Exporting Capital, Importing Law*

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Abstract

Scholars generally focus on the economic arbitrage associated with offshore finance. We analyze the institutional arbitrage. Individuals often move money offshore but then send it straight back to their home state. Such "roundtripping" turns *de facto* domestic activity into *de jure* foreign investments. Roundtripping gives domestic individuals access to the benefits afforded to foreign actors such as lower tax rates. Those benefits also include the investment treaties a haven has ratified. Whether a haven has signed a treaty with a plutocrat's home state conditions where plutocrats decide to hide their wealth. Plutocrats can then use those treaties to extraterritorially arbitrate disputes against their home government. Offshore finance interacts with the investment regime to internationalize intra-elite battles. We test the theory using incorporation-level data from the Panama Papers and original case-level data on Investor-State Dispute Settlements. We contribute to debates on the impact of capital mobility on business-government relations, the politics of regime complexity, and the emerging research agenda on the IPE of Oligarchy.

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1 Introduction

How does capital mobility impact business-government relations? Core theories of political economy expect the ability to move assets abroad will empower corporate interests, allowing them to either arbitrage cheaper labor and weaker regulations or to bargain for preferential treatment at home (Andrews, 1994; Rudra, 2008; Elkins, Guzman and Simmons, 2006). The focus of these theories is largely on de facto mobility, i.e., the (potential) movement of physical assets abroad. In this manuscript, we move the debate forward by analyzing the political consequences of the *de jure* movement of capital (Pistor, 2019; Sharafutdinova and Dawisha, 2017).

When making an investment, companies and individuals in jurisdictions with open capital accounts can choose how to route their investments. While the most straightforward way would be to move money directly from their home location to where they intend to produce or sell goods, actors frequently route their investments through offshore shell or holding companies. This changes the *de jure* nature of their investments even if the money *de facto* ends up in the main jurisdiction of interest. For example, an American company building a factory in Russia may choose to first place money in Cyprus and then move the money to Russia. The latter will show up in national accounts as an investment from Cyprus, allowing the American company to take advantage of the favorable tax treaty between Cyprus and Russia.

A number of debates in International Relations, from tax avoidance to sanctions evasion, recognize this possibility where transnational actors can choose from a portfolio of nationalities that meet their bespoke economic or political needs (Arel-Bundock, 2017*b*; Barry and Kleinberg, 2015). Critically, these are not tools for just multinational corporations. We regularly see domestic actors route investments through foreign entities and then invest back in their home country. Such "roundtripping" occurs when (for example) an investor from India moves money to Mauritius, and then uses a Mauritian entity to invest the money back home in India (Aykut, Sanghi and Kosmidou, 2017; Xiao, 2004). The *de facto* domestic investment becomes *de jure* foreign. In other words, nominally domestic actors may also have nationality portfolios.

We make two major analytic wagers. The first is that such "roundtripping" is not purely a result of individuals trying to minimize their tax burdens. Instead, moving money abroad can act as a political resource for domestic actors. The *de jure* capital mobility gives them greater protections. Seizing their assets would become far more arduous as domestic actors can arbitrage the greater protections that are frequently afforded to foreign actors. Second, the optionality created by using offshore vehicles may change the sites of conventionally domestic political conflict. When intra-elite clashes occur in emerging markets we regularly see governments expropriate their rivals. Given the weak institutional environments, business owners that lose the conflict are often left with limited formal recourse as domestic courts will rarely be in a position to override the dictates of the government. But if an oligarch has structured their business empire through offshore companies, and more specifically using entities in jurisdictions that have an investment treaty with their home state, the losers from the political clash can attempt to use international arbitration venues to compensate

for their losses. They can use the neutral venues designed for foreign investors in order to extend the political conflict through international means. We label this phenomenon an "extraterritorial arbitration."

We assess our claims across different levels of analysis. Using data on hundreds of thousands of offshore entities and their owners that was released as part of the Panama Papers data leak, we analyze incorporations in tax havens, illustrating that emerging market oligarchs factor in investment treaty provisions when choosing how to structure their offshore wealth. Next, we use original data on investor-state dispute settlements (ISDS) that documents the beneficial ownership of corporations involved in international arbitrations. We show that cases involving round tripped entities are qualitatively different than conventional foreign corporate vs host states that the investment regime was designed for.

The paper builds on a number of Political Economy debates. Most directly, it helps identify the distributional consequences of the international investment regime (Wellhausen, 2016; Simmons, 2014*a*). Research on Bilateral Investment Treaties (BITs) has generally focused on whether or not these treaties live up to their aims by increasing foreign direct investment. Here, we shift the analysis toward understanding how the regime does not just impact economic flows, but also changes political flows (Kalyanpur and Newman, N.d.). The growth of extraterritorial arbitrations places BITs in the same vein as many other international institutions, like financial soft law and the International Monetary Fund (Newman and Posner, 2018; Vreeland, 2003), where strategic, de facto domestic actors can leverage international tools for their own domestic ends.

Moreover, our findings call for further work bridging the gaps between international regimes. While regime complexity has become a focal agenda for IR scholars, issue arenas are frequently theorized and assessed in isolation (Abbott et al., 2016; Clark, 2021). Far less attention is paid to how actions intended to benefit actors in one regime can spillover, and even change the purpose, of an alternate regime. The way oligarchs are able to exploit rules in the tax arena to access the resources of another regime indicates that regimes are more dynamic than our theories expect (Thrall, 2021). Moreover, it suggests that when a regime relies on nationality as a key access criteria, it is likely to create new opportunities to outsource domestic conflicts.

Finally, the paper illustrates one way that the rules of the global economy bolster the power of plutocrats (Cooley and Sharman, 2017). While the institutionalization of international trade and finance has no doubt improved living standards, the gains have not been distributed equally. A wave of recent scholarship across subfields examines the apparent backlash to globalization's imbalanced outcomes. But to comprehensively understand the populist wave we need to fully theorize the winners from the status quo. Emerging market oligarchs is a class of winners that are rarely discussed in such scholarship, but we hope that the paper continues building momentum around a research agenda focused on the IPE of Oligarchy (Sharman, 2010; Cooley and Heathershaw, 2017; Markus and Charnysh, 2017).

2 The Political Economy of Extraterritorial Arbitration

We start from the premise that two systemic feature distinguish emerging markets from their developed peers. First, ownership in large firms tends to be substantially more concentrated in emerging markets where single individuals or families have controlling ownership stakes in the majority of a country's most lucrative companies (Freund, 2016; Crabtree, 2019; Puente and Schneider, 2020). This is a broadly agreed upon stylized fact in political economy scholarship and has important political implications. Rather than a purely profit motivated firm being the key player in the economy, individuals with large amounts of wealth are frequently part of the economic and political elite and directly impact both systems. The second distinction is the relative weakness of the institutional environment. Emerging markets, beyond simple definitions of GDP per capita, usually have fewer checks and balances, weaker property rights, and weaker courts. While billionaires, and personalistic CEOs, are becoming a central feature of politics in developed economies (Page, Seawright and Lacombe, 2018), stronger institutions and competitive elections are regarded as the elements that prevent wholesale capture by economic elites. By contrast, in emerging markets, billionaires are in a position to more effectively wield their wealth to attain political power, creating a class of oligarchs or plutocrats (Winters, 2011).

But the weaker institutions cut both ways, as they imply that the state is often in a position to expropriate, directly through seizure or indirectly through cumbersome taxation or regulation, the wealth of elite business people (Haber, Maurer and Razo, 2003; North et al., 2013; Arel-Bundock, 2017*a*). How plutocrats[1] resolve this threat is one of the main research agendas for comparative political economy scholars who have found plutocrats, and their firms, can leverage a variety of non-market strategies. We frequently see plutocrats try to directly align themselves with state actors, substituting formal institutional protections with informal political connections (Wellhausen, 2016; Haber, Maurer and Razo, 2003). In major economic powers like China and Russia, we even see plutocrats run for office themselves, with substantial economic returns for the firms they control (Szakonyi, 2020; Liu, 2020). The bulk of scholarship has focused on the domestic tools that plutocrats use to protect their property but recent work has turned to the transnational tools at a plutocrat's disposal. Oligarchs can try to team up with with foreign firms to gain additional political allies, and they can list their companies abroad to garner more attention and alter corporate governance rules (Betz and Pond, 2019; Markus, 2007).

2.1 Offshore Finance and Property Protection

The move toward studying the transnational sources of property protection is an important step forward but has generally developed independent of debates on the role of

[1]We define plutocrats as individuals who may garner political power due to their extreme amounts of monetary wealth. Plutocrats can constitute a large part of the political elite (politicians can be plutocrats) but could also operate outside it. We use the term interchangeably with "oligarch" throughout the paper.

offshore finance in global politics.[2] This is unsurprising given that much of comparative and international political economy scholarship on offshore finance is fundamentally focused on economic arbitrage. The biggest winners from offshore havens are generally regarded as multinational corporations (MNCs) who, with the aid of the major accounting firms, are able to efficiently route their investments and claim their profits in low tax jurisdictions like Ireland, Luxembourg, and the Cayman Islands (Arel-Bundock, 2017*b*; Hearson, 2018). But a variety of recent work documents that emerging markets tend to see the most amount of money moved to offshore sites. Countries like Russia, Venezuela and Saudi Arabia have seen the largest proportion of domestic wealth moved into tax havens despite many emerging markets already operating with low corporate taxes (Tørsløv, Wier and Zucman, 2018; Zucman, 2014).[3].

