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Foreign Direct Investment and Human Rights in Post-Conflict States: The Case of Afghanistan

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ABSTRACT
Foreign direct investment (FDI) is considered a crucial catalyst for economic recovery and reconstruction in post-conflict nations. This article analyses the regulatory and legislative framework overseeing foreign direct investment in Afghanistan, focusing on institutional capability, enforcement difficulties, and human rights consequences. Despite Afghanistan's implementation of formal legal protections for foreign investors, such as assurances under its Private Investment Law and obligations to international investment agreements, the efficacy of these provisions is constrained by inadequate enforcement mechanisms, corruption, and a lack of judicial independence. The paper contends, through a doctrinal and legal framework analysis, that the principal barriers to attracting sustainable FDI stem not from a lack of legal provisions, but from the incapacity of state institutions to efficiently administer and enforce these regulations. The deficiencies in governance not only erode investor trust but also foster circumstances where investment operations may result in detrimental human rights consequences, especially with labour standards, inequality, and the safeguarding of local communities. The article illustrates that in fragile and post-conflict environments; inadequately controlled investment can intensify societal tensions and obstruct long-term peacebuilding initiatives. It underscores the necessity of incorporating human rights issues into investment governance, using international standards such the UN Guiding Principles on Business and Human Rights. The study ultimately asserts that effective FDI regulation in Afghanistan necessitates a synthesis of legal reform, institutional fortification, and a governance framework grounded on human rights to attain sustainable and inclusive post-conflict development.

KEYWORDS: Foreign Direct Investment; Post-Conflict States; Afghanistan; Rule of Law; Business and Human Rights.

1. Introduction

Foreign Direct Investment (FDI) is commonly seen as an important way to help economies recover and build peace in communities that have just come out of conflict. In states ravaged by war, FDI is anticipated to aid in reconstruction, generate jobs, and alleviate problems associated with warfare. But the success of FDI in places that have just come out of war depends a lot on how well the government operates, how stable the politics are, and how well the rules are followed.[1] From a legal and policy standpoint, FDI in post-conflict nations serves not only as an economic instrument but also as a facet of peacebuilding and state reconstruction. Researchers say that badly controlled investment can make inequality worse, cause problems, and hurt fragile peace processes. On the other hand, well-regulated investment can help stabilize the economy and bring people together. The idea of *jus post*

[1] Robert J Moore, 'Emerging from War: Public Policy and Patterns of Foreign Direct Investment Recovery in Postwar Environments' (2021) 4 *Journal of International Business Policy* 455. See also: Amina Omar Mohamud, 'Opportunities and Challenges of Foreign Direct Investment in Somalia's Peacebuilding and Post Conflict Reconstruction' (2025) *International Journal of Financial Management and Economics*.

bellum stresses that economic arrangements after a conflict, such as foreign investment, should be fair, responsible, and lead to lasting peace. Consequently, the regulation of FDI should be contextualized within a comprehensive framework of governance, rule of law, and post-conflict change, rather than being viewed solely as market liberalization.[2]

Governance quality is widely acknowledged as a critical determinant of FDI inflows, especially in fragile and conflict-affected nations good governance includes the rule of law, good regulation, openness, and strong institutions. Weak governance raises transaction costs, promotes corruption, and diminishes investor confidence, even in the presence of statutory investment regulations. Empirical studies show that nations with stronger legal systems and more stable regulatory environments are better at getting and keeping international investors. On the other hand, post-conflict states with poor enforcement mechanisms have a hard time in turning legal changes into real investment results.[3] Afghanistan is an especially important case for looking at the link between FDI legislation and governance after a war. Years of fighting have made Afghanistan's governmental institutions, legal system, and economic infrastructure very fragile. Research regularly indicates that insecurity and terrorism have exerted a substantial adverse effect on FDI inflows into Afghanistan, frequently surpassing the potential for economic growth or the availability of natural resources.[4] Afghanistan's investment climate has been influenced more by political instability and security concerns than by market fundamentals, which is different from what happens in many developing nations. This makes it a good example of the problems that post-conflict economies face.[5]

Afghanistan has made a number of legal and policy changes to try to get more international investment, even though it has faced these problems. In December 2005, Afghanistan implemented the Private Investment Law as a component of its comprehensive strategy for post-conflict economic rehabilitation and the transition to a market-oriented economy. The legislation aimed to foster economic growth, entice domestic and international investment, create jobs, and aid national rehabilitation initiatives. It offers legal assurances for investors, encompassing just and equitable treatment, safeguards against expropriation, and access to international arbitration processes.[6]

