



The London School of Economics and Political Science

Why Over-Comply with International Law? Exceeding International Minimum Standards in Social, Labor, and Environmental Policy

McKenzie Ratner

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Declaration

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Abstract

Studies on compliance have thus far largely focused on a binary assessment of state behavior, seeking to understand why states comply or fail to comply with international law. This thesis expands on this literature by further investigating the phenomenon of over-compliance. Over-compliance occurs when states do not merely meet their commitments to international institutions but exceed these requirements. This thesis delineates the concept of over-compliance to answer the question of why states choose not merely to meet but to exceed international minimum requirements in the face of potentially higher than necessary costs? It first examines the extent of over-compliance across environmental, human rights, and labor regimes to establish the empirical relevance of the concept. Then, drawing on literature from environmental economics, international political economy (IPE), and international relations (IR) theory, this thesis provides the first comprehensive theoretical framework in IR aimed at identifying the precise causal mechanisms through which states might be incentivized to exceed international minimum standards.

This framework differentiates between explanations that suggest a causal link to International Organizations (IOs) and non-IO centric mechanisms. IO specific explanations for over-compliance include two-level games, signaling, uncertainty/sanctions in the face of involuntary non-compliance, policy leadership, and over-commitment. Non-IO centric mechanisms, which assume that institutions have little if any causal impact on state over-compliance, include policy diffusion and domestic political preferences. The thesis also explores the impact of three mediating factors on the probability and possible extent of over-compliance: costs, capacity, and the degree of normative fit between international standards and values at the domestic level.

This framework is then applied to three case studies across different international institutions and policy areas drawing on interviews and two novel datasets: Parental Leave in the European Union (EU), the 1st Commitment Period of the Kyoto Protocol of the United Nations Convention on Climate Change (UNFCCC), and the International Labor Organization's (ILO) Minimum Age Convention. This analysis has two key findings: i) while most over-compliant behavior on behalf of states can be accounted for by factors unrelated to international institutions, membership in and/or association with an IO can shape states' cost/benefit calculations to such an extent that over-compliance is the logical outcome, and ii) the extent and likelihood of over-compliance is largely a by-product of the costs associated with doing so. These findings point to a need for a more fine-grained understanding of compliance predicated on a robust empirical assessment of the dynamics shaping state behavior within and outside of international institutions.

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List of Acronyms

AKP	Turkish Justice and Development Party
CEE	Central and Eastern Europe
CEDAW	Convention on the Elimination of Discrimination Against Women
CFCs	Chlorofluorocarbons
DAC	OECD Development Assistance Committee
DG JUST	Directorate General for Justice and Consumers (European Union)
EITs	Economies in Transition
EU	European Union
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GHGs	Greenhouse Gas Emissions
GNI	Gross National Income
G77	Group of 77
HR	Hazard Ratio
IEAs	International Environmental Agreements
IGO	Intergovernmental Organization
IHL	International Humanitarian Law
ILO	International Labor Organization
IO	International Organizations
IPE	International Political Economy
IR	International Relations
KtCO ₂	Kilo Tonnes of Carbon Dioxide Equivalent Units

LNA	Large-N Analysis
LR	Likelihood Ratio
LULUCF	Land Use, Land-Use Change and Forestry
MEAs	Multilateral Environmental Agreements
ODA	Official Developmental Assistance
ODS	Ozone Depleting Substances
ODP	Ozone Depletion Potential
OECD	Organization for Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
OPEC	Organization of Petroleum Exporting Countries
PR	Proportional Hazards
PR	Public Relations
SNA	Small-N Analysis
TFP	Total Factor Productivity
UNFCCC	United Nations Convention on Climate Change
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
US	United States of America
USD	United States Dollar
VIF	Variance Inflation Factor
WTO	World Trade Organization

Chapter 1: Introduction

1.1 Introduction: What is Over-Compliance?

International cooperation between states and within institutions has long been a subject of intense debate (see Barrett, 1999; Mearsheimer, 1994; Martin & Simmons, 1998). While some have argued that institutions serve merely as an instrument of the most powerful states (Mearsheimer, 1994), others have focused on the role of repeated interactions between states in shaping the nature of cooperation to achieve absolute gains (Snidal, 1991). At the center of this debate are two key and fundamental questions: i) why, and under what circumstances, do states cooperate within international institutions, and ii) to what extent, if at all, do institutions matter? While the first question has dominated much of the debate concerning the creation, termination, integration, and disintegration of international institutions, with a heavy focus on the European Union (EU), especially with respect to the latter two concepts (Koremenos et al., 2001; Schimmelfennig & Winzen, 2020; Pollack, 2003; see Eilstrup-Sangiovanni, 2021 for a detailed discussion of IGO termination across international institutions), it is the second question that motivates this thesis and a great deal of the compliance literature that pre-dates it.

