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Balancing National Sovereignty: The Impact of Bilateral Investment Treaties on Contemporary Islamic Economic Law

Abstract: Bilateral Investment Treaties (BITs) play a crucial role in shaping global investment flows, but their impact on national sovereignty and economic policy remains a subject of ongoing debate, particularly within the framework of contemporary Islamic economic law. This study addresses a critical gap in the literature by examining how BITs influence regulatory autonomy in nations that adhere to Islamic economic principles. Using a mixed-methods approach, it analyzes quantitative data on Foreign Direct Investment (FDI) flows from UNCTAD and the World Bank, alongside qualitative case studies of developing countries navigating BITs within Islamic legal frameworks. From a contemporary Islamic economic law perspective, BITs should align with Shariah principles, including economic justice, *Maslahah* (public interest), and the prohibition of *Riba* and *Gharar* (uncertainty). However, while BITs can enhance FDI inflows and create a more predictable investment climate, they often restrict national policy flexibility, particularly through Investor-State Dispute Settlement (ISDS) mechanisms, which may limit government control over critical sectors such as public health, environmental protection, and taxation. This research contributes to the academic discourse by integrating contemporary Islamic economic law into BIT analysis, highlighting the need for treaty reforms that uphold national sovereignty while fostering ethical and sustainable investment. By exploring the intersection of international investment law and Islamic economic values, this study provides valuable insights for policymakers seeking to balance economic growth with social welfare and long-term development in line with Islamic principles.

Keywords: Bilateral, Contemporary, Economic, Islamic, Sovereignty.

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INTRODUCTION

Globalisation has significantly shaped the modern economic framework, influencing how nations interact in the global market. The key product of this economic integration has been the proliferating horde of Bilateral Investment Treaties (BITs), which promote foreign direct investment (FDI) by establishing legal protections for investors. Although these treaties enhance economic cooperation and investment protection, they also present significant challenges related to national sovereignty, regulatory sovereignty, and socio-economic equity, especially in Islamic governance and economic values.[1] This highlights the intricate balance between economic liberalisation and regulatory constraints in the context of BITs and the need for careful consideration of their economic, legal, and political ramifications.

Bilateral Investment Treaties create pre-defined regimes of investment between contracting states intended to promote a stable and predictable investment context. In the last two decades, BITs have become important tools for global investment flows, reshaping policy decisions and legal systems.[2] However, despite BITs being seen as instruments for economic growth, their capacity to limit policy-making freedom and regulatory discretion is an ongoing debate. The commonly included Investor-State Dispute Settlement (ISDS) mechanism in BITs has allowed multinational corporations to challenge state policies in an international forum away from domestic legal institutions.[3] This trend has led to concern about the potential controversies surrounding the balance between treaty protection of foreign investment and the right of sovereign states to regulate in the public interest.

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[1] Thomas Sigler et al., "The structural architecture of international industry networks in the global economy," *PLOS ONE* 16, no. 8 (2021), https://doi.org/10.1371/journal.pone.0255450.

[2] Jaivir Singh, Vatsala Shreeti, and Parnil Urdhwareshe, "The Impact of Bilateral Investment Treaties on FDI Inflows Into India: Some Empirical Results," *Foreign Trade Review* 57, no. 3 (2022/08/01 2021), https://doi.org/10.1177/00157325211027374.

[3] Trey Billing and Andrew D. Lugg, "Conflicted Capital: The Effect of Civil Conflict on Patterns of BIT Signing," *Journal of Conflict Resolution* 63, no. 2 (2019/02/01 2017), https://doi.org/10.1177/0022002717729734.

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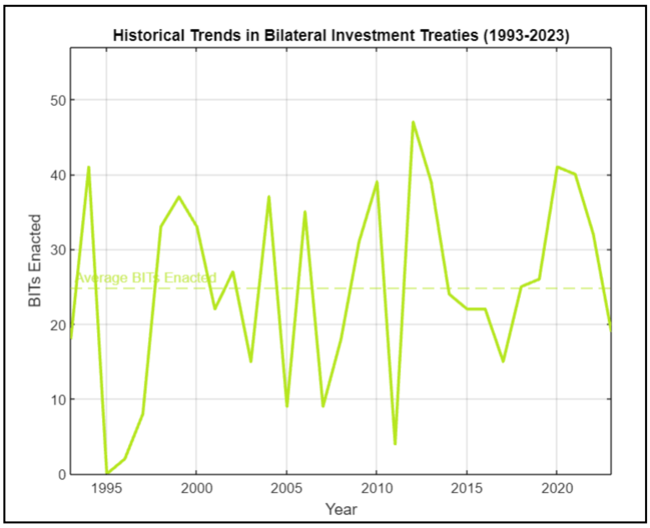

Figure 1: An analysis of historical trends in bilateral investment treaties from 1993 to 2023

While BITs aim to incentivise investor confidence and economic stability, their larger impacts are far beyond economic motivation. Many BITs impose restrictions on national governments to introduce policy measures that protect public welfare, like health systems, environmental protection, labour rights, and taxation.[4] In some cases, foreign investors who own thousands of contracting public suppliers can legally challenge regulatory measures under ISDS provisions aimed at ensuring social equity and sustainable economic development. It is often a significant issue in Islamic nations since religion and ethics govern economic policies.[5]

[4] Andrew Kerner and Krzysztof Pelc, "Do Investor–State Disputes (Still) Harm FDI?," *British Journal of Political Science* 52 (03/08 2021), https://doi.org/10.1017/S0007123420000721.

[5] Vineet Bhagwat, Jonathan Brogaard, and Brandon Julio, "A BIT goes a long way: Bilateral investment treaties and cross-border mergers," *Journal of Financial Economics* 140, no. 2 (2021/05/01/ 2021), https://doi.org/10.1016/j.jfineco.2020.12.005.

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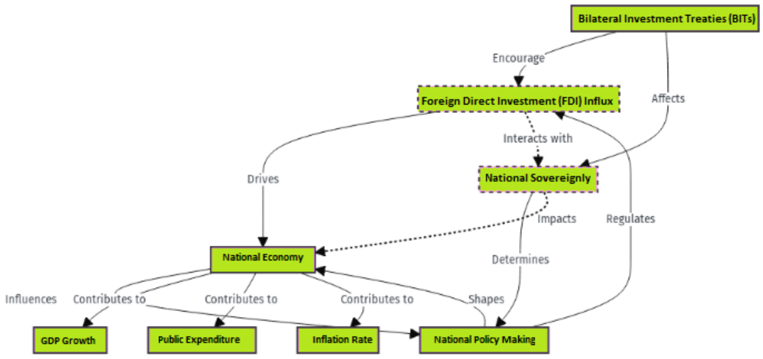

Figure 2: Conceptual Framework: The Role of Bilateral Investment Treaties in National Economic and Sovereign Dynamics

Sigler et al.[6] offer an innovative analysis of worldwide economic organisations, emphasising the interdependency of networks across international industries. Comprehending the environment in which BITs operate is essential and depends on understanding this context. Singh, Shreeti, and Urdhwareshe carried out a specific investigation on how BITs affect the flow of FDI into India. Their empirical study shows a clear link between the two elements,[7] improving the comprehension of how BITs could impact economic measures such as FDI in developing countries, including those adhering to Islamic economic principles. Billing and Lugg analyse how civil unrest impacts the signing behaviours of BITs from a conflict standpoint. Their perspectives are valuable for grasping the geopolitical factors that are the basis of BIT talks. Kerner and Pelc offer a different perspective by raising doubts about whether investor-state disputes, an essential element of BITs, harm foreign direct investment.[8] His method is crucial in evaluating the cost-benefit ratio of Bilateral Investment Treaties for participating countries.

