

# Do international treaties have an impact only on ratifying States? The influence of the ILO Maternity Protection Conventions in 160 countries between 1883 and 2018

Keonhi SON\*

**Abstract.** *Contrary to the expectation that only ratifying States comply with ILO Conventions, this article argues that even non-ratifying States improve their domestic standards consistent with ILO Conventions to enhance their legitimacy. Using a new historical database, I track changes in maternity leave provisions in 160 countries between 1883 and 2018 in the light of the International Labour Conference's adoption of the Maternity Protection Conventions. The empirical findings confirm that both non-ratifying and ratifying States expanded the terms and conditions of their paid maternity leave policies shortly thereafter.*

**Keywords:** *International Labour Organization, international treaty, world polity, family policy, maternity protection.*

## 1. Introduction

Since its inception, the International Labour Organization (ILO) has adopted 190 Conventions covering labour and social protection issues such as freedom of association, forced labour, discrimination, child labour and social security. Depending on the convention type and subject, the number of ratifications has

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\* SOCIUM Research Centre on Inequality and Social Policy, University of Bremen, email: [son@uni-bremen.de](mailto:son@uni-bremen.de). The author thanks Rianne Mahon, Tobias Böger, Edin Ibrocevic, Peter Mayer, Sonja Drobnič, Nate Breznau, Carina Schmitt, Fabio Bulfone, Dennis Niemann, John W. Meyer and the participants in the New Institutionalism in a Globalizing World workshop for their comments and support. This research project is funded by the Deutsche Forschungsgemeinschaft (DFG, German Research Foundation) – Project number 374666841 – SFB 1342. Open Access funding enabled and organized by Projekt DEAL.

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varied, from 8<sup>1</sup> to 187. The eight fundamental Conventions<sup>2</sup> have achieved over 90 per cent ratification; the 178 technical Conventions have been ratified by 18 per cent of Member States on average. While ratification rates are often taken by the ILO and by those studying compliance as an indicator of a Convention's success or failure, ILO and international legal scholars have warned that it would be "misleading and inconclusive" to evaluate the effectiveness of ILO Conventions based on the number of ratifications or a comparison of ratifying and non-ratifying States, as the Conventions have had a major impact on labour and social rights (Maupain 2003; Landy 1970; Helfer 2008, 2006; Haas 2008). There has been no comprehensive assessment of this argument. This paper aims to fill that gap, offering an empirical analysis of the impact of one such set of ILO Conventions – those pertaining to maternity leave – on non-ratifying as well as ratifying States.

Extant scholarship on the commitment of States to international treaties focuses almost exclusively on ratification. It argues that countries place themselves under a legal obligation in order to be accepted as "modern States" in the international community, even though they may not comply with the treaties in practice (Abu Sharkh 2002; Cole 2015; Hafner-Burton and Tsutsui 2005; Lim and Tsutsui 2012). The ratification of international treaties is assumed to be a "costless" benefit, given the limited ability to enforce international laws. States can gain legitimacy in more ways than one, however, including by enacting policies and laws predicated on international treaties (Wotipka and Ramirez 2008; Ramirez et al. 2002), yet little attention has been paid to the legislative behaviour of non-ratifying States shortly after international standards are introduced.

This paper provides the first systematic assessment of the impact of the three ILO Maternity Protection Conventions on the legislation of non-ratifying and ratifying States, using a newly built historical database on maternity leave. Maternity protection figured on the agenda of the ILO at its foundation and has remained a salient issue. The International Labour Conference adopted the Maternity Protection Convention, 1919 (No. 3) (C003) at its very first session in 1919. It subsequently updated the standards for maternity protection twice, in the Maternity Protection Convention (Revised), 1952 (No. 103) (C103) and the Maternity Protection Convention, 2000 (No. 183) (C183). Only a small number of States has ratified each Maternity Protection Convention,<sup>3</sup> in stark contrast to the fundamental ILO Conventions or the United Nations Convention on the Elimination of All Forms of Discrimination against Women, which has been ratified by more than 180 States. Several scholars have nevertheless found case-based evidence that the Maternity Protection Conventions have had a significant

<sup>1</sup> The Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) has been ratified by eight countries. Recent conventions, such as the Violence and Harassment Convention, 2019 (No. 190), have obtained fewer ratifications. I have not included them in this overview, however, since it often takes some time for States to ratify conventions after their adoption.

<sup>2</sup> These include: C87, C98, C29, C105, C100, C111, C138 and C182. See <https://www.ilo.org/dyn/normlex/en/f?p=1000:12000::NO> for more details.

<sup>3</sup> In 2018, the three Maternity Protection Conventions had been ratified by 34, 41 and 35 countries, respectively.

impact on the development of maternity protection policies in non-ratifying and ratifying States (Boris 2019; Maupain 2003; Berkovitch 1999; Landau 1987; Troclet and Vogel-Polsky 1968; Zimmermann 2018; Aguilar 2018). I suggest that States have been able to gain legitimacy by enacting laws and policies consistent with ILO Conventions without formal ratification. They may choose this route because of the high cost of ratification of ILO Conventions; the “all or nothing” approach requires ratifying States to incorporate all elements of the Conventions into domestic law. Countries can opt for the lower-cost option of General Surveys to demonstrate their compliance with unratified Conventions. Employing event history analysis, this paper shows that ILO Conventions have had a far-reaching influence on non-ratifying as well as ratifying States.

The paper is organized as follows. In the second section, I briefly summarize the current situation concerning international treaties and States’ commitment to them, highlighting the argument that there exists more than one way for a country to demonstrate “appropriateness” in the international community, including by enacting laws and policies consistent with international treaties. In the third section, I discuss the ILO’s instruments and compliance system, and examine why the expansion of labour and social standards in line with ILO Conventions might be a more attractive choice for States than ratification. The data and methods used are set out in the fourth section, which is followed by an empirical test of the impact of the three Maternity Protection Conventions on the expansion of paid maternity leave in 160 countries between 1883 and 2018, to support my argument that ILO Conventions prompt legislative changes regardless of whether they have been ratified by the country concerned. The fifth section concludes the article.

## 2. Ratification as one way of demonstrating “appropriateness”: Research puzzle

Much of the literature on ILO Conventions is based on world polity theory (Peksen and Blanton 2017; Strang and Chang 1993; Kim 2010; Baccini and Koenig-Archibugi 2014). This theory infers the influence of international institutions from the high similarity of political structures and policies across the globe in various fields, which cannot be explained by domestic institutions or the level of socio-economic development (Barrett and Frank 1999; Berkovitch 1999; Meyer, Ramirez and Soysal 1992; Meyer and Hannan 1979; Finnemore 1993, 1996). A country will adopt the “logic of appropriateness” in order to be accepted as a modern State in the international community. International treaties function as organizational platforms by specifying what is appropriate and inappropriate behaviour for a modern State. They thus contribute to the spread of international norms at the national level (Frank, Hironaka and Schofer 2000; Schofer and Hironaka 2005; Finnemore and Sikkink 1998).