Part of this pattern can certainly be explained by economic arbitrage. Consider the choice set of an Indian oligarch when deciding to build a new factory at home. They could simply pay money to domestic construction companies and materials suppliers through their onshore balance sheets. Or they could move the money to Mauritius that has a highly favorable tax treaty with their home government, and then move the money back to India. Because of how it is routed offshore the money will show up in India as foreign investment and lock in a lower tax rate for the construction project. This "roundtripping" is rampant across emerging markets and helps explain why Mauritius is one of the top sources of FDI for India and why Cyprus takes an even higher spot for investments into Russia (Aykut, Sanghi and Kosmidou, 2017; Xiao, 2004; Ledyaeva, Karhunen and Whalley, 2013). In line with the work of academics like Katarina Pistor (2019) and journalists like Oliver Bullough (2018), roundtripping illustrates that the consequences of capital are a result of how it is legally constructed. By changing its *de jure* location, plutocrats can reap substantial economic returns even when only *de facto* investing in their home market. Such actions have been shown to heavily bias many of our core macroeconomic indicators and thereby distort our understanding of global politics. More generally, it indicates that plutocrats, much like multinational corporations, can create a portfolio of nationalities by choosing how to route their investments and where they place their wealth (Cooley and Sharman, 2017).

But a number of researchers have called attention to the political gains from placing money abroad, and in particular how it facilitates institutional arbitrage (Sharman, 2012; Kalyanpur, 2020). By moving money into tax havens, investments become *de jure* governed by the laws of the foreign jurisdiction. Plutocrats may gain access to the domestic courts in these jurisdictions and if a rival, be it a fellow oligarch or a state, wants to seize one's wealth that is placed abroad, they would need to go through the domestic legal system of the tax haven. Not only does that add greater transaction costs, and generally ensure more liberal treatment compared to the home legal system, the opacity of these jurisdictions often mean that rivals may not even know the money has been placed there. It is often "hidden" wealth.

[2]For detailed historical accounts on the development of offshore finance see Palan (2006) and Shaxson (2011)

[3]On the international rules dealing with money-laundering and financial flows from corrupt behavior see Sharman (2011, 2017). For experimental evidence on the effectiveness of international approaches to money laundering see Findley, Nielson and Sharman (2014)

Most importantly, for our purposes, systematic quantitative work has confirmed the insights of a number of early offshore finance scholars. Bayer et al. (2020) show that more offshore companies are registered in tax havens when the threat of expropriation rises in an emerging market. Using a variety of micro data, Earle et al. (2019) find that Ukrainian oligarchs with the weakest political connections are most likely to obfuscate their wealth through tax havens. As one lawyer told us, "[Offshore structures] are an instrument of survival."[4]

We link these two schools of thought on offshore finance to help us better understand how plutocrats can protect their wealth in weakly institutionalized settings. Tax havens all generally offer zero tax rates and strong institutions, but they are not created equally. They vary in terms of their international engagement, and that has important consequences for the *international* property protections they can provide. More specifically, they have different degrees of integration into the international investment regime, which we argue conditions the strategic toolkit of plutocrats.

2.2 The Investment Regime and the Internationalziation of Intra-Elite Conflict

The international investment regime is now made up of over 3000 bilateral investment treaties. By giving foreign investors the ability to sue their host governments, the general aim of these treaties was to spur foreign direct investment in emerging markets (Wellhausen, 2018; Simmons, 2014*b*). Evidence on its economic consequences has been mixed and the regime has come under increasing scrutiny from mainstream political parties and civil society groups (Brada, Drabek and Iwasaki, 2021; Calvert, 2018). Most cases in the past decade have not dealt with outright expropriation claims that the regime was designed to deter, but instead focus on indirect situations where governments attempt to pass new (often democratically supported) regulations (Pelc, 2017). Arbitration has turned from an economic tool to a political tool for many MNCs, as they file cases against one state in order to deter new rules by other states ("regulatory chill") (Moehlecke, 2020).

Under the regime states have limited recourse against infringements by multinational corporations, but the playing field is made even more asymmetric because of offshore finance and tax planning. As scholars like Gray (2020) and Thrall (2021) have documented, MNCs exploit their multi-jurisdictional structure to treaty shop—they can use their subsidiaries to file cases against a host government even if their main home government does not have an investment treaty with its host state. For example, when Czech businessman Vladimir Beno was prosecuted by the Czech government on tax evasion charges, he sold some of his assets to an Israel-headquartered firm called Phoenix Action and filed a dispute against the Czech Republic under the Israel-Czech Republic BIT (Gray, 2020, 20). Firms who adopted multi-jurisdictional structures primarily in order to lower their tax burdens can also benefit from third-party investment treaties; Thrall (2021) gives the example of an American firm, Bancroft Group, that routed its Croatian assets through a Dutch subsidiary (B3 Croatian

[4]Author interview with London-based lawyer February 2018

Courier). Adopting this structure allowed the parent firm to lower its withholding tax rate from 15% to 0%, and—when a dispute arose with the Croatian government—Bancroft Group used its Dutch subsidiary to file the dispute rather than doing so directly.

Such "shopping" is possible because of 2 interacting features. The key governing principal of the investment regime is discrete nationality (Baumgartner, 2016; Van Os and Knottnerus, 2011); if you are registered in a jurisdiction, you gain access to its investment treaty provisions independent of how the rest of your business may be structured. Second, MNCs by definition have a portfolio of nationalities, which are already set up for normal business or tax purposes, which they can then choose to file cases with. As we've discussed, emerging market plutocrats also frequently create such portfolios and they even take advantage of offshore structures for de facto domestic investments. Our contention is that plutocrats from emerging markets, and their legal teams, recognize the potential for international institutional arbitrage that MNCs exercise when they treaty shop. Routing investments through offshore vehicles can give them access to international treaty provisions that their home states lack. More importantly, roundtripping investments puts plutocrats in a position to challenge their home state. Because of the investment regime's nationality principal, disputes that are *de facto* domestic can then be adjudicated via international venues.

The gains from choosing an offshore haven that has an investment treaty with a plutocrat's home government go above and beyond those from simply placing money offshore. A plutocrat's wealth would likely still be hidden regardless of the location choice, and they are going to have access to stronger domestic institutions. But when a conflict arises with the home state—the primary threat to most plutocrats' wealth—many offshore sites would leave them with limited recourse. A case filed against a sovereign state in places like the British Virgin Islands or Singapore courts would almost certainly fail on jurisdictional grounds because of sovereign immunity. But by claiming to (legally) be a foreign actor, and using the provisions in virtually all BITs, plutocrats can sidestep those issues through international arbitration venues.

We label this phenomenon, when a plutocrat turns a conflict with their home state into an international arbitration via their offshore wealth structures, an extraterritorial arbitration (or EA). These situations are unlikely to occur for common disputes between the state and the wealthy such as a fight over taxation rates since extraterritorial arbitration will not come without costs. By initiating a case, plutocrats will inevitably have to detail some of the various methods used to structure their wealth, such as where their primary holdings companies are registered, as part of any legal fight. Moreover, filing a case against the state could alert other plutocrats who may not have offshored their wealth to follow in a filer's stride, thereby reducing the power the state may have over economic elites. This could increase the threat from the state.

Instead, we expect extraterritorial arbitration can potentially serve a political insurance mechanism. In line with our assumptions, and a variety of work in comparative politics, the power of plutocrats coupled with the weak institutionalized environment creates a commitment problems between the state and the economic elite. The lack of institutional safeguards

can lead to political clashes, the end result of which is frequently expropriation by the state. While historically many of these intra-elite battles would end at this stage, the combination of offshore finance and the investment regime may extend the conflict. Now plutocrats have the option to outsource political clashes to the international stage via extraterritorial arbitrations. The state is likely to be aware of this option, but since these legal battles can take years and have no guarantee of turning out in a claimant's favor, the international protections are unlikely to serve as a sufficient deterrent.

In sum, we expect a perversion of the international property protection regime. MNCs have led the charge, taking advantage of their multi-jurisdicitonal structures to treaty shop. But the necessary nationality portfolios are also a common part of the emerging market plutocrat's toolkit. They recognize that their moving assets abroad can give them international institutional protections. Round tripping investments, which are generally viewed as a source of economic arbitrage, creates political gains by allowing plutocrats to protect themselves against their own sovereigns through treaties designed for foreign investors. When conflicts emerge between plutocrats and their home state, we then see political clashes extend beyond their borders into the tribunals and arbitration venues of the international investment regime.

2.3 Observable Implications

The rest of the paper is dedicated to testing two sets of observable implications derived from our theory. The first set concerns oligarchs' decisions about where to store their offshore wealth: why select one tax haven over another? We argue that the international investment regime matters; havens that have BITs with the oligarchs' home state are desirable, as investments routed through them gain additional protections under international law. We therefore expect that oligarchs will be more likely to locate their offshore holdings in havens that have an active investment treaty with their home state.

The second set of observable implications concerns oligarchs' use of the ISDS mechanism to sue their own governments in international courts, engaging in what we call extraterritorial arbitration. While anecdotal evidence confirms that extraterritorial arbitration occurs, ours is the first study to identify and analyze all such cases. We expect instances of extraterritorial arbitration to differ systematically from standard ISDS cases involving *de facto* foreign investors. While we compare the two sets of cases on a variety of metrics, our theory suggests that (1) extraterritorial arbitrations should be more likely to be filed by firms incorporated in tax havens, and (2) since EA cases are often continuations of domestic disputes rather than attempts to dispassionately recoup losses, we expect that they should be less likely to end in negotiated settlements than other ISDS cases.