For much of the compliance literature, institutional impact – defined here in terms of the degree to which state behavior conforms with the rules of a given institution – is considered to be a direct outcome of the cost/benefit analysis undertaken by states when electing to meet or not to meet international minimum standards (Keohane, 1988; Simmons, 2010). As noted by Simmons, in the absence of third-party enforcement, scholars largely agree that international agreements must be self-enforcing; that is, for states to uphold them, they must provide more benefits than costs (Simmons, 2010). Oftentimes, this cost/benefit analysis can be affected by the design of a given institution. For example, Koremenos, Lipson, and Snidal (2001) argue that institutions with strong

enforcement mechanisms are more likely to elicit compliance from member states by raising the costs associated with non-compliant behavior. Others argue that enforcement can stem from forces external to the institution (e.g., in Simmons, 2000, ‘the market’ itself or in Eilstrup-Sangiovanni & Sharman, 2021, transnational NGOs) and is largely predicated on reputational concerns facing states who are seen to violate behavioral expectations. Regardless of the logic followed, rationalists view compliance as the outcome of a two-dimensional choice facing states with respect to their international commitments: to comply or not to comply (see **Figure 1.1**). However, what happens when this additive logic ceases to capture the full range of options available to states with respect to their international commitments?

Figure 1.1 The Rationalist Compliance Logic

Expected Cost from Non-Compliance > Costs of Compliance = Compliance

Expected Cost from Non-Compliance < Costs of Compliance = Non-Compliance

The case of Uruguay’s response to Recommendation No. 13 of the Convention on the Elimination of Discrimination Against Women (CEDAW), governing equal pay for equal work, provides an anecdotal account of when this binary logic ceases to be sufficient in capturing the range of options facing states with respect to their international commitments (*OHCHR / Optional Protocol CEDAW*, 1989). Among the wealthiest of South American nations, Uruguay has fought a prolonged and at times tenuous battle aimed at closing the gender pay gap since the 1950s (Bértola & Williamson, 2017). These efforts were bolstered by the mobilization of women’s groups and the creation of the National Institute for Family and Women’s Affairs in 1987 as the state sought to progressively implement international legislation domestically and to foster programs to ensure women’s rights above and beyond the CEDAW Committee requirements

(Espino & Pedetti, 2012; Örtenblad et al., 2017). The case of Uruguay points to an important and thus far understudied question of why, and under what circumstances, states elect to not just meet their international commitments, but to exceed them?

This additive logic is equally confounding when considering compliance with the Montreal Protocol on Substances that Deplete the Ozone Layer. The potentially large financial costs associated with phasing out chlorofluorocarbons (CFCs), such as the replacement or modification of equipment, higher maintenance costs, and higher energy consumption, weighed particularly heavily on developing countries (Lieberman, 1994, p.3). Yet one hundred and thirty-two developing states phased out the use of CFCs in advance of proposed targets. While scholars have convincingly argued that this remarkable level of compliance can be attributed to the role of the Multilateral Fund¹ in offsetting the costs of compliance among developing states, as well as the decreasing costs of abatement of ozone depleting substances (ODS) due to new technologies and methods (Norman et al., 2008), the question remains unanswered as to why these states sought to phase out CFCs earlier than required in the face of potentially higher costs.

Conventional explanations for compliance conceptualize the choice to comply or not to comply in binary terms (see Chayes & Chayes, 1993; Raustiala & Slaughter, 2002). So taken for granted is this assumption in the International Relations (IR) literature that only two published studies have ever addressed a third but plausible outcome: over-compliance, wherein a state not only meets their international commitments, but exceeds them (see Fontana & Grugel, 2017; Lightfoot, 2010). One plausible explanation for this gap is the predominance of rationalist explanations for compliance in the IR literature. A core assumption of rationalist thinking stems from the assertion

¹ The Multilateral Fund for the Implementation of the Montreal Protocol provides both financial and technical assistance to developing states in phasing out the use of ozone depleting substances (*About the Multilateral Fund*, 2022).

that compliance is costly (e.g., Downs & Jones, 2002). As such, if mere compliance is sufficient to reap the gains of cooperation, then why would states elect to exceed, rather than merely meet, their international commitments in the face of potentially higher costs? This thesis aims to address this question through the provision of a framework aimed at explaining the causes and determinants of over-compliance across a wide range of international institutions. Specifically, the framework provides seven potential causal mechanisms for over-compliant behavior, as well as three mediating factors argued to impact the extent and likelihood of state over-compliance. This framework is then illustrated and applied across three different international institutions and policy areas: parental leave in the European Union (EU), the 1st Commitment Period of the Kyoto Protocol to the United Nations Convention on Climate Change (UNFCCC), and the Minimum Age Convention No. 138 of the International Labor Organization (ILO).