In line with world polity theory, States can demonstrate their “appropriateness” in various ways: (a) by participating in international organizations and conferences; (b) by signing international conventions; (c) by enacting laws and policies that conform to international norms; and (d) by behaving as if adherence

to international norms mattered (Wotipka and Ramirez 2008, 313). However, when the theory is applied to the analysis of States' actual behaviour in respect of international treaties, acceptance of global blueprints is identified with the ratification of international treaties rather than the adaptation of national laws to international standards (Hafner-Burton and Tsutsui 2005; Abu Sharkh 2002; Cole 2015; Lim and Tsutsui 2012). The relevant analyses argue that treaty ratification is an attractive way for States to express their commitment, as it entails self-expressive benefits. For instance, ratifying States can post their ratification records on international and domestic websites and thus benefit from positive publicity (Simmons 2009, 77–78).

This exclusive focus on ratification nevertheless ignores the possibility that the adaptation of national policy in line with international laws constitutes another way for States to express their affirmation of international treaties and may result in the treaty effect being underestimated. For instance, although one author found that States that ratified human rights treaties did not improve human rights protections more than non-ratifying States, she was careful to indicate that this should not be interpreted as indicative of the treaties' ineffectiveness. Rather, human rights treaties influence policy practices in non-ratifying States: “[H]uman rights treaties and the process that surrounds their creation and maintenance may have a widespread effect on the practices of all nations by changing the discourse about and expectations regarding those rights” (Hathaway 2002, 2021). Simmons (2009) also suggests that non-ratifying States affirm the principles set out in an international treaty despite their failure to ratify. Taking the case of the United States, she shows that the domestic institutional structure of a State can hinder the ratification of international laws despite that State's acceptance of international standards.

Earlier research on ILO Conventions also focused on ratifying States (Peksen and Blanton 2017; Abu Sharkh 2002; Strang and Chang 1993; Baccini and Koenig-Archibugi 2014; Kim 2010; Boockmann 2010; Böger and Leisering 2020). The research often found that ratifying States did not improve the labour and social rights of workers more than non-ratifying countries, casting a pessimistic view on the effectiveness of ILO Conventions. However, ILO (Maupain 2013; Landy 1970) and international labour law scholars (Helfer 2008, 2006) suggest that ILO Conventions have a significant impact on non-ratifying States. They provide rich case-based studies that document the widespread effect of ILO Conventions on policy formation in all Member States. Since non-ratifying Member States are also under the obligation to be informed about the general principles and standards of ILO Conventions and submit reports on the application of standards, the effectiveness of the Conventions is not limited to ratifying States. Nevertheless, the question of whether ILO Conventions have a widespread effect on policy adoption in all States has never been systematically examined, with the exception of Berkovitch's study (1999), which showed a close correspondence between the adoption of the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the timing of the introduction of the first equal pay legislation in the world. However, Berkovitch did not investigate why States are motivated to incorporate ILO standards into domestic law without ratifying ILO Conventions. This article aims to fill this research gap.

### 3. The ILO's instruments and compliance system

Building on world polity theory, my argument begins with the premise that countries affirm ILO standards in order to be accepted as modern States by international society. The ILO is the first and most important standard-setter in the field of labour protection and social policies (Langille 2016, 477). Since its founding, it has attained near-universal membership, giving ILO standards status as reflecting the collective will of the international community (Maupain 2013). Even colonial States were influenced by ILO Conventions, since the ILO obliged European colonizers to apply fundamental labour rights in their colonies (Cooper 1996). The ILO's unique structure, i.e. tripartite and multilateral, also adds to its legitimacy, as ILO standards are the outcome of collective agreement among States, trade unions and employers (Van Daele 2010). In the case of maternity protection, the ILO was the only standard-setter until the European Union introduced its own standards in 1992<sup>4</sup> (Linos 2013, 130–131). Other international organizations focus on broader goals, such as universal health coverage (World Health Organization) or the trafficking of women and migrant smuggling (United Nations Office on Drugs and Crime). In contrast, the ILO set the stage for the widespread implementation of paid maternity leave policies by institutionalizing the protection of women workers, before and after confinement, as international standards. Several scholars emphasize that the ILO put pressure on States, where the male members of political parties, labour unions or colonial administrations had less interest in the labour rights of women workers, to pay greater normative attention to maternity issues (Wikander, Kessler-Harris and Lewis 1995; Son 2022). Women were actively engaged in lobbying the ILO, compensating for their lack of political power within domestic political institutions (Boris 2019; Berkovitch 1999).

Two criteria have long been used to determine whether a State has affirmed an ILO Convention: the Convention's incorporation into domestic legislation and its ratification. At the Third Session of the International Labour Conference, in 1921, the delegate from the Netherlands asked the Secretary-General whether a country's adaptation of national legislation in line with a Convention that it had not formally ratified was sufficient to satisfy its obligations under the Convention, at a time when concern about low ratification rates was rife within the Organization (ILO 1921, 215–220). Belgium, France and Great Britain, for instance, justified their refusal to ratify Conventions on the grounds that their legislation already met or went beyond international standards (ILO 1925, 50, and 1921, 402–403). The delegate from the Netherlands was concerned that States could change their national laws at any time if they were not bound by the ten-year legal obligation to which they committed in international agreements. The Secretary-General replied that both measures – the enactment of legislation giving effect to a Convention and formal ratification – were necessary to satisfy Member States' obligations. However, in practice, States wishing to show that

<sup>4</sup> Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, or Pregnant Worker Directive 1992.

they were modern and adhered to ILO principles have been able to choose between ratification and the introduction of legislation.

I argue that States have been able to gain legitimacy by improving their domestic maternity protection standards without necessarily ratifying the relevant Conventions. The adaptation of domestic legislation to ILO Conventions has potentially self-expressive benefits, signalling the State's affirmation of international conventions. For instance, China introduced its first labour protection law,<sup>5</sup> including the first maternity protection measure, in 1923, to comply with Conventions that had been adopted by the first International Labour Conference in 1919, without ratifying any Convention. Previously, other ILO Member States, such as Great Britain, had repeatedly condemned China for not complying with the ILO's fundamental principles, calling it "one of the very black spots in this world of ours" (ILO 1923, 92). The introduction of the Provisional Factory Regulations blunted the criticisms because it was acknowledged that States could develop labour protection without fully conforming to the wording of a Convention (ILO 1924, 121).