3 Evidence from the Panama Papers

Nontransparency is an obvious barrier to the systematic study of oligarchs' offshore wealth. For oligarchs, anonymity is a primary benefit of the foreign shell company. ISDS

cases offer us a window into the offshore vehicles maintained by certain oligarchs, though it is a small and selected sample: extraterritorial arbitrations necessarily occur only once a dispute between oligarch and host government has already begun. In order to make more general inferences about why (and where) oligarchs choose to hold their capital abroad, we make use of data from the Panama Papers data leak.

3.1 Panama Papers: Background

In 2014, an unnamed whistleblower leaked 2.6 terabytes of documents from Panamanian law firm Mossack Fonseca (MF) to German newspaper Süddeutsche Zeitung.[5] The documents, which came to be known as the "Panama Papers" after their compilation and (partial) release by the International Consortium for Investigative Journalism (ICIJ) in 2016, contained confidential information about more than 200,000 offshore shell companies that Mossack Fonseca had created for its clients since its founding in 1977. The leak made headline news due to its exposure of the scope of global tax avoidance[6] as well as the exposure of MF's high profile clients (which included, among others, Saudi Arabia's King Salman and former Ukrainian President Petro Poroshenko).[7]

The Panama Papers leak offers an unprecedented opportunity to study the offshore political economy: hundreds of thousands of offshore entities are linked with their beneficial owners, allowing for the study of both the destinations and the origins of offshore capital. Further, the leaked documents include the date of incorporation for each entity, allowing for longitudinal analysis. While the leak only includes firms that were incorporated via MF, MF was one of the world's top five offshore law firms at the time of the leak, and thus we expect that the sample is likely representative of the broader offshore economy (Alstadsæter, Johannesen and Zucman, 2018). A number of past studies have used data from the Panama Papers to study the origins of the wealth held in tax havens (Alstadsæter, Johannesen and Zucman, 2018), the effects of expropriation on future offshoring (Bayer et al., 2020), and the effect of being implicated in the leaks on public firms' value (O'Donovan, Wagner and Zeume, 2019).

3.2 Data on Offshore Entities

Before discussing the research design, it is important to clarify exactly what is contained in the publicly accessible Panama Papers data.[8] The data are composed of four main elements: entities (the offshore vehicles themselves), officers (the shareholders, directors, and

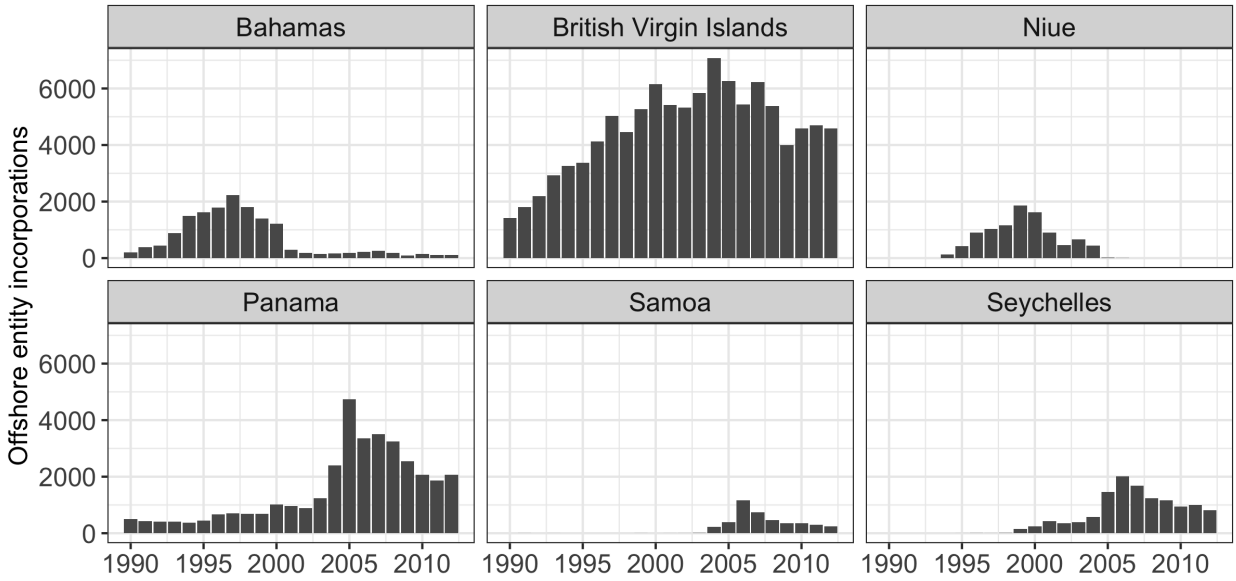
[5] To get a sense of scale, one of the largest of Julian Assange's WikiLeaks leaks, "Cablegate," contained 1.76 gigabytes of classified cables from the U.S. Department of State. One terabyte is equal to 1,000 gigabytes, making the Panama Papers leak roughly 1,475 times larger than the Cablegate leak. See Andy Greenberg, "How Reporters Pulled Off the Panama Papers, the Biggest Leak in Whistleblower History", *Wired*, 04 April 2016.

[6] Juliette Garside, Holly Watt and David Pegg, "The Panama Papers: how the world's rich and famous hide their money offshore", *The Guardian*, 03 April 2016.

[7] Michael S. Schmidt and Steven Lee Myers, "Panama Law Firm's Leaked Files Detail Offshore Accounts Tied to World Leaders", *New York Times*, 03 April 2016.

[8] We downloaded the data from https://offshoreleaks.icij.org/ in April 2021.

Figure 1: **Incorporations in six top offshore jurisdictions, 1990-2012**



other beneficiaries/owners of the entities), intermediaries (other firms or individuals that contract with Mossack Fonseca in order to provide corporate services for their clients), and the edges (or links) that connect them to one another. Because we are primarily interested in the links between offshore entities and their owners, we set aside the data on intermediaries as they hold no ownership over the entities for which they provide services.

The Panama Papers data contain information on 213,634 offshore entities and 238,402 officers. Because most entities have multiple associated officers and some officers are associated with multiple entities,[9] there are 309,363 unique entity-officer pairs. The data contain the year and jurisdiction in which each entity was incorporated, as well as the nationality of each officer. One complication with the officer data is that, since companies can own other companies, a number of the listed officers are themselves offshore entities (typically incorporated in secrecy jurisdictions such as Switzerland or the British Virgin Islands), rendering the true owners of the original entity unknown. To address this issue in our analyses, we follow Bayer et al. (2020) by reporting the results of all models after dropping observations in which the officer's nation of origin is on one of two popular lists of tax havens.[10]

The data contain officers from 159 unique home states, and entities that are incorporated in 21 unique jurisdictions.[11] Figure 1 displays trends in the number of entities incorporated in

[9]The average number of officers per entity is 2.59, and the median is 2. The average number of entities per officer is 2.52, and the median is 1.

[10]The first being that of Hines (2010), and the second being the much broader list of Johannesen and Zucman (2014). Both lists can be found in Appendix Table A.1.

[11]The jurisdictions are: Bahamas, Belize, British Anguilla (UK), British Virgin Islands (UK), Costa Rica, Cyprus, Hong Kong, Isle of Man (UK), Jersey (UK), Malta, Nevada (US), New Zealand, Niue, Panama, Ras Al Khaimah (UAE), Samoa, Seychelles, Singapore, United Kingdom, Uruguay, and Wyoming (US).

six of the most popular jurisdictions. There is substantial temporal variation: The Bahamas, once a top destination, was largely abandoned after 2001, while Panama has experienced the opposite shift. Nieu and Samoa—both small islands where Mossack Fonseca had high-level government connections[12]—received brief waves of new incorporations before fading out. By far the most common jurisdiction is British Virgin Islands (BVI), which carries an additional benefit for offshore investors beyond its lack of corporate taxation: BVI corporations have access to the United Kingdom's extensive portfolio of investment treaties.[13]

3.3 Research Design and Results

Our primary research goal is to determine whether or not oligarchs and their legal teams take BIT protection into account when determining whether (and where) to store their wealth offshore. To do so, we adopt a dyadic research design: our key outcome variable is the (logged) number of offshore entities incorporated in Tax Haven B by oligarchs from Home State A in a given year. This variable captures the extent to which individuals from a given home state move their assets (or at least the legal ownership of their assets) to each of MF's 20 tax havens over time. If investors do have a preference for tax havens that give them access to an investment treaty with their own home state, then we should expect to see a positive relationship between the presence of a BIT and offshore capital flows at the dyadic level.

Our sample consists of each unique home state-haven dyad in the Panama Papers data (20 havens[14] $\times$ 159 home states = 3,180 dyads), observed annually between 1990 and 2012. To calculate the dependent variable for each dyad-year, we process the data as follows: first, we merge the data on entities and their associated officers to create a dataset of each unique entity-officer pair. Next, because we care more about the nationalities of the officers than we do about the number of officers associated with each entity, we simplify this dataset so that it includes one observation for each unique entity-officer nationality instead. For example, an offshore entity incorporated in Panama in 2010 with two Russian shareholders and one Ukrainian shareholder would generate two observations, whereas an entity incorporated in Panama in 2010 with four Russian shareholders would generate only one observation. Table 1 illustrates the process.

Our dependent variable, then, is the sum of all entities incorporated in tax haven i that are associated with an officer from home state j in a given year t. We conduct our analyses using the natural logarithm of this variable to correct for skewness. For our independent variable—whether or not each dyad had a BIT in force during each year of the sample—we use BIT data from the UN Conference on Trade and Development (UNCTAD).

