bring with them better business practices, higher labor standards, and higher wages because of their customers’ demands. Expropriations can wipe away these good working conditions, and signal a reversion to poor domestic labor standards. For multiple reasons, the most formidable costs of seizure may be about turning the existing investment from a competitive, managerially sophisticated operation, with imported higher labor standards and best practice from abroad into one run by worse (domestic) managers, with less expertise, and incentive to revert back to the poor domestic labor standards.

To put it simply, seizing assets from foreigners may dramatically reduce investment flows in the future and, along with it, the benefits of FDI as a tool for development. As such, FDI can be a direct bridge

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<sup>31</sup>This may be complicated. For example, while an outright expropriation may chase away investors, even the most egregious are often followed by large payments of financial compensation to the foreign actor. See Johnston (2013). If governments often provide compensation (which comes directly from the government coffers or loans), the windfall benefits of expropriation may be smaller.

<sup>32</sup>As explained in a previous footnote, governments may pay large amounts of financial compensation, which typically come from the public coffer. The more opportunistic leaders can obscure the extent to which expropriations and inefficient state-owned enterprises are supported by funds from the public coffer, the deeper the moral hazard. See Johnston (2013) for an elaboration.

between two literatures: there is reason to hypothesize that, in countries with higher dependence on FDI, expropriation of foreign assets will decrease economic and human rights protection.

### **Case: The Philippine Expropriation of NAIA-3**

In 1993, the Philippine government, under President Ramos, began plans to construct a large airport terminal for international flights at the Ninoy Aquino International Airport (NAIA). In 1996, the Philippine International Air Terminals Company Incorporated (PIATCO) won the bid. PIATCO was a joint venture with German company Fraport AG.<sup>33</sup> In 1999, PIATCO requested to renegotiate its contract but the Estrada administration rejected the contract renegotiation; only following the election of President Arroyo did the government consent. In 2002, the year the terminal was to open, President Arroyo ordered a review of the project and, after finding discontinuities with the initial contract, cancelled the contract. In 2005, the Philippines Supreme Court upheld the decision and declared the contract void. The government paid three billion Philippine pesos (\$60 million USD) to PIATCO and took ownership of the terminal. Partners of PIATCO, among them Fraport, were not satisfied and sought further legal action. The case was referred to a higher Philippine court<sup>34</sup> and later to international arbitration through the World Bank's International Centre for Settlement of Investment Disputes (ICSID). During this period, where the Philippine government was ordered to return ownership to PIATCO and pay compensation of \$178.8 million,<sup>35</sup> terminal 3 of NAIA (NAIA 3) languished. Despite the urgent need to accommodate higher numbers of international passengers, the terminal sat unused, its technology deteriorating from non-use and from the exposure to heat. Foreign investment also languished. The expropriation sent a major signal to investors from Germany, the European Union, and elsewhere. As German Ambassador, Christian-Ludwig Weber-Lortsch, said, "Since my arrival in August 2007 I have committed myself to bring business and jobs to the Philippines. Unfortunately, the largest impediment to this day remains the unresolved expropriation of the NAIA 3 terminal. Not only for German but also for European and other international investments. The German government, through its partial investment guarantee, suffered the biggest loss of its kind in the last years."<sup>36</sup> Germany halted financial cooperation and diplomatic tension grew. In 2008, the government partially opened NAIA 3, but only to domestic flights. As the ICSID trial unfolded, the Philippine government began to transition to other public works projects, but struggled to move forward. As the German ambassador remarked in 2011, "To this day no final judgement has been passed on the controversial deal. At the present pace the legal dispute could continue for years, leaving the urgently needed infrastructure project shelved by lawyers instead of being finished by engineers. The Philippine Supreme Court clearly stated that no acts of ownership are allowed until full payment of just compensation by the government to PIATCO and its investors."<sup>37</sup> In 2013, in the midst of economic slowdown, the Aquino government sought foreign investors for a \$12 billion project to improve the country's infrastructure, including the construction of roads, rails, ports, and airports. The government struggled to attract investment, particularly from Germany. The widely publicized expropriation of Fraport still reverberated across investors and across different projects within the economy. This policy decision had a large and lasting effect for the host country economy, deterring foreign investment, and thus undermining the completion an urgent infrastructure project as well as a larger public works projects, a decade after the expropriation.

As political scientists have argued, expropriations can have a dramatic effect on foreign investment

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<sup>33</sup>This became Germany's largest foreign investment project.

<sup>34</sup>the Pasay County Regional Trial Court.

<sup>35</sup>Fraport sought \$842.8 million in compensation.

<sup>36</sup>"Washington Ruling Makes NAIA 3 Use Illegal," Inquirer.net 2011.

<sup>37</sup>*ibid.*

flows, and, in the long-term, on the public welfare and rights protection of citizens in host countries. But expropriations may represent more politically opportunistic motives as well.

### **Empowering Unconstrained Governments**

Seizing assets from foreigners can offer short-term benefits at the cost of potential FDI loss. But what if these benefits are not even used for the public good; what if they are used to increase the power of political leaders?

Large-scale government repression (whether of political rights, labor rights, or through violence) can be costly, requiring a “well-equipped, loyal and large repressive apparatus” (Carey, 2006, 4). Such regimes, whether based on patronage or otherwise, often entail high repercussion costs (Frantz and Kendall-Taylor, 2014), requiring security forces to react to backlash movements and resistance from opposition groups (e.g. demonstrations, protests, riots or escalating violence) (Francisco, 1995). Repression seldom spirals out of control exactly because of such costs (Carey, 2006). But, as scholars also argue, expropriations can help pay these costs and, more broadly, pay the stakeholders necessary to retain political power (Tomashevskiy, 2015; Bueno de Mesquita et al., 2003). The logic may parallel the temptation of natural resources (or other ‘unearned income’); leaders may compete to either control the allocation of expropriated assets or fight to receive the benefits.<sup>38</sup> And, as with natural resources, such revenues may further entrench welfare-decreasing norms and institutions: if the larger governance structure is already aligned towards corruption or repression, even if a leader has good intentions for the expropriated revenues, their government may lack the institutional capacity or the willingness to use revenues well.

While governments with poor institutions may seem like they have the most to gain from windfall profits, in terms of human rights, we should not be surprised if the existing incentive structure is compatible with opportunism, even at the cost of further disenfranchising the public. The serious discussion of benefits and costs is moot if the valuable assets are not going to the public, in the first place, but rather to political war chests and further repressive capabilities. Political institutions (e.g. executive constraints and rule of law) can be key to determining whether those costs are outdone by the potential benefits.<sup>39</sup> Investigating the most constrained governments, for example, may illuminate the best-case scenarios for expropriation. For the least constrained governments, the public outcome may be even more dire, limiting economic opportunity, worker rights, and domestic rights more deeply.

### **Case: The Russian Expropriation of Yukos**

In 1994, Russian company Yukos was incorporated by Presidential decree to help develop the oil and gas industry after the fall of the Soviet Union. Until 2003, it was run by political elite, turned Kremlin critic, Mikhail Khodorkovsky. By 2003 its estimated market capitalization was \$33 billion. Late that year, Yukos was accused of tax evasion and fraud and, after six months of escalating fines and abbreviated (and prevented) trials, was ordered to pay \$24 billion immediately. After Yukos failed to raise

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<sup>38</sup>See for example Smith (2008). Expropriation may also create frustration in the public, who may depend on the operation for jobs or for business partnerships, or stir competition between rival groups. Here, expropriation may not only fuel further repression; it may also stimulate violence.

<sup>39</sup>It is unclear whether democracies expropriate more than non-democracies. The literature has debated this (See Jensen (2008) and Li (2009)), concluding that the institutional structure - namely, rule of law and political constraints - better explains expropriation behavior. The institutional structure is likely to also explain patronage, pork, and other private allocations. In addition to simply the corrupt governments, repressive governments may be more likely to expropriate. Low domestic political constraints and high natural resource wealth (NRW) are associated with violence and political repression (Bannon and Collier, 2003), but also with expropriation (Jensen and Johnston, 2011).

the money, the government auctioned off its most valuable asset, the oil production company Yuganskneftgaz (YNG). Two bidders were announced and, despite the appraised value of \$21.1 billion, YNG was sold for \$9.35 billion. The winning bidder was incorporated two weeks earlier, and acquired three days later by the Russian oil company Rosfelt.<sup>40</sup> As one court later remarked: “the auction of YNG was not driven by motives of the tax collection but by the desire of the State to acquire Yukos’ most valuable asset and bankrupt Yukos. In short, it was in effect a devious and calculated expropriation.”<sup>41</sup> Yukos was declared insolvent in 2006. Foreign and Russian investors lost billions of dollars (American investors, for example, owned 15% of Yukos). Many Yukos officials were imprisoned, fled the country (many to be tried in absentia), or subjected to search and seizures.<sup>42</sup> Khodorkovsky, Russia’s richest person, was immediately arrested at gun point and imprisoned following, what tribunals later called, a trial that did “not comport with due process of law.”<sup>43</sup> In July 2003, Russian officials also arrested Platon Lebedev, Director of two companies that partially owned Yukos, on charges of forgery, fraud, and tax evasion. Both men were released 10 years later, in January 2014.<sup>44</sup>

While political benefits accrued to the Russian elite (Rosfelt was run by a political ally of President Putin) and political costs borne by opponents (Khodorkovsky was imprisoned and politically neutralized), domestic stakeholders and foreign investors were left with the bill, receiving little compensation. In 2014, this was addressed by international courts, on behalf of investors from countries including Spain, Cyprus, the United States, the Isle of Man, and Luxembourg. The European Court of Human Rights, for example, ruled that the expropriation of Yukos was politically motivated, and awarded \$2.51 billion in compensation to fifty-five thousand stakeholders.<sup>45</sup> Earlier in the same week, ICSID ordered Russia to pay an additional \$50 billion in compensation.