[6] Sigler et al., "The structural architecture of international industry networks in the global economy."

[7] Singh, Shreeti, and Urdhwareshe, "The Impact of Bilateral Investment Treaties on FDI Inflows Into India: Some Empirical Results."

[8] Kerner and Pelc, "Do Investor–State Disputes (Still) Harm FDI?."

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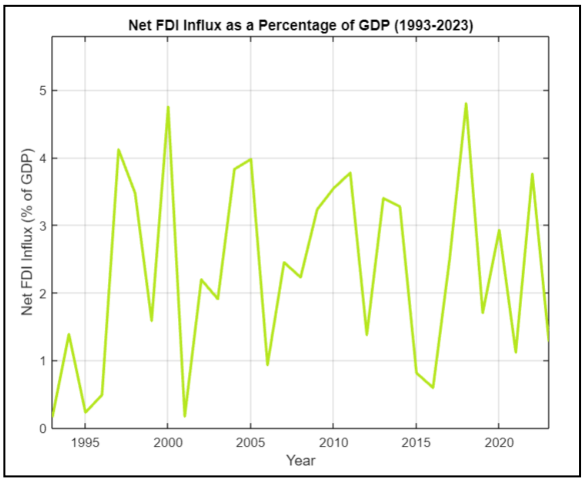

Figure 2: Foreign Direct Investment (FDI) Net Flow as a Share of GDP (1993–2023)

The structural framework of BITs is almost always incompatible with Islamic economic principles, which leads to conflicts in terms of *Riba*, *Gharar* (uncertainty), and *Maslahah* (public interest). Most BITs have conflict provisions to ensure fixed return on investment, contrary to the prohibition of interest-based earnings in Islamic finance[9]. Furthermore, ISDS clauses generate excessive uncertainty (*Gharar*) by exposing sovereign policies to unpredictable arbitration outcomes, often favouring corporate investors.[10] Furthermore, BITs can conflict with Maslahah because they can limit the ability of states to implement economic policies to achieve long-term social and economic justice.[11] One such example is Pakistan's experience with ISDS arbitration, in which the government was ordered to pay compensation to foreign investors as the result of regulatory reforms designed to fulfil national development goals — BITs that allow foreign investors to bring action against sovereign governments extend beyond matters of foreign investment and

[9] Rocco Bellanova, Helena Carrapico, and Denis Duez, "Digital/sovereignty and European security integration: an introduction," *European Security* 31, no. 3 (2022/07/03 2022), https://doi.org/10.1080/09662839.2022.2101887.

[10] Abid Adonis, "Critical Engagement on Digital Sovereignty in International Relations: Actor Transformation and Global Hierarchy," *Global: Jurnal Politik Internasional* 21, no. 2 (2019), https://doi.org/10.7454/global.v21i2.412.

[11] Fangjin Ye, "The impact of bilateral investment treaties (BITs) on collective labor rights in developing countries," *The Review of International Organizations* 15, no. 4 (2020/10/01 2020), https://doi.org/10.1007/s11558-019-09367-9.

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can, due to this binding nature, override sovereign economic policy.[12] Similar challenges have been noted in Indonesia, Malaysia, and Bangladesh, as Islamic legal and economic principles have clashed with BIT obligations.[13]

However, BIT negotiations have increasingly shifted towards social, cultural, environmental, and digital sovereignty concerns that pose additional challenges to Islamic economies beyond traditional economic considerations. With the expansion of investment treaties to include digital trade, data governance, and technological hardware and software-related infrastructure, fears of dependency on technology and control/funding of national digital assets have grown.[14] In countries under Shariah-inspired economic policies that shape such regulatory conditions, these partnerships cause serious tensions between the foreign intent in investment, data security, privacy, and digital sovereignty.[15] While most academic research has analysed the economic pros and cons of BITs, few scholars have critically assessed their relevance in Islamic law and economy.[16] In contrast, the OIC has proposed alternatives, calling for BITs based on Islamic principles of fairness, equitable risk sharing, and ethical investment[17]. However, the considerations of treaties remain theoretical in practice, where BITs need further

[12] Kathleen E. Powers et al., "What's Fair in International Politics? Equity, Equality, and Foreign Policy Attitudes," *Journal of Conflict Resolution* 66, no. 2 (2022/02/01 2021), https://doi.org/10.1177/00220027211041393.

[13] Vito Amendolagine and Francesco Prota, "Bilateral investment treaties and backward linkages in Sub-Saharan Africa," *International Economics* 165 (2021/05/01/ 2021), https://doi.org/10.1016/j.inteco.2021.01.001.

[14] Joseph Thaliath, "Bilateral Investment Treaties and Sovereignty: An Analysis with Respect to International Investment Law," *Christ University Law Journal* 5, no. 2 (07/01 2016), https://doi.org/10.12728/culj.9.1.

[15] Faisal Daudpota, "Fundamentals of Investor-State Arbitration in Islamic Countries under the OIC Agreement for Promotion, Protection and Guarantee of Investments," *International Economic Law eJournal* (2021), https://doi.org/10.2139/ssrn.3824003.

[16] Amendolagine and Prota, "Bilateral investment treaties and backward linkages in Sub-Saharan Africa."

[17] Abdul Majeed et al., "The Impact of Foreign Direct Investment on Financial Development: New Evidence from Panel Cointegration and Causality Analysis," *Journal of Competitiveness* 13 (03/30 2021), https://doi.org/10.7441/joc.2021.01.06.

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exploration to have adjusted legislation while pursuing investment protection and Islamic economic values.[18]

This study addresses three basic questions: How do BITs affect Islamic states' national sovereignty and regulatory space? What socio-economic impacts are related to BITs, and how do they compensate (or contradict) Islamic economic theory? How to reorient BITs to serve the dual objectives of foreign investment and sovereign economic governance in an Islamic context? Using a mixed-methods approach, the research employs UNCTAD and World Bank data to identify global trends in FDI, case studies of BIT disputes in Islamic and non-Islamic nations, and comparative legal analyses of BITs in conventional and Islamic investment frameworks.[19] The existing literature provides a thorough perspective on the impacts of Bilateral Investment Treaties. It emphasises the advantages of easing cross-border mergers and boosting FDI while also recognising the possible downsides concerning labour rights, national sovereignty, digital sovereignty, and the careful equilibrium needed in investor-state conflicts. Understanding the impact of BIT development on both the economy and national sovereignty necessitates an intricate blending of viewpoints.[20]

The article will contribute to the ongoing discourse regarding global investment governance by analysing the intricate relationship between BITs, national sovereignty and Islamic economic law. The paper offers a comparative study of traditional and Islamic investment treaties while introducing policy proposals on shaping Sharia-compliant BITs that balance the interests of protecting foreign investments and preserving national regulatory freedom. Moreover, it examines the new developments of digital sovereignty in investment treaties to determine how Islamic economies could adapt to this new legal

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[18] Niccolò Zugliani, "Human Rights In International Investment Law: The 2016 Morocco–Nigeria Bilateral Investment Treaty," *International and Comparative Law Quarterly* 68, no. 3 (2019), https://doi.org/10.1017/S0020589319000174.

[19] Muhammad Khalid and Tansif Ur Rehman, "Investment Protection Under Bilateral Investment Treaties of Pakistan," *Int. J. Asian Bus. Inf. Manag.* 11 (2020), https://doi.org/10.4018/IJABIM.2020100104.