[12] In Niue, MF had actually signed a contract with the government that guaranteed the firm exclusive access to offshore incorporations. See Martha M. Hamilton, "Who are Mossack Fonseca?", *The Irish Times*, 03 April 2016, and Nick Evershed and Paul Farrell, "Samoan diplomat was used to help Mossack Fonseca create shell companies", *The Guardian*, 03 April 2016.

[13] As do other UK territories; see Repousis (2015, 156).

[14] We collapse Nevada and Wyoming into a "United States" category, as both subnational jurisdictions have access to the same set of U.S. treaties.

Table 1: **Creating the entity-home state data structure**

Entity-officer format			Entity-home state format	
Haven (entity)	Home state (officer)		Haven (entity)	Home state (officer)
Panama	Russia	becomes...	Panama	Russia
	Russia		Panama	Ukraine
	Ukraine			
Panama	Russia	becomes...	Panama	Russia
	Russia			
	Russia			
	Russia			

We conduct two sets of analyses. First, we look at the across-dyad relationship between BITs and offshore incorporations, asking: do investors generally prefer tax havens that have a BIT with their home state? Second, we examine the within-dyad relationship, asking: do tax havens that ratify BITs with partner states receive more entity incorporations from investors in those partner states then they would have had they not ratified the BIT?

3.3.1 Across-dyad analysis

Do BITs influence where oligarchs place their offshore wealth? As a first test, we simply examine the evolution of the unconditional relationship between BITs and offshore entity incorporations over time. To do so, we estimate regressions of the following form separately for each year in the sample:

$$ln(\text{incorporations}_{ij} + 1) = \alpha + \beta \text{BIT}_{ij} + \epsilon_{ij} \tag{1}$$

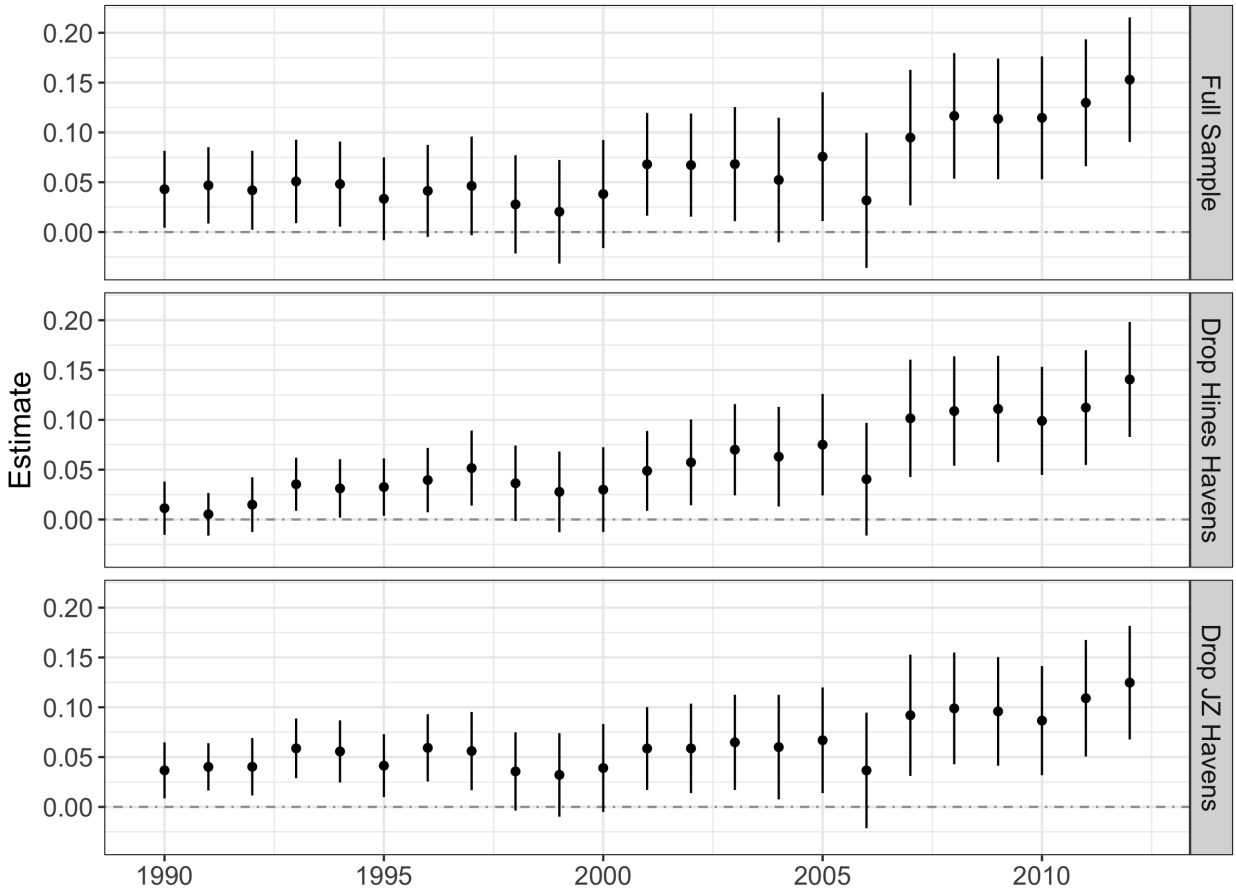
While estimates of β clearly do not constitute causal effects, they do tell us about the strength of the bivariate relationship; positive and significant coefficients provide assurance that further results are not driven by "suppression effects," in which the significance of a finding is contingent on the inclusion of a specific set of controls (Lenz and Sahn, 2021).

Figure 2 presents estimates of β in each of the 23 years of the sample period, both for the full sample and for subsamples that exclude observations when the home state is on Hines (2010)'s or Johannesen and Zucman (2014)'s tax haven list. Across time and across all three samples, the coefficients are almost always positive and significant. The magnitude of the relationship has grown over the course of the sample period: as of 2012, haven-home state dyads with an active BIT are associated with approximately 14% [8%, 20%] more offshore incorporations per year than dyads without a BIT.

Next, rather than estimating the unconditional relationship between BITs and offshore incorporations over time, we pool all years of the sample and estimate a set of regressions that take the following form:

$$ln(\text{incorporations}_{ijt} + 1) = \alpha_i + \gamma_j + \beta \text{BIT}_{ijt} + \phi X_{ijt} + \epsilon_{ijt} \tag{2}$$

Figure 2: **BITs are a positive predictor of offshore entity incorporations across time**

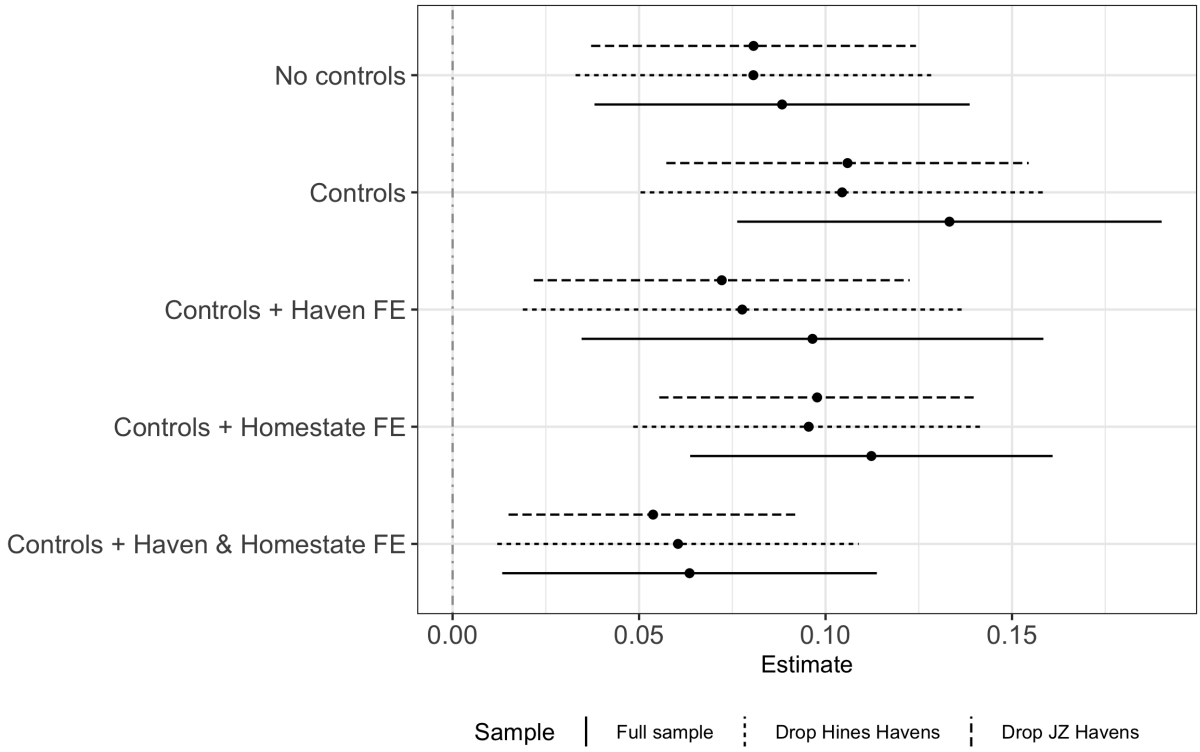


Point estimates represent coefficients calculated by regressing logged incorporations on a BIT dummy separately for each year of the data, in the full sample as well as the two subsamples. Presented alongside 95% confidence intervals.