While this case is egregious, Yukos demonstrates the potential for leaders to use expropriation to consolidate political power, whether by imprisoning political challengers or redistributing assets to private interests, thereby violating a range of human rights. Further, effects for Russian citizens may be equally costly: while political and economic liberties, among them domestic rule of law, were undermined by the expropriation, if the Russian government is held accountable to pay compensation, much of the \$50 billion may come from the public coffers (despite profits already going to private interests).

## Overall Effects of Expropriation

To sum up, the costs of expropriation can exceed (perhaps dramatically) the benefits of short-term windfall profits. And, through the loss of FDI (and thus its associated public benefits) and additional funding for repressive regimes, human rights conditions may deteriorate as a result. We therefore propose that, rather than assuming that expropriations typically lead to public gain (because of windfall assets, more control in stable times, or more ‘care’ for workers), the more likely outcome echoes Hume:

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<sup>40</sup>Within six months of the initial tax evasion charges in 2003, the Russian government either directly (through the Federal Taxation Service) or indirectly (through Rosfelt) owned 99.71% of Yukos’ bankruptcy proceeds. Rosfelt and Gazprom received the bulk of the remaining assets (See “The Larger Arbitration in History: Three Majority Shareholders in Yukos Awarded Total Damages of Over £\$50bn from the Russian Federation” Herbert Smith Freehills - Arbitration Notes. 14 August 2014).

<sup>41</sup>*ibid.*

<sup>42</sup>*ibid.*

<sup>43</sup>“Yukos Owners Win Largest Arbitration Award in History Against Russia for ‘Devious and Calculated’ Expropriation” International Arbitration Attorney Network.

<sup>44</sup>Yukos officials alleged that “the financial success of Yukos in the early 2000s, coupled with Mr. Khodorkovsky’s political activities, presented a threat to established political interests in the Russian Federation, including the administration of then-President Vladimir Putin” (*ibid.*). Multiple courts upheld this interpretation.

<sup>45</sup>“Russia Must Compensate Yukos Shareholders, Says European Court” The Wall Street Journal, 31 July 2014.

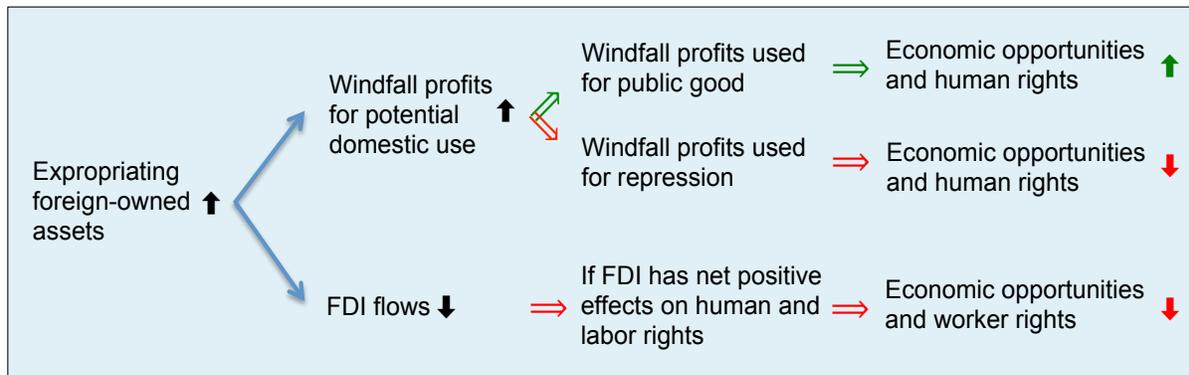


Figure 1: Summary of theoretical mechanisms. Simply put, despite the injection of new capital that can be allocated for a public purpose, expropriating foreign assets also entails the possibility of misallocating or coopting those profits for repression, and chasing away welfare-enhancing FDI. Each of these costs can be large enough to outweigh the injection of capital, let alone facing both simultaneously.

that violating property rights of foreigners will also do overall harm to the domestic public. This leads to the empirically testable hypothesis:

***Hypothesis 1:*** *Expropriations of foreign assets will typically decrease human and labor rights in the host country.*

On its own, this hypothesis represents a shot across the bow for those who believe that expropriation of foreign assets generally leads to public good. In the next section we find empirical evidence to support this expectation. But in this paper, we also investigate why. Specifically, we adjudicate on the comparative explanatory power of the two theoretical mechanisms, and thus offer two additional empirically testable hypotheses:

***Hypothesis 2:*** *Expropriations of foreign assets will typically decrease FDI flows in the host country and, through this effect, will decrease human and labor rights in the host country.*

***Hypothesis 3:*** *Expropriations of foreign assets will typically increase government expenditure in the host country but, through this increase, will decrease human and labor rights in the host country.*

To put it simply, our theory suggests that expropriations will chase away foreign investors but create revenue for expenditures, each of which will lead to negative consequences for the public. While we use the expropriations of PIATCO and Yukos as examples of these mechanisms, in the appendix we bring the theory together in a single, longer case study, of the 2012 Argentine expropriation of Spanish energy giant, Repsol. In one of the largest and most closely covered expropriations in history, the Argentine government (including President Kirchner) claimed the ‘public good,’ while journalists reported on the negative human rights consequences from decreased investment and repressing domestic political freedoms. Due to the length of the case, we include it in the appendix. Next, section 5 will test our hypotheses empirically.

## 5 Empirical Analysis

To assess the relationship between expropriation and human and labor rights across different cases, we conduct a statistical analysis of 68 non-OECD countries over the 1982-2002 period. Case selection is limited to those countries with available data on expropriation acts and human and labor rights measures. Our models show support for the hypothesis that expropriation hinders human and labor rights. Substantively, we find that expropriation has a negative impact on domestic human rights across three different measures of human and labor rights.

### 5.1 Data

The outcomes of interest are human and labor rights. To allow for cross-national comparison, we use aggregated indices of rights as compiled by Cingranelli and Richards (1999), Fariss (2014) and Mosley and Uno (2007) (see Table 1).

The ‘*CIRI*’ empowerment rights index<sup>46</sup> from the Cingranelli-Richards (CIRI) Human Rights Database measures civil and political rights protection. It includes codings for foreign and domestic movement of citizens, freedom of speech, freedom of assembly and association, workers’ rights, electoral self-determination (e.g. free and fair elections and political participation rights), and freedom of religion. It ranges from 0 (=no government respect for these rights) to 14 (=full government respect for these rights). The scores are derived from coding rights violations reported in the US State Department Country Reports on Human Rights Practices. A positive FDI coefficient indicates that more investment is connected with better empowerment rights protection.

The ‘*Latent Protection*’ variable<sup>47</sup> measures political repression, torture and physical integrity rights. It is the most recently available human rights measurement and has not yet been widely used in the human rights literature. Fariss (2014) developed this new measurement – based off of a latent variable model developed in Schnakenberg and Fariss (2014) – because he observed a fundamental problem with standard human rights measurements: according to many indices, human rights practices do not seem to improve over time, despite changes in human rights norms and laws, better monitoring, and the spread of democratic systems. Fariss believes that the lack of a strong upward trend in the available indices is due to stricter monitoring and interpretation of rights violations in Amnesty International and the US State Department reports (which are used for coding indices). In these reports, coders search more carefully for violations, and classify more acts as rights abuse, than they did years ago. To account for this problem, the Fariss human rights variable is constructed by adjusting existing measurements of repression, including e.g. the CIRI and PTS measurements, so that a comprehensive, less biased estimate of repression is provided, as Fariss (2014) states. A positive coefficient for FDI would indicate that higher FDI levels are connected to better human rights protection.

For labor rights, we employ a variable from the “Collective Labor Rights Data Set” by (Mosley and Uno, 2007; Mosley, 2011).<sup>48</sup> The ‘*Mosley labor rights*’ measurement captures respect for the right to form and operate unions, collective bargaining, and strike activities in practice. It is based on coding information about labour rights protection and violations from multiple sources provided by the U.S. State Department, International Labour Organisation, and the International Confederation of Free

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<sup>46</sup>Cingranelli, David L. and David L. Richards. 2008. The Cingranelli-Richards Human Rights Dataset Version 2008.03.12. <http://www.humanrightsdata.com/p/data-documentation.html> (accessed September 15, 2014).

<sup>47</sup>Latent Human Rights Protection Scores (Version 2), kindly provided by Christopher Fariss by email. Updates of this measurement are available from <http://humanrightsscores.org/>.

<sup>48</sup>The Collective Labor Rights Data Set is an extended version of the data from (Mosley and Uno, 2007). The updated version is described in Mosley (2011, 115-120) and available at <http://dvn.iq.harvard.edu/dvn/dv/lmosley>.

Table 1: Human rights measurements

Variable	Rights measured	Scores
CIRI empowerment rights	movement of citizens, freedom of speech, assembly and association; workers' rights, electoral self-determination, freedom of religion	0-14 (higher score = better rights protection)
Latent protection of political rights	repression, torture, physical integrity rights	continuous (higher score = better rights protection)
Mosley labor rights	collective labor rights in practice e.g. right to join union, right to strike etc.	0 (no respect for rights) to the mid-30s (high respect)

Trade Unions. The derived labour rights scores range from zero (no respect for rights) to the mid-30s (high respect). A positive coefficient indicates that higher FDI is connected to better workers' rights protection.