[20] Daudpota, "Fundamentals of Investor-State Arbitration in Islamic Countries under the OIC Agreement for Promotion, Protection and Guarantee of Investments."

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landscape. In conclusion, this study intends to provide a comprehensive framework for creating fair and sustainable investment agreements that serve as bridges towards economic development without undermining national sovereignty and secularism and/or Islamic economic values to guide the creation of BITs.

METHOD

Using a mixed-methods framework, this research combines quantitative econometric modelling techniques with qualitative case study approaches to provide an inclusive exploration into the political economy of Bilateral Investment Treaties (BITs) and their effect on Foreign Direct Investment (FDI) in Islamic and non-Islamic countries. The methodology comprises numerical analysis, case selection, treaty document scrutiny, and empirical validation to facilitate a balanced evaluation of the advantages and disadvantages of BITs.

Numerical Analysis

Data Aggregation and Variable Determination: The study investigates the connection between BITs and FDI, utilising data collected through the United Nations Conference on Trade and Developments (UNCTAD) and the World Bank. Islamic economic inputs–examples being compliance with Shariah law, Zakat (a form of alms-giving treated in Islam as a tax and one of the five pillars of Islam), and collection and distribution efficiency—are integrated into the model to account for the unique financial and regulatory environments of Islamic countries.[21] The primary variables include:

a) Predetermined Variables:
→ Indicative: Annual count of BITs enacted.
→ Dependent: Net FDI inflow (as a percentage of GDP).
b) Constraining Variables:
→ Economic Magnitude: GDP and Annual GDP Growth.

[21] Majeed et al., "The Impact of Foreign Direct Investment on Financial Development: New Evidence from Panel Cointegration and Causality Analysis."

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→ Fiscal Dynamics: Public Expenditure and Inflation Metrics.

→ Islamic Economic Indicators: Compliance with Shariah law, Zakat collection, and distribution efficiency.

Statistical Inference: Utilising panel data and fixed and random effects models of regressions for unobserved heterogeneity across countries and time, the study investigates the causal link between BITs and FDI.[22] The fixed effects model controls for time-invariant country-specific characteristics, while the random effects model is used in cases where country-specific variations are considered uncorrelated with independent variables.

$$FDI_{it} = \beta_0 + \beta_1 BITS_{it} + \beta_2 GDPGrowth_{it} + \beta_3 GovExp_{it} + \beta_4 Inflation_{it} + u_i + \varepsilon_{it} \qquad (1)$$

Where FDI_{it} represents the FDI inflow for country i at time t, and u_i is the unobserved country-specific effect.

Table 1: Model Summary

Model	R^2	Adjusted R^2	F-Value	p-Value
1	0.57	0.56	20.7	<0.001

Table 1 in the methodology summarises the statistical model's predictive performance and explanatory power in the current study question, which investigates the potential relationships between Bilateral Investment Treaties (BITs), Foreign Direct Investment (FDI), and a selection of macroeconomic variables. The R-squared (R2) score of 0.57 indicates that the model can explain about 57% of the variation in the dependent variable (probably FDI inflows as a percentage of GDP), suggesting a moderate to good fit. The adjusted R2, which is slightly lower at 0.56, compensates for the number of predictors in the model, providing a better depiction of the model's predictive capabilities, which is particularly important in models with numerous predictors. The F-value, in this case, 20.7, is statistically significant at a p-value less than 0.001, indicating that the predictors used in the model (e.g., BITs enacted, GDP Growth, etc.) are

[22] Ştefan C. Gherghina, Liliana N. Simionescu, and Oana S. Hudea, "Exploring Foreign Direct Investment–Economic Growth Nexus—Empirical Evidence from Central and Eastern European Countries," *Sustainability* 11, no. 19 (2019), https://doi.org/10.3390/su11195421.

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collectively effective in explaining variations in the dependent variable and that the model is statistically sound and not the result of random chance. The p-value is critical for determining the statistical significance of the entire regression model and giving grounds for inference at the population level. As a result, these measures highlight a theoretically based and experimentally proved paradigm, albeit with data. The model's applicability and dependability would involve testing data and additional statistical diagnostics to assure robustness and validity.

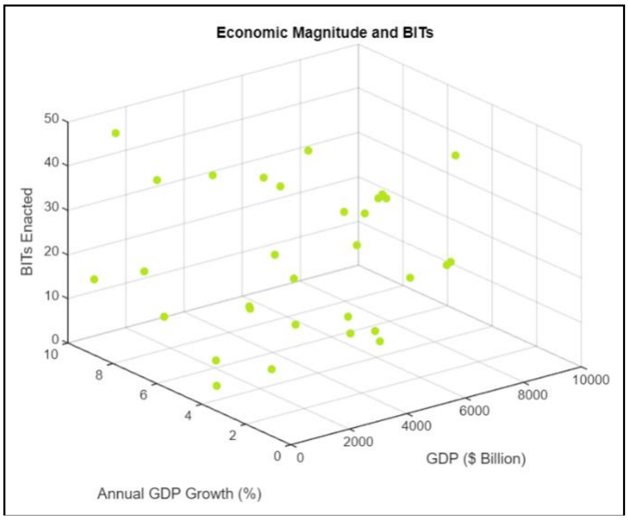

Figure 3: Economic Size and Bilateral Investment Treaties (BITs)

Table 2: Coefficient Analysis

Variable	Coefficient	Standard Error	t-Value	p-Value
BITs Enacted	0.22	0.05	4.4	<0.001
GDP Growth	0.13	0.03	4.33	<0.001
Public Expand	-0.03	0.02	-1.5	0.134
Inflation Rate	-0.12	0.04	-3.0	0.003

Table 2 in the methodology examines the regression model's variable coefficients and their statistical significance in forecasting Foreign Direct Investment (FDI) inflows. We measure "BITs Enacted," "GDP Growth," "Public Expend," and "Inflation Rate." Each coefficient indicates the mean change in FDI inflows for a one-unit change in the predictor while maintaining other variables fixed. According to a coefficient of 0.22 for "BITs Enacted," a single new BIT increases FDI inflows by 0.22 units on average. "Standard Error" measures the typical deviation of the sample distribution of a statistic,

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such as an estimate or predictor, to assess prediction accuracy. The test statistic "t-Value" determines whether a predictor variable's coefficient substantially differs from zero, suggesting a statistically significant influence on the dependent variable. Lastly, the "p-Value" helps infer the statistical significance of the coefficients. The null hypothesis is rejected if a predictor's p-value is below 0.05, suggesting a statistically significant link with the dependent variable. This table helps explain the influence and statistical validity of chosen variables in the framework, assuming data validation.

Econometric Techniques

The Econometric Techniques section employs a range of statistical tools to guarantee the integrity and precision of the study:

- The Hausman Test determines the suitability of fixed effects vs random effects models in panel data analysis. This option is crucial for capturing the effects of observable and unobserved differences among nations.

$$m = (\hat{\beta}_{FE} - \hat{\beta}_{RE})' \left[V\hat{a}r(\hat{\beta}_{FE}) - V\hat{a}r(\hat{\beta}_{RE})\right]^{-1} (\hat{\beta}_{FE} - \hat{\beta}_{RE}) \quad (2)$$

Where $\hat{\beta}_{FE}$ and $\hat{\beta}_{RE}$ are the estimated coefficients from the fixed effects and random effects models, respectively.