The enactment of this legislation signified a pivotal moment in Afghanistan's investment framework. Before 2005, FDI inflows were severely restricted due to extended conflict, institutional instability, and the lack of a dependable legal framework. Subsequent to the law's implementation, Afghanistan had a significant rise in foreign direct investment

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2 Ariella Joan Nnoke, 'Strategies for Attracting Foreign Direct Investment (FDI): Assessing the Effectiveness of Post-Conflict Peacebuilding Mechanisms in the International Capital Markets' (Master's, University of North Texas 2023). See also: Eric De Brabandere, 'Jus Post Bellum and Foreign Direct Investment: Mapping the Debate' (2015) 16 *The Journal of World Investment & Trade* 590.

3 Hill Metin Samuel,Khadan, Jeetendra,Selcuk, Peter, 'Fragile and Conflict-Affected Situations : Intertwined Crises, Multiple Vulnerabilities' (World Bank, 2025) See also: Omidullah Sadid and Hareesh Kumar T, 'Exploring the Role of Governance in Afghanistan's Foreign Direct Investment' (2025) 51 *Asian Journal of Education and Social Studies* 126.

4 Shahla Muram Nassir Ul Haq Wani, 'Linkage between International Political Relations and Foreign Direct Investment: A Case Study of Afghanistan' (2020) <https://kardan.edu.af/data/public/files/KJSSH-3.1-2020-0124062020042136.pdf> accessed 7 January 2026.

5 Abdul Fareed Delawari, 'A Time Series Analysis of Determinants of FDI in Afghanistan: Which One Matters the Most, Security or Economic Growth?'

6 UNCTAD Investment Policy Hub, 'Afghanistan - Investment Law, Investment Laws Navigator, (21 December 2005) <https://investmentpolicy.unctad.org/investment-laws/laws/2/afghanistan-investment-law> accessed 27 April 2026.

inflows, especially from 2006 to 2012, propelled by enhanced legal clarity and robust international involvement.[7] The enactment of the Private Investment Law in 2005 signified a crucial turning point in Afghanistan's investment structure. Before its implementation, FDI inflows were significantly constrained and unstable, indicative of extended conflict and a lack of a solid legal framework. For example, FDI inflows were nearly non-existent in 2000 and 2001, and while they rose to approximately 1.3% of GDP in 2002 and 2003, they exhibited considerable volatility in the early 2000s.[8]

Subsequent to the enactment of the legislation, Afghanistan witnessed a temporary increase in foreign direct investment inflows. Investment increased markedly to roughly 4.3% of GDP in 2005, subsequently decreasing to approximately 3.4% in 2006 and 2.0% in 2007.[9] This tendency indicates that the creation of a formal legislative framework, along with heightened international involvement, enhanced investor confidence in the immediate aftermath of implementation. Nonetheless, this favorable tendency was not maintained. Foreign Direct Investment inflows had a significant reduction post-2007, dropping below 1% and maintaining a usually low level for the subsequent decade. Despite a transient surge between 2010 and 2015, inflows predominantly oscillated between 0.2% and 0.9% of GDP. Between 2019 and 2021, FDI declined to negligible levels of roughly 0.05% to 0.15% of GDP.[10]The prolonged drop signifies that, although the initial efficacy of the 2005 Investment Law, persistent structural obstacles, including insecurity, inadequate institutional capacity, and governance shortcomings, have persisted to hinder Afghanistan's capability to secure sustainable foreign investment.

A comparison of pre- and post-enactment trends distinctly demonstrates that FDI inflows surged in the short term after the 2005 legislation, yet experienced a substantial fall in the long run, suggesting that legal reform alone was inadequate to maintain foreign investment.[11] The Afghan Private Investment Law and its rules give statutory protections such fair treatment for foreign companies, protection against expropriation, and access to ways to settle disputes.[12] However, studies show that there is a big difference between the formal legal structure and how it is really put into practice. Corruption, inadequate contract enforcement, inconsistent energy supply, and a lack of competent workers are still problems for investors. This difference shows how limited legal reform may be when it is not part of a larger effort to improve governance and institutions.[13]

International political relations are also very important in determining how much FDI comes into Afghanistan. Investor perceptions and capital inflows are greatly affected by diplomatic connections, international aid flows, and geopolitical alliances. International relations have been worse, especially with major donor and government of investor’s home countries. This has been found to affect short-term FDI in Afghanistan. This shows how weak post-conflict economies are to outside political influences, and how important it is to have

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7 Delawari, ‘A Time Series Analysis of Determinants of FDI', *Op. Cit*.