The predictor of interest is state expropriation of private assets and firms, as measured by annual number of expropriation acts in a given country. The data are from Li (2009) and Hajzler (2012) which include expropriations in 68 developing countries from 1975 to 2002. For our purposes here, we use an adjusted version of this measure. To capture the long-term effects of expropriation, we use a count variable indicating the cumulative acts of expropriation that have occurred in a given country at any point in time since 1960. For example, Nicaragua's first acts of expropriation occur in 1979 when the Sandinista government published decrees 3 (1979) and 38 (1979) legalizing the confiscation of privately held assets belonging to the Somoza family and its close allies.<sup>49</sup> For years prior to 1979, the cumulative count measure for Nicaragua is zero but for years afterward the value reflects the total number of expropriation acts in Nicaragua since the first two occurred in 1979. For robustness and to measure short-term effects, we also use a dummy variable indicating if any expropriation acts occurred in a given country in the previous year. Figure 2 shows how often countries expropriate in our dataset, by regime.

Above, we discuss several rival determinants of human and labor rights which we address here as control variables. To account for the effect of political institutions (democracy level), we include the Polity IV index of executive constraints as assembled by Marshall et al. (2011). Economic controls include (1) foreign direct investment flows as captured by logged FDI as a percentage of GDP; (2) development levels as measured by logged GDP per capita, and (3) annual growth as measured by year-to-year change in GDP. These are drawn from the World Bank's World Development Indicators database. We present summary statistics for all variables in Table 2, but note that for our regression analyses we standardize all continuous variables for ease of interpretation and comparison across units. For the three outcomes of interest, we also present changes in labor and human rights measures over time by country in Figure 3.

## 5.2 Method

Given the longitudinal nature of the data generating process, there are several model specifications to consider in order to estimate the relationship between expropriation and human and labor rights. For

<sup>49</sup>U.S. State Department (2012) "Investment Climate Statement – Nicaragua". Bureau of Economic and Business Affairs. Accessed 11 January 2014 from <http://www.state.gov/e/eb/rls/othr/ics/2012/191209.htm>.

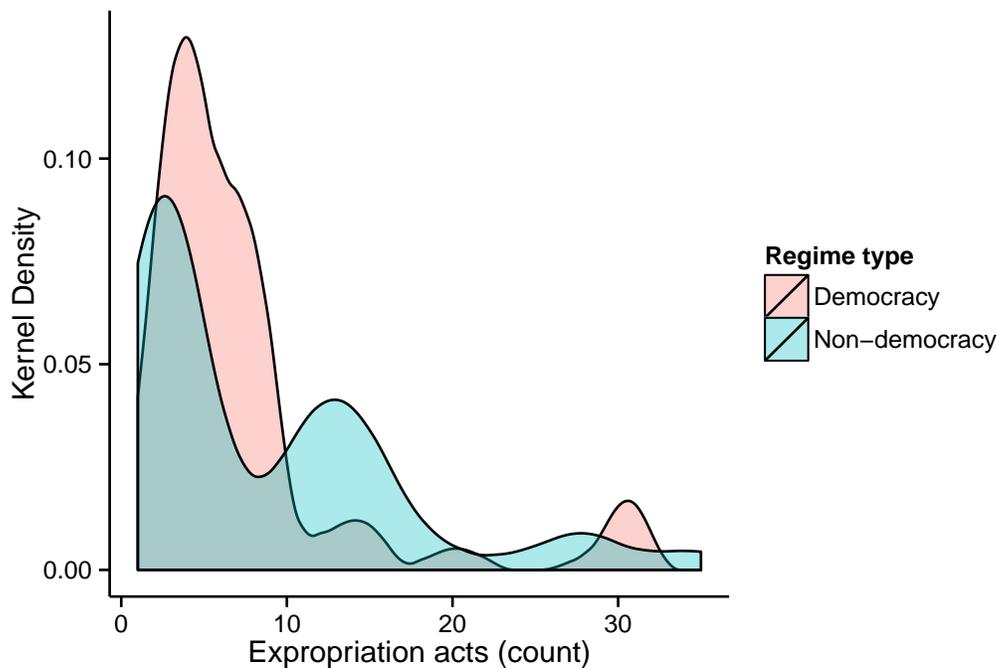


Figure 2: The graph shows how often countries expropriate in our dataset, by regime.

simplicity and ease of interpretation, we use ordinary least squares regression with unit fixed effects. To account for temporal variation in measures over time, as visualized in Figure 3, we add a continuous time variable as a control for the Mosley and CIRI outcomes,<sup>50</sup> and de-trend the Latent Protection scores (Weiss, 2005).<sup>51</sup> For robustness, we consider other model specifications such as autoregressive (AR(1)) models, multi-level models with country random intercepts, Bayesian linear and mixed-effects models, and for the Cingranelli-Richards ordinal measure of worker empowerment, we use a Bayesian ordered probit model with country fixed effects.

### 5.3 Results

The results of OLS regression with country fixed effects presented in Table 3 shows strong support for the hypothesized negative relationship between expropriation and human and labor rights.<sup>52</sup> Each additional cumulative act of expropriation leads to a decrease in all three measures of domestic human

<sup>50</sup>This is an alternative approach to adding time fixed effects. With these data, adding time fixed effects would over-specify the model given the paucity of data and unbalanced nature of the cross-sectional time-series. For robustness, decade fixed effects are included instead, with no substantive or statistical changes in the estimation of the expropriation variable.

<sup>51</sup>We only de-trend the Latent Protection scores based on results from using clustered vs. classical standard errors as a diagnostic tool (King and Roberts, 2015) – for the Mosley and CIRI models, the diagnostic indicates no significant model misspecification, while for the Latent Protection scores model the difference between robust/clustered and classical standard errors is significant in a General Information Matrix test, indicating misspecification. Upon further inspection, by de-trending the outcome variable we improve the model specification and the difference between standard errors on the expropriation count measure is not significant. See Table 15 for models using robust standard errors at the country level. See Table 14 in the Appendix for results of the model with Latent Protection scores not de-trended.

<sup>52</sup>We run the same regressions without standardizing continuous variables and find the same substantive and statistical findings for our variable of interest, expropriation counts. These results can be found in Table 5 in the Appendix.

	Mean	Std. Dev.	Min	Median	Max	N	Number Missing
Expropriation (cumulative)	8.13	7.87	1	5	35	1428	0
Mosley labor rights	21.31	4.71	0	22.5	27.5	1224	204
Latent protection score	-0.53	0.96	-2.92	-0.53	2.05	1428	0
CIRI New Empinx	7.34	4.06	0	7	14	1379	49
Executive constraints	3.63	2.07	1	3	7	1343	125
GDP per capita (logged)	6.80	1.28	4.39	6.77	10.70	1308	120
GDP growth	0.57	5.43	-42.88	1.24	34.61	1326	102
Time	10	6.06	0	10	20	1428	0

Table 2: Summary statistics for selected variables. Number of countries in sample: 68. Years in sample: 1982 – 2002.

rights.<sup>53</sup> We also present added-variable (partial regression) plots to visualize the relationship between expropriation and rights after controlling for relevant rival hypotheses.

Looking first at the Mosley and CIRI labor rights measures, we find that each additional act of expropriation corresponds to a  $-0.3$  and  $-0.1$  standard deviation decrease in the respective indices, given that the dependent variables are standardized. This translates to a  $-1.4$  and  $-0.6$  unit shift in the respective indices. Consider the case of the Republic of Congo, where the Dictator Joseph-Desire Mobutu nationalized the copper and oil industries in 1976, along with three other expropriations for a total of five acts of expropriation in one year. The models in Table 3 would predict that labor rights using the Mosley index would subsequently decline by 6.8 points — a substantively large effect considering the scale ranges from 0 to 27.5 in the current sample of country-years, corresponding to a 24.7% decline in labor rights standards. Similarly, using the CIRI labor rights measure this change would correspond to a 3 point decrease on a scale that ranges from 0 to 14 (or a 21.4% decline).

Turning now to the latent protection score measure of human rights integrity (de-trended), we also find that acts of expropriation have a negative impact on human rights. The coefficient estimate from model (4) is similar in magnitude compared to the other two measures at  $-0.2$ . Considering a narrower range of this measure (from  $-3$  to  $2$ ; the measure is originally in standardized units), the substantive effect is slightly smaller when compared to the other two measures. Consider again the case of the Congo: an increase in five acts of expropriation corresponds to a  $-0.9$  shift in the latent protection score measure, or a 18.7% decline in human rights standards.<sup>54</sup>

By visualizing the coefficient estimates as partial regression plots, as in Figure 4, we can see the multivariate relationship between expropriation acts and all three human and labor rights measures after controlling for other factors. The plots all show the tightness of data points around zero and one on the expropriation acts measure, making the results at first appear unstable and likely driven by outliers and high-leverage points. However, even after removing positive outliers beyond two standard deviations from the mean — in this case any observations with greater than 24 cumulative expropriations acts — the regression results remain the same.<sup>55</sup>

<sup>53</sup>Regressions using a short-term measure of expropriations – coded one for any expropriations in the prior year and zero otherwise – are presented in Table 6 in the Appendix. Results for the Mosley labor rights index and the latent protection scores are substantively and statistically similar to the findings from Table 3, whereas we find weaker evidence of short-term effects when using the Cingranelli-Richards worker empowerment index.

<sup>54</sup>Using the latent protection score variable that is not de-trended, the estimated coefficient is 0.103, which would only be a 10% decline in human rights standards using the example of the Congo. See results in Table 14 in the Appendix.

<sup>55</sup>These results are presented in Table 7 in the Appendix.