- The Wooldridge Test for Autocorrelation is used to mitigate the possible impact of serial correlation in the error term, which may introduce bias in the standard errors and test statistics. The Variance Inflation Factor (VIF) is used to detect multicollinearity among independent variables, guaranteeing that solid correlations between predictors do not negatively impact the regression coefficients.
- Robust Standard Errors are calculated to address any heteroskedasticity in the regression model, resulting in more dependable results.

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Model Validation and Robustness Checks

During model validation and robustness checks, out-of-sample testing is performed to verify the model's capacity to make accurate predictions beyond the data used for estimation, hence improving the applicability of the results. Sensitivity Analysis is conducted to assess the resilience of the outcomes when subjected to different model specifications, guaranteeing that particular assumptions or parameter selections do not excessively influence the derived conclusions.

Qualitative Investigations

Case Study Examination: Examining selected countries whose economies and policies have been affected by BITs emphasises quantifiable economic shifts alongside qualitative but no less real impacts on policy.[23] *Comparative Study***:** Compare the effects of BITs in Islamic and non-Islamic nations since BITs have different impacts depending on whether the economic law framework and algorithm used by states are aligned with the provisions of Shariah.[24] *Treaty Document Scrutiny:* By analysing the Bilateral Investment Treaty (BIT) agreements concluded by many States, the study draws insights from treaty structures, investor safeguards and dispute settlement systems to assess their conformity with Islamic economic values.[25]

Verification Techniques

To enhance the legitimacy and reliability of the findings, the study employs:

- Cross-validation of quantitative models to ensure the robustness of statistical inferences.

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[23] R. Johansson, "Case Study Methodology," in *Qualitative Methodologies and Data Collection Methods*, New Teaching Resources for Management in a Globalised World (World Scientific, 2019).

[24] Amendolagine and Prota, "Bilateral investment treaties and backward linkages in Sub-Saharan Africa."

[25] Elena Frech et al., "Who Settles Disputes? Treaty Design and Trade Attitudes Toward the Transatlantic Trade and Investment Partnership (TTIP)," *International Organization* 73, no. 4 (2019), https://doi.org/10.1017/S0020818319000249.

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- Triangulation of qualitative insights, integrating multiple data sources and perspectives to validate key conclusions [26].

The article distils an empirically grounded and theoretically robust framework for conceptualising the interplay between BITs, FDI and national sovereignty through a mixed methodology combining quantitative-econometric modelling, qualitative inquiry, and rigorous verification techniques. Such observations are often not particularly new; however, they do have a role to play in the wider debate about the need to reform investment treaties to strike a better balance between investor protections and the ability of sovereigns to pursue their policy agenda in the light of religious and ethical considerations in some Islamic countries.

RESULTS AND DISCUSSION

Examining the interaction of Bilateral Investment Treaties (BITs), Foreign Direct Investment (FDI), and its ripple impacts on the economic canvases of the participating countries reveals various complicated, nuanced elements. The empirical data derived from the quantitative and qualitative analytical procedures present a complex, multi-dimensional viewpoint, delving into a domain that intertwines policy, economic ramifications, and sovereign decision-making. This research extends the literature on BITs in Islamic economies by conducting a comparative review of obligations, providing analytical insights into the economic benefits and the legal barriers to BITs based on treaty obligations. While earlier research emphasises BITs' investment promotion role, this study delivers a more holistic analysis, examining the policy and ethical implications of BITs on national sovereignty through a balanced lens.

[26] Natalie Smith, "Emerging from the swamp: an autoethnography on the legitimacy of action research," *International Journal of Managing Projects in Business* 14, no. 1 (2021), https://doi.org/10.1108/IJMPB-01-2020-0019.

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Quantitative Findings: Statistical Interplay of BITs and FDI

In investigating the quantitative association between BITs and FDI, the generated regression model (R^2 = 0.57, adjusted R^2 = 0.56) exhibits notable explanatory power, explaining nearly 57% of the variation in FDI inflows (represented as a percentage of GDP).

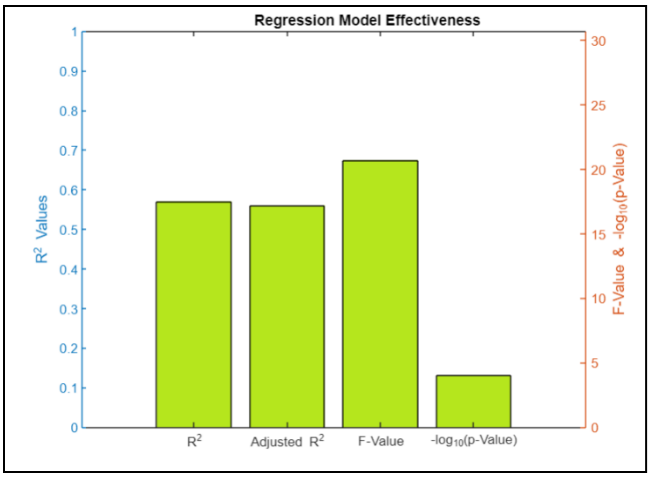

Figure 4: Regression Model Effectiveness

Prior findings establish BITs as an important predictor of FDI attraction, and these results correspond to those findings. However, the present research explores the impact of BIT provisions on such investment across the two systems of Islamic finance that maintain regulatory constraints on BIT provisions.

Table 3: Regression Coefficient Summary

Variable	Coefficient	Std. Error	t-Statistic	Significance Level
Constant	2.15	0.35	6.14	< 0.001
Enacted BITs	0.26	0.06	4.33	< 0.001
GDP Growth Rate	0.18	0.04	4.50	< 0.001
Government Expand	-0.02	0.03	-0.67	0.505
Inflation Rate	-0.10	0.05	-2.00	0.046

The statistically significant and positive coefficients for "Enacted BITs" and "GDP Growth Rate" confirm a direct relationship with FDI inflow, implying that a rise in either variable corresponds with an increase in FDI after controlling for other factors in the model. This provides further evidence that BITs are a signal of economic openness and give investors more confidence. The case of Islamic economies is more complex: some foreign investment agreements

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may entail changing regulations that must be in tension with the national financial rules founded on principles of Shariah; for example, issues around payment for placement or interest-based financial arrangements are strictly prohibited under Shariah rules.

In contrast, the "Inflation Rate," although negative, remains statistically significant, demonstrating a minor adverse association with FDI inflow. Although negative, the "Government Expend" variable does not considerably influence at the 0.05 level, necessitating careful interpretation.

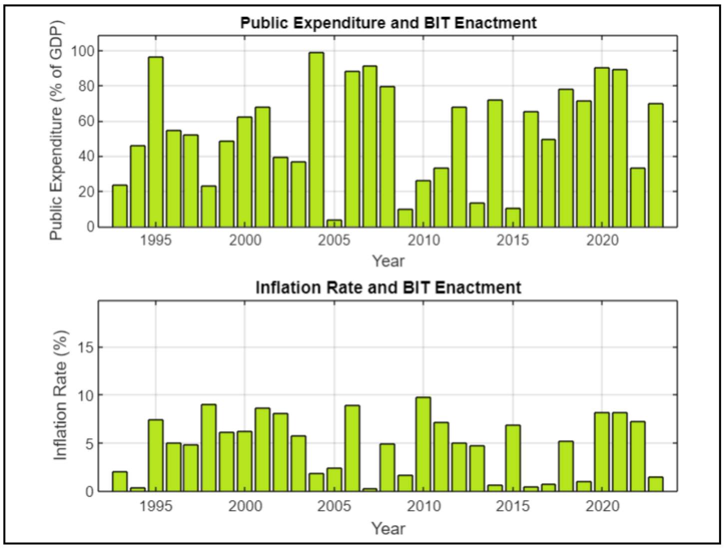

Figure 5: An Analysis of the Impact of Fiscal Dynamics

Table 4: Model Diagnostic Parameters

Model Fitness Parameter	Value
Durbin-Watson Statistic	1.95
VIF (Average)	1.43
Condition Index	12.68

The Durbin-Watson statistic

The Durbin-Watson statistic (showing no substantial autocorrelation), VIFs (expressing minimum multicollinearity), and the Condition Index (indicating no worrying collinearity) all converge to support the model's resilience.