8 World Bank Open Data, ‘World Bank Open Data’ (*World Bank Open Data*, 2021 2000) <https://data.worldbank.org> accessed 27 April 2026.

9 *Ibid.*

10 *Ibid.*

11 United Nations Conference on Trade and Development, *World Investment Report 2023: Investing in Sustainable Energy for All* (United Nations 2023) <https://doi.org/10.18356/9789210027847> accessed 27 April 2026.

12 Mohammad Mukhtar Ataey, ‘Attracting Foreign Direct Investment in Afghanistan (2021) 05.

13 Ghulam Shah Adel Alizai, ‘Understanding Legal Barriers to Foreign Investment in Afghanistan: A Case Study in Herat Industrial Zone’ (2020) 8 *International Journal of Research -GRANTHAALAYAH* 80.

stable and trustworthy governance systems that may help to lower political risk.[14] This research situates Afghanistan within the extensive discourse on FDI in post-conflict nations, highlighting that foreign investment can serve as both an opportunity and a peril. FDI can help with rebuilding, creating jobs, and fostering peace, but if there is insufficient regulatory monitoring, it can also make underlying inequities worse.[15] In places that have just survive a war, the government's ability to control investment is just as crucial as its ability to bring it in. This viewpoint contests the presumption that augmented FDI inflows inherently result in favourable developmental results.[16]

The main point of this article is that the quality of governance and the efficiency of regulations are more important than financial incentives or market size when it comes to attracting long-term FDI to Afghanistan. Afghanistan's experience illustrates that, beyond liberalization policies, the rule of law, institutional integrity, and security are crucial in influencing investor confidence. This research enhances the literature on economic law and international business by analysing Afghanistan as a case study, emphasizing the legal and governance challenges encountered by post-conflict states in the regulation of foreign investment. This study aims to tackle the subsequent inquiries: How does governance affect the regulation and effectiveness of FDI in Afghanistan after the war? How well has Afghanistan's legal system worked to lower the dangers of investing? And what lessons may be learned by other countries who have just come out of a armed conflicts with intention to use FDI to assist their economies recover? The study seeks to offer theoretical insights and policy-relevant findings for scholars and practitioners in international economic law and post-conflict development by addressing these questions

2. Methodology

This study utilizes an integrated conceptual framework that connects governance, legal regulation, and FDI outcomes in post-conflict Afghanistan, as informed by the aforementioned theories. The paradigm posits that the quality of governance affects the efficacy of FDI regulation, which then impacts investor confidence and investment results. Security, the rule of law, and regulatory competence are seen as factors that affect how legal frameworks affect FDI inflows.[17] Within this perspective, FDI is understood not only as an economic variable but as a legal and political process integral to post-conflict reconstruction. The framework enables a critical examination of the good and negative impacts of foreign investment, highlighting the state's responsibility in reconciling investment promotion with the control of public interest. This method works especially well for studying Afghanistan, where problems with governance after the war have a big impact on the investment climate.

3. Theoretical Approaches to FDI

Classical and modern theories of foreign direct investment explain why multinational companies prefer to invest in other countries instead of relying on commerce or portfolio

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14 Sadid and Kumar T, 'Exploring the Role of Governance', *Op. Cit*.

15 De Brabandere, 'Jus Post Bellum and Foreign Direct Investment', *Op. Cit*.

16 Mohamed Asmy Mohd Thas Thaker, Baryalai Baryal and Farhad Taghizadeh-Hesary, 'The Effect of Foreign Direct Investment on Economic Growth in Afghanistan: An Empirical Insight' (2025) 20 *International Journal of Emerging Markets* 4217.