This thesis will argue that domestic political preferences in combination with signaling behavior on behalf of states wishing to reap the potential rewards associated with membership in and/or interaction with an international organization (IO) are the primary determinants of over-compliant behavior across all three institutions. Specifically, this thesis finds that pre-existing preferences for higher standards than what is codified in an international agreement is the main determinant of over-compliant behavior. However, institutional design – namely the scope of political and economic benefits associated with membership in the IO – is argued to account for over-compliant behavior in those cases in which states sought to signal their credible commitment to an IO. Furthermore, costs, capacity, and the degree of normative fit between international and domestic contexts, take on a mediating role, increasing the likelihood and extent of over-compliance in those instances in which the costs associated with adopting higher standards are relatively low and vice versa. In so doing, this thesis finds that under certain circumstances,

international institutions are able to shape incentive structures for states such that the benefits of over-compliance far exceed the costs.

1.2 The Framework: Why Over-Comply?

This thesis asks two primary research questions: i) to what extent is over-compliance an empirically significant phenomenon, and ii) why would states choose to not only meet but exceed international minimum requirements? Given the absence of IR literature concerning over-compliance, a natural starting point for the thesis is the consideration of the empirical relevance of the concept. If over-compliance is merely a limited and largely irrelevant phenomenon from an empirical standpoint, then the merits of studying the concept further are limited. However, if over-compliance is wide-spread and potentially indicative of a specific pattern of behavior on behalf of states, then it deserves further consideration.

The second question considered within this thesis addresses the causes of over-compliance. Importantly, this thesis aims to provide the first comprehensive framework in IR to explain over-compliance across a range of international institutions and policy areas. To do this, this thesis builds on existing literature in IR, environmental economics, and international political economy (IPE) to derive testable conjunctures as to when and why over-compliance may occur. This framework is then applied within the context of three case studies to extract insights into the mechanisms driving this seemingly counter-intuitive behavior.

The question as to why states would over-comply with international law can be in part explained by existing literature. Downs, Rocke, and Barsoom (1996, p.380) argue that the relatively high levels of compliance seen with international agreements is because “most treaties require states to make only modest departures from what they would have done in the absence of an agreement.” It is precisely the shallow nature of these commitments, oftentimes the by-product

of lowest common denominator agreements, that explains states' compliance (Raustiala & Slaughter, 2002). Following this line of thinking, any observed exceedance of international minimum standards reflects a state's preference for more extensive measures domestically than what can be achieved at the international level. However, this thesis will argue that not all international commitments can be labelled as shallow. Furthermore, not all states that hold a preference for more extensive standards domestically can achieve this in the absence of an international agreement (Putnam, 1988). It is precisely the debate concerning institutional influence that governs this thesis. If over-compliance can be entirely explained by domestic factors exogenous to states' membership in and obligations towards IOs, then its contribution to the compliance and international institutions literature is likely to be small. Instead, it might be more useful to refer to the extent of domestic legislation than to invoke the concept of compliance at all. However, if the international context of states, such as their membership in international institutions, plays a role in inducing states to do more than what is required of them, then previous assumptions about the role and impact of international cooperation may be underestimated.

This thesis defines over-compliance as the exceeding of international minimum standards. This definition is in line with the existing IR literature on over-compliance (see Fontana & Grugel, 2017 and Lightfoot, 2010 for the two existing published IR pieces on over-compliance) and is divorced from any assumptions regarding intentionality and causation. As such, it represents the base case for what might be considered over-compliant behavior. This definition enables the thesis to leave open the question of what the primary motivating factor behind over-compliance is and whether this behavior is intentional or merely the byproduct of preferences stemming from the domestic level. This openness in terms of how the concept is defined is essential for further exploratory analysis given the opaque nature of the issue and lack of existing literature. In future, a narrower

definition of the concept might be needed to provide a more substantive understanding of over-compliance, however, at present, this definition enables the broad exploration of the concept, which is needed to derive a coherent and widely applicable framework.