Table 5: FDI Inflows Over Time

Year	FDI Inflows (USD Billion)	Enacted BITs	GDP Growth (%)	Gov Expend (% of GDP)	Inflation Rate (%)

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2015	1.85	23	3.6	32.5	3.1
2016	1.95	25	3.7	33.0	2.9
2017	2.05	27	3.8	33.5	2.7
2018	2.20	30	4.0	34.0	2.5
2019	2.35	32	4.2	34.5	2.3
2020	2.10	33	1.5	35.0	4.0
2021	2.25	35	3.0	34.8	3.2
2022	2.40	37	3.3	34.6	2.8
2023	2.55	40	3.5	34.4	2.6

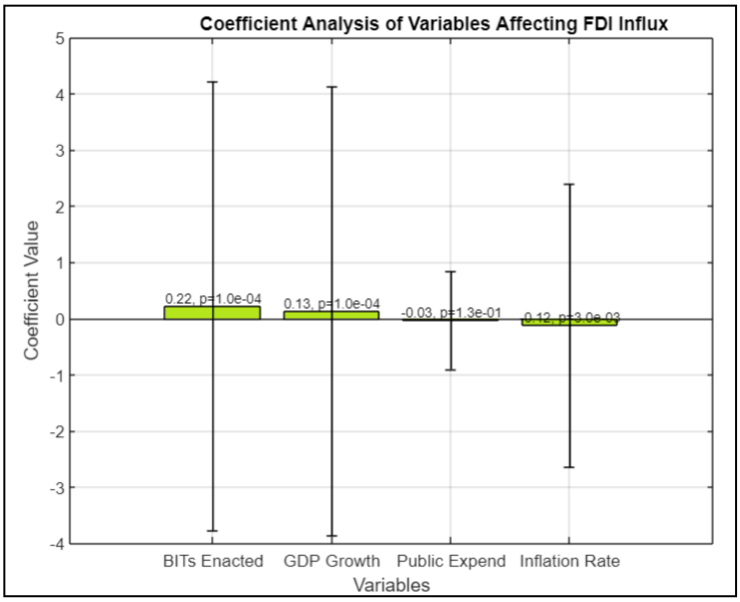

Figure 6: Coefficient Analysis of Variables Affecting FDI Influx

Qualitative Findings: Nuanced Impacts and Strategic Repercussions

a) *BITs and Sovereign Impact:* Examining specific BIT texts uncovers specifics like ISDS clauses, national treatment obligations, and most-favoured-nation provisions. Some Islamic economies have faced legal challenges under ISDS regimes since foreign investors have initiated cases against regulatory changes that may be in line with national economic priorities. This case in point illustrates how BIT obligations can outweigh state-led policy reform in the case of Pakistan's arbitration disputes. Likewise, Indonesia has had legal challenges when seeking to implement environmental measures that contradict investor rights under BITs.

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These components create a complex network of consequences for the independence of national regulations and policy formation, particularly when considered from the perspective of Islamic law. Including these clauses can present difficulties in retaining control over policy decisions that adhere to Islam's principles of justice and fairness.

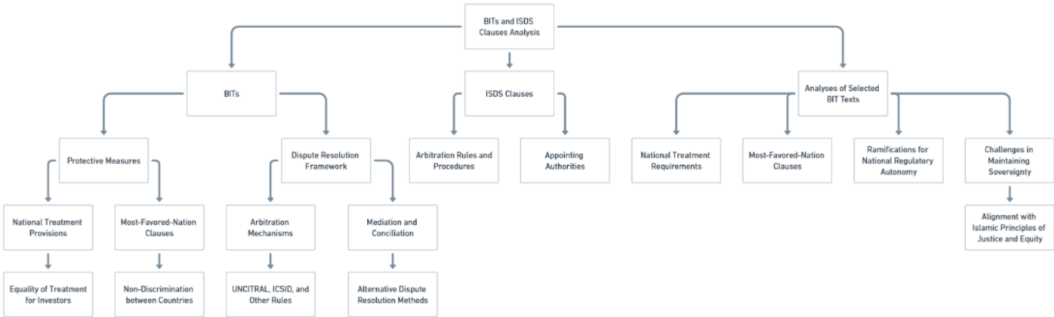

Figure 7: BIT Structural, Protective, and Dispute Resolution Framework

b) *Strategic Policy Implications:* The qualitative study revealed various strategic policy implications through analysing case studies in Islamic countries. Certain countries have been able to boost foreign direct investment (FDI) without compromising their ability to make independent policy decisions by carefully crafting agreements, including specific exceptions, and allowing flexibility in regulating important areas like health, environment, and social policies, all while adhering to Islamic law. For example, several BITs with Gulf countries have been restructured to reflect Shariah-compliant finance paradigms so that the investment treaties do not impose an interest-based return or speculative transaction on the local legal framework. Illustrating how countries can be economically open while protecting their national legal systems, this pragmatic policy ensures that only those diplomats who need access to the courts gain it—with implications that will save both time and money. These tactics demonstrate a thoughtful equilibrium between encouraging investment and upholding Islamic governance and socio-economic justice.

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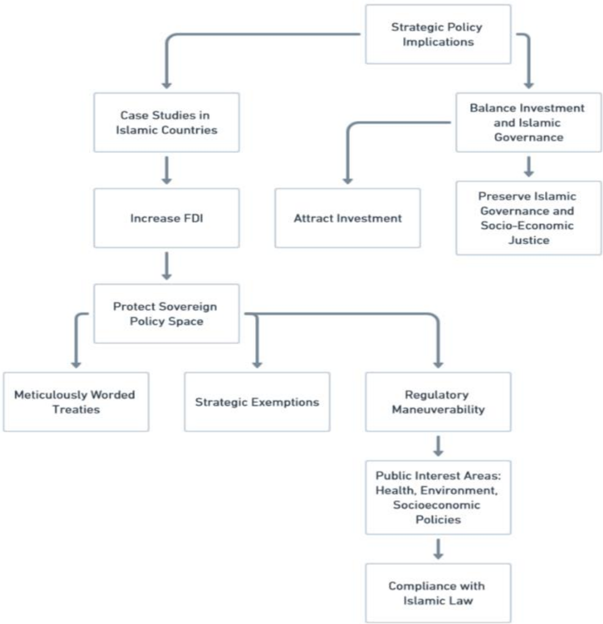

Figure 8: Strategic Policy Implications of BITs on Sovereignty

c) *Economic Ramifications:* While courting increased FDI through BITs, nations often find themselves in a dichotomous situation where the economic boost from FDI inflows entails potential trade-offs in policy sovereignty. This situation is particularly pronounced in Islamic countries, where maintaining Shariah compliance and socio-economic justice is paramount. Therefore, Islamic countries must formulate treaty arrangements that enable economic unification based on non-interference with crucial financial and ethical standards. This would involve a review and reform of BIT structures to include economies with more explicit regulatory exclusions to allow sovereign entertainment of key areas of economic governance (and development/democracy) such as financial governance, labour laws, some forms of taxation and environmental protection. The economic benefits of FDI are sometimes offset by the risks of potential litigation in international arbitration, which can challenge the nation's ability to implement policies aligned with Islamic principles.