Table 3: OLS regressions with country fixed effects

	<i>Dependent variable:</i>					
	Mosley		Latent Protection		CIRI	
	(1)	(2)	(3)	(4)	(5)	(6)
Expropriation count	-0.005 (0.004)	-0.314*** (0.079)	-0.022*** (0.003)	-0.187*** (0.046)	-0.009*** (0.003)	-0.136*** (0.047)
FDI (logged)		-0.012 (0.026)		0.005 (0.016)		0.022 (0.016)
Executive Constraints		0.117*** (0.036)		0.143*** (0.020)		0.366*** (0.022)
GDP per capita (logged)		-0.221 (0.230)		0.805*** (0.121)		-0.749*** (0.123)
GDP growth (pct)		0.021 (0.025)		0.016 (0.015)		0.020 (0.015)
Time		-0.055*** (0.005)				0.001 (0.002)
Constant	0.038 (0.041)	5.794*** (1.199)	0.179*** (0.035)	1.670** (0.705)	0.076* (0.039)	1.016 (0.719)
Observations	1,224	1,051	1,428	1,208	1,379	1,202
R <sup>2</sup>	0.001	0.620	0.034	0.805	0.005	0.825
Adjusted R <sup>2</sup>	0.001	0.593	0.033	0.793	0.005	0.814
Country Fixed Effects	No	Yes	No	Yes	No	Yes

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Model results from OLS regression on three dependent variables: Mosley labor rights index (models 1,2); latent protection (de-trended) scores (3,4); and Cingranelli-Richards New Empowerment (“emp-inx”) index (5,6). Bivariate regressions are shown in models 1, 3, and 5, with no controls or unit fixed effects. All covariates except expropriation count and time are standardized to have mean zero and standard deviation one.

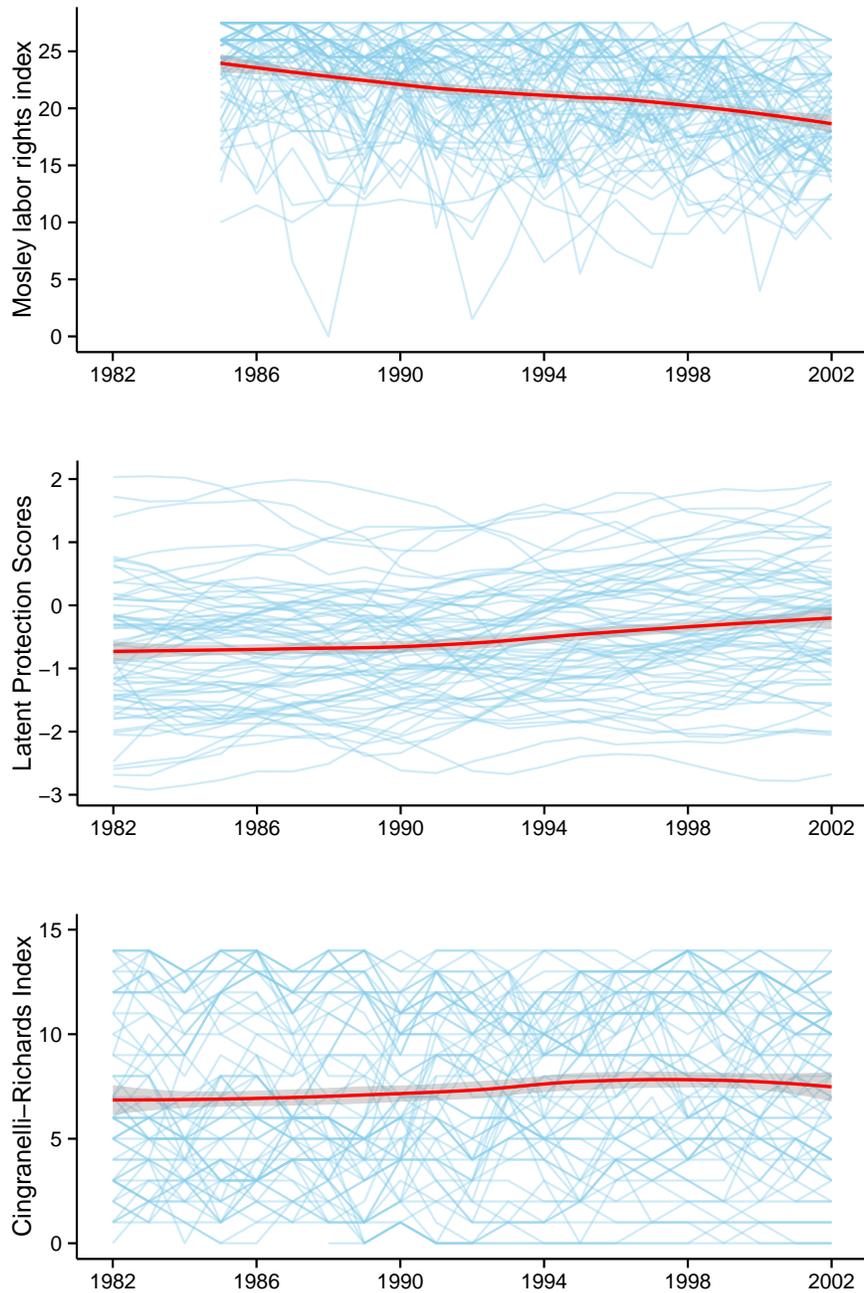


Figure 3: Time trends in three different measures of labor and human rights. Each blue line represents the longitudinal trajectory of a country in the sample for that measure. The solid red line represents the overall trend using a loess smoother with 95% confidence bands (in gray).

#### 5.4 Robustness

Using OLS with country fixed effects may have shortcomings when the data are longitudinal and unbalanced in nature. Among the pitfalls of OLS are the strict assumption of linearity and the inability

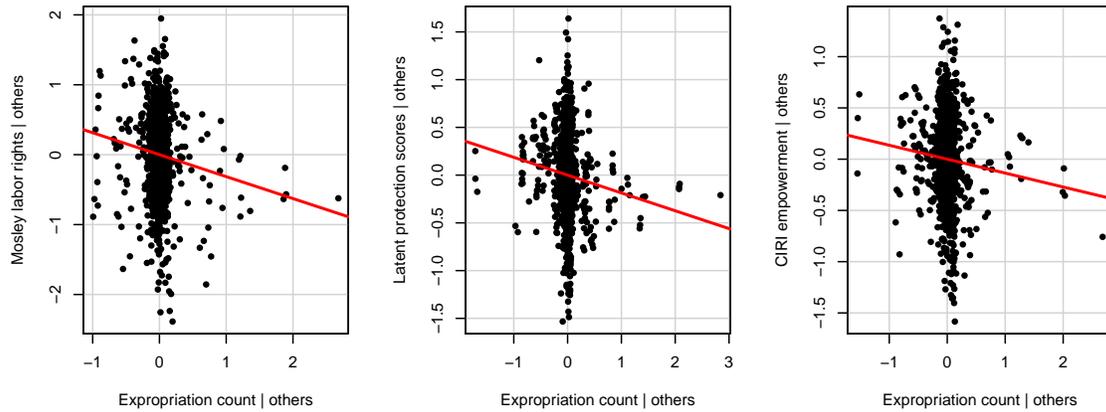


Figure 4: Coefficient added-variable (partial regression) plots for the cumulative expropriations variable from models (2), (4), and (6) in Table 3. The axes plot residuals from regressions of the dependent variable on all independent variables except the expropriation variable against residuals from regressions of the expropriation variable on all other independent variables.

to capture potential correlations across error terms within the same unit of analysis (temporal autocorrelation). Further, frequentist methods such as linear regression and maximum likelihood can lead to over-confidence in coefficient estimates in the form of smaller standard errors. For these reasons we test the models above using different specifications, including Bayesian models, non-linear models, and autoregressive panel models.

We plot the results from these models in Figure 5 just for the expropriation count variable, though every model includes all controls in the above models and country fixed effects, where appropriate.<sup>56</sup> For all three measures, the substantive results from Table 3 remain unchanged across all models: expropriation corresponds to decreases in human and labor rights. Interestingly, the effect magnitude decreases when compared to the original OLS estimates, but are still statistically significant for the Bayesian models.

This is not the case for the maximum likelihood multilevel model and the AR(1) model for the Mosley and CIRI outcome measures, where the coefficient estimates are negative but not statistically significantly different from zero. Neither of these models, however, is run with country fixed effects so that potential omitted factors at the country level could be biasing the model results. Indeed, these models are not preferred based on the results of a Hausman test of using country fixed effects versus random effects.<sup>57</sup>

Aside from testing the robustness of our results with other methodological specifications, we also test the validity of a number of rival arguments that would explain the resulting patterns between expropriations and negative human and labor rights outcomes. The first of these is spurious correlation: the relationship between expropriations and human rights, for example, could be driven entirely by the presence of “bad governments” which violate both human and property rights. This is difficult

<sup>56</sup>Country fixed effects are not included in random effects models.

<sup>57</sup>Hausman test statistics ( $\chi^2$ ,  $df = 5$ ) for each model using the `ph1test` command in R: 81.0 (Mosley), 26.4 (LPS), and 200.3 (CIRI). All three are sufficiently large to confidently reject the null hypothesis that the random effects specification is consistent with the fixed effects specification; therefore the fixed effects specification is preferred.