Utilizing this definition of over-compliance, this thesis develops a theoretical framework that is then applied systematically to three case studies utilizing both quantitative and qualitative research methods. These cases vary both in terms of intrinsic factors, such as policy area, number of states considered, and institutional contexts, and in the potential causal mechanisms they illuminate. As such, they were selected on the basis of a “most different case design”² aimed at hypothesis testing (Gerring, 2008, p.6) while also serving the dual aim of illustrating specific mechanisms (e.g. pathway cases³). In so doing, the thesis aims to maximize variation among cases to further increase the external validity of findings, while illuminating specific ‘pathways’ through which the presence of certain institutional features lends itself to different possible reasons for over-compliant behavior (Gerring, 2008).

States may over-comply with international agreements for a host of reasons that are both causally related to the IO and independent of the IO (herein referred to as IO-specific and non-IO specific explanations). IO-specific factors, such as stringent accession negotiations and strong sanctioning mechanisms in the event of non-compliance, can all serve to shift incentive structures within states to such a degree that over-compliance to their international commitments is the most logical outcome. Moreover, over-compliance may serve as a means through which states seeking a certain international image may establish themselves as policy leaders in a particular field. But

² A most different case design focuses on maximizing variation among key explanatory variables with the aim of hypothesis testing (Seawright & Gerring, 2008).

³ In a pathway design, cases are selected to illustrate a specific pathway from an explanatory variable to an outcome of interest (Gerring, 2008). A dual approach is needed in the case of over-compliance to first establish potential competing mechanisms and then to subsequently examine their particular relevance to various institutions/policy areas.

while these explanations focus on the potential benefits stemming from over-compliant behavior, they do not dismiss the costs associated with such actions. Over-compliance in policy areas in which states experience a high degree of normative misfit (e.g., the adoption of EU paternity leave standards in the absence of more equitable attitudes towards care responsibilities domestically) may introduce costs so high that exceeding international minimum requirements is an unlikely outcome. However, there is reason to believe that, while costs certainly play an important role in a state's decision to over-comply, they are only one element of a complex puzzle governing over-compliance. Factors such as norms, attitudes, state capacity, and exposure to international markets all contribute to providing a plausible account for over-compliant behavior.

This differentiation between IO and non-IO factors provides a clear pathway through which to assess the impact of international institutions on states' over-compliant behavior. This impact, or the lack thereof, can be further delineated by the distinction between international and domestic mechanisms. For example, a non-IO centric domestic explanation for over-compliance would be the existence of previous domestic standards that exceed IO minimum requirements. In the case of the EU, the presence of strong and mobilized women's groups in Sweden combined with favorable domestic political conditions resulted in the adoption of paid leave for men and women as early as 1974, well predating the country's admission to the EU and exceeding the union's minimum parental leave requirements (Gauthier, 2011; Duvander et al., 2005; *Family Policy Database*, 2011). As a result, neither the IO nor other international factors are likely to account for the country's decision to adopt higher standards than necessary. Thus, it is the domestic political context in Sweden that shaped the state's decision to over-comply.

An IO-centric international explanation, on the other hand, could focus on the process through which states may adopt over-compliant measures in situations where there is uncertainty about

their performance vis-à-vis international commitments, such as in the case of emissions reductions. This would be of particular importance in areas in which compliance with international commitments is opaque or subject to stochastic variation and in which states face the prospect of sanctions, material or immaterial, in the case of non-compliance. Similar to the work of Shimshack and Ward (2008), which focused on the firm level, states are assumed to be rational actors who, in certain situations, might be willing to incur higher costs (over-compliant legislation) in return for minimizing the probability of costly sanctions due to unintentional non-compliance.

While both previously considered explanations offer a clear causal pathway for over-compliance, they only provide a part of the overall picture. This thesis puts forward a framework for understanding the causal mechanisms that may bring about over-compliant behavior, summarized in **Figure 1.2**. The decision to over-comply is also impacted by a host of factors, including the costs associated with the adoption of more extensive standards, the relative openness of a state to international markets, and the capacity of national governments to adopt and amend national legislation. These mediating factors (e.g., the relative costs of adopting over-compliant standards or the capacity of national bureaucracies to adopt and implement international law) provide important context for assessing factors that do not explain over-compliance *per se* but impact the likelihood or extent to which it occurs (see **Figure 1.3**). As such, they compose an important element of the framework of this thesis.