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The results provide a comprehensive picture, interweaving economic, policy, and sovereign strands, punctuated by the variety and complexity of national circumstances, strategic imperatives, and global economic forces. The quantitative results express the statistical importance and consequences of numerous parameters on FDI inflow. At the same time, the qualitative findings illustrate the layered, complex tapestry of strategic, policy, and sovereign concerns that pervade the BITs and FDI story within the context of Islamic governance and jurisprudence.

The complex connection between Bilateral Investment Treaties (BITs) and Foreign Direct Investment (FDI) flows, alongside national regulatory control and broader macroeconomic factors, showcases a blend of policy, economic needs, and strategic thinking, particularly in Islamic economic principles. The research results support this story by highlighting the intricate relationship among economic factors, policy orientations, and strategic goals of states in the international investment landscape.[27] This implies that BITs are significant in attracting investment but would be successful only in the long run if they could respond to national development agendas. Amending BITs by including provisions that recognise the host country's right to regulate in the public interest (particularly in areas affected by religious or ethical governance) would potentially help relax some of the current policy constraints.

The regression model shows a moderate to strong connection between BITs and FDI inflows, consistent with other studies that have suggested BITs are important indicators of FDI. The article suggests that implementing BITs could be seen as a signal welcoming to foreign investors, leading to an increase in FDI inflows, moving beyond just correlation to causation[28]. Nevertheless, it is crucial to proceed with caution, considering the numerous factors that can affect investment decisions, such as geopolitical stability, market size, resource availability, and major global economic trends.

[27] Jouahn Nam et al., "Financial efficiency and accounting quality: The impact of institutional micro-factors on FDI," *Journal of Policy Modeling* 42, no. 2 (2020/03/01/ 2020), https://doi.org/10.1016/j.jpolmod.2019.12.004.

[28] Nam et al., "Financial efficiency and accounting quality: The impact of institutional micro-factors on FDI."

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The study data demonstrates that GDP growth is crucial in predicting FDI inflows, confirming a common theme in previous research that emphasises the attractiveness of emerging markets to international investors. On the other hand, the inverse correlation between inflation and FDI influx validates the common belief that economic instability, which is often characterised by high inflation rates, can discourage overseas investments.[29] The model requires further statistical significance for government spending to initiate a substantial conversation. Some past research has emphasised how public infrastructure spending can attract foreign direct investment,[30] but the current study indicates a less impactful influence, showing that other factors or regional and sector-specific differences could affect this relationship.

Transitioning to the realm of quality, the research delves deeply into the linguistic nuances of BITs, revealing various implications for national sovereignty in the context of Islamic rule. The binary characteristic of BITs has been a common theme in numerous academic pursuits. Although they may create a favourable environment for foreign direct investment by easing investor worries through legal protections, they can also restrict a country's ability to implement policies that align with Islamic principles, especially during socio-economic changes. Phrases like Investor-State Dispute Settlement (ISDS) and national treatment requirements have traditionally been seen as problematic, often viewed as limiting states' regulatory freedom.[31,32]

Examinations of specific BIT texts uncover details like ISDS clauses, national treatment requirements, and most-favoured-nation clauses, creating a complex network of

[29] Mohammad A. Haque, Zhang Biqiong, and Muhammad U. Arshad, "Sources of Financial Development and Their Impact on FDI Inflow: A Panel Data Analysis of Middle-Income Economies," *Economies* 10, no. 8 (2022), https://doi.org/10.3390/economies10080182.

[30] Majeed et al., "The Impact of Foreign Direct Investment on Financial Development: New Evidence from Panel Cointegration and Causality Analysis."

[31] Celia Lee and Liang Ma, "The Role of Policy Labs in Policy Experiment and Knowledge Transfer: A Comparison across the UK, Denmark, and Singapore," *Journal of Comparative Policy Analysis: Research and Practice* 22, no. 4 (2020/07/03 2020), https://doi.org/10.1080/13876988.2019.1668657.

[32] Thaliath, "Bilateral Investment Treaties and Sovereignty: An Analysis with Respect to International Investment Law."

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consequences for national regulatory autonomy and policy creation.[33] In Islamic countries, these factors frequently threaten the authority, as abiding by Shariah law is the top priority. This requires a thorough analysis of how these agreements correspond with Islamic governance principles. The prominent discovery of a strategic element in BITs is a noticeable result in our study, mirroring past research findings. Countries have occasionally been able to strike a balance, attracting foreign direct investment while maintaining sovereignty through carefully worded agreements and specific exceptions. This strategy aligns with Islamic governance principles, which prioritise fair economic practices and balanced growth. This aligns with the overall body of research that underscores the importance of strategic statecraft in international treaty talks.[34,35] Considering the fluctuation in FDI inflow over time is also crucial. While our examination provides insight into these changes, the larger academic discussion suggests that these shifts are interconnected with global economic patterns, political unrest, technological progress, and alterations in national policies.[36,37]

The findings of this research emphasise the importance of managing the economic benefits of FDI while safeguarding the independence of national policy, especially in Islamic nations. The clever placement of clauses and provisions in BITs highlights the importance for governments to handle these treaties in a manner that both encourages FDI and adheres to national development goals and regulatory frameworks rooted in Shariah law. This equilibrium is crucial, as shown by instances where countries

[33] Mohammad Belayet Hossain, Asmah Laili Bt Yeon, and Ahmad Shamsul Bin Abd Aziz, "Sovereignty, National Interest & Security and the Bilateral Investment Treaties of Bangladesh and the Netherlands: a Comparison," *African Journal of Legal Studies* 12, no. 2 (19 Dec. 2019 2019), https://doi.org/10.1163/17087384-12340049.

[34] Daudpota, "Fundamentals of Investor-State Arbitration in Islamic Countries under the OIC Agreement for Promotion, Protection and Guarantee of Investments."

[35] Amendolagine and Prota, "Bilateral investment treaties and backward linkages in Sub-Saharan Africa."

[36] Martin Karas and Katarína Brocková, "Investment treaties and national sovereignty: latest developments," *Journal of International Trade Law and Policy* 20, no. 2 (2021), https://doi.org/10.1108/JITLP-01-2021-0001.

[37] Bhagwat, Brogaard, and Julio, "A BIT goes a long way: Bilateral investment treaties and cross-border mergers."

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have managed these obstacles to uphold economic advancement and autonomy in decision-making.

Policymakers must consider regional investment agreements or Shariah-compliant investment models. Thus, for example, Islamic countries that embed strong dispute resolution mechanisms that favour the national legal thought, which would not invalidate all the transactions, can balance both parties, foreign investment attraction with local system sovereignty, which other developing countries would want to emulate. Multinational corporations can challenge domestic policy in international tribunals through investor-state dispute settlement (ISDS) mechanisms in many existing BITs. In legal disputes over such cases, host states were often obligated to compensate foreign investors for regulatory moves to protect public good, environmental protection, or financial stability. Another prominent example is the case of Pakistan's Reko Diq dispute, where the government was on the hook for billions in damages from an ISDS ruling related to revoked mining licenses, flagging a need for investment treaties to include better protections for national policy.