The ILO gives non-ratifying States the opportunity to formally demonstrate their incorporation of its standards into domestic law. In 1946, at the request of the United States, the newly amended ILO Constitution introduced the General Survey, whereby States report on the application of certain unratified Conventions and Recommendations selected each year. The United States, which rarely ratified ILO Conventions, wanted to receive due credit for its advanced level of labour protection legislation (Helfer 2008, 199–200). Other States, which supported this instrument as a new means of demonstrating compliance, also questioned whether the number of ratifications of Conventions was the best index of States' "loyalty and common faith" to ILO principles (ILO 1946, 180). The General Survey blurred the distinction between ratifying and non-ratifying States in terms of self-expressive benefit by giving States the opportunity to exhibit the advanced level of their domestic standards without ratification.

Moreover, it costs more to ratify a Convention than it does to adapt national laws accordingly. First, the ILO supervises ratifying States much more frequently than non-ratifying States. While ratifying States are obliged to submit annual compliance reports, non-ratifying States submit the General Survey only periodically. The Maternity Protection Conventions, for instance, have been included only once, in 1965.<sup>6</sup> Second, the General Survey is not specific enough to detect the non-compliance of non-ratifying States as effectively as the annual compliance reports on ratified Conventions (Maupain 2003, 385). Third, the all-or-nothing approach, whereby ratifying States must incorporate all elements of ILO Conventions into national law, sets a higher threshold of compliance for ratifying States. Conventions are composed of multiple standards with detailed conditions.

<sup>5</sup> Peking Provisional Factory Regulations, 1923.

<sup>6</sup> That being said, the 2023 General Survey will cover Convention No. 183 and the Maternity Protection Recommendation, 2000 (No. 191), along with the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Workers with Family Responsibilities Convention, 1981 (No. 156), the Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111) and the Workers with Family Responsibilities Recommendation, 1981 (No. 165) .

When the ILO evaluates a ratifying State's compliance with a Convention, it demands full implementation of that Convention (Haas 2008, 256–527). Once a State ratifies a Convention, it is expected that it will substantially modify its laws to meet all the Convention's standards, and this is likely to have a dampening effect on the number of ratifications (Boockmann 2000, 11).

Various scholars have argued that States tend to sign only “easy” international agreements requiring only minor changes (Downs, Rocke and Barsboom 1996; Chau et al. 2001; Flanagan and Gould 2003). However, many ILO Conventions, such as the first and second Maternity Protection Conventions, were not “easy” Conventions that States could conform to without making considerable changes to their legislation when the Conventions were adopted. The Maternity Protection Conventions address four main aspects: the amount of benefit, the duration of maternity leave, coverage and methods of financing. No country had addressed all four aspects when the ILO adopted the first Maternity Protection Convention in 1919. Of 76 Member States, only five had done so when the second Maternity Protection Convention was adopted in 1952 – and even they did not fully comply with the Convention, according to the Committee of Experts on the Application of Conventions and Recommendations. In its 1981 report, for instance, the Committee of Experts noted that one of the five States (Austria) did not stipulate an absolute prohibition of dismissal in its provisions on maternity protection for agricultural workers (ILO 1981, 153). Of 150 Member States, 33 had addressed all four aspects when the third Maternity Protection Convention was adopted in 2000. Since the European Union had introduced its own, very similar standards of maternity protection in 1992, many European States were already in compliance with the Convention.

The all-or-nothing approach prompts States to enhance domestic standards without ratifying Conventions. When a large number of former colonial States joined the ILO shortly after independence in the 1950s (e.g. Burma, El Salvador, Iran, Pakistan and Tunisia), they claimed legitimacy by adapting their national laws to unratified Conventions rather than by formally ratifying the Conventions, citing the stringency of ILO standards (ILO 1959, 1958). Although those States accepted the general principles enshrined in ILO Conventions, their economic circumstances were an obstacle to full compliance. The statement by the Burma (Myanmar) government delegate during the discussion of the Director-General's report at the 35th Session of the International Labour Conference captures this well:

It has also been rightly stressed that it would be unrealistic to regard the progress of ratifications as the sole yardstick with which to measure the effect given to the International Labour Code. The Government which I represent is ever anxious ... not to assume a false position in the world by ratifying Conventions which it cannot apply with all sincerity. We have not ratified any more Conventions since we became an independent country, but we have made definite progress in our uphill fight against poverty, disease, ignorance and inhuman living conditions. ... I think it appropriate now to mention to what extent we have been successful in improving labour conditions in our country since the 34th Session of the International Labour Conference. (ILO 1953, 144–145)

It was not only the newly independent States but also developed States that blamed low ratification rates on the stringency and rigidity of international

standards. Scandinavian States with advanced standards of social protection, such as Denmark and Sweden, argued that the excessively detailed international standards discouraged governments from adapting national legislation, even if they agreed with the general principles set out in the Conventions (ILO 1953, 1959). Sweden, for instance, has still not ratified the Maternity Protection Convention adopted in 1952, even though its Maternity Benefit Act 1954 expanded the conditions of maternity protection – the amount of maternity benefit, duration of maternity leave, coverage and method of financing – beyond the Convention’s standards. The Swedish Government did not agree with the imposition of six weeks of obligatory leave after confinement (Lagergren 1986, 324–325) as Sweden conceived of maternity leave as a right and not an obligation. Thus, women workers were allowed to return to work earlier than six weeks after confinement if they so wished.

#### 4. Data and methods

To assess the influence of the ILO Maternity Protection Conventions, I built a historical database on maternity leave that detects improvements in paid maternity leave policies in the light of the ILO Conventions worldwide. All three Maternity Protection Conventions have four identical dimensions (see table 1), for which the more recent Conventions set higher standards. The database comprises four variables reflecting those four dimensions. It covers maternity leave policies in 160 independent countries from 1883 to 2018. Since the database unit is one country per year, in the case that multiple parallel maternity leave programmes exist in a country (e.g. one for wage earners and another for salaried employees), the programme that covered the largest share of the population was chosen (i.e. wage earners, if population wage earner > population salaried employees), but all maternity leave programmes were included in the coverage variable. The database was constructed using various sources, including the ILO Legislative Series, the ILO reports on implementation of the three Maternity Protection Conventions and the US Labor Department Social Security Programs Throughout the World

**Table 1. Four dimensions of the ILO Maternity Protection Conventions**

	C003 (1919)	C103 (1952)	C183 (2000)
Benefit amount	Not specified (Art. 3(c))	2/3 of previous earnings (Art. 4(6))	2/3 of previous earnings (Art. 6(3))
Benefit duration	12 weeks (Art. 3(a),(b))	12 weeks (Art. 3(2))	14 weeks (Art. 4(1))
Coverage	Industrial, non-industrial (commercial) undertakings (Art. 1)	Industrial, non-industrial (commercial), agricultural undertakings (Art. 1)	Industrial, non-industrial (commercial), agricultural, atypical undertakings (Art. 2(1))
Financing	Social insurance or public fund (Art. 3(c))	Social insurance or public fund (Art. 4(4))	Social insurance or public fund (Art. 6(8))

Source: Compiled by the author.