Where α_i are tax haven fixed effects, γ_j are home state fixed effects, X_{ijt} is a matrix of control variables, and ϕ is a vector of their coefficients. Specifically, we control for the presence of a bilateral tax treaty between states i and j, the logged GDP per capita of the home state, and whether or not the home state is a democracy.

Figure 3 plots estimates of β, alongside 95% confidence intervals calculated using robust standard errors clustered on the home state, for different combinations of controls and fixed effects and for each of the three samples. Across all specifications and samples, the relationship between BITs and offshore entity incorporations at the dyadic level is positive and significant. Even when controls, tax haven fixed effects, and home state fixed effects are included, the most conservative estimate is that investors incorporate 5.5% [1.5%, 9.7%] more offshore entities in havens that have a BIT with their home state.

Figure 3: **The relationship between BITs and offshore incorporations is robust**



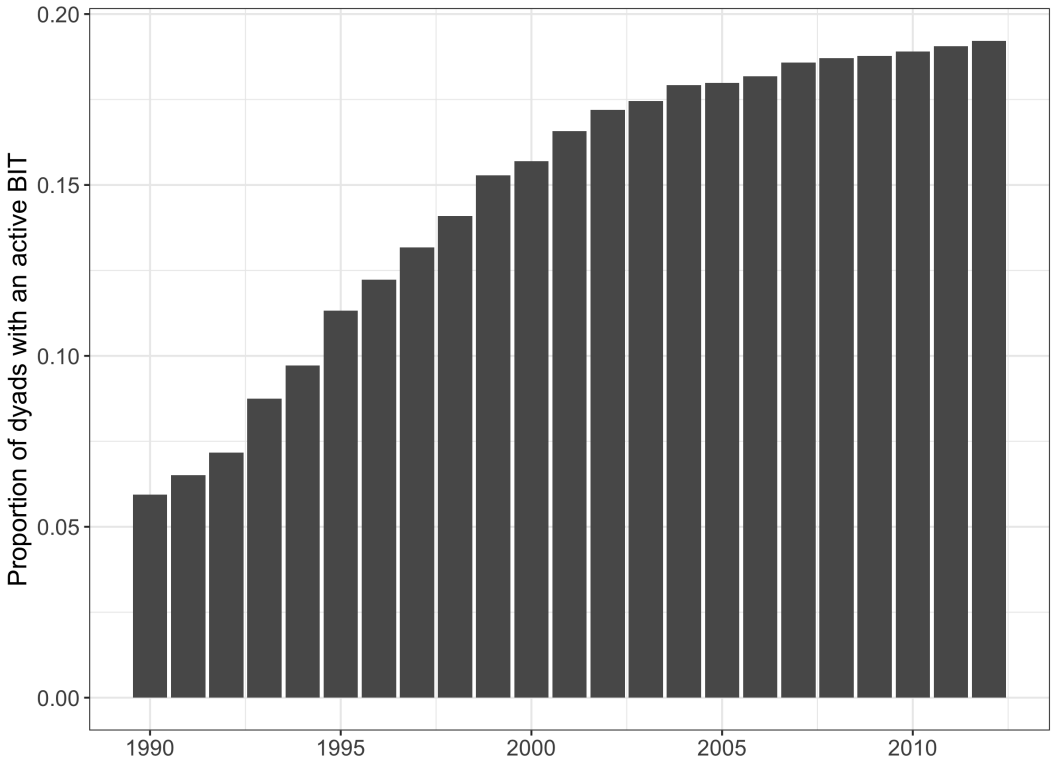
Point estimates represent coefficients calculated by regressing logged incorporations on a BIT dummy alongside various sets of controls and fixed effects, in the full sample as well as the two subsamples. 95% confidence intervals calculated using robust SE clustered on the home state.

The results presented in Figures 2 and 3 demonstrate that, both unconditionally and controlling for covariates, the across-unit and across-time relationships between BITs and offshore incorporations are positive and significant. When the data are pooled, it does appear that investors prefer to store their wealth in tax havens that have active investment treaties with the investors' home states. We consider this to be *prima facie* evidence in support of our hypothesis.

3.3.2 Within-dyad analysis

More rigorously, however, our next goal is to estimate the effect of a new BIT on the number of *within-dyad* offshore incorporations. In other words, we want to know whether more capital flows into Haven A from Home state B once A and B ratify a BIT then would have in the counterfactual world where the treaty had never been created. As Figure 4 shows, BIT coverage expanded dramatically over the sample period, more than tripling from 6% of dyads in 1990 to 19% by 2012. The rapid expansion of the investment treaty regime gives us ample variation in BIT status between the same pairs of states, allowing us to estimate the within-dyad relationship.

Figure 4: **Proportion of sample dyads with an active BIT, 1990-2012**



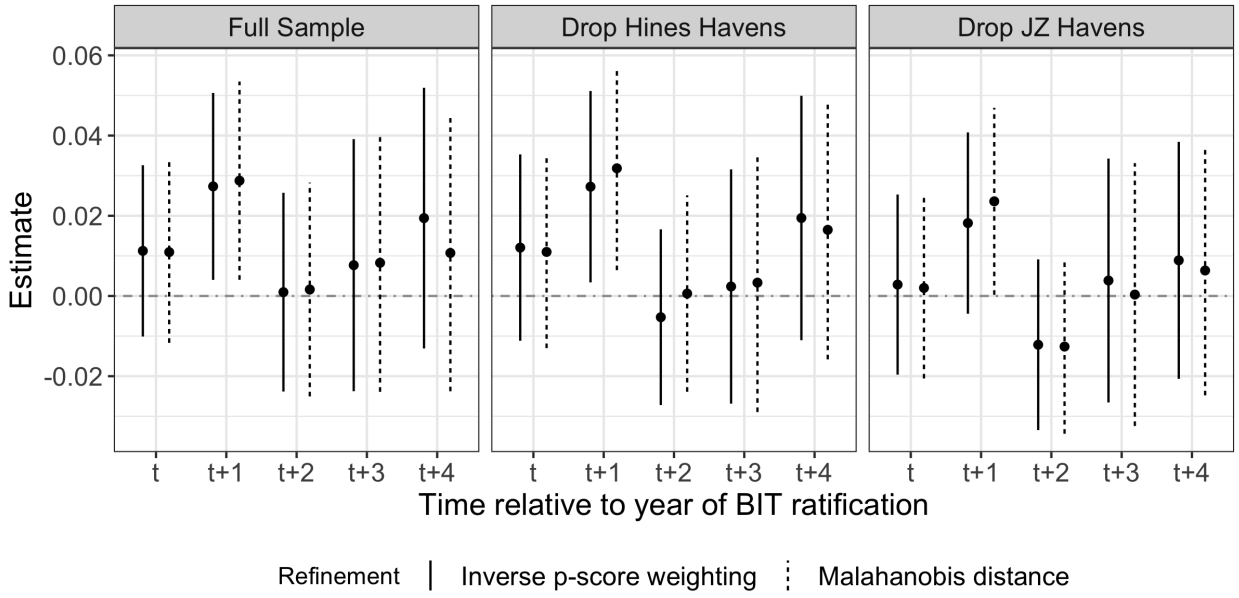
The standard econometric approach in this situation, where the analyst wishes to isolate the effect of a time-varying treatment on some outcome, has traditionally been the "two-way fixed effects" regression. However, Goodman-Bacon (2019) illustrates that such an approach is often biased in the presence of temporally staggered treatments, such as the ratification of BITs as shown in Figure 4.[15] Instead, we make use of an estimator developed by Imai, Kim and Wang (2020) (hereafter IKW) that allows us to more accurately apply a difference-in-differences approach to our data structure.

The IKW estimator requires two pre-processing steps prior to estimation: first, each treated observation it is matched with a set of other observations M_{it} that had the same treatment status as it for the previous L time periods but were *not* treated at time t.[16] Next, to ensure that the observations in the matched sets can serve as a plausible counterfactual

[15] More specifically, Goodman-Bacon (2019) showed that correspondence with the difference-in-differences estimator - when there are only two time periods and two treatment groups, the two are one and the same - breaks down in a setting where different units receive treatment in different time periods. When some units are treated later than others, two-way fixed effects regression has an undesirable property: early-treated units serve as a control group for late-treated units, resulting in estimates that are not only difficult to interpret but have been shown in simulation studies to be severely biased (Baker, Larcker and Wang, 2021). Because new BITs come into force in each year of our 23-year sample, creating newly "treated" dyads each year, two-way fixed effects regression is poorly suited for our purposes.

[16] L is a researcher-determined parameter.

Figure 5: **Oligarchs create more offshore entities in havens once they offer BIT protection.**



for the corresponding treated observations, the matched sets are pruned (or "refined") to remove or downweight observations that have covariate or outcome histories that are too different from those of the treated observations. Once the matched sets have been refined, the following estimator is applied:

$$\hat{\delta}(F,L) = \underbrace{\frac{1}{\sum_{i=1}^{N}\sum_{t=L+1}^{T-F} D_{it}} \sum_{i=1}^{N}\sum_{t=L+1}^{T-F} D_{it}}_{\text{Average over all treated observations}} \underbrace{\Big\{(Y_{i,t+F} - Y_{i,t-1}) - \sum_{i' \in M_{it}} w_{it}^{i'}(Y_{i',t+F} - Y_{i',t-1})\Big\}}_{\text{Treated observation-specific diff-in-diff estimate}} \tag{3}$$

Each matched set serves as counterfactual group for the corresponding treated observation, allowing for the calculation of treated observation-specific difference-in-difference estimates. The IKW estimate is simply the average of these treated observation-specific estimates. We set $L = 4$ and report estimates for each value of F (the number of years post-treatment after which the effect is measured) between zero and 4. We also report results for two different refinement methods: inverse propensity score weighting (in which more similar comparison observations are upweighted) and Mahalanobis distance matching (in which dissimilar comparison observations are removed from the set, and all remaining observations are weighted equally). Covariates used for the refinement include logged GDP per capita, democracy, and the presence of a bilateral tax treaty between each dyad. Finally, to ensure that our results are not driven by outliers, we use the logged count of incorporations per dyad-year as our outcome variable rather than the raw count.