Figure 1.2: Causal Pathways to Over-Compliance

	IO-Centric Explanations	Non-IO Centric Explanations
International	<ul style="list-style-type: none"> • Signaling • Uncertainty/Sanctions • Policy Leadership • Over-Commitment 	<ul style="list-style-type: none"> • Policy Diffusion
Domestic	<ul style="list-style-type: none"> • Two-Level Games 	<ul style="list-style-type: none"> • Domestic Political Preferences

Figure 1.3 Mediating Factors Affecting the Extent and Likelihood of Over-Compliance

#	Mediating Factor	Literature
1	Costs	<ul style="list-style-type: none"> - Downs and Jones, 2002 - Bayram, 2017 - Simmons, 2002
2	Capacity	<ul style="list-style-type: none"> - Börzel, 2010 - Chayes and Chayes, 1993
3	Normative Fit	<ul style="list-style-type: none"> - Checkel, 2001 - Chayes and Chayes, 1993 - Börzel and Sedelmeier, 2017

1.3 Case Selection

The first case considered within the thesis examines the adoption of over-compliant parental leave standards in the European Union. As an institution with a rigorous accession process, requiring all potential member states to undertake substantive reforms at the national level to achieve alignment with the EU *acquis*, over-compliance represents a clear signal through which countries may convey their preparedness for accession and thereby reap the numerous benefits associated with EU membership. The EU exhibits an unprecedented level of integration of its

member states, both in the scope of regulated issue areas and transfers of agenda-setting and decision-making powers away from individual member states towards supranational institutions (Hooghe & Marks, 2015).

EU institutions have been argued to have successfully diffused core norms and values across member states, contributing to the high levels of compliance observed (Mastenbroek, 2005; Schimmelfennig & Sedelmeier, 2004). As a result, the EU presents a strong case for an institution that would have been able to shape member states' cost-benefit calculations to induce over-compliant behavior. For example, candidate countries may have been willing to over-comply with EU standards during their accession process to increase the probability of accession by *signaling* their credible commitment to the EU *acquis* and core norms. Over-compliance would thus have been the result of a cost-benefit analysis in which the short-term costs of over-compliant legislation would have been lower than the long-term material and immaterial gains from joining the EU and having access to its single market. To examine this assertion, this thesis utilizes both structured and semi-structured interviews in addition to secondary document analysis to examine the causes of over-compliance with EU parental leave requirements in the Baltic states from 1998 to 2021.

The second case this thesis considers is that of the 1st Commitment Period of the Kyoto Protocol. The Kyoto Protocol represented a pivotal moment in the development of international environmental agreements (IEAs) through the introduction of binding standards governing greenhouse gas (GHGs) emissions among highly developed countries (Stone, 2004). Broad in terms of its scope and reach, the agreement represented a tangible effort on behalf of parties to address a truly global issue, requiring cooperation that transcends borders (Kaul et al., 1999; Nordhaus, 2015). Yet many today would argue that the Kyoto Protocol, while having achieved high levels of compliance (Grubb, 2016; Shishlov et al., 2016), represented a 'shallow

commitment' on behalf of states, many of whom were able to capitalize on elements of the institutions' design to avoid undertaking substantive emissions reduction efforts (Schiermeier, 2012). These doubts were compounded by the creation of surplus emissions credits, herein referred to as 'the hot air surplus', resulting from the collapse of heavy industry in Central and Eastern Europe (CEE) in the early 1990s (Woerdman, 2005). However, other elements of the Kyoto Protocol, such as the ability to designate a higher emissions reduction target than the overall 5% cut in emissions relative to 1990 levels, make the Protocol an interesting case for examining the effect of more ambitious commitments than the minimum target on subsequent over-compliant behavior (*What Is the Kyoto Protocol? / UNFCCC*, 2021). As such, the Kyoto Protocol represents a clear case through which to examine both IO and non-IO centric explanations for over-compliance through a large-N analysis of state behavior during the 1st Commitment Period.

Finally, this thesis examines ILO Convention No. 138, governing the introduction of a minimum working age for children. Although the convention specifies a minimum working age of fifteen, it provides a limited exemption for those states "whose economy and administrative facilities are insufficiently developed" to designate a minimum age of fourteen at the outset (*Convention C138 - Minimum Age Convention, 1973 (No. 138)*, 1973). This built-in level of flexibility enables developing states to decide whether to include a lower minimum age than other countries party to the convention. Given the expectation that competition for the provision of cheap labor among developing states would lead them to designate a lower minimum age than their neighbors in a 'race to the bottom' (Singh & Zammit, 2004), the decision to select a higher minimum age than required presents a clear departure from traditional conceptions of rational decision-making among states with respect to their international commitments. Furthermore, given the abundance of literature examining the *diffusion of labor policies* across countries, and

pertaining specifically to ILO convention ratification (e.g., see Baccini & Koenig-Archibugi, 2014), there is good reason to suspect factors like policy diffusion and the mediating influence of costs may be behind patterns of over-compliance in the ILO. As such, the ILO's Minimum Age Convention provides a clear case through which to examine the role of the international context in shaping state's over-compliant behavior among a diverse sample that includes states not party to the Organization for Economic Cooperation and Development (OECD).