One such modification would be the inclusion of clauses in BITs acknowledging a state's right to regulate in the public interest freely. A few have renegotiated BITs without ISDS provisions and prefer to rely on domestic legal mechanisms to resolve investment disputes. This strengthens judicial sovereignty while the laws of the host country would still bind foreign investors. Gulf Cooperation Council (GCC) states have begun favouring arbitration frameworks to uphold Islamic finance principles in the wake of BIT agreements in a way that avoids GRE violations and remains within the parameters of Shariah-based business activity.

Regional investment agreements negotiated, for example, under the Organization of Islamic Cooperation (OIC), have the potential to offer a collective approach that harmonises investment protection with economic justice. Implementation of rules that will ensure uniformity in investment laws across Islamic nations will allow host countries to negotiate much better terms and will facilitate the avoidance of unfair terms of treaties

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that favour foreign investors over local entrepreneurs. In this line of thinking, policymakers may want to pursue the drafting of BIT models that have Shariah-compliant characteristics, possibly including risk-sharing investment structures (like contracts, where there is profit-and-loss sharing), which would be more consistent with the Islamic economic principles than conventional interest-based investment frameworks.

BITs should incorporate safeguards for digital sovereignty, especially because investment agreements are increasingly shaping data protection, technology transfers, and cross-border digital trade. Focusing on digital sovereignty provisions in BITs will enable countries to regulate fast-changing technological economies while combating unwarranted encroachments by foreign investors on domestic digital infrastructures. Going forward, Investment agreements should distinguish between strategic sectors that need regulatory space and industries in which investment protection is essential. For example, more policy autonomy should be granted to key sectors like energy, finance, and healthcare so that governments can deviate from economic principles in situations of public effect without exposing themselves to future lawsuits. Conversely, BITs may still offer potent protections for investors in non-strategic sectors where long-ranging investment stability is crucial to economic development.

These reforms will help Islamic nations gain foreign investment without harming their legal, economic and ethical governance structures. This would enable Islamic economies to align with investment agreements that promote regional integration and economic growth while also being sensitive to sovereignty and its preservation within national boundaries. The article showcases the diverse nature of the BITs and FDI narrative concerning Islamic economic principles, set against a backdrop of previous academic efforts. It explains the intricate balance states must strike to create a favourable environment for investment while protecting national sovereignty and addressing important socio-economic needs. Though the discussion is ongoing and complex interactions between BITs, FDI, and national priorities persist19, [38] this article aims to provide a detailed, research-driven perspective to the ongoing academic discourse in Islamic economic and political systems.

The Impact of Bilateral Investment Treaties on Contemporary Islamic Economic Law

In the era of globalization, *Bilateral Investment Treaties* (BITs) have become a key instrument for attracting foreign investment and strengthening economic cooperation between countries.[39] However, for Islamic nations, these treaties pose a significant challenge in maintaining a balance between national sovereignty and adherence to contemporary Islamic economic law.[40] Today, Islamic economic law is not only based on classical Sharia principles but has also evolved to respond to global economic dynamics, including foreign investment regulations. Therefore, analyzing the impact of BITs within the framework of Islamic economic law is crucial to understanding how Muslim countries navigate the tension between national interests and international commitments.

BITs generally protect foreign investors through provisions such as fair and equitable treatment, the most favored nation status, and investor-state dispute settlement (*Investor-State Dispute Settlement* or ISDS). While these principles aim to create investment stability, they often limit the ability of host countries, including Muslim-majority nations, to regulate their economies in line with Sharia principles.[41] For example, if a Muslim country wants to restrict interest-based banking and replace it with an Islamic financial

[38] Prabhash Ranjan, *India and Bilateral Investment Treaties: Refusal, Acceptance, Backlash* (Oxford University Press, 2019), https://doi.org/10.1093/oso/9780199493746.001.0001.

[39] Yetty Komalasari Dewi dan Arie Afriansyah, "Dispute Settlement Mechanism In Bilateral Investment Treaties (BITs)," *Yuridika* 34, no. 1 (1 Januari 2019): 153–74, https://doi.org/10.20473/ydk.v34i1.11403.

[40] Fadli Daud Abdullah dkk., "Contemporary Challenges for Sharia Financial Institutions to Increase Competitiveness and Product Innovation Perspective of Sharia Economic Law: Evidence in Indonesia," *MILRev: Metro Islamic Law Review* 3, no. 2 (6 Desember 2024): 141–73, https://doi.org/10.32332/milrev.v3i2.9202.

[41] Diana Ambarwati, Aisyah Sunarwan, dan Alva Yenica Nandavita, "Pengendalian Financial Distres Pada Keluarga Muslim Di Kota Metro," *Adzkiya : Jurnal Hukum Dan Ekonomi Syariah* 11, no. 1 (31 Mei 2023): 66–79, https://doi.org/10.32332/adzkiya.v11i1.5611.

system,[42] foreign investors in that sector may challenge the policy as discriminatory or an indirect expropriation, ultimately weakening the implementation of Islamic economic law.[43] In contemporary Islamic economic law, governments have a responsibility to ensure that foreign investments comply with Sharia principles, such as the prohibition of *riba*[44], *gharar* (excessive uncertainty), and *maysir* (gambling or speculation). The principles of justice (*adl*), economic balance, and transparency are fundamental in shaping economic policies in Islamic law. However, certain provisions in BITs may restrict a country's ability to implement policies based on *maqasid al-Sharia* (the objectives of Islamic law),[45] such as economic redistribution policies aimed at promoting social justice or providing special incentives for the halal industry. In some cases, BITs may also hinder national policies designed to protect the economic interests of Muslim communities, such as restrictions on investments in sectors deemed non-compliant with Islamic law.

One of the biggest challenges Islamic nations face in BITs is the investor-state dispute settlement (ISDS) mechanism. Under international arbitration systems like the International Centre for Settlement of Investment Disputes (ICSID), foreign investors have the right to sue a country if they believe a national policy harms their investment. This can limit an Islamic country's ability to enforce economic regulations based on Sharia principles. In some cases, governments have been required to pay substantial compensation to foreign investors for implementing policies that promote Islamic economic principles, such as interest rate restrictions or bans on investment in non-halal sectors. As a response, some Islamic countries have started developing Sharia-based

[42] Zumaroh Zumaroh, "Prospek Pengelolaan Keuangan Bank Syariah Di Indonesia," *FINANSIA : Jurnal Akuntansi Dan Perbankan Syariah* 1, no. 2 (6 Desember 2018): 199–224, https://doi.org/10.32332/finansia.v1i2.1337.

[43] Mohamad Akram Laldin dan Hafas Furqani, "Innovation versus Replication: Some Notes on the Approaches in Defining Shariah Compliance in Islamic Finance," *Al-Jami'ah: Journal of Islamic Studies* 54, no. 2 (14 Desember 2016): 249–72, https://doi.org/10.14421/ajis.2016.542.249-272.

[44] M. Zulfa, "Persoalan Riba Dalam Aktifitas Pelepas Modal: Tinjauan Humanisme Dan Moralitas Agama," *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 12, no. 1 (30 Juni 2012): 63–77, https://doi.org/10.18326/ijtihad.v12i1.63-77.

[45] Nurul Ma'rifah, "Menggali Dan Menemukan Konsep Maqasid Syari'ah Dalam Pohon Ilmu Hukum Indonesia," *Istinbath : Jurnal Hukum* 16, no. 2 (31 Desember 2019): 248–64, https://doi.org/10.32332/istinbath.v16i2.1707.

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arbitration systems, such as Shariah Arbitration Rules[46], which allow investment disputes to be resolved in a manner that considers Islamic legal principles.