(SSPTW) reports, which are the main sources of information about the historical development of leave policies (Gauthier and Koops 2018, 12). Existing databases were used to verify the validity and reliability of the historical database.

#### 4.1. Dependent variables

Based on the four variables in the historical database, I constructed a reform variable that consists of a binary value. The reform variable captures the year when the States first introduced paid maternity leave or adopted expansionary reforms that improved at least one of the four domestic standards of maternity leave policies. In this article, expansionary reform does not necessarily indicate the formal enactment of maternity protection legislation. States often change the substance of legal conditions of maternity protection, in particular the benefit amount, through administrative regulations instead of formal legislation. By contrast, the enactment of new maternity protection laws sometimes does not change the substance of any of the four related standards at all. Therefore, I decided to first code the contents of the legal provisions of maternity protection and then to detect improvements in such provisions with the expansionary reform variable. The reform variable captures 544 events in 160 States over 136 years, from 1883 to 2018.

#### 4.2. Independent variables

I operationalized the impact of the ILO Maternity Protection Conventions in two different ways. The first ILO Convention variable aims to assess the influence of the Maternity Protection Conventions beyond ratifying States. Scholars focus on two main obligations when examining the influence of unratified Conventions: submission to the competent authorities and the General Survey (Helfer 2008; Landy 1970). All Member States were obliged to submit the three Maternity Protection Conventions to the competent national authorities within 18 months from the closing of the respective session of the Conference, namely in 1921, 1954 and 2002. This general rule ensures that Member States are informed about new ILO standards and prompts action on their part, such as ratification or improvement of domestic standards in line with ILO standards. Although scholars have expressed concern at the low level of compliance with this particular obligation (Boockmann 2000; Haas 2008), 72.5 per cent, 100 per cent and 86.5 per cent of Member States, respectively, reported that they had submitted the three Maternity Protection Conventions to the competent authorities.<sup>7</sup> The ILO has universal membership, and the Maternity Protection Conventions were therefore accessible to a wide range of States at the time that this obligation arose. I therefore anticipated legislative changes in a large number of States shortly after the submission to the competent authorities.

The General Survey is another major obligation that is incumbent on non-ratifying States, which use it to present their domestic labour standards and

<sup>7</sup> C003: ILO 1936; C103: [ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13300:0::NO::P13300\\_INSTRUMENT\\_ID:312248](https://ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13300:0::NO::P13300_INSTRUMENT_ID:312248); C183: [ilo.org/dyn/normlex/en/f?p=1000:13300:0::NO:13300:P13300\\_INSTRUMENT\\_ID:312328](https://ilo.org/dyn/normlex/en/f?p=1000:13300:0::NO:13300:P13300_INSTRUMENT_ID:312328).

excuse their non-ratification to other Member States and to domestic stakeholders (e.g. workers' and employers' organizations). As mentioned before, the General Survey gives States the opportunity to exhibit advanced levels of domestic standards even if they object to ratifying the Conventions. More importantly, States tend to improve domestic labour standards shortly after conducting the General Survey, so as to safeguard their reputations in the international community or prevent a backlash from domestic stakeholders (Landy 1970; Helfer 2008). Therefore, the first ILO convention variable identifies the submissions and the General Survey of the Maternity Protection Conventions as a binary variable (Submission of C003, Submission of C103, Submission of C183, General survey of C003 and C103).

The second ILO Convention variable identifies the year in which each country ratified one of the ILO Maternity Protection Conventions as a binary variable (Ratification of C003, Ratification of C103, Ratification of C183). I set a five-year time period during which the effects of both types of ILO Convention variables (Ratification of C003, Submission of C003, etc.) can unfold, following existing approaches to capture the impact of ILO Conventions (Strang and Chang 1993; Böger and Leisering 2020). For instance, the General Survey of C003 and C103 equals 1 between 1965 and 1969, and 0 otherwise. I anticipated that the effects of the Conventions would fade as the salience of the “maternity protection” issue, awakened by the submission of the Conventions, the General Survey and the ratification of the Conventions, fades within a reasonable period. However, this five-year effect period has limitations in terms of capturing the impact of ratifying the latest Maternity Protection Convention. Since eight of the 35 ratifications<sup>8</sup> of the latest Maternity Protection Convention occurred between 2013 and 2018, it is not possible to fully capture the impact of ratification of the latest Convention over the five-year effect period.

### 4.3. Control variables

The empirical analysis includes endogenous and exogenous variables to ensure that the effect of the main explanatory variables is not overestimated. To test the functionalist theory, I use logged GDP per capita in 2011 international dollars to capture the level of economic development. The decline in total fertility is another significant socio-economic factor that may explain the historical development of maternity protection. Policymakers react swiftly to rapid demographic change by introducing family policy measures such as family allowances or maternity protection, since population size has often been viewed as a State's strength (Gauthier 1996).

I then employ several variables to control the political influence on the extension of paid maternity leave policies at the national level. To incorporate a notion of democracy, the binary regime measure used by Boix, Miller and Rosato

<sup>8</sup> Although the total number of ratifying countries is 43, 35 countries ratified the latest Maternity Protection Convention within the timeframe covered by this paper, namely up to 2018. Factors that may have contributed to increases in ratification beyond the standard five-year period, for instance in countries that ratified the third Convention after 2018, would be worthy of further inquiry but are beyond the scope of this paper.