1.4 Research Design

This thesis adopts a nested analysis approach (i.e., a type of mixed method framework) aimed at combining both quantitative and qualitative research methods to develop sound theoretical and empirical work, capable of being tested and applied to a wider range of policy areas and IOs. The benefits of adopting a nested research design include improving the quality of conceptualization and measurement, increased ability to analyze rival explanations, and higher levels of confidence in the reproducibility and reliability of the empirical findings of one's research (Lieberman, 2005). Perhaps one of the greatest advantages to undertaking both qualitative and quantitative work stems from the ability of mixed methods research designs to better address and develop "shared standards for assessing measurement validity" (Adcock & Collier, 2001, p.529). This has led scholars such as Lieberman (2005) to argue that through the adoption of a nested approach, concepts can be defined and redefined more precisely in light of new evidence, enabling the researcher to develop "clearer concepts and models than in conventional small-N analysis (SNA)" (ibid, p. 441). Furthermore, many mixed methods approaches attempt to directly address one of the most frequent criticisms stemming from cross-national statistical research: the reduction of variation between states and the comparability problems associated with examining states with vastly differing economic and historical backgrounds (Lijphart, 1975; Sartori, 1970).

While the benefits of a nested approach offer a unique and arguably effective way to address some of the methodological problems stemming from a single method approach, scholars such as Rohlfing (2008) have argued that these types of studies often can be plagued by issues of “ontological misspecification” (Rohlfing, 2008, p. 1496). At times, a nested approach can result in the under- or overfitting of the quantitative model through the failure to include relevant independent variables or the inclusion of extraneous ones (ibid). This can have ramifications not only for the reliability of the large-N analysis (LNA), but also for the subsequent case selection. For example, while “underfitting renders the estimator of the variance of a regression coefficient biased, making the usual tests for statistical significance misleading... overfitting can result in inefficient estimators whereby the significance of the included variables is underestimated” (Rohlfing, 2008, p. 1500). The consequence of this is that the selection of subsequent cases in the SNA, based on possibly erroneous results, may bias researchers’ findings through over- or under-emphasizing the importance of particular explanatory variables (ibid).

To overcome these limitations, this thesis adopts a modified form of Rohlfing’s (2008) case study-based nested analysis, beginning with an examination of the empirical relevance of the concept of over-compliance, focusing on mapping over-compliance across four issue areas. Second, building on insights derived from the mapping exercise in combination with existing IR literature and theory, this thesis develops a comprehensive framework through which to explain over-compliant behavior. Third, this framework is then applied to a small-N study of over-compliance with EU parental leave standards in the Baltic states to assess in a qualitative context the applicability of the previously presented mechanisms. Fourth, these insights are then used to inform the construction of two original datasets examining over-compliance with the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the ILO’s

Minimum Age Convention. These datasets include all relevant dependent, independent, and applicable control variables and are used to conduct two large-N studies of over-compliance. Lastly, the results of all three case studies are used to evaluate the underlying theoretical framework and to provide the groundwork needed for future studies of over-compliance in IR.

1.5 Conclusion

The contributions of this thesis are two-fold: i) in developing a framework through which to explain over-compliance, the thesis provides the first cross-disciplinary account of over-compliance that is able to be applied across a wide range of institutions, and ii) through the creation of two original datasets, the thesis introduces the first large-N quantitative studies of over-compliance to the IR literature. The results of the analysis point to three key findings: i) non-IO centric explanations, such as domestic political preferences, provide the best account for over-compliant behavior across institutions, however, ii) IO influence cannot be discounted as an explanatory variable in all three cases, indicating that, under certain circumstances, international institutions can shape state preferences to such a degree that over-compliance is the outcome, and iii) the extent and likelihood of over-compliance is determined by costs, capacity constraints, and the degree of normative fit.

Chapter 4 examines how over-compliant parental leave standards in the EU are the result of both pre-existing *domestic political preferences* and *signaling* behavior on behalf of states. In the case of Estonia and Latvia, the countries sought to adopt over-compliant standards in the area of parental leave as a result of internal demographic factors and electoral pressures within the states. However, the case of Lithuania points to a significant role for EU institutions in shaping the state's parental leave legislation to the extent of it exceeding minimum standards. Policymakers in Lithuania pointed to the influential role of the EU in shaping domestic debates surrounding more

gender equitable leave provisions. The case of Lithuania, in addition to the timing of the adoption of over-compliant measures in all three states, point to the important role of the EU in shaping the decision to exceed international minimum requirements.