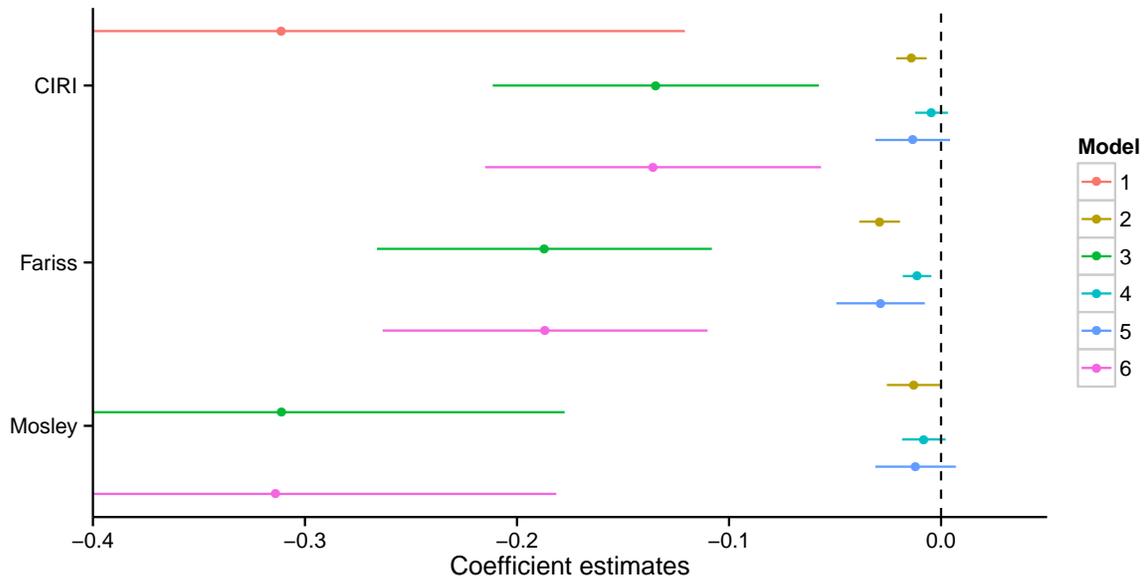


Figure 5: Robustness of Expropriations coefficient to different model specifications. Coefficients for the cumulative expropriations variable are plotted for the three different dependent variables, with 90% confidence/probability intervals. Models: (1) Bayesian Ordered Probit with country fixed effects, (2) Bayesian Linear Multilevel Model, (3) Bayesian Linear Regression with country fixed effects, (4) Maximum Likelihood Linear Multilevel Model, (5) Autoregressive ( $p$ ) model with  $p=1$ , and (6) Ordinary Least Squares with country fixed effects (same as in Table 3. Note that model (1) is only used for regressions on the CIRI dependent variable, which is discrete and ordinal.

to test against since there is no clear consensus on how to measure “bad” governance (indeed our outcome measures of human and labor rights standards could themselves be used as measures of bad governance), but our inclusion of executive constraints and country-level fixed effects as controls helps to test against this possibility. Nonetheless, we cannot definitively refute the validity of this rival argument without a stronger measure of the concept of bad government.

But to a certain extent, the use of a cumulative expropriations variable in our analysis addresses this concern since it is capturing the lasting effects of expropriations over time. Most of these expropriations occurred before 1982, the first year of our analysis; indeed, by 1982, there were already 541 cumulative expropriations compared to 571 cumulative expropriations by 2002, the last year of our analysis (see Figure 6 in the Appendix). This suggests that even if “bad” governments are the ones expropriating, they would have done so well before our analysis begins. For any number of reasons – among them, the possibility of regime or leadership change – these bad governments stopped expropriating after 1980 but still maintained a poor human rights record.

A similar rival argument is based on concerns of reverse causality: countries with already poor records of human and labor rights violations will be more likely to expropriate private assets. This argument is akin to the spurious correlations issue above, that governments which do not respect human and labor rights are not likely to respect property rights either. We test for such reverse causality by using a series of lagged dependent variables with one- to five-year lags.<sup>58</sup> While there is concern of introducing a negative bias (attenuating towards zero) to coefficient estimates when using lagged

<sup>58</sup>See Tables 10, 11, and 12 in the Appendix.

dependent variables (Achen, 2000; Beck and Katz, 2011), the results for the expropriation count variable still hold for all lags in the Mosley models and for lags beyond three years in the Latent Protection scores and CIRI models.<sup>59</sup> Similarly, the results remain unchanged even after controlling for baseline levels of human and labor rights scores (that is, the values of these measures in the first year of our analysis, 1982).<sup>60</sup>

To test the robustness of our results to potential dynamic effects of our control variables, we include time-trend interactions for three covariates that are in “levels” units as opposed to some measure of change, such as GDP growth (or the expropriation counts variable). Our main results remain unchanged after adding these interactions.<sup>61</sup> To include rival arguments that trade liberalization improves human and labor rights (Williamson, 1990, 2000), we include a measure of trade openness (trade as percent of total GDP) as a control. Our main results again remain unchanged, but interestingly trade openness has no statistical relationship with labor or human rights measures as captured by the Mosley and Latent Protection scores; there is, however, a positive relationship with the CIRI new empowerments index (consistent with the ‘Washington Consensus’ literature).<sup>62</sup>

As additional robustness checks, we test for the possibility of grouped errors across countries in the sample. The typical approach to tackling this issue is to cluster standard errors at the group level, but as King and Roberts (2015) emphasize, the differences between classical and clustered standard errors may indicate model misspecification. For all three outcome measures, we find no statistical difference between country-level clustered standard errors and classical standard errors using a General Information Matrix test.<sup>63</sup>

## 5.5 Testing Theoretical Mechanisms

Here we test the theoretical mechanisms connecting expropriation with economic opportunities and worker rights, as summarized above in Figure 1. Specifically, we test the pathways between expropriation and human rights — as measured by the latent protection scores<sup>64</sup> — that are mediated by the effect of expropriation on foreign direct investment flows and government spending. For the latter, we utilize government spending data from the World Bank World Development Indicators, which includes all aspects of state spending, including expenditures in education, health, infrastructure, security (police, prisons), and defense (general military spending). However, data availability concerns do not allow us to test directly how governments spend the increase in public expenditures and wind-fall profits. In other words, we cannot distinguish between whether public expenditures and profits are spent for the public good or rather are spent for repressive activities. Still, by estimating the net effect

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<sup>59</sup>That results are not as strong for regressions with one-, two-, and three-year lagged dependent variables is to be expected given the issues of scale (Achen, 2000) for the expropriations variable: consider that the lagged dependent variable will be on the exact same scale as the dependent variable whereas the expropriations measure is a simple count variable. Note that this is not the case for the Mosley labor practices outcome since it is on a very similar scale to cumulative expropriations (both are discrete and range from 0 to around 30; see Table 2). It is also to be expected given how “sticky” human rights scores are within countries from one year to the next (Fariss, 2014) and considering we are including country fixed-effects. This problem diminishes over time, specifically with dependent variables lagged more than three years included as controls, when we start to see stronger relationships between expropriations (and other covariates) and the human and labor rights outcomes.

<sup>60</sup>See Table 9 in the Appendix.

<sup>61</sup>We present these results in Table 8 in the Appendix.

<sup>62</sup>See Table 13 in the Appendix.

<sup>63</sup>Full results of the OLS models with country fixed effects and standard errors clustered at the country level are reported in Table 15 in the appendix.

<sup>64</sup>This analysis is restricted to the latent protection scores because it is the only measure that is both normally distributed and continuous, which allows for more accurate estimation of the simultaneous equation model.

of expropriation on human rights via government spending, we can discern whether overall there is a net positive or net negative effect of spending on human rights.

Empirical testing of the theoretical mechanisms requires estimation of effects by way of simultaneous equations modeling. In this section, we test systematically related equations in a manner that is similar to using a two-step approach or two-stage least squares via instrumental variable analysis (Greene 2011). One such model specification is given by the following sets of systematically related equations:

$$X_1 = \beta_0 + \beta_1 Z + \tau \mathbf{W} + \nu \quad (1)$$

$$X_2 = \gamma_0 + \gamma_1 Z + \kappa \mathbf{W} + \eta \quad (2)$$

$$Y = \alpha_0 + \alpha_1 X_1 + \alpha_2 X_2 + \delta \mathbf{W} + \epsilon \quad (3)$$

where  $Y$  represents the latent protection score;  $X_1$  represents total government spending per capita, which includes both military spending and expenditures on public goods;  $X_2$  represents total foreign direct investment;  $\mathbf{W}$  represents a matrix of control variables such as income per capita, GDP growth, executive constraints, and time; and  $Z$  represents the count of cumulative acts of expropriation. Error terms for each equation are given by  $\epsilon, \nu, \eta$ , which are assumed to be correlated, with correlation terms estimated in the model. All other symbols represent parameter coefficients to be estimated from the data using a simultaneous equations model. Note that the  $i$  and  $t$  subscripts for country and time are omitted for clarity, but that the model to be estimated still employs time-series cross-sectional data.

Results from running this specification using the `systemfit` package in R are presented in Table 4. Each column represents one of the three simultaneous models specified above. The results from the first regression indicate that countries with greater counts of expropriation have higher levels of total government spending. Specifically, every additional act of expropriation (lagged one year) increases the level of government spending by 1%. The results from the second regression show that with more expropriation comes less foreign direct investment. Here, the coefficient estimate indicates that with every additional act of expropriation there is an 12.6% drop in FDI.<sup>65</sup>

The third regression tests the effects of expropriation on human rights as mediated through government spending and the loss of FDI. These results lend support to the hypothesized mechanisms above. First, we find that expropriation increases government spending, which then worsens human rights protection. For every one percent increase in government spending per capita, there is an associated 0.275-point drop in the latent protection score, which runs from roughly -3 (no human rights) to +2 (high human rights). Second, we find that FDI generally improves human rights, albeit with a small impact, with every one percent increase in FDI corresponding to a 0.01-point improvement in the latent protection score. But with expropriation decreasing FDI, the net effect of expropriation on human rights through FDI is negative: with more expropriations, there is a drop in FDI, which then hinders human rights given the positive relationship between rights and FDI.