17 John H. Dunning, 'The Eclectic Paradigm of International Production: A Restatement and Some Possible Extensions' (1988) 19 *Journal of International Business Studies* 1.

investments.[18] Dunning's Eclectic Paradigm (OLI model) is one of the most important frameworks. It argues that FDI take place when companies have three reasons: a). Ownership advantages; b). find Location-specific benefits in the host state; and c). gain from Internalization instead of working with local companies. Moreover, market size, natural resources, labour prices, and infrastructure are all location advantages in stable economies. But in places like Afghanistan that have just come out of a war, these economic reasons are often less important than political and institutional factors.[19]

Institutional theory stresses how formal and informal regulations affect how people act in the economy. From this point of view, investors care a lot about the quality of institutions, such as how well property rights are protected, how well contracts are enforced, how predictable regulations are, and how independent the courts are.[20] Weak institutions make things less certain and more expensive, which makes people less likely to invest for the long run. In places where there has been a war, the legal system is weak and informal power structures are strong, institutional deficiencies make FDI far less appealing, even when there are good business prospects.[21] Political risk theory shows that in conflict-affected states like Afghanistan, security threats and instability deter FDI more than economic factors, meaning traditional FDI models must adapt to contexts where political and security risks dominate investor decisions.[22]

3.1. The Post-Conflict States and Economic Reconstruction

Post-conflict states are typically characterized as nations transitioning from extended armed conflict and engaged in efforts of reconstruction, reconciliation, and institutional revitalization. Economic recovery in these states is frequently impeded by devastated infrastructure, restricted fiscal capacity, diminished human capital, and social disintegration. Foreign aid is important for short-term recovery, but more and more people are realizing that it is not enough for long-term progress. Because of this, policymakers and international organizations often support FDI as a way to get more fresh capital, transfer of technology, and create jobs.[23]

In post-conflict literature, FDI is seen as a possible way to bring about peace and a possible cause of fresh conflicts. Foreign investment can help rebuild the economy, lower unemployment, and enable countries that have just come out of a conflict get out of the poverty conflict trap.[24] On the other side, FDI that is not well-regulated could make disparities worse, encourage corruption, and make it easier for elites to get their hands on economic resources. This dual character of FDI shows how important governance and regulatory frameworks are in deciding whether investment helps or hurts peacebuilding.[25]

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[18] J. C. Sharmiladevi, 'Understanding Dunning's OLI Paradigm', (2017) *Indian Journal of Commerce and Management Studies*, *Educational Research Multimedia & Publications*, India, vol. 8(3).

[19] Riazullah Shinwari and others, 'Revisiting the Relationship Between FDI, Natural Resources, and Economic Growth in Afghanistan: Does Political (in) Stability Matter?' (2024) 15 *Journal of the Knowledge Economy* 5174.

[20] Julio Faundez, 'Douglass North's Theory of Institutions: Lessons for Law and Development' (2016) 8 *Hague Journal on the Rule of Law* 373.

[21] Sadid and Kumar T, 'Exploring the Role of Governance', *Op. Cit*.

[22] Delawari, 'A Time Series Analysis of Determinants of FDI', *Op. Cit*. See also: Ul Haq Wani, 'Linkage between International Political Relations, *Op. Cit*.

[23] Paul Collier, 'Post-Conflict Recovery: How Should Policies Be Distinctive?'.

[24] Daehee Bak, Hoon Lee and Glen Biglaiser, 'The Role of Foreign Direct Investment in Post-Conflict Economic Recovery and Peace-Building' (2025) 21 *Foreign Policy Analysis* 1, orae032.

[25] *Ibid*.

Peacebuilding studies is increasingly focusing on the incorporation of economic governance into measures for post-conflict reconstruction. Power-sharing procedures, institutional changes, and inclusive economic policies are regarded as crucial for alleviating complaints and stabilizing post-conflict societies. From this point of view, FDI policy should not only be about getting as much capital as possible; it should also fit with bigger goals for post-conflict transition, such as social fairness, institutional legitimacy, and sustainable development.[26]

3.2. The Rule of Law and Regulatory Capacity in Afghanistan

Governance is a complex idea that includes a number of elements such as rule of law, quality of regulations, effectiveness of government, accountability, and the fight against corruption. When it comes to FDI, the quality of governance has a direct impact on how confident investors are and how well the government can control foreign economic activity.[27] Empirical research repeatedly demonstrates that nations exhibiting superior governance indices attract steadier and diversified foreign direct investment inflows. In fragile and post-conflict states, governance deficiencies frequently constitute the principal obstacle to investment.[28]

Afghanistan shows the difference between having a formal legal system and being able to enforce it. Investment rules officially protect investors, but enforcement is still inadequate because institutions do not have enough resources, rampant corruption, and less political involvement. Courts generally do not have the independence or knowledge when handling business conflicts. Likewise, regulatory bodies often do not have sufficient funding to perform their jobs. The difference between the law on paper and the law in practice makes the investment regime less trustworthy and may in turn hurts investor trust.[29]