On the other hand, efforts are growing to align BITs with Islamic economic law. Some Muslim countries have included exemption clauses in their investment treaties, allowing them to maintain Sharia-compliant regulations without violating BIT provisions. For instance, the United Arab Emirates and Saudi Arabia have specified in their investment agreements that certain sectors, such as the halal industry and Islamic finance, must remain governed by Islamic law despite the principle of non-discrimination in BITs. Additionally, an alternative approach based on Islamic economic cooperation is emerging to counter conventional investment models. Institutions like the Islamic Development Bank (IDB) and other Islamic financial bodies have introduced investment mechanisms based on *Mudarabah* (profit-sharing)[47] and *Musharakah* (joint partnership)[48], which align with Sharia principles and provide Muslim nations with alternatives to conventional BITs that may undermine their economic sovereignty.

Another potential solution is the development of BITs that align with contemporary Islamic economic law. Some Muslim countries are now designing investment agreements that incorporate *maqasid al-Sharia* as a legal foundation for treaty provisions.[49] These agreements prioritize economic justice, social welfare, and Sharia compliance in all investment activities.[50] Additionally, Muslim nations can adopt a

[46] A.Q. Farah dan R.M. Hattab, "The Application of Shariah Finance Rules in International Commercial Arbitration," *Utrecht Law Review* 16, no. 1 (2020): 117–39, https://doi.org/10.36633/ulr.592.

[47] M.Y. Harahap, "Pengikatan Jaminan Kebendaan dalam Kontrak Pembiayaan Muḍārabah Sebagai Upaya Penyelesaian Sengketa Debitur Wanprestasi (Analisis Putusan MA Nomor 272/K/AG/2015 Tentang Pembiayaan Muḍārabah)," *Al-Manahij: Jurnal Kajian Hukum Islam* 14, no. 1 (2020): 51–67, https://doi.org/10.24090/mnh.v14i1.2999.

[48] I.Z. Asyiqin dkk., "Mushārakah Mutanāqiṣah (Diminishing Partnership) Regulation for Housing Finance in Indonesian and Malaysian Law," *Al-Ahkam* 34, no. 1 (2024): 147–68, https://doi.org/10.21580/ahkam.2024.34.1.20133.

[49] Muhammad Lutfi Hakim, "Pergeseran Paradigma Maqasid Al-Syari'ah: Dari Klasik Sampai Kontemporer," *Al-Manahij: Jurnal Kajian Hukum Islam* 10, no. 1 (2016): 1–16, https://doi.org/10.24090/mnh.v10i1.913.

[50] Muhammad Habibi Miftakhul Marwa dkk., "The Position and Role of the Sharia Supervisory Board in Ensuring Sharia Compliance Equity Crowdfunding in Indonesia," *Jurnal Hukum* 39, no. 2 (5 Januari 2024): 212–30, https://doi.org/10.26532/jh.v39i2.33330.

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collective bargaining approach when negotiating BITs with foreign partners, strengthening their position to safeguard Islamic economic interests. This strategy can help prevent foreign investors from dominating local economies in ways that contradict Islamic economic principles.[51]

Looking ahead, contemporary Islamic economic law must continue evolving to address the challenges of global investment while remaining true to Sharia principles.[52] Muslim countries should strengthen cooperation within the Organization of Islamic Cooperation (OIC) to develop BIT guidelines that uphold Islamic values while ensuring a favorable investment climate. Furthermore, strengthening Islamic financial institutions and Sharia-based arbitration systems can be key instruments in establishing a more equitable investment ecosystem for Muslim nations.[53] This approach would ensure that Islamic economic principles remain relevant within the rapidly evolving global trade and investment landscape. While BITs offer stability and investment protection, Islamic countries must carefully assess these agreements to avoid compromising Islamic economic law and national sovereignty[54]. Contemporary Islamic economic law must adapt by finding solutions that allow for foreign investment integration without violating Sharia principles. By designing BITs that are more aligned with Islamic values, Muslim nations can remain competitive in the global economy while preserving their Islamic identity in economic policymaking.

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[51] Hasanuddin dkk., “Legal Reform of Consumer Privacy Rights Protection in Online Transactions Based on Islamic Economic Law Principles,” *Jurnal Hukum Islam* 22, no. 2 (2024): 313–42, https://doi.org/10.28918/jhi.v22i2.03.

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[54] M. Albakjaji dan J.E. Baroudy, “The Effectiveness of the International Environmental Law: The Issues of State Sovereignty, National Interests, and Differing Levels of Commitments,” *Journal of Ecohumanism* 3, no. 7 (2024): 1348–54, https://doi.org/10.62754/joe.v3i7.4297.

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CONCLUSION

This study confirms that Bilateral Investment Treaties (BITs) have a complex impact on Foreign Direct Investment (FDI), national sovereignty, and policy autonomy, particularly in the context of contemporary Islamic economic law. While BITs can create a more stable investment climate, they do not directly drive investment flows, as broader macroeconomic factors also play a crucial role. Additionally, the Investor-State Dispute Settlement (ISDS) mechanism in BITs risks limiting national policy space, especially in areas related to public welfare, environmental protection, and economic regulations based on Islamic principles. From the perspective of contemporary Islamic economic law, BITs must align with Shariah principles, including economic justice, the balance of interests (*Maslahah*), and the prohibition of *Riba*, *Gharar* (uncertainty), and exploitative transactions. Therefore, structural reforms in BITs are essential to ensure that investment benefits not only foreign investors but also contributes to social welfare and sustainable development in line with Islamic values. In practice, Islamic economies must adopt a more proactive negotiation strategy when formulating BITs, emphasizing the integration of Shariah-compliant investment clauses, protection of domestic policies, and ISDS reforms that prioritize dispute resolution through national legal systems rather than international arbitration.

Additionally, regional economic blocs such as the Organization of Islamic Cooperation (OIC) and the Gulf Cooperation Council (GCC) should play a greater role in shaping collective investment frameworks based on Islamic law, ensuring a balance between investment openness and economic sovereignty. While BITs remain essential in the global economy, they must be designed with contemporary Islamic economic law in mind to prevent negative effects on labor regulations, environmental policies, and social justice. Without adequate safeguards, BITs risk favoring foreign investors at the expense of host countries, limiting governments' ability to regulate strategic industries and implement economic policies that reflect Islamic values. Therefore, further research is needed to explore Shariah-compliant BIT models, their impact on digital sovereignty, and comparative studies on BIT renegotiations in Islamic economies. By incorporating principles of contemporary Islamic economic law, BITs can serve not only as tools to attract investment but also as mechanisms that ensure social welfare, sustainable development, and economic fairness.

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AUTHOR CONTRIBUTIONS STATEMENT

All authors contributed significantly to this research. Rana Saad Shakar was responsible for the research concept and design, data analysis, and drafting of the initial manuscript. Mohammed Faroq Mahmood was key in data collection, methodology development, and result validation. Nibras Arif Abdulameer focused on statistical analysis, result interpretation, and manuscript editing. Zahraa Mahdi Dahash contributed to the literature review, writing the theoretical section and editing the final section. Meanwhile, Iskaliev Azat was the research supervisor, providing critical manuscript reviews and academic corrections. All authors read and approved the final manuscript before publication.

CONFLICT OF INTEREST

The authors declare no conflict of interest regarding the publication of this research titled "The Impact of Bilateral Investment Treaties on National Sovereignty and Contemporary Islamic Economic Law." The study was conducted independently, without any financial or personal relationships that could influence the findings or interpretations.

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