Estimates of the effects of control variables are for the most part consistent with the existing literature. More developed countries, as measured by per capita GDP, have both higher levels of government spending per capita and better human rights records. Similarly, countries with stronger economic growth, as measured by annual growth in GDP levels, have higher levels of FDI, and lower levels of government spending. This latter finding is consistent with the Keynesian and neo-Keynesian theories of government spending, wherein states infuse markets with public spending during times of economic distress. Lastly, while there is no effect of executive constraints on spending or FDI, we find that more constrained governments are associated with better human rights.

<sup>65</sup> Calculated for changes from the mean level of logged FDI, 16.897. Thus, a drop of  $-2.041$  logged units corresponds to a 12.6% decrease in original units.

	Govt Spending (logged)	FDI (logged)	Latent Protection Score
Expropriation count	0.046** (0.021)	-2.041*** (0.528)	
Government spending (logged)			-0.276*** (0.077)
FDI (logged)			0.010*** (0.003)
GDP per capita (logged)	0.977*** (0.049)	0.701 (1.220)	1.112*** (0.135)
Executive Constraints	-0.006 (0.005)	0.145 (0.130)	0.104*** (0.012)
GDP growth (pct)	-0.002* (0.001)	0.153*** (0.036)	0.005 (0.003)
Time	-0.011*** (0.001)	0.225*** (0.031)	0.007** (0.003)
R <sup>2</sup>	0.976	0.388	0.811
Adj. R <sup>2</sup>	0.974	0.348	0.798
Num. obs.	933	933	933
Residual correlations matrix			
$\nu$	1	-0.013	0.005
$\eta$		1	-0.008
$\epsilon$			1

\*\*\*  $p < 0.01$ , \*\*  $p < 0.05$ , \*  $p < 0.1$

Table 4: Estimates from simultaneous equation models for human rights, foreign direct investment, and government spending. Country fixed effects are included for each model, with coefficient estimates omitted from the table. Total system  $R^2 = 0.421$ . The residual correlations matrix is shown, indicating little correlation of error terms across the three simultaneous models.

## 5.6 Discussion

Among the strongest findings in support of the hypothesized relationship between expropriation and rights are models using the Cingranelli-Richards labor empowerment and latent protection score measures. We find weaker support when using the Mosley labor rights measure in multilevel models, though it is possible that the true data generating mechanism is not hierarchical in nature. The OLS and Bayesian models with country fixed effects both estimate negative and statistically significant effects of expropriation on labor rights, while the multilevel models estimate negative effects with probability intervals crossing zero at conventional levels.

When looking to the tests of theoretical mechanisms, our findings show support for two hypothesized pathways through which expropriation worsens human rights. First, expropriation decreases foreign direct investment, which we find to improve human rights. Second expropriation increases total government spending, which we find has a net negative effect on human rights. This latter result provides preliminary evidence that windfall profits and government revenue is spent more on repression than it is on public goods, though this is difficult to show without better data on exact spending.

## 6 Conclusion

The ultimate value of protecting property rights of foreign-citizens is non-obvious for a host government. While it may sully relations with foreign actors and undermine the spirit of international law, it can also be an exertion of sovereignty; confronting foreign power in the service of national independence. What seems clear from our analysis however, is that - whether or not taking from foreigners seems justified by political leaders - it can have troubling consequences for the public at large: violating property rights of *non-citizens* is associated with multiple dimensions of welfare decline for the citizens of the country.

For policymakers, this problem may become more pressing in the coming years. While in the 1990s, trade liberalization, led by the World Trade Organization, became a highly politicized issue, more and more attention is now aimed at treaties involving the liberalization of foreign investment markets. As journalists increase coverage, and negotiations become more hotly contested, there will be more pressure to include rigorous assessments of potential welfare implications. It will challenge lawyers and practitioners to explore more deeply the virtue of the public purpose clause (which is currently known by all but seriously considered by few) and how to operationalize it; it will challenge scholars to find better measures, to more rigorously explore the consequences of contract breach (and clauses to prevent it) and assess *when* the public purpose clause is effective and how it can become enforceable. This article is an appeal to those who take for granted the welfare implications of international investment policies. It suggests that any major reconsideration of the investment regime must also consider how it affects people on the ground. Without scholars and policymakers asking these questions, it will be difficult to fully address the bigger question of what is the optimal design of an international investment regime.

At its root, our simple contribution is to connect the literatures of international property rights and domestic human rights. The study of international property rights is still nascent within the field of political science. Perhaps because foreign investment has surged only recently, or because it is unclear how adherence to international law affects citizens that are already represented by domestic law, the question of how a government's decision to uphold contracts with foreigners affects their public has not been rigorously studied. We hope that, in addition to providing insight on this question, the article can highlight how non-compliance at the international level may have unexpected negative consequences for well-being at the domestic level.

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## Appendix

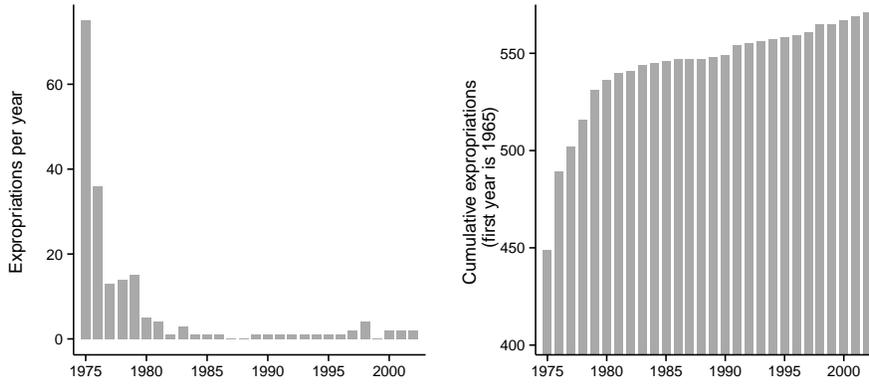


Figure 6: Expropriations over time, each year (left plot) and cumulative count (right plot). Note that the cumulative count begins in 1965, hence the value at 449 (and not 75) in 1975.

Table 5: OLS regressions with country fixed effects, non-standardized variables

	<i>Dependent variable:</i>		
	Mosley (1)	Latent Protection (2)	CIRI (3)
Expropriation count	-1.477*** (0.373)	-0.187*** (0.046)	-0.552*** (0.193)
FDI (logged)	-0.009 (0.019)	0.001 (0.002)	0.014 (0.010)
Executive Constraints	0.266*** (0.081)	0.069*** (0.010)	0.716*** (0.042)
GDP per capita (logged)	-0.814 (0.849)	0.631*** (0.095)	-2.386*** (0.393)
GDP growth (pct)	0.018 (0.022)	0.003 (0.003)	0.015 (0.011)
Time	-0.259*** (0.022)		0.006 (0.010)
Constant	53.280*** (7.533)	-2.882*** (0.866)	24.864*** (3.714)
Observations	1,051	1,208	1,202
R <sup>2</sup>	0.620	0.805	0.825
Adjusted R <sup>2</sup>	0.593	0.793	0.814

*Note:* \*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Model results from OLS regression with non-standardized variables. Compare to Table 3 in the main text.

Table 6: OLS regressions with country fixed effects, short-term expropriation effects

	<i>Dependent variable:</i>		
	Mosley (1)	Latent Protection (2)	CIRI (3)
Expropriation dummy	−0.716*** (0.170)	−0.233** (0.102)	−0.070 (0.104)
FDI (logged)	−0.0003 (0.026)	0.008 (0.016)	0.027* (0.016)
Executive Constraints	0.115*** (0.036)	0.135*** (0.020)	0.367*** (0.022)
GDP per capita (logged)	−0.314 (0.229)	0.741*** (0.121)	−0.776*** (0.123)
GDP growth (pct)	0.023 (0.025)	0.017 (0.015)	0.021 (0.015)
Time	−0.058*** (0.005)		−0.001 (0.002)
Constant	1.106*** (0.214)	−1.146*** (0.137)	−1.003*** (0.140)
Observations	1,051	1,208	1,202
R <sup>2</sup>	0.621	0.803	0.824
Adjusted R <sup>2</sup>	0.594	0.791	0.813

*Note:* \* p<0.1; \*\* p<0.05; \*\*\* p<0.01

Model results from OLS regression with standardized variables, using expropriation dummy instead of counts. Dummy indicates whether or not there was an expropriation in the preceding year. Compare to Table 3 in the main text.

Table 7: OLS regressions with country fixed effects, removing outliers

	<i>Dependent variable:</i>		
	Mosley (1)	Latent Protection (2)	CIRI (3)
Expropriation count	-0.296*** (0.078)	-0.212*** (0.048)	-0.112** (0.051)
FDI (logged)	-0.017 (0.026)	0.012 (0.015)	0.023 (0.016)
Executive Constraints	0.064* (0.037)	0.166*** (0.021)	0.364*** (0.023)
GDP per capita (logged)	-0.744*** (0.236)	0.661*** (0.122)	-0.877*** (0.130)
GDP growth (pct)	0.015 (0.025)	0.013 (0.015)	0.014 (0.015)
Time	-0.052*** (0.005)		0.001 (0.003)
Constant	5.390*** (1.177)	2.027*** (0.730)	0.647 (0.771)
Observations	983	1,131	1,125
R <sup>2</sup>	0.637	0.823	0.828
Adjusted R <sup>2</sup>	0.611	0.812	0.817

Note: \* p<0.1; \*\* p<0.05; \*\*\* p<0.01

Model results from OLS regression with standardized variables, removing outlier countries with greater than 24 cumulative expropriations, where 24 expropriations is approximately two standard deviations away from mean ( $\mu = 8.12$ ,  $\sigma = 7.87$ ). These outliers are Chile (31 cumulative expropriations), Algeria (35), Ethiopia (26), Peru (30), and Tanzania (28). Compare these results to Table 3 in the main text.