(2013), which distinguishes between democracy and autocracy, is included in the estimation models. Since both democratic and autocratic regimes are deeply concerned to develop maternity protection policy and thereby keep the fertility rate high and the child mortality rate low, it is difficult to provide an assumption about the coefficient for the political regime variable. However, I expected that the domestic conditions for women's empowerment would be a positive coefficient for the development of maternity protection. If women, who are the potential beneficiaries and critical supporters of maternity protection policies, can express their opinions and mobilize groups in the civil and political arena, it is more likely that high standards of maternity protection will be established. The women's political empowerment index is constructed by Sundström et al. (2017) and captures women's right to participate in the political arena and civil society in States. Since the lack of data on the strength of left-wing parties around the world prevented me from directly testing the logic of class politics, I include the welfare development variable that typically correlates with class politics instead. The welfare development variable counts the number of social protection programmes that a State has already introduced, save maternity protection programmes. The inclusion of this variable also allows us to ascertain whether the adoption of maternity protection is merely a part of the general development of the social insurance system. I used the Social Policy around the World (SPAW) dataset from Knutsen and Rasmussen (2018) as the foundation for this indicator and filled the gap of six years from 2013 to 2018 that the SPAW does not cover by collecting data from SSPTW reports.

I control for the regional diffusion variable to avoid overestimating the effectiveness of the ILO Conventions and to ensure that the trend to develop maternity protection policies is not simply a result of emulation among neighbouring States. The regional diffusion variable captures the regional trend to develop maternity protection policies by counting the number of States that introduced or reformed paid maternity leave policies up to the previous year. I also include the strength of commitment to the Conventions by regional peers, following the logic of Kahn-Nisser (2016) that a high ratio of ratification among regional peers will reassure a State about its neighbours' compliance with the international convention concerned. I calculated the number of ratifications of the Maternity Protection Conventions by regional peers to capture the strength of the peers' commitment. Appendix 1 provides detailed information on the operationalization and sources of all variables.

## 5. Recurrent event history analysis using a historical dataset

Event history analysis is a more appropriate means of examining the timing of events than traditional linear regression analysis because it can handle the problems of censoring and time dependency (Box-Steffensmeier and Jones 2004, 16–17). It is acknowledged as being the most suitable methodology for tracking “the history of ‘contagious’ global processes” (Drori and Krücken 2009, 18) such as globalization and diffusion. I use the Cox proportional hazards model with

standard errors adjusted for clustering in States, as there is no strong theoretical reason to choose one specific form of duration dependency. Since nearly all States undertook more than one introduction and reform of maternity leave policies, I employed a recurrent event history analysis. That analysis is stratified by how many reforms each country had already adopted, since the logic behind the timing of introducing or reforming maternity protection would be different for the very first paid maternity leave in comparison to the fifth expansionary reform (Box-Steffensmeier and Jones 2004, 160–161).

Event history analysis is also an appropriate tool for the extremely unbalanced data structure of the historical database on maternity leave, whose unit is defined as an independent entity. This definition causes some complexities. For instance, the USSR, East/West Germany and Yugoslavia ceased to exist at one point, and the post-colonial States joined the database from the late 1950s onwards. Beck, Katz and Tucker (1998, 1272–1273) make two suggestions: States with a history within predecessor States could enter the analysis when they were not independent or enter after they become independent. The former option would violate the definition of the database, while the latter assumes that States came into being in the year of independence without any experience of maternity protection policies. Beck, Katz and Tucker relieve researchers' concerns about this issue by saying, "[R]esults should be relatively insensitive to a few differences in judgement on this issue" (1273). In this article, all States enter the analysis either in 1883 or in their year of independence if they became independent after 1883. The end year of the analysis is the year a State stopped existing or 2018.

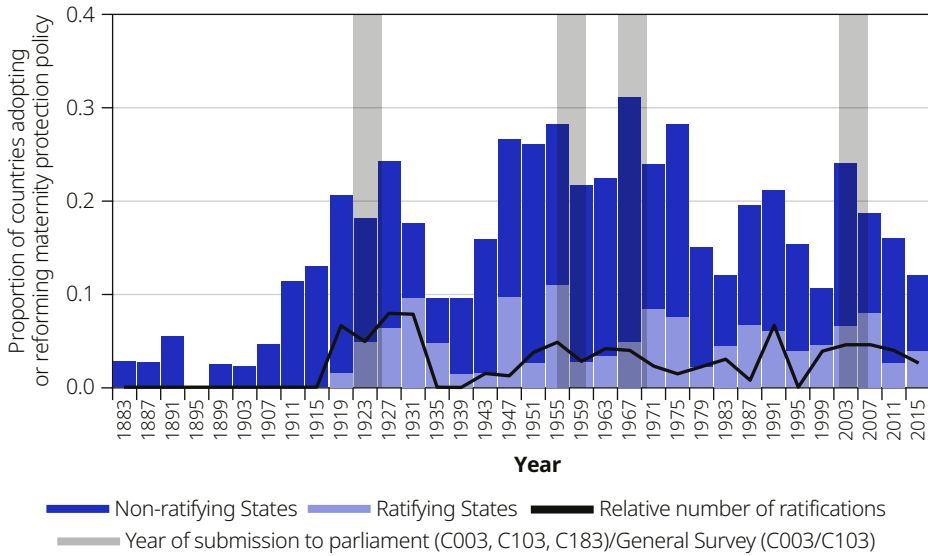
I estimate logistic regressions using a cubic polynomial approximation, including the same set of variables and controlling the cumulative number of prior events, to check the robustness of the results in terms of temporal dependency (Carter and Signorino 2010). A test using Schoenfeld residuals also revealed that no variables violate the proportional hazards assumption.

## 5.1. Empirical results

Figures 1 and 2 illustrate two trends, one for the ratification of the Maternity Protection Conventions and the other for the introduction and expansionary reform of maternity protection in terms of the benefit amount, benefit duration, coverage and method of financing, for every four years from 1883 until 2018. Figure 1 shows general trends in the number of ratifying States and the number of States that introduced or reformed maternity leave policies in line with the ILO Maternity Protection Conventions. Since the number of independent States varies over time, from 35 (1883) to 150 (since 1993), I present relative measures with the denominator as the number of independent States in figure 1. In contrast, figure 2 compares the enactment patterns of maternity protection policies in ratifying and non-ratifying States. It therefore uses the total number of ratifying or non-ratifying States as denominators, e.g. the annual average share of non-ratifying States that introduced or reformed maternity leave policies in proportion to the total number of non-ratifying States.