From an institutional point of view, sustainable FDI needs both open investment policies and a strong commitment from the state. Credible commitment means that the government can continuously follow the regulations and keep its legal responsibilities throughout time.[30] In states that have just come out of a war, frequent changes in government and outside meddling make this commitment weaker, which makes people feel more at risk. Afghanistan's experience shows that good governance and the rule of law are necessary for long-term foreign investment. Legal reforms and investment incentives on their own are insufficient.[31]

4. FDI Performance in Afghanistan: What Needs to be Improved?

4.1. Political Stability and Regulatory Framework

The quality of governance, especially the rule of law and the effectiveness of regulations, is a key element that affects the amount of FDI that comes into Afghanistan. When institutions do not work well, it may create a less certain condition for foreign investors and

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[26] Moore, 'Emerging from War: Public Policy', *Op. Cit.*
[27] World Bank, 'Fragile and Conflict-Affected Situations: Intertwined Crises, Multiple Vulnerabilities' (*World Bank*) <https://www.worldbank.org/en/research/publication/fragile-and-conflict-affected-situations-vulnerabilities> accessed 7 January 2026.
[28] Sadid and Kumar T, 'Exploring the Role of Governance', *Op. Cit*.
[29] Alizai, 'Understanding Legal Barriers to Foreign Investment', *Op. Cit.*
[30] Ul Haq Wani, 'Linkage between International Political Relations, *Op. Cit*.
[31] *Ibid.*

makes them less likely to make long-term investments.[32] Experts argue that weak institutions make transactions more expensive and damage investor confidence, especially in unstable political situations.[33] The World Bank's Governance Indicators routinely place Afghanistan among the lowest-performing nations regarding governmental efficacy and corruption control, corroborating these empirical observations.[34] Further, expert also posits that problems in governance, rather than market size or legal frameworks, constitute the principal obstacles to foreign investment in Afghanistan.[35] Meanwhile, some scholars demonstrates that investors in the Herat Industrial Zone see poor cooperation between institutions and inefficient administration as two big problems that make it hard to invest.[36] Likewise, political instability and a lack of trust in institutions make investors feel like the risks are higher, which makes them even less likely to trust long-term commitments.[37] However, a post-conflict states that does not has good governance institutions would find a hard time turning legal changes into real investment flows.[38]

There is a strong negative long-term link between security conditions and foreign direct investment in Afghanistan, according to real-world data. Security certainty is more crucial than economic growth when it comes to getting foreign investors to come to states that are in war.[39] Terrorism greatly lowers the amount of foreign direct investment that comes in, even when trade is more open or infrastructure gets better.[40] Some contend that uncertainty impairs the developmental function of foreign investment by fostering short-term and heavily safeguarded capital movements.[41] Violence that goes on for a long time not only slows down the recovery of post-war investments, but it also makes investors less confident, stops long-term capital commitments, and slows down the process of economic normalization as a whole. Ongoing war makes things unsafe and unpredictable, which keeps foreign investors from fully participating in rebuilding efforts. This slows down both economic stabilization and sustainable development.[42]

Worsening international political ties not only increase perceived political risk but also decrease investor confidence, which makes foreign companies less likely to invest long-term. These kinds of tensions can make people worry about policy changes, trade barriers, or even expropriation. All of these factors make foreign investors less likely to invest and limit the role of FDI in helping fragile countries grow.[43]scholar stresses that political stability and peacebuilding procedures that include everyone are important for lowering risk perception in international capital markets.[44]

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32 Sadid and Kumar T, ‘Exploring the Role of Governance', *Op. Cit*.
33 Frank Obenpong Kwabi and others, ‘Political Uncertainty and Stock Market Liquidity, Size, and Transaction Cost: The Role of Institutional Quality’ (2024) 29 *International Journal of Finance & Economics* 2030.
34 World Bank, ‘Fragile and Conflict-Affected Situations’, *Op. Cit*.
35 Mukhtar Ataey, ‘Attracting Foreign Direct Investment in Afghanistan’, *Op. Cit.*
36 Alizai, ‘Understanding Legal Barriers to Foreign Investment’, *Op. Cit.*
37 Ul Haq Wani, ‘Linkage between International Political Relations, *Op. Cit*.
38 Moore, ‘Emerging from War: Public Policy', *Op. Cit.*.
39 Delawari, ‘A Time Series Analysis of Determinants of FDI', *Op. Cit*.
40 Ul Haq Wani, ‘Linkage between International Political Relations, *Op. Cit*.
41 Bak, Lee and Biglaiser, ‘The Role of Foreign Direct Investment', *Op. Cit.*
42 Joan Nnoke, ‘Strategies for Attracting Foreign Direct Investment’, *Op. Cit.*
43 Ul Haq Wani, ‘Linkage between International Political Relations, *Op. Cit*.
44 Joan Nnoke, ‘Strategies for Attracting Foreign Direct Investment’, *Op. Cit.*