Figure 5 displays the results for three different samples: the full sample of home state-

haven pairs, the sample after excluding home states that are themselves on Hines (2010)'s list of tax havens, and the sample after excluding home states that are on Johannesen and Zucman (2014)'s list of tax havens. Across all samples, we find a positive and significant effect of BITs on offshore entity incorporations in the year after the BIT comes into force.[17] The effect size suggests that havens receive an average of 3% more entity incorporations from a home state's investors in the year after a BIT comes into force between the haven and the home state. Reassuringly, the estimated effect sizes are quite similar to the regression estimates presented in Figure 3 when controls, haven, and home state fixed effects are included. We interpret these results as strongly supporting our theory.

While a 3% short run increase in incorporations may appear to be a small effect, we expect that it is substantively meaningful. First, while it is not possible to directly calculate the total value of wealth that is held offshore by the types of entities that we study, the best estimates place it at a whopping 10% of global GDP. In some states with powerful oligarchies, this figure is much greater: Turkish citizens' offshore holdings amount to 19% of the state's GDP, and Russians' hidden wealth amounts to 45% of GDP (Alstadsæter, Johannesen and Zucman, 2018). Given the aggregate wealth held by the offshore entities in our sample, even a 3% increase in incorporations could constitute a massive shift of capital in nominal terms. Further, we don't dispute that the primary purpose of offshore entities is to help their owners avoid taxation;[18] the majority of MF's clients may not fear targeted mistreatment from their home governments, and thus would have no interest in gaining BIT protection. However, the fact that we do find a statistically detectable "BIT premium" suggests to us that at least some portion of offshore investors value havens that provide them additional property rights protections.

3.3.3 Robustness

We conduct two additional sets of tests to check the robustness of the within-dyad results. First, for each subsample, we conduct a set of placebo tests. To do so, we first create a placebo BIT ratification variable which is equal to a five-year lead of the actual BIT ratification variable; for example, if Singapore and Ukraine ratified a BIT in 2006, the placebo variable would record the BIT as being ratified in 2001. We then estimate the effects of the placebo treatment, again using Imai, Kim and Wang (2020)'s estimator, to determine whether our results might be driven by pre-existing trends rather than BIT ratification.

The results are reported in Figure B.1. Overall, the tests are reassuring: there are no clear pre-existing trends, and the placebo treatment effects are not significant in 29 out of 30 estimates. In one case, the two year lead of the treatment variable is positive and significant at the $p < .05$ level. This could be evidence of anticipation effects: BITs must first

[17] The exception is the sample that excludes home states that are on Johannesen and Zucman (2014)'s list of tax havens, when the inverse propensity score weighting refinement is used.

[18] In one of the leaked documents, an anonymous MF employee wrote that "Ninety-five per cent of our work coincidentally consists in selling vehicles to avoid taxes." See Juliette Garside, Holly Watt and David Pegg, "The Panama Papers: how the world's rich and famous hide their money offshore", *The Guardian*, 03 April 2016.

be negotiated and signed prior to ratification, and so it is possible that havens receive more incorporations when investors expect that a signed BIT will go on to be ratified.[19] However, the evidence in favor of this alternative is not very strong.

For our second set of tests, we re-estimate the main results after excluding dyad-years in which the home state was an OECD member as of the beginning of the sample period. Several prior studies of the effects of BITs and ISDS focus exclusively on non-OECD states, with the justification that the effects of BIT protection may be qualitatively different in high- versus middle- or low-income states (Allee and Peinhardt, 2011; Kerner and Pelc, 2021). The results, presented in Figure B.2, are remarkably similar to those in Figure 5 in terms of sign, significance, and magnitude.

4 Extraterritorial Arbitration

In the previous section, we found substantial evidence that offshore investors prefer to store their wealth in tax havens that have active investment treaties with the investors' home states. We argue that the pattern is driven by plutocrats trying to arbitrage international institutions. By giving *de jure* ownership of their domestic assets to their offshore shell companies, oligarchs can become "foreign" investors in their own home states; as foreign investors, they gain the ability to take their own government to court under the investor-state dispute settlement mechanism. The ability to file ISDS against their own governments (extraterritorial arbitration, or EA) provides oligarchs the ability to seek compensation for government mistreatment in international courts that are likely more unbiased than their domestic counterparts. The most famous example of the phenomenon comes from the so-called "Yukos Affair."

In 2003, Mikhail Khodorkovsky was the richest man in Russia with a $16 billion war chest. Arguably the biggest winner of the infamous "loans for shares" privatization process, he was the largest shareholder of the oil giant Yukos. That wealth, and how he was using it, turned into a source of conflict between the company and the Russian state. Despite repeated attempts by the Putin regime to bring the oligarchs in line, Khodorkovsky continued to challenge the changing nature of business-government relations, funding political parties across the aisle and building up his own independent power base (Sakwa, 2014; Sixsmith, 2010). With major elections on the horizon, Yukos found itself under investigation for tax avoidance. Khodorkovsky was forced behind bars, and Yukos was eventually found guilty of illegally exploiting domestic onshore shell companies (Stephan, 2013). That would come with a $28 billion bill. Although the major shareholders of the company repeatedly tried to settle the claim, the pursuit by the Russian state was incessant (Sixsmith, 2010). The general journalistic and academic consensus is that Khodorkovsky and his cadre were never going to be able to keep the company (Judah, 2013; Sixsmith, 2010; Sakwa, 2014); this was a political battle to remove the revenue streams of the Kremlin's biggest challenger.

[19] However, it is certainly not the case that all BITs which are signed are ultimately ratified; see, for example, Lemos and Campello (2015). It is for this reason that we use BIT ratification, rather than BIT signing, as our treatment variable.

It is broadly considered the fundamental turning point in Putin's control over the plutocracy.

While Khodorkovsky was imprisoned in Russia for a decade, most of his inner circle was able to leave Russia with some of their wealth intact. Although they were nominally in trouble for the exploitation of domestic tax havens, they had long been using offshore structures for both their business and personal protections. As per a number of lawyers who have worked on Russian legal disputes, the "magnificent seven" shareholders that controlled Yukos had planned for such a political fallout by structuring parts of their business through offshore vehicles.[20] And it appears they chose these locations strategically as it eventually led to the most notorious ISDS case, an extraterritorial arbitration between the main Yukos shareholders and Russia, which was filed under the Energy Charter Treaty using their holding companies registered in British territories. The end result was a a $50 billion victory in favor of Yukos in 2014 after a tribunal spent roughly 5 years deciding the outcome (**?**).[21]

The case is still the largest monetary victory given out under the investment regime, making it well-known amongst participants and observers. The political stakes and sums of money are easy to write off as an aberration, but our contention is that it largely symbolizes a broader pattern of extraterritorial arbitrations that turns ISDS into an intra-elite battleground. We find that 58 of the 723 ISDS cases filed between 1987 and 2015 are extraterritorial arbitrations. This means that, in 8% of all known cases, the allegedly foreign investor is actually a domestic investor who has routed ownership of their investments through a foreign company. Further, due in large part to the behemoth Yukos cases,[22] extraterritorial arbitrations compose 41% of the total damages claimed despite making up only 8% of cases.[23]

These figures are based on newly collected data from Thrall (2021) that identifies and examines all cases of extraterritorial arbitration between 1987 and 2015. For each firm that was listed as a claimant in every ISDS case filed through 2015, Thrall searched business databases, corporate registries, case documents, specialized news outlets, and other sources in order to identify whether the firm was owned by another firm or individual; if so, Thrall coded the nationality of the ultimate owner. For example, if a case was filed by a Dutch firm, but the Dutch firm was in turn a subsidiary of a US multinational, the ultimate owner would be coded as American. Using this data, we identify extraterritorial arbitrations as cases in which the nationality of the ultimate owner is the same as the nationality of the host government.[24]

As noted previously, we expect that extraterritorial arbitrations are qualitatively differ-

[20] Author Interview with London-based Lawyers, February 2018

[21] 2 years later a Dutch domestic court ruled that the tribunal should not have taken up the case because of conflicts with Russian constitutional law. That ruling was in turn reversed 4 years later by a Dutch appeals court.

[22] In *Hulley Enterprises v. Russia*, the claimants sought $91B USD in damages—the largest sum ever sought in an ISDS case.

[23] Note that damages claimed do not reflect damages received.

[24] These cases are a subset of what Thrall (2021) calls proxy arbitration, in which the ultimate owner's nationality is different from that of the firm that is filing the case.

Table 2: **Top 10 nationalities of firms filing ISDS: extraterritorial arbitration vs. all others**

Extraterritorial	Other
Cyprus* (15)	**United States** (153)
Netherlands (14)	Netherlands (80)
United States (7)	Germany (66)
Luxembourg* (6)	Spain (56)
Spain (4)	Canada (50)
United Kingdom (4)	France (48)
Barbados* (3)	**United Kingdom** (48)
Poland (3)	Italy (37)
Italy (2)	Luxembourg* (36)
Panama* (2)	Ukraine (26)

Bolded states are havens used by Mossack Fonseca. Asterisk indicates that the state appears on one of the two lists of tax havens contained in Table A.1.