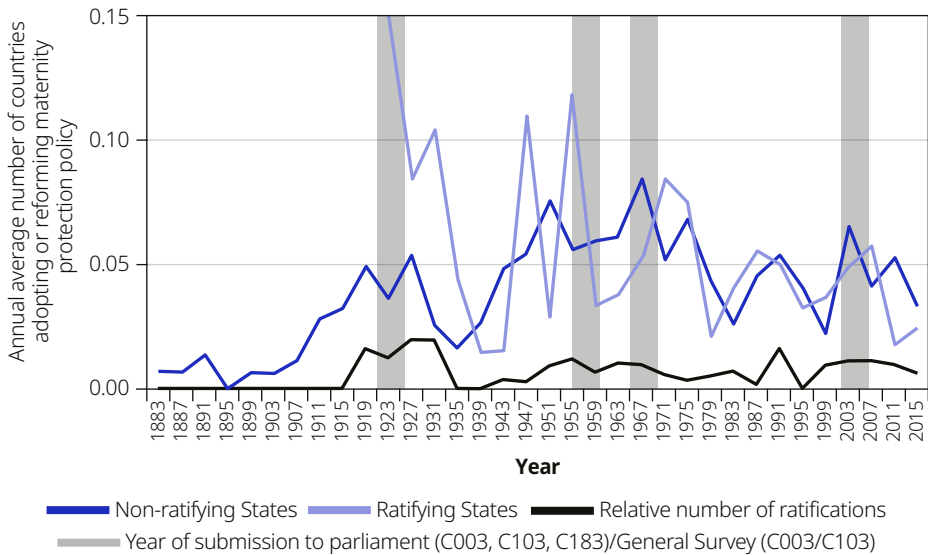
Figure 1 shows that the number of States that adopted or reformed paid maternity leave peaked three times: between 1919 and 1927, between 1955 and 1958,

**Figure 1. Proportion of countries adopting or reforming maternity protection policy, 1883–2018**



Source: Compiled by the author.

**Figure 2. Annual average number of countries adopting or reforming maternity protection policy, 1883–2018**



Source: Compiled by the author.

and between 1967 and 1970. The first two peaks occurred when the first and second Maternity Protection Conventions were submitted to national parliaments. More specifically, more than 30 per cent of all independent States introduced or extended maternity protection provisions from 1921 to 1925, when the first Maternity

Protection Convention was submitted, while more than 40 per cent of States did so when the second Convention was submitted. The third peak is synchronized with the year when the General Survey covered the first and second Maternity Protection Conventions, in 1965. The three peaks also correspond to the periods during which many States ratified the Maternity Protection Conventions. Since the submission of the Maternity Protection Conventions and the General Survey encouraged States to either ratify the Conventions or to take the corresponding legislative action, the Conventions have often been ratified in the wake of those actions.

Figure 2 shows a similar pattern in the enactment behaviour of ratifying and non-ratifying States. Both frequently adopted or reformed maternity protection shortly after the submission of the first and second Maternity Protection Conventions. While figure 1 shows a sudden increase in the number of non-ratifying States that introduced or extended maternity leave policies between 1919 and 1927, figure 2 shows that ratifying States improved maternity leave policies more frequently than non-ratifying States. Since only five States initially ratified Convention No. 3, figures 1 and 2 present different overviews. In the case of Convention No. 103, non-ratifying as well as ratifying States frequently improved the provisions of maternity protection after the Convention's submission. Not surprisingly, non-ratifying rather than ratifying States reacted to the General Survey, namely to their obligation to report on progress in terms of the first and second Maternity Protection Conventions, in 1965.

Table 2 presents the results of the recurrent event history analysis of introductions and any expansionary reforms of maternity protection programmes from 1883 to 2018 worldwide. The results reported for all models in table 2 suggest that the submission of the first and second Maternity Protection Conventions (C3, C103) to national parliaments were effective in stimulating ratifying and non-ratifying States to enact further legislation enhancing the terms of maternity protection provisions – in fact, it nearly doubled the probability that States would improve such legal provisions. Regarding the General Survey of the first and second Conventions, States were 50 per cent more likely to introduce a maternity protection policy or to enact expansionary reforms within five years of the General Survey than at any other time. In contrast, the findings provide little support for the hypothesis that States improve their paid maternity leave policies shortly after ratification. The ratifications of the Maternity Protection Conventions do not have consistently significant effects on the historical development of paid maternity policies across all models. The result remains robust after including various sets of covariates in models 1 to 3 or changing the estimation method in Appendix 2.

However, the findings provide almost no evidence that the third Convention had a significant impact on States' adoption and reform of paid maternity leave. In my view, there are two explanations for this. First, in contrast to the first and second Conventions, the third Maternity Protection Convention contains standards that are too low to inspire European countries to adapt their national laws accordingly. Indeed, the standards adopted by the European Union in the Pregnant Worker Directive 1992 are on a par with those set out in the third Maternity Protection Convention in 2000, e.g. 14 weeks of paid maternity leave. Thirty-three States, most of them European, had already satisfied those standards before

**Table 2. Recurrent event history analysis of the introduction and/or expansionary reform of maternity protection policy worldwide, 1883–2018**

	(1) Socio-economic controls	(2) Political controls	(3) All controls
Ratification of C003	1.726 (1.84)	1.619 (1.55)	1.541 (1.41)
Ratification of C103	1.294 (1.06)	1.196 (0.71)	1.193 (0.71)
Ratification of C183	0.567 (-1.11)	0.515 (-1.31)	0.472 (-1.51)
Submission of C003	1.947** (2.86)	2.187*** (3.42)	2.084** (3.15)
Submission of C103	2.255*** (4.50)	2.193*** (4.14)	2.176*** (4.00)
Submission of C183	1.071 (0.31)	0.959 (-0.19)	0.913 (-0.41)
General Survey of C003 and C103	1.719** (2.81)	1.594* (2.39)	1.595* (2.39)
GDP per capita	1.147** (3.18)		1.024 (0.50)
Change of total fertility rate	1.591 (1.20)		1.440 (0.92)
Polity		0.936 (-0.60)	0.931 (-0.66)
Women's empowerment $t-1$		1.439 (1.44)	1.327 (1.08)
Welfare development $t-1$		1.218*** (4.46)	1.186*** (3.75)
Regional diffusion $t-1$			1.017 (0.69)
Ratification by regional peers			1.184* (2.50)
No. of observations	12267	12269	12267
Number of States	160	160	160
Number of events	543	544	543
Log-likelihood	-1523.824	-1517.492	-1508.786

Notes: Cox proportional hazards model with standard errors adjusted for clustering on States. Exponentiated coefficients;  $t$  statistics in parentheses.  
\*  $p < 0.05$ , \*\*  $p < 0.01$ , \*\*\*  $p < 0.001$   
Source: Compiled by the author.

the third Maternity Protection Convention was adopted by the International Labour Conference. Second, the recent trend in leave policies is to go beyond the “maternalist minimum”, which takes the fundamental protection of women as workers and mothers for granted (Blofield and Franzoni 2015). In the 1980s, States, particularly advanced economies, started to diversify their leave policy

profiles, focusing on childcare and parental leave policies that potentially could reshape gender relations, rather than on maternity leave policies (Leitner 2003; Saraceno 2011; Daly and Ferragina 2018).