Moreover, Afghanistan's Private Investment Law sets up a lot of legal protections to keep international investors safe and encourage them to participate.[45] Along with these domestic rules, the government has also made international commitments through trade and investment agreements that are in line with global norms. These steps show that there is an effort to make the investment climate more stable and predictable.[46] The goal is to give foreign businesses confidence that their investments will be protected by the law and to bring Afghanistan into the global economy. But the success of these guarantees ultimately depends on how trustworthy the institutions are and how stable the governing mechanisms that implement them are.[47] The main reasons why foreign investors reluctant to invest in Afghanistan are not the laws themselves; rather it is the ineffective enforcement, widespread corruption, and lack of judicial independence that make investment laws less effective and make investors less confident.[48]

Expert asserts that regulations lacking reliable enforcement methods do not affect economic activity.[49] Deteriorating international political relations further increase perceived political risk and reduce foreign investor engagement.[50] Therefore, to lower risk perception in international capital markets, there needs to be political stability and peacebuilding procedures that include everyone.[51] These kinds of systems assist make the climate more predictable for investors by building trust in government and making sure that different groups are represented in post-conflict recovery. This stability not only makes long-term capital commitments seem less risky, but it also makes institutions more trustworthy, which leads to more foreign investment.[52]

4.2. Human Rights Impacts

FDI in post-conflict environments like Afghanistan has profound consequences for human rights, transcending its economic and developmental roles.[53] Although FDI is frequently advocated as a catalyst for rebuilding and economic development, its effects on local communities are mostly contingent upon the regulatory framework and the degree to which human rights issues are incorporated into investment governance.[54]

In fragile governments, characterized by weak institutions and limited accountability systems, foreign investment may unintentionally lead to rights breaches if inadequately managed.[55] A notable human rights concern linked to FDI in Afghanistan is to labor rights and working conditions. Previous research utilized outdated data, whereas contemporary information demonstrates that labor circumstances continue to be exceedingly precarious.

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45 Ahmad Kanishka Zohor and others, 'A Study on the Contribution of Foreign Direct Investment to Economic Growth in Afghanistan' (2021) 16 *Journal of Money and Economy* 555.
46 *Ibid.*
47 *Ibid.*
48 Alizai, 'Understanding Legal Barriers to Foreign Investment', *Op. Cit.*
49 Douglass C North, *Institutions, Institutional Change and Economic Performance* (Cambridge University Press ,1990).
50 Ul Haq Wani, 'Linkage between International Political Relations, *Op. Cit*.
51 Joan Nnoke, 'Strategies for Attracting Foreign Direct Investment', *Op. Cit.*
52 *Ibid.*
53 United Nations Conference on Trade and Development, *World Investment Report 2023* (2023) <https://unctad.org/system/files/official-document/wir2023_en.pdf> accessed 22 April 2026.
54 World Bank, 'World Development Report 2020 Chapters and Data' (*World Bank*, 2020) <https://www.worldbank.org/en/publication/wdr2020/brief/world-development-report-2020-data> accessed 22 April 2026.
55 OECD, 'FDI Qualities Indicators: Measuring the Sustainable Development Impacts of Investment' (OECD, 22 October 2019) <https://doi.org/10.1787/0894dfba-en> accessed 22 April 2026.

Recent estimates indicate that Afghanistan is experiencing a significant employment problem, with overall unemployment projected to be about 13.3% of the entire labor force in 2024.[56] Moreover, labor market involvement is markedly uneven, especially among young workers, with male youth participation projected to exceed 70% in 2024, indicating a significant dependence on informal and frequently precarious employment.[57]Furthermore, Recent research demonstrates that labor circumstances in Afghanistan are exceedingly precarious, marked by pervasive informality, hazards of child and forced labor, and stringent limitations on women's employment, underscoring the inadequate enforcement of labor rights safeguards in practice.[58]