Table 8: OLS regressions with country fixed effects, time trend interactions with controls

	<i>Dependent variable:</i>		
	Mosley (1)	Latent Protection (2)	CIRI (3)
Expropriation count	-0.356*** (0.080)	-0.111** (0.047)	-0.109** (0.048)
FDI (logged)	0.059 (0.054)	0.017 (0.027)	0.039 (0.027)
Time	-0.056*** (0.005)	-0.017*** (0.003)	0.003 (0.003)
Executive Constraints	0.058 (0.061)	0.212*** (0.032)	0.349*** (0.032)
GDP per capita (logged)	-0.440* (0.248)	0.929*** (0.130)	-0.619*** (0.130)
GDP growth (pct)	0.020 (0.025)	0.021 (0.015)	0.023 (0.015)
FDI x time	-0.006 (0.005)	0.001 (0.002)	-0.003 (0.002)
Exec constraints x time	0.007 (0.005)	-0.001 (0.002)	0.0002 (0.002)
GDP pc x time	0.013*** (0.004)	0.004* (0.002)	-0.010*** (0.002)
Constant	6.464*** (1.206)	0.785 (0.719)	0.597 (0.721)
Observations	1,051	1,208	1,202
R <sup>2</sup>	0.626	0.813	0.829
Adjusted R <sup>2</sup>	0.598	0.801	0.818

Note: \*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Model results from OLS regression with standardized variables, including interactions between time and GDP, time and executive constraints, and time and FDI levels. No interactions are run for variables that already capture temporal changes, namely GDP growth and expropriation counts. Compare to Table 3 in the main text.

Table 9: OLS regressions with country fixed effects, baseline rights controls

	<i>Dependent variable:</i>		
	Mosley (1)	Latent Protection (2)	CIRI (3)
Expropriation dummy	−0.314*** (0.079)	−0.187*** (0.046)	−0.138*** (0.048)
FDI (logged)	−0.012 (0.026)	0.005 (0.016)	0.022 (0.016)
Executive Constraints	0.117*** (0.036)	0.143*** (0.020)	0.366*** (0.022)
GDP per capita (logged)	−0.221 (0.230)	0.805*** (0.121)	−0.760*** (0.124)
GDP growth (pct)	0.021 (0.025)	0.016 (0.015)	0.021 (0.015)
Time	−0.055*** (0.005)		0.002 (0.003)
Baseline Mosley	17.046*** (5.262)		
Baseline LPS		3.034*** (0.316)	
Baseline CIRI			1.414*** (0.345)
Constant	−9.368** (3.776)	4.347*** (0.936)	2.900*** (1.112)
Observations	1,051	1,208	1,178
R <sup>2</sup>	0.620	0.805	0.827
Adjusted R <sup>2</sup>	0.593	0.793	0.816

Note: \*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Model results from OLS regression with standardized variables, including baseline labor/human rights scores as controls. Compare to Table 3 in the main text.

Table 10: OLS regressions with country fixed effects, lagged DV (Mosley)

	<i>Dependent variable:</i>				
	(1)	(2)	Mosley		
			(3)	(4)	(5)
Mosley <sub>t-1</sub>	0.276*** (0.031)				
Mosley <sub>t-2</sub>		0.092*** (0.032)			
Mosley <sub>t-3</sub>			0.073** (0.032)		
Mosley <sub>t-4</sub>				0.045 (0.033)	
Mosley <sub>t-5</sub>					0.028 (0.034)
Expropriation count	-0.198** (0.079)	-0.274*** (0.083)	-0.249*** (0.084)	-0.203** (0.088)	-0.214** (0.091)
FDI (logged)	-0.015 (0.026)	-0.020 (0.028)	-0.020 (0.030)	-0.018 (0.031)	-0.041 (0.033)
Executive Constraints	0.071** (0.036)	0.109*** (0.038)	0.074* (0.040)	0.049 (0.043)	0.018 (0.046)
GDP per capita (logged)	-0.126 (0.237)	-0.315 (0.268)	-0.387 (0.292)	-0.478 (0.326)	-0.593 (0.366)
GDP growth (pct)	0.004 (0.025)	0.027 (0.026)	0.035 (0.027)	0.046 (0.028)	0.020 (0.030)
Time	-0.041*** (0.005)	-0.048*** (0.006)	-0.044*** (0.006)	-0.045*** (0.007)	-0.048*** (0.007)
Observations	997	943	888	831	772
R <sup>2</sup>	0.658	0.636	0.646	0.651	0.664
Adjusted R <sup>2</sup>	0.632	0.605	0.615	0.618	0.629

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Model results for Mosley Labor Rights measure from OLS regression with standardized variables, including lagged dependent variables as controls. Compare to column 2 in Table 3 in the main text.

Table 11: OLS regressions with country fixed effects, lagged DV (Latent Protection)

	<i>Dependent variable:</i>				
	Latent Protection				
	(1)	(2)	(3)	(4)	(5)
Latent Protection <sub>t-1</sub>	0.911*** (0.012)				
Latent Protection <sub>t-2</sub>		0.759*** (0.019)			
Latent Protection <sub>t-3</sub>			0.606*** (0.023)		
Latent Protection <sub>t-4</sub>				0.462*** (0.026)	
Latent Protection <sub>t-5</sub>					0.330*** (0.028)
Expropriation count	0.017 (0.018)	-0.009 (0.030)	-0.048 (0.038)	-0.084** (0.042)	-0.095** (0.045)
FDI (logged)	-0.001 (0.006)	0.010 (0.010)	0.024* (0.012)	0.022 (0.014)	0.018 (0.015)
Executive Constraints	0.005 (0.008)	0.035*** (0.013)	0.068*** (0.017)	0.089*** (0.019)	0.101*** (0.020)
GDP per capita (logged)	-0.031 (0.050)	0.040 (0.085)	0.163 (0.109)	0.373*** (0.127)	0.560*** (0.140)
GDP growth (pct)	0.006 (0.006)	0.025*** (0.009)	0.029** (0.012)	0.031** (0.014)	0.035** (0.015)
Constant	-0.364 (0.279)	-0.179 (0.455)	0.196 (0.575)	0.569 (0.642)	0.604 (0.680)
Observations	1,157	1,104	1,051	997	943
R <sup>2</sup>	0.972	0.932	0.900	0.882	0.875
Adjusted R <sup>2</sup>	0.970	0.927	0.893	0.873	0.865

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Model results for Latent Protection Rights measure from OLS regression with standardized variables, including lagged dependent variables as controls. Compare to column 4 in Table 3 in the main text.

Table 12: OLS regressions with country fixed effects, lagged DV (CIRI)

	<i>Dependent variable:</i>				
	CIRI				
	(1)	(2)	(3)	(4)	(5)
CIRI <sub>t-1</sub>	0.504*** (0.026)				
CIRI <sub>t-2</sub>		0.308*** (0.028)			
CIRI <sub>t-3</sub>			0.243*** (0.028)		
CIRI <sub>t-4</sub>				0.110*** (0.028)	
CIRI <sub>t-5</sub>					0.056** (0.027)
Expropriation count	-0.052 (0.042)	-0.073 (0.047)	-0.082 (0.050)	-0.097* (0.052)	-0.091* (0.052)
FDI (logged)	-0.005 (0.014)	-0.009 (0.016)	-0.002 (0.017)	0.005 (0.017)	-0.0004 (0.018)
Executive Constraints	0.162*** (0.022)	0.245*** (0.023)	0.280*** (0.024)	0.313*** (0.024)	0.313*** (0.024)
GDP per capita (logged)	-0.420*** (0.115)	-0.567*** (0.134)	-0.689*** (0.146)	-0.713*** (0.159)	-0.752*** (0.168)
GDP growth (pct)	0.002 (0.013)	0.012 (0.015)	0.014 (0.016)	0.014 (0.017)	0.025 (0.016)
Time	0.002 (0.002)	0.003 (0.003)	0.002 (0.003)	0.005 (0.003)	0.008** (0.003)
Observations	1,148	1,097	1,043	988	933
R <sup>2</sup>	0.874	0.854	0.851	0.850	0.858
Adjusted R <sup>2</sup>	0.865	0.844	0.840	0.838	0.846

Note:

\*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Model results for CIRI New Empowerment measure from OLS regression with standardized variables, including lagged dependent variables as controls. Compare to column 6 in Table 3 in the main text.

Table 13: OLS regressions with country fixed effects, controlling for trade openness

	<i>Dependent variable:</i>		
	Mosley (1)	Latent Protection (2)	CIRI (3)
Expropriation count	−0.311*** (0.080)	−0.189*** (0.046)	−0.136*** (0.047)
FDI (logged)	−0.011 (0.026)	0.006 (0.016)	0.018 (0.016)
Executive Constraints	0.118*** (0.036)	0.141*** (0.021)	0.363*** (0.022)
GDP per capita (logged)	−0.204 (0.235)	0.790*** (0.126)	−0.836*** (0.126)
GDP growth (pct)	0.026 (0.026)	0.015 (0.015)	0.018 (0.015)
Time	−0.055*** (0.005)		−0.0003 (0.003)
Trade (pct of GDP)	−0.030 (0.053)	0.025 (0.031)	0.100*** (0.031)
Constant	5.788*** (1.206)	1.673** (0.706)	0.898 (0.719)
Observations	1,042	1,199	1,193
R <sup>2</sup>	0.621	0.803	0.823
Adjusted R <sup>2</sup>	0.593	0.791	0.812

Note: \*p<0.1; \*\*p<0.05; \*\*\*p<0.01

Model results from OLS regression with standardized variables, controlling for trade openness (% of GDP). Compare to Table 3 in the main text.