Chapter 5 examines states' over-compliance with their binding emissions targets during the 1st Commitment Period of the Kyoto Protocol. This thesis finds that states exceeded their Kyoto targets in most cases as the direct result of *domestic political preferences* independent of the IO itself and were aided by the relatively low costs of over-compliance resulting from the use of flexibility mechanisms and the hot air surplus. However, this thesis illustrates that over-compliance was in some cases the result of the Kyoto Protocol's institutional design. The flexible nature of states' commitments enabled some states to commit to more extensive GHG emission reductions than the targeted 5% reduction relative to their base year. As a result, the cost/benefit calculations for states may have been impacted by the higher costs of subsequently not meeting these more ambitious targets to such an extent that over-compliance was the logical outcome of states seeking to minimize the probability of involuntary non-compliance.

Finally, Chapter 6 examines over-compliance in the ILO. This thesis provides evidence that the timing of the adoption of over-compliant standards may be directly related to the saliency of child labor at the international level. States are found to over-comply with the ILO Minimum Age Convention at higher rates when international campaigns pertaining to child labor, such as the introduction of ILO Convention No. 182 Worse Forms of Child Labour and the United Nations Convention on the Rights of the Child, are ongoing. The case of the ILO also highlights the importance of mediating factors in explaining patterns of over-compliance. Being a developed state significantly increases the probability of adopting over-compliant standards, while having

higher levels of government effectiveness also increases the probability that a state will adopt and implement over-compliant legislation.

This thesis will proceed as follows: Chapter 2 will consider the empirical relevance of the concept of over-compliance to the IR literature. Following this discussion, Chapter 3 will introduce a framework aimed at explaining over-compliance across a range of international institutions and policy areas. This framework is then applied to three case studies of over-compliance in the EU in Chapter 4, the Kyoto Protocol to the UNFCCC in Chapter 5, and the ILO in Chapter 6. Each case provides an overview of the research design employed and any issue-specific mechanisms for over-compliance that might be applicable. Finally, the thesis concludes in Chapter 7 by considering the role of international institutions and their influence in shaping state behavior above and beyond what has thus far been theorized.

Chapter 2: Over-Compliance – An Empirically Relevant Phenomenon?

2.1 Introduction

The aim of this chapter is to analyze the extent to which over-compliance is an empirically relevant phenomenon within and across international institutions. In so doing, this chapter will highlight the need, both conceptually and theoretically, to distinguish between the acts of compliance and over-compliance by states as separately driven and empirically relevant considerations. This chapter addresses the relevance of over-compliance to the international relations (IR) literature and seeks to provide anecdotal evidence for the presence of this phenomenon across three different policy areas, as well as across multiple international institutions. A more systematic examination of the potential link between over-compliance and non-IO and IO centric factors will follow in subsequent chapters.

Given the relatively limited discussion of over-compliance in the IR literature (see Fontana & Grugel, 2017; Lightfoot, 2010), this thesis seeks to establish the empirical relevance of the concept of over-compliance across institutions and issue areas before considering its conceptual and theoretical contribution to the compliance literature. Consequently, this chapter is primarily illustrative in purpose, seeking to examine the occurrence of over-compliance across four policy areas: human rights, the environment, social, and labor policy. These cases exhibit significant variation by issue area and international organization, showing that the occurrence of over-compliance is not limited to a specific policy area or type of IO. As such, they highlight the need to develop a framework through which to examine and explain over-compliant behavior.

While the area of social and labor policy offers examples of over-compliance in a context where non-IO centric mechanisms are the most likely explanation for state behavior, the policy areas of human rights and the environment represent cases where both non-IO and IO-centric

explanations may be more salient. This is because the development of national welfare policies has frequently been linked to primarily endogenous factors, such as political and social movements at the national level, ideology of governing parties, population growth, and industrialization (Huber & Stephens, 2001; Kuhnle & Sander, 2010), whereas cooperation in the area of the environment and human rights may be more readily influenced by exogenous pressures and shocks, especially among developing states. As such, the combination of the cases in this chapter provides the most reasonably representative cross section of issue areas through which to establish the empirical relevance of over-compliance that could be the result of both IO and non-IO centric mechanisms.