Without robust enforcement mechanisms, both international and domestic companies may function in situations that do not adhere to fundamental labour standards, such as equitable compensation, safe working conditions, and non-discrimination.[59] This is especially pertinent in businesses like construction, extractive sectors, and telecommunications, where regulatory supervision is frequently inadequate.[60] In Afghanistan's extractive sector, coal mining is linked to hazardous working conditions and frequent deadly incidents. In 2025, a methane gas explosion in Samangan province resulted in the deaths of at least seven miners, with reports indicating that similar occurrences are prevalent due to inadequate safety rules and insufficient inspection.[61]

Therefore, studies have highlighted labour rights issues in the construction industry, such as postponed wage disbursements and absence of written contracts, resulting in a lack of legal safeguards for workers.[62] In the absence of robust legal enforcement, the economic advantages of investment may fail to translate into improved living conditions for workers. Besides labor issues, foreign direct investment may intensify pre-existing social and economic disparities in post-conflict economies.[63] Investment initiatives focused on particular regions or sectors may result in disproportionate development, exacerbating the marginalization of

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[56] Trading Economics, 'Afghanistan - Unemployment, Total - 2026 Data 2027 Forecast 1991-2024 Historical' (April 2026) <https://tradingeconomics.com/afghanistan/unemployment-total-percent-of-total-labor-force-wb-data.html> accessed 28 April 2026. See also: ILO, 'The ILO in Afghanistan', *Op. Cit*.

[57] Trading Economics, 'Afghanistan - Labor Force Participation Rate For Ages 15-24, Male (Modeled ILO Estimate) - 2026 Data 2027 Forecast 1990-2024 Historical' (April 2026) <https://tradingeconomics.com/afghanistan/labor-force-participation-rate-for-ages-15-24-male-percent-modeled-ilo-estimate-wb-data.html> accessed 28 April 2026.

[58] Matiullah Qazizada, 'Impacts of the Taliban's Ban on Women's Work and Education - Afghanistan | ReliefWeb' (9 February 2024) <https://reliefweb.int/report/afghanistan/impacts-talibans-ban-womens-work-and-education> accessed 28 April 2026. See also: U.S. Department of Labor, 'Child Labor in Afghanistan: Findings from the U.S. Department of Labor' (*DOL*, 2024) <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/afghanistan> accessed 28 April 2026. See also: United States Department of State, 'Afghanistan 2023 Human Rights Report (2023) <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/afghanistan/> accessed 28 April 2026.

[59] International Labor Organisation, 'ILO Publications' (2017) <https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_556022.pdf> accessed 22 April 2026.

[60] World Bank, 'World Development Report 2020', *Op. Cit.*

[61] Aamir Latif, '7 Killed in Afghanistan Coal Mine Explosion, Police Say' (*Anadolu*, 21 May 2025) <https://www.aa.com.tr/en/asia-pacific/7-killed-in-afghanistan-coal-mine-explosion-police-say/3575097> accessed 28 April 2026.

[62] Irshad Habibi, 'Investigation on Causes of Delays and Cost Overruns of Construction Projects in Afghanistan' (2023) 26 *Journal of Management Information and Decision Sciences* 1.

[63] United Nations, 'Human Development Report 2021-22' (United Nations 2022) <https://hdr.undp.org/content/human-development-report-2021-22> accessed 22 April 2026.

already vulnerable groups.[64] In Afghanistan, considerable geographical disparities and social fragmentation render imbalanced investment patterns a danger for reinforcing marginalization and eroding social cohesiveness.[65] The correlation between FDI and human rights is intricately associated with matters of land utilization and community rights.[66] Extensive investment initiatives may entail land acquisition procedures that lack transparency or insufficiently engage local populations.[67]

In situations where legal protections for property and customary land rights are insufficient, such behaviours may result in displacement, loss of livelihoods, and societal discord. Reports have observed land tenure insecurity, forced evictions, and disputes arising from inadequate legal frameworks and the intersection of customary and statutory land systems in Afghanistan, contributing to displacement and conflict among communities.[68] The incorporation of human rights norms into investment regulation is increasingly highlighted in international legal discourse from a normative standpoint.[69] Frameworks like The United Nations Guiding Principles on Business and Human Rights are especially pertinent to Afghanistan, since inadequate enforcement and institutional instability heighten the danger of abuses of labor and community rights. A mixed approach is imperative: although voluntary corporate due diligence may facilitate initial compliance, obligatory regulatory measures such as labour inspections and accountability mechanisms are crucial for ensuring effective protection.[70]

In Afghanistan, this necessitates that the state enhances its regulatory power to oversee corporate behaviour, while investors should implement due diligence practices to recognize and alleviate potential human rights risks.[71] The efficacy of foreign direct investment in fostering sustained peace and prosperity in Afghanistan hinges not solely on economic outcomes but also on its congruence with human rights ideals.[72] Investment policies that emphasize short-term financial returns while neglecting social justice and accountability may

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64 *Ibid.*

65 World Bank, 'World Development Report 2020', *Op. Cit.*

66 Pedro Javaloyes, 'FAO Office for Corporate Communication <https://openknowledge.fao.org/server/api/core/bitstreams/5dfa02c6-a170-44d3-8c0f-6bd0014cc6d7/content> accessed 22 April 2026.