Concerning the control variables, the level of logged GDP per capita was significantly and positively correlated to the likelihood that a country would adopt or reform paid maternity leave in model 1, but this effect disappears when the welfare development index enters the models. The change in total fertility rate also did not affect the adoption and reform of paid maternity leave. Contrary to my expectation, neither the political regime type nor the domestic conditions of women's empowerment influenced the historical development of maternity leave policies. However, the level of welfare development seems to be an important predictor of the probability of adoption and expansionary reform of maternity protection, absorbing the effects of the other control variables, such as logged GDP per capita and women's empowerment index. The submission of the Conventions remains significantly correlated after the inclusion of the level of welfare development, indicating that States tend to extend maternity protection rights regardless of how developed their national standards were when the Maternity Protection Conventions were adopted. I find little evidence that States adopt or reform maternity protection policies if a large proportion of States in the same region also do so. The results show that the diffusion of maternity protection policies is not a result of emulation among neighbouring States, but more a worldwide phenomenon driven by the ILO Maternity Protection Conventions. However, the number of ratifications of the Conventions by regional peers turned out to be a significant factor in terms of improving paid maternity leave policies, signalling that a higher ratification rate would facilitate the implementation of international norms.

## 5.2. Discussion

This article considers the impact of non-ratified Conventions gauged by the legislative changes in both ratifying and non-ratifying States. The empirical results show that countries tend to improve the legal conditions of paid maternity leave shortly after the adoption of the relevant ILO Convention or the conduct of the General Survey rather than after the Convention's ratification. However, these results did not exclude cases in which the domestic standards of ratifying States converged towards the standards set out in the ILO Maternity Protection Conventions more than those of non-ratifying States. I argue that countries are tempted to improve domestic legislation in line with ILO standards without ratifying Conventions, since the obligations of ratifying States under the Conventions make ratification costlier. To put it the other way round, the ILO's efforts to supervise compliance by ratifying States and to provide them with technical assistance may contribute to stronger and more well-defined compliance on the part of ratifying States compared to non-ratifying States (Maupain 2003; Hartlapp 2007; Helfer 2008).

To test this argument, I provide a descriptive statistical overview that compares the compliance behaviour of ratifying and non-ratifying States in table 3. I first calculate the proportion of ratifying States that had already fulfilled each



**Table 3. Compliance behaviour of ratifying and non-ratifying States (percentages)**

	Ratifying States			Non-ratifying States			
	C3	C103	C183	C3	C103	C183	General Survey
<i>Initial compliance rate</i>							
Benefit amount	N.A.	0.79	0.97	N.A.	0.30	0.77	0.36
Benefit duration	0.62	0.85	0.93	0.10	0.38	0.39	0.50
Coverage	0.76	0.74	0.72	0.19	0.35	0.34	0.46
<i>Change in compliance rates</i>							
Benefit amount	N.A.	0.09	0.00	N.A.	0.12	0.04	0.10
Benefit duration	0.22	0.12	0.07	0.10	0.09	0.11	0.11
Coverage	0.11	0.00	0.00	0.15	0.04	0.04	0.12

Notes: The unit of benefit amount is the replacement rate of previous wages while the unit of benefit duration is weeks. NA indicates non-applicable, since the first Maternity Protection Convention did not specify a standard for the benefit amount.

Source: Compiled by the author.

ILO standard (e.g. 14 weeks of benefit duration for the third ILO Maternity Protection Convention) at the year of ratification. Then, I calculate the change in the proportion of States that complied with the ILO standards five years after ratifying the Conventions. Likewise, I measure the initial proportion of States that had already complied with the ILO Conventions among non-ratifying States at the year when the ILO Conventions were submitted and the General Survey was conducted, and the change in compliance ratio after five years. The method of financing is exempted from this comparison, since the relevant standard has remained unchanged since the first Convention and therefore shows less variation over time.

Table 3 demonstrates that the majority of countries ratified the ILO Conventions after they had already satisfied the ILO standards, and therefore show little improvement in compliance with the ILO Maternity Protection Conventions after their ratification. By contrast, most non-ratifying States encountered a large gap between their current legal conditions of paid maternity leave and the ILO standards shortly after the adoption of the ILO Conventions or the conduct of the General Survey. Non-ratifying States tend to bring their domestic standards up to the level of international standards five years after they are exposed to international standards. The findings of table 3 support my previous findings and, more importantly, help us understand why ratifying States do not show any improvement in domestic legislation after having ratified the Conventions. Given that countries tend to ratify the Conventions 20 years after their adoption, it is not surprising that ratifying States established better standards than non-ratifying States in general. However, the findings imply that States ratify the Conventions when the cost of doing so falls (Downs, Rocke and Barsboom 1996), or that they comply with international standards shortly before they ratify the Conventions (Baccini and Urpelainen 2014). In other words, ratification of a Convention appears to be the outcome of the convergence of domestic standards toward ILO standards rather than a cause

of that convergence. Alternatively, the impact of ratification may be visible over a period that is longer than five years, since it takes time for States to adjust their laws in response to government reports, comments from social partners and feedback from the Committee of Experts. The question of how the impact of ratification of ILO Conventions should be measured is left unanswered, as it is beyond the scope of this paper.

## 6. Conclusion

Earlier empirical studies have tended to evaluate the effectiveness of international agreements by comparing policy developments in ratifying and non-ratifying States. The majority of these studies, which have found that ratifying States have not enhanced the labour and social rights of workers more than non-ratifying States, project a pessimistic view of the effectiveness of international conventions. I chose the ILO Maternity Protection Conventions as a case study to test whether the influence of international agreements was limited to ratifying States. I have argued that States can seek international legitimacy by improving their domestic standards of labour protection instead of ratifying conventions. The historical database of paid maternity leave that I devised produced macro-quantitative evidence in support of this argument. As prior studies have found, ratification did not have a significant impact on State compliance, but nor is it indicative of the ineffectiveness of international conventions. As Hathaway's study of international human rights treaties suggested, international conventions have a widespread effect on policy adoption among all nations (2002, 2021). Shortly after national parliaments were informed about the principle of ILO and international standards of maternity protection, States tended to improve the provisions of maternity protection to conform to ILO Conventions, for instance.