Table 14: OLS regressions with country fixed effects, Latent Protection (not de-trended) scores as outcome measure

	<i>Dependent variable:</i>				
	Latent Protection				
	(1)	(2)	(3)	(4)	(5)
Expropriation count	-0.022*** (0.003)	-0.040 (0.046)	-0.103** (0.047)	-0.103** (0.047)	-0.105** (0.047)
FDI (logged)		0.037** (0.016)	0.023 (0.016)	0.023 (0.016)	0.021 (0.016)
Executive Constraints		0.233*** (0.020)	0.195*** (0.022)	0.195*** (0.022)	0.191*** (0.022)
GDP per capita (logged)		1.095*** (0.120)	0.970*** (0.122)	0.970*** (0.122)	0.912*** (0.125)
GDP growth (pct)		0.028* (0.015)	0.023 (0.015)	0.023 (0.015)	0.022 (0.015)
Time			0.012*** (0.002)	0.012*** (0.002)	0.011*** (0.003)
Baseline LPS				2.605*** (0.318)	
Trade (pct of GDP)					0.072** (0.031)
Constant	-0.352*** (0.036)	-0.926 (0.700)	-0.157 (0.711)	2.141** (0.945)	-0.226 (0.712)
Observations	1,428	1,208	1,208	1,208	1,199
R <sup>2</sup>	0.032	0.812	0.816	0.816	0.815
Adjusted R <sup>2</sup>	0.031	0.800	0.804	0.804	0.803

Note:

\* p<0.1; \*\* p<0.05; \*\*\* p<0.01

Model results from OLS regression with Latent Protection scores, not de-trended, as the outcome measure. Compare to Columns 3 and 4 in Table 3 in the main text; column 2 in Table 9 and Table 13 in the appendix.

Table 15: OLS regressions with country fixed effects, standard errors clustered by country

	<i>Dependent variable:</i>		
	Mosley (1)	Latent Protection (2)	CIRI (3)
Expropriation count	-0.314*** (0.077)	-0.187*** (0.035)	-0.136*** (0.041)
FDI (logged)	-0.012 (0.026)	0.005 (0.018)	0.022 (0.017)
Executive Constraints	0.117** (0.047)	0.143*** (0.022)	0.366*** (0.026)
GDP per capita (logged)	-0.221 (0.273)	0.805*** (0.127)	-0.749*** (0.136)
GDP growth (pct)	0.021 (0.022)	0.016 (0.014)	0.020 (0.017)
Time	-0.055*** (0.004)		0.001 (0.003)
Constant	5.794*** (1.169)	1.670*** (0.540)	1.016 (0.636)
Observations	1,051	1,208	1,202
R <sup>2</sup>	0.620	0.805	0.825
Adjusted R <sup>2</sup>	0.593	0.793	0.814

*Note:* \* p<0.1; \*\* p<0.05; \*\*\* p<0.01

Model results from OLS regression with standardized variables, robust standard errors clustered at the country level using the `coefest` and `sandwich` functions in R. Compare to Table 3 in the main text.

## Appendix: Case Study on Argentina's Expropriation of YPF

In April 2012, Argentina's President, Cristina Kirchner, nationalized 51% of Yacimientos Petrolíferos Fiscales (YPF), the former state oil company, belonging to Spanish oil company Repsol. It was a highly politicized expropriation, valued at approximately \$10.5 billion. Journalists and practitioners were vocal throughout the expropriation and arbitral process, and it has become one of the best documented modern expropriations. Section 3 described multiple indications that the YPF expropriation was for the good of the public, including explicit presidential and government statements, the near unanimous congressional vote, public posters, and widespread popular support for the nationalization. However, there were also many skeptics, and many articles expressing concern about FDI-loss or extending the reach of an opportunistic government.

Numerous articles, for example, discuss how the YPF expropriation will hurt the public because of reduced FDI flows. The Globe and Mail writes that:

"The country already has a weak standing in world financial markets, following its failure to repay all of its loans after defaulting on a \$100-billion debt in 2001. The latest move will cause more uncertainty and make it more difficult to attract the kind of foreign investment and expert partners needed to develop Argentina's reserves of shale hydrocarbons. And the move also has broader implications for regional cooperation and threatens the hemisphere's ability to devise common solutions to economic and political challenges."<sup>66</sup>

The Economist echoed this concern: "The medium-term economic costs of the decision could be grim. It eliminates any possibility of securing private investment to develop Argentina's shale fields, which are extremely expensive to exploit. And it will probably lead to an exodus of experts in the oil industry, accelerating the decline in domestic production."<sup>67</sup> Key here, is the distinction between the short-term benefits of expropriation against the medium-term economic costs. Standing with the Spanish government, the European Union also expressed concern about the reputational consequences for global investors: "European Union Foreign Affairs Chief Catherine Ashton said...that Argentina's move sent a 'very negative signal' to global investors and was a cause of grave concern."<sup>68</sup> Even if only investors from the European Union are deterred, these costs may be substantial.<sup>69</sup> Journalists and practitioners also highlight how replacing FDI can lead to inefficient ownership, from borrowing money for compensation awards to bringing bureaucratic pudge into the business.<sup>70</sup> As the Globe and Mail writes:

"Argentina's track record on running state companies is poor. Ms. Kirchner has pledged to employ a team of professionals to manage YPF, but this has not happened at Buenos Aires Waterworks or at Aerolíneas Argentinas, which have been renationalized and are running massive deficits. Ms. Kirchner's latest salvo is harmful to Argentina's long-term interests and its economic development. She should stand down from any more unnecessary wars."<sup>71</sup>

Such articles predict that managerial inefficiencies and transaction costs alone will undermine the 'public good' of the expropriation.

Journalists and practitioners also discussed how assets would be used to consolidate government power, rather than to empower the public. As the Wall Street Journal writes:

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<sup>66</sup>"Argentina's Expropriation of Energy Company Only Isolates Country", The Globe and Mail, 18 April 2012.

<sup>67</sup>"Argentina's oil industry: Feed me, Seymour" The Economist, 16 April 2012.

<sup>68</sup>"Repsol Demands \$10 Billion over Argentine Expropriation", Industry Week, Katell Abiven, 17 April 2012.

<sup>69</sup>Note that the Spanish government also publicly promised to wage retaliation on the Argentine Government if adequate compensation was not given to Repsol. As reported by the same Globe and Mail article: "The expropriation of YPF will precipitate a protracted diplomatic and legal battle with Spain, one of the country's most important allies, and is not supported by Chile and Mexico. Repsol, a Spanish firm, purchased 57 per cent of YPF in 1999 in a deal endorsed by Nestor Kirchner, Ms. Kirchner's late husband and predecessor. Spain has already vowed to retaliate."

<sup>70</sup>For example, in "Argentina Update: YPF Repsol Seized, Seeking Alpha" 18 April 2012, Pater Tenebrarum writes that "state-owned enterprises, nationalized oil firms are inefficient and wasteful - they are not businesses, they are bureaucracies."

<sup>71</sup>"Argentina's Expropriation of Energy Company Only Isolates Country", The Globe and Mail, 18 April 2012.

“The fact that neither the courts nor Congress (including the opposition) tried to stop what was clearly illegal under Argentine law confirms what many Argentines have feared: The checks and balances on executive power that the founders once envisioned are gone. The logical conclusion is that if the executive wants to run a police state, she will have no quarrel from other institutions. Perhaps if the YPF action were an isolated event, Mrs. Kirchner could hope to salvage some credibility for Argentina’s rule of law. It is not. From civil liberties - notably press freedom, which has been aggressively attacked by the executive - to economic freedom, Argentines and foreign investors have been losing their rights. The YPF expropriation has heightened their sense of foreboding.”<sup>72</sup>

Here, as with other expropriations, YPF signals a step backwards for civil liberties. The Buenos Aires Herald took it a step further, suggesting that the expropriation helped an opportunistic government repress a political rival:

“Whatever the economic debate or overseas reactions, there can be no doubts as to the political dividends from this nationalistic stunt (which might well have killed CGT secretary-general Hugo Moyano’s reviving re-election chances among other consequences).”<sup>73</sup>

While less specific, the Globe and Mail echoed the opportunistic nature of the expropriation: “the decision by Argentina’s President to nationalize the country’s largest energy company may pander to popular sentiment at home, but will only further isolate the country internationally.”<sup>74</sup> Whether decreasing civil liberties, repressing political rivals, or simply pandering, articles suggest that YPF is particularly concerning because it comes at the hands of an unconstrained, opportunistic government.

Governments often have ulterior motives to expropriate, they may be swayed by short-term benefits over long-term costs, and they may even use the assets to undermine social freedoms. The recent Argentine expropriation of YPF provides an example of why, despite widespread public support and government testimony to the counter, expropriations may be more likely to harm the social good than help it.

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<sup>72</sup>“Kirchner’s Oil Expropriation Backfires”, Wall Street Journal, 3 June 2012, Mary Anastasia O’Grady.

<sup>73</sup>“Yoked Petrol Fireworks II”, Buenos Aires Herald, 19 April 2012.

<sup>74</sup>“Argentina’s Expropriation of Energy Company Only Isolates Country,” The Globe and Mail, 18 April 2012.