67 *Ibid.*

68 ACAPS, 'Afghanistan: Continued Risk of Forced Eviction Due to Complex Land Rights and Tenure (in)Security' (2023) <https://www.acaps.org/en/countries/archives/detail/afghanistan-continued-risk-of-forced-eviction-due-to-complex-land-rights-and-tenure-in-security> accessed 28 April 2026.

69 United Nations, Office of the High Commissioner for Human Rights (ed), *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework* (United Nations, 2011).

70 Jan Louis Burggraaf, Houthoff Buruma and André G de Neve, 'Contributing International Law Firms'. See also: United Nations, 'Guiding Principles on Business and Human Rights' (2011) <https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf> accessed 28 April 2026.

71 Gerald Pachoud, and Siniša Milatović, UNDP, 'UNDP_Heightened_Human_Rights_Due_Diligence_for_Business_in_Conflict-Affected_Contexts_EN'. See also: NEO TV, 'UNDP report: Afghanistan's economic crisis deepens under Taliban regime UNDP' (*NEO TV, Voice of Pakistan*, 7 February 2026) <https://en.neonews.pk/07-Feb-2026/undp-report-afghanistan-s-economic-crisis-deepens-taliban> accessed 28 April 2026.

72 World Economic Forum, 'United Nations Conference on Trade and Development (UNCTAD) - Agenda Contributor' (*World Economic Forum*) <https://www.weforum.org/stories/authors/united-nations-conference-on-trade-and-development-unctad-012186bfd9/> accessed 22 April 2026.

jeopardize long-term stability.[73] A rights-based approach to investment governance can augment legitimacy, mitigate conflict risks, and promote inclusive growth in post-war states.[74]

5. Conclusion

FDI may change post-conflict economy in substantially, but it only works if the government is prudent and the rule of law are enforced. In weak regimes like Afghanistan, good governance and the rule of law are most important in attracting long-term investment, rather than the size of the market or financial incentives. Ongoing insecurity and terrorism greatly hurt investor trust; therefore, security is necessary for foreign investment to be relevant. International political interactions and geopolitical unpredictability heighten investor risk perceptions in post-conflict contexts. Afghanistan has passed investment legislation that are in line with international norms, but just having formal legal protections is not enough to bring in long-term foreign investments. There is a big difference between the law on paper and the law in practice because of weak enforcement, corruption, and restricted judicial independence. The laws that unreliable and lacks of ways to be enforced would fail to change economic decision od investors. This is plainly shown by Afghanistan's investment history.

FDI has had uneven and often detriment effects on Afghanistan's economy, especially when the government and rules are weak. Investment has a positive effect on development only when there is political stability and a well-managed of natural resources operations. Foreign investment that is concentrated in certain sectors or regions can also make it harder for communities that have just come out of conflict to develop in a way that is fair and long-lasting. From a *jus post bellum* standpoint, foreign investment should be governed in manners that foster equality, accountability, and enduring peace, rather than mere short-term economic benefit. To lower political risk and make the investment climate more stable after a conflict, it is important to have peacebuilding procedures and inclusive governance structures. Foreign investment is only good for post-conflict governments when it is paired with legal reform, building up institutions, and strengthening governance.

This study finds that Afghanistan's experience shows that incoming FDI is not just about making laws more flexible or attractive; rather it is a complex process that depends on the quality of governance, security, regulatory capacity, and political stability. It adds to the fields of international business and economic law by showing that in states that have just come out of a conflict, being able to manage investment is just as crucial as being able to get it. The Afghan situation indicates that enduring FDI requires a strategy that prioritizes the rule of law, institutional integrity, and public-interest regulation alongside economic goals. These findings can be a good lesson learn for other countries that have just come out of the conflict.

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[73] *Ibid.*

[74] World Bank, 'World Development Report 2020', *Op. Cit.*

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