Table 3: **Top 10 recipients of ISDS claims: extraterritorial arbitration vs. all others**

Extraterritorial	Other
Russia (7)	Argentina (58)
Czechia (6)	Venezuela (35)
Egypt (6)	Spain (28)
Turkey (6)	Czechia (27)
Spain (5)	Canada (25)
Venezuela (4)	Mexico (23)
Kazakhstan (3)	Poland (23)
Ukraine (3)	Ecuador (21)
Panama (2)	Egypt (20)
Albania (1)	India (16)

ent from standard ISDS cases in which a (legitimately) foreign investor files a dispute against a host government. First, we would expect that the companies that oligarchs use to file extraterritorial arbitration should be incorporated in tax havens at a substantially higher rate than companies involved in other ISDS cases (because EA is function of roundtripping). This expectation appears to be borne out in Table 2, which ranks the top 10 claimant nationalities for extraterritorial vs. non-extraterritorial cases. While claimants in non-EA cases tend to come from the world's largest economies, as we might expect, firms that file EA cases tend to be incorporated in low-tax and high-secrecy jurisdictions such as Cyprus, Luxembourg, Barbados, and Panama. This provides further evidence that oligarchs use their offshore shell companies both to avoid taxation and to gain access to investment treaty protection.

It is also instructive to compare EA and non-EA cases on the basis of which govern-

ments are most frequently the target of investors' claims. Table 3 shows that Argentina and Venezuela are among the most common recipients of non-EA claims, due largely in part to the frequency with which they expropriate foreign investors, default on sovereign debt, and impose capital controls. On the other hand, EA cases—in which a state is sued by its own nationals—are dominated by post-communist states (Russia, Czechia, Kazakhstan, Ukraine, Albania) and other countries with relatively powerful oligarchies such as Egypt and Turkey. While governments like Saudi Arabia can be characterized as having control over their plutocrats, and those in places in like Indonesia are generally considered captured by oligarchs, states that face EA claims are jurisdictions where domestic politics are characterized by frequent power struggles among competing plutocrats. These competitions can be internationalized via extraterritorial arbitration.

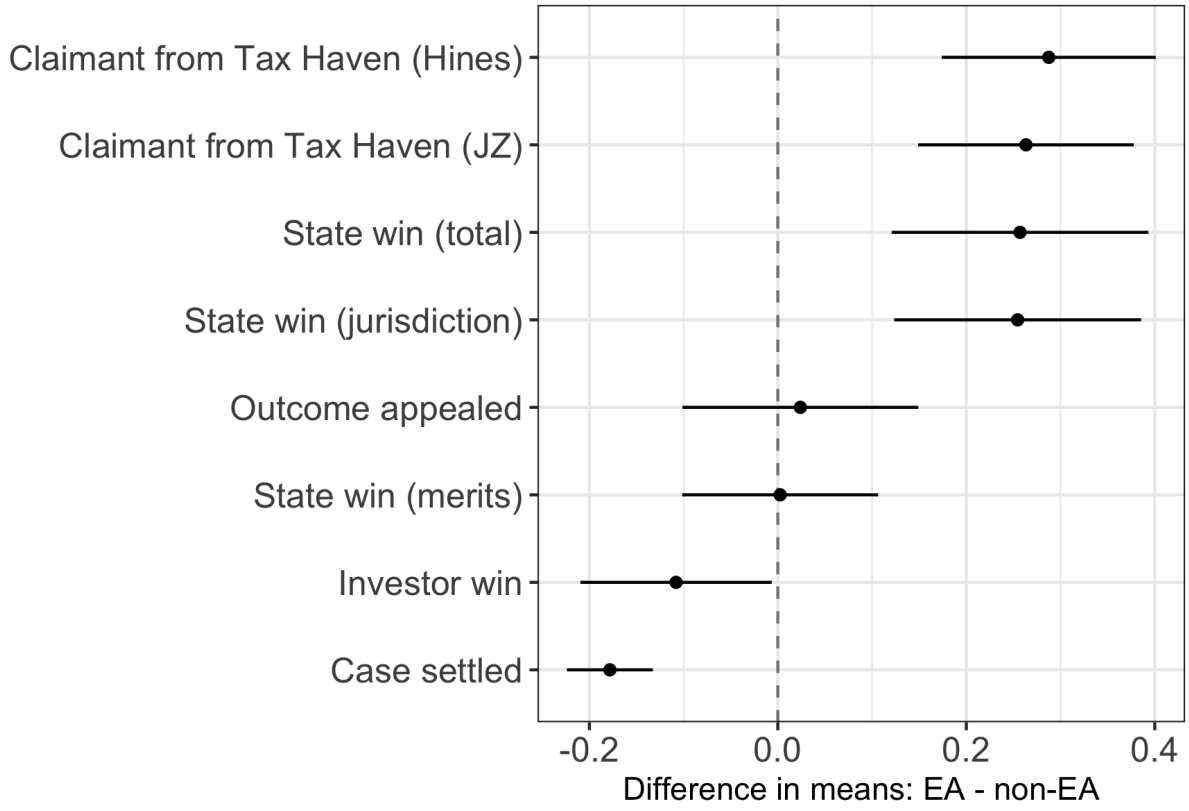
In addition to the Yukos Affair, Russia was the respondent in a claim from Sergei Pugachev who was frequently referred to as the "Kremlin's Banker." After a public fallout with the regime, he claimed that his bank was expropriated and thereby sought $12 billion in damages (*Pugachev v. Russia*) (Belton, 2020). But as Table 3 indicates, this is not a solely Russian phenomenon. Mukhtar Ablyazov was the primary challenger to Kazakhstan's multi-decade ruler Nursultan Nazarbayev. After being imprisoned in the early 2000s, he struck a bargain with the state, leaving the country to re-build his wealth. He returned a handful of years later as the chairman of BTA Bank. The latter was eventually nationalized in the midst of the great financial crisis, which Ablyazov claims was a veneer for the regime to dispose of its clearest threat (Cooley and Heathershaw, 2017; **?**). Ablyazov used thousands of offshore vehicles to protect his wealth (Nougayrède, 2016), and settled on using a shell company in the Netherlands to make an ISDS claim worth $1.5 billion (*KT Asia v. Kazakhstan*).

Similarly, after clashing with Erdogan in the early years of his tenure, the Turkish Uzan family may have inspired Khodorkovsky. They used the Energy Charter Treaty to strike back against their home government, seeking 3.5 billion for the cancellation of electricity concessions and the seizure of their conglomerates assets (*Uzan v. Turkey*) (Murat, 2018). These additional examples highlight how political clashes become extended through ISDS. They further illustrate that EA is not a silver bullet to an oligarch's woes - Pugachev and the Uzans lost out on jurisdictional grounds while Ablyazov's case was resolved in favor of the state.

To more systematically assess H2, we conduct a series of basic difference-in-means tests comparing extraterritorial arbitrations to all other ISDS cases on a range of factors. The results of these tests are plotted in Figure 6. First, as predicted, EA cases are much less likely to end in a negotiated settlement when compared to non-EA cases. Not only will governments be less inclined to pay a settlement to their political rivals, as they could use the money to continue posing a threat, but oligarchs themselves may want to prolong the litigation in order to maximize the costs inflicted on the government. Oligarchs can punish antagonistic governments by filing a number of lawsuits that cost the state significant time, money and legal resources, even if their probability of winning the case is low.[25] The longer

[25]In response to Russia's expropriation of Yukos Oil Company, the leader of Yukos' largest shareholder

Figure 6: **Difference in means tests: EA vs. Non-EA ISDS cases**



the cases run, the longer they could garner attention from international audiences, putting pressure on governments to retrench the efforts they use to suppress economic elites.

Second, in line with our earlier results, the companies that are used to file EA cases are substantially more likely to be incorporated in a tax haven than companies that file non-EA cases. This provides further evidence that oligarchs use their offshore shell companies to gain both tax benefits and BIT protection. EA cases are more likely to end in a state victory than non-EA cases, but this difference is driven almost completely by the fact that EA cases are much more likely to be thrown out due to lack of jurisdiction. Finally, conditional on the case being ruled on the merits, EA claimants are no more likely to appeal the verdict than non-EA claimants.[26]

group vowed to pursue a "lifetime of litigation" against the government. See "A lifetime of litigation—the fall of Yukos", *Law.com*, 09 July 2010. This is also related to work by Moehlecke (2020) and Pelc (2017) on regulatory chill in ISDS.

[26]We note that this null result may be driven by the fact that oligarchs often prefer to file new cases, using different offshore companies, rather than appeal old rulings. The lack of binding precedent in investment arbitration means that different tribunals can reach completely different conclusions when ruling the same exact case; for the example of *Lauder v. Czech Republic* and *CME v. Czech Republic*, see Kerner (2009).

5 Conclusions

In *The Hidden Wealth of Nations* and his accompanying work, Gabriel Zucman provides us with the most comprehensive analysis of offshore financial flows (Zucman, 2015). By reconciling national macroeconomic data, he documents that roughly 8% of global wealth is stashed offshore,[27] some $ 7 trillion, with more than 20% of the wealth from numerous emerging markets stashed abroad. With this manuscript, we turn to the international legal protections that hidden wealth generates.