I do not, however, naïvely assume that change at the level of policy adoption will lead to policy impacts. Mitchell (2007) argues that international treaties influence the three layers of public policy: outputs, outcomes and impacts. Unfortunately, the adoption of paid maternity leave is not a necessary precondition for behavioural change. Several scholars argue that developing countries differ from developed countries in terms of decoupling international standards and policy outcomes/impacts. For instance, Strang and Chang (1993) found that the ratification of ILO Conventions did not affect the development of social expenditure (policy outcomes) in less developed States. Abu Sharkh (2002) and Boockmann (2010) also provided empirical evidence that the ratification of ILO Conventions did not contribute to a decrease in the child labour ratio (policy impacts) in developing countries. More importantly, I have argued elsewhere (Son 2022) that developing countries find numerous loopholes to disconnect the adoption of international standards and policy outcomes or encounter failure in the process of enforcing international rules owing to the lack of state capacity.

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## Appendix 1. Operationalization of variables

Variable	Operationalization	Data sources
<b>Dependent variable:</b>		
Introduction and reform	1 = if paid maternity leave is introduced or any expansionary reform occurred in terms of enhancing level of benefit, length of leave, coverage or method of financing.	HDML, Variable: fam_mat_reform_introduction_own
<b>Independent variables:</b>		
Ratification of C003	1 from $t$ until $t+5$ if the State ratifies C003 * The list of ratifying countries on the ILO website contains only contemporary entities except Yugoslavia and Czechoslovakia.	ILO NORMLEX ( <a href="https://www.ilo.org/dyn/normlex/en/f?p=1000:12001:::NO::">https://www.ilo.org/dyn/normlex/en/f?p=1000:12001:::NO::</a> )
Ratification of C103	1 from $t$ until $t+5$ if the State ratifies C103 * The list of ratifying countries on the ILO website contains only contemporary entities except Yugoslavia and the USSR.	ILO NORMLEX ( <a href="https://www.ilo.org/dyn/normlex/en/f?p=1000:12001:::NO::">https://www.ilo.org/dyn/normlex/en/f?p=1000:12001:::NO::</a> )
Ratification of C183	1 from $t$ until $t+5$ if the State ratifies C183 * The list of ratifying countries on the ILO website contains only contemporary entities except Yugoslavia and the USSR.	ILO NORMLEX ( <a href="https://www.ilo.org/dyn/normlex/en/f?p=1000:12001:::NO::">https://www.ilo.org/dyn/normlex/en/f?p=1000:12001:::NO::</a> )
Submission of C003	1 from 1921 until 1925, otherwise 0	Self-constructed
Submission of C103	1 from 1954 until 1958, otherwise 0	Self-constructed
Submission of C183	1 from 2002 until 2006, otherwise 0	Self-constructed
General survey of C003 and C103	1 from 1965 until 1969, otherwise 0	Self-constructed
<b>Control variables:</b>		
GDP per capita	Logged gross domestic product divided by mid-year population in 2011 international dollars	Gapminder, Variable: gdppc Maddison Project, Variable: cgdppc
Change of total fertility rate	Total fertility rate $t$ – Total fertility rate $t-1$ * Total fertility rates for Serbia and Montenegro, Yugoslavia, USSR, and Czechoslovakia are calculated as weighted average of Member States based on the proportion of population of the Member States since Gapminder uses only contemporary independent States as the unit of historical data.	Gapminder for population and total fertility rate The Human Fertility Database (East/West Germany)
Polity	Autocracy = 0, Democracy = 1,	Boix, Miller and Rosato. 2013.

(continued overleaf)

## Appendix 1. (concl.)

Variable	Operationalization	Data sources
Women's empowerment $t-1$	Average of women's civil liberties index (v2x_genc1), women's civil society participation index (v2x_gencs), and women's political participation index (v2x_genpp), interval from low to high (0–1) up to previous year	Sundström et al. 2017. Variable: v2x_gender (V-dem)
Welfare development $t-1$	The number of social policies that a country introduced other than maternity protection, i.e. old age, sickness, unemployment, occupational injury protection and family allowance up to previous year	SPAW dataset (1884–2012) Social Security Programs Throughout the World (2013–18)
Regional diffusion $t-1$	The total number of countries that adopted or reformed paid maternity leave in the region up to previous year	Self-constructed based on ILO Subregion – Broad Classifications ( <a href="https://ilostat.ilo.org/resources/concepts-and-definitions/classification-country-groupings/">https://ilostat.ilo.org/resources/concepts-and-definitions/classification-country-groupings/</a> )
Ratification by regional peers	The total number of countries that ratified one of the ILO Conventions in the region	Self-constructed based on ILO Subregion – Broad Classifications ( <a href="https://ilostat.ilo.org/resources/concepts-and-definitions/classification-country-groupings/">https://ilostat.ilo.org/resources/concepts-and-definitions/classification-country-groupings/</a> )

HDML \_ historical database on maternity leave

## Appendix 2. Logistic regression analysis with a cubic polynomial approximation

	(1) Socio-economic controls	(2) Political controls	(3) All controls
Ratification of C003	1.849* (2.05)	1.690 (1.73)	1.670 (1.69)
Ratification of C103	1.403 (1.13)	1.281 (0.82)	1.286 (0.84)
Ratification of C183	0.674 (-0.84)	0.626 (-1.00)	0.587 (-1.14)
Submission of C003	2.017** (2.83)	2.239** (3.19)	2.162** (3.04)
Submission of C103	2.079*** (3.80)	1.973*** (3.52)	1.942*** (3.40)
Submission of C183	1.293 (1.49)	1.213 (1.11)	1.167 (0.88)
General Survey of C003 and C103	1.659** (2.93)	1.564* (2.57)	1.572** (2.59)
GDP per capita	1.149** (3.06)		1.031 (0.58)
Change of total fertility rate	1.269 (0.61)		1.190 (0.44)



## Appendix 2. (concl.)

	(1) Socio-economic controls	(2) Political controls	(3) All controls
Polity		1.001	0.992
		(0.01)	(-0.06)
Women's empowerment $t-1$		1.392	1.305
		(1.17)	(0.93)
Welfare development $t-1$		1.198***	1.175***
		(4.09)	(3.46)
Regional diffusion $t-1$			1.006
			(0.25)
Ratification by regional peers			1.109
			(1.91)
$t$	0.971**	0.968**	0.972**
	(-2.76)	(-3.02)	(-2.60)
$c.t\#c.t$	1.001***	1.001***	1.001**
	(3.45)	(3.56)	(3.24)
$c.t\#c.t\#c.t$	1.000***	1.000***	1.000***
	(-3.74)	(-3.79)	(-3.53)
Number of prior events	1.077***	1.048*	1.039
	(3.46)	(2.04)	(1.65)
No. of observations	12 267	12 269	12 267
Number of States	160	160	160
Number of events	543	544	543
Log-likelihood	-2170.298	-2162.187	-2156.901