While most tax havens provide low tax rates and stronger institutions that can obfuscate ownership, how effectively they protect an individual's wealth depends on their international engagement. More specifically, when a tax haven has an investment treaty with another country, plutocrats from that country can create shell companies or holding vehicles in the haven and route the money back home, de jure turning a domestic plutocrat into a foreign investor. By using the tax haven they may not only get access to preferential tax rates, but also the ability to file cases against their home sovereign for property violations via international arbitration. Using data from the Panama Papers, we find that actors generally choose to place money in havens that provide them such access, and that a tax haven signing a new BIT leads to more incorporations from the BIT partner. We further document that 8% of ISDS cases are in reality extraterritorial arbitrations where a de jure foreign investor is de facto suing their home government. These cases are substantially less likely to settle given the political stakes - when we see intra-elite clashes in emerging markets they can be internationalized because of the interaction of offshore finance and the global investment regime.

Our findings suggest that we need to refine some of our conventional political economy models. While we now recognize that states have "room to move" (Mosley, 2000), scholarship on globalization and developing countries still generally expects a race to the bottom when countries seek foreign funds (Kaplan, 2013; Rudra, 2008; Crasnic, Kalyanpur and Newman, 2017). We instead show how capital mobility allows a "leveling-up" of institutions; offshore finance and roundtripping provide access to international legal recourse that actors are not traditionally party to at home. Here we see some parallels with research on global regulatory politics (Bach and Newman, 2007; Kelemen, 2010; Malesky and Mosley, 2018), which finds that major powers are often able to effectively export stricter environmental and labor standards, leading to a *de facto* leveling-up by their trade partners. But the leveling-up that we document is inequitably distributed, as only the truly economically elite will have the means to effectively structure their businesses to garner global property protections.[28]

In this vein, a number of theories of political development expect plutocrats to be the driving force behind political development, be it liberalization or democratization (North and Weingast, 1989; North et al., 2013; Albertus and Menaldo, 2014). The general logic is

[27] A figure that is updated to 10% in later work; see Alstadsæter, Johannesen and Zucman (2018).

[28] Using Scandinavian microdata linked to offshore holdings, Alstadsæter, Johannesen and Zucman (2019) estimate that 50% of the wealth held in tax havens is owned by individuals in the top 0.01% of the wealth distribution.

that the development of the rule of law and competitive elections will bind the state from expropriating the wealth of the plutocracy. But we illustrate the way globalization allows elites to arbitrage the institutions that they traditionally pressured the state to provide. This should plausibly reduce their incentives to fight for reform in their home jurisdictions. We are not the first to indicate a potentially deleterious effect between capital mobility and political development (Milanovic, 2016; Pistor, 2019; Sharafutdinova and Dawisha, 2017), but prior work has not incorporated the role of global (investment) institutions in this process. We hope that the manuscript pushes other scholars to continue developing and testing theories that factor the international institutional environment into models of domestic elite conflict (Farrell and Newman, 2014).

Finally, the analysis points toward a need to better under the globalization of the individual (Cooley and Sharman, 2017). One of the starting points of our theory is that individual plutocrats in emerging markets are able to build nationality portfolios in a fashion that mimics MNCs. But incorporation is only one path in nationality diversification; plutocrats can buy "golden visas" and passports in the burgeoning mobility market (Mavelli, 2018). The plutocratic toolkit continues to expand even as we see the growth of populist movements. Such optionality helps us resolve why some tax havens see more activity than others, and illustrates why the investment regime has turned into a battleground for elite conflict that we conventionally expect to take place within national boundaries. In short, the findings call for more academic work on how economic interdependence empowers the superwealthy by fostering institutional inequalities.

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Appendix

A Tables

Table A.1: **Two lists of tax havens**

	State	Hines (2010)	Johannesen and Zucman (2014)
1	American Samoa	Yes	Yes
2	Andorra	Yes	Yes
3	Anguilla	Yes	Yes
4	Antigua & Barbuda	Yes	Yes
5	Aruba	Yes	Yes
6	Austria	No	Yes
7	Bahamas	Yes	Yes
8	Bahrain	Yes	Yes
9	Barbados	Yes	Yes
10	Belgium	No	Yes
11	Belize	Yes	Yes
12	Bermuda	Yes	Yes
13	British Virgin Islands	Yes	Yes
14	Cayman Islands	Yes	Yes
15	Chile	No	Yes
16	Cook Islands	Yes	Yes
17	Costa Rica	Yes	Yes
18	Curaçao	No	Yes
19	Cyprus	Yes	Yes
20	Djibouti	Yes	No
21	Dominica	Yes	Yes
22	Gibraltar	Yes	Yes
23	Guernsey	Yes	Yes
24	Hong Kong SAR China	Yes	Yes
25	Ireland	Yes	No
26	Isle of Man	Yes	Yes
27	Jersey	Yes	Yes
28	Jordan	Yes	No
29	Lebanon	Yes	No
30	Liberia	Yes	Yes
31	Liechtenstein	Yes	Yes
32	Luxembourg	Yes	Yes
33	Macao SAR China	Yes	Yes
34	Malaysia	No	Yes
35	Malta	Yes	Yes
36	Mauritius	Yes	No
37	Monaco	Yes	Yes
38	Nauru	Yes	Yes
39	Niue	Yes	Yes
40	Panama	Yes	Yes
41	Seychelles	Yes	Yes
42	Singapore	Yes	Yes
43	Sint Maarten	No	Yes
44	St. Kitts & Nevis	Yes	Yes
45	St. Lucia	Yes	Yes
46	St. Vincent & Grenadines	Yes	Yes
47	Switzerland	Yes	Yes
48	Trinidad & Tobago	No	Yes
49	Turks & Caicos Islands	Yes	Yes
50	U.S. Virgin Islands	No	Yes
51	Uruguay	No	Yes
52	Vanuatu	Yes	Yes

B Robustness tests

Figure B.1: **Placebo tests for Study 1.**

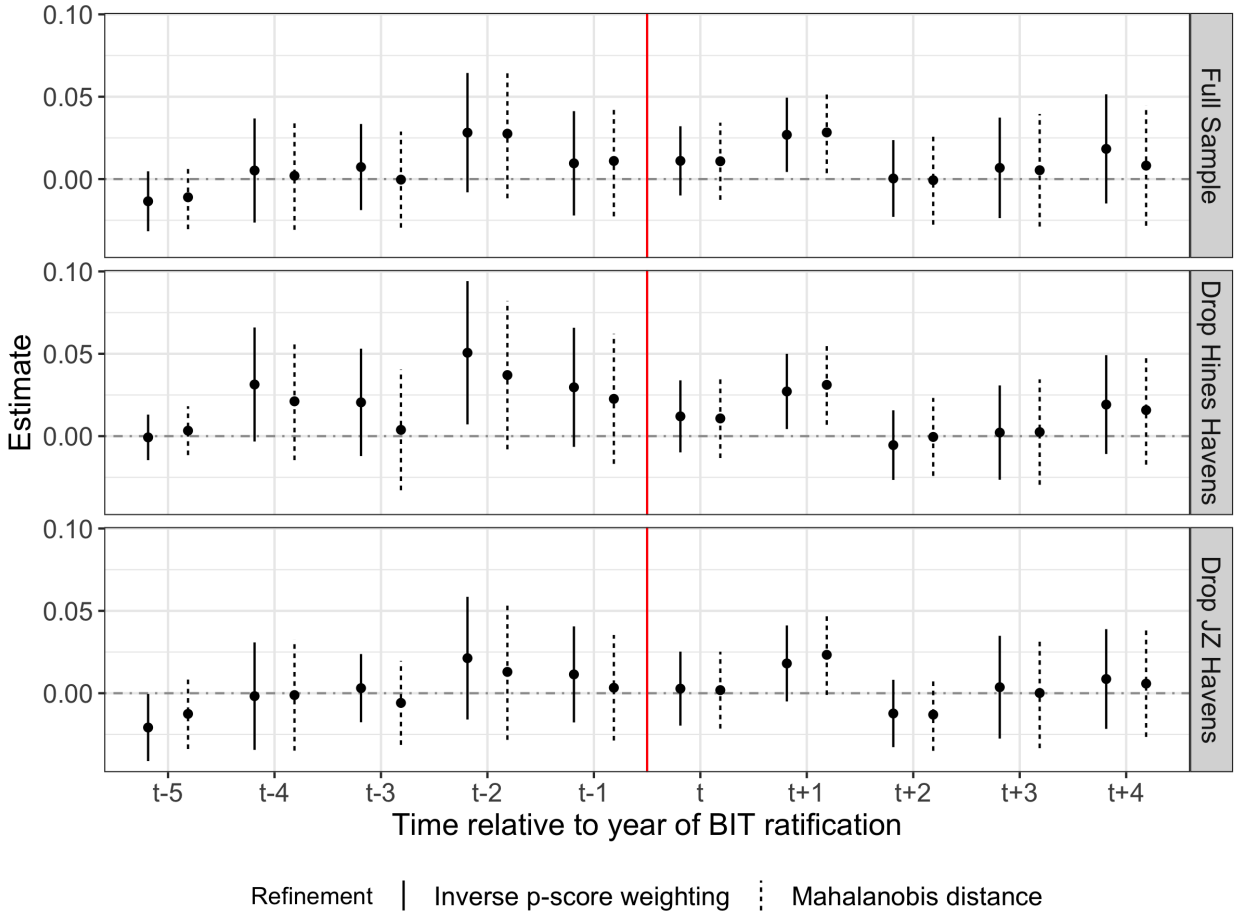

Figure B.2: **Main results, excluding owners from OECD states**