In electing to focus on different international institutions, varying both in scope and membership, the case illustrations demonstrate that over-compliance occurs both in relatively more integrated institutions such as the EU, in which IO-centric explanations for over-compliance might be relatively more salient, and in institutions such as the ILO with more heterogeneous membership⁴, in which non-IO centric explanations may be more relevant. As a result, the primary aim of this chapter will be to establish the empirical relevance of the concept of over-compliance across issue areas and institutions, while simultaneously providing an initial indication as to the relevance of IO and non-IO centric mechanisms. This will in turn inform the development of the theoretical framework in Chapter 3. A few limitations of this undertaking must be noted. Given that this chapter does not seek to establish and test clear causal mechanisms but rather to illustrate the empirical relevance of over-compliance, the depth of the case illustrations employed are

⁴ There is reason to expect that the benefits of membership in the ILO differ from that in the EU, potentially impacting the relevance of IO centric mechanisms. Second, membership in the ILO is relatively diverse with states varying both in terms levels of economic development and domestic political conditions. As a result, the costs associated with the adoption of over-compliant standards may differ widely among members.

limited in comparison to subsequent chapters. As such, given this chapter's focus on identifying over-compliance in the first instance, it does not aim to definitively establish causality.

The chapter will begin by examining the relevance of over-compliance in the area of environmental protection, utilizing the case of the Montreal Protocol, in which some states phased out the use of chlorofluorocarbons (CFCs) domestically in the 1990s and 2000s, well in advance of treaty requirements. This case illustration will be followed by a brief overview of over-compliance during the 1st Commitment Period of the Kyoto Protocol (see Chapter 5 for a detailed case study of over-compliance in the Kyoto Protocol) and the implementation of the EU's Bathing Water Quality Directive in the United Kingdom.

Second, this chapter will move to the area of human rights to consider two brief illustrations of state behavior with respect to General Recommendation No. 13 (Equal Renumeration for Work of Equal Value) and No. 31 (On the Rights of the Child on Harmful Practices) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Third, the chapter will turn to the areas of social and labor policy, considering the adoption of prolonged maternity and paternity leave among European Union (EU) member states that exceeds the institution's minimum requirements (see Chapter 4 for a detailed case study about the adoption of over-compliant parental leave in the Baltic states). Fourth, this chapter will consider over-compliant behavior with respect to the policy areas of development and security through an examination of UN Resolution A/RES/2626(XXV) and the Convention on Cluster Munitions. Finally, a case illustration from the ILO concerning the introduction of a minimum working age across member states will provide concluding evidence that over-compliance is indeed an empirically and theoretically relevant concept across a multitude of institutional settings

and issue areas (see Chapter 6 for an in-depth discussion of over-compliance with ILO Convention No. 138).

2.2 Environmental Regimes: Kyoto, Montreal, and the EU Bathing Water Directive

This section will examine cases in which states elected to over-comply in the area of environmental protection, owing to its conceptualization as a public good with substantial free-riding problems, making over-compliance even more puzzling. As highlighted earlier, cooperation in the area of the environment may be more readily influenced by pressures stemming from the international level than in policy areas more readily linked to the provision of goods on behalf of a state to its citizens within a specific domestic context. However, the comparatively weak enforcement mechanisms⁵ found in environmental regimes (Victor, 1999) point to the salience of both IO and non-IO centric mechanisms in accounting for over-compliance in the area of the environment.

While the problems of global pollution levels and rising sea levels are widely recognized and have invoked concern among the international community (Pew Research Center, 2019), international cooperation in this arena has been anything but straightforward. International cooperation concerning the environment faces two primary problems: burden-sharing and free-riding (Keohane & Oppenheimer, 2016; Rittberger et al., 2012). The concept of burden-sharing deals with the contentious question as to how states should share and distribute the costs associated with reducing global emissions (Keohane & Oppenheimer, 2016, p.143). Conversations as to who, and to what degree, should be responsible for the costly changes to national policies and practices associated with emissions reductions are highly controversial, because they speak to larger

⁵ In light of existing literature, strong enforcement mechanisms are linked to higher rates of compliance (Tallberg, 2002). As such, the absence of strong monitoring and sanctioning mechanisms may point away from a substantive role of the IO in shaping states' cost benefits calculations.

distributional and enforcement problems between industrialized and developing states (Falkner, 2016). Secondly, the conceptualization of the reduction of emissions and environmental protection as a public good and its nonexcludable nature means that states face an acute free-riding problem whereby no state wants to carry the costs for a good from which all others derive utility (e.g., Kaul et al., 1999). As such, over-compliance in this field would shed interesting insights into the circumstances leading states to defy rationalist expectations.

Despite the costs and the cooperation problems associated with reducing emissions and participating in climate regimes, international cooperation in the area of the environment has gone further than many might have expected. Scholars argue that states' considerations regarding their reputation in the international system, domestic political pressures, and the development of new clean technologies have incentivized and enabled states to cooperate in international environmental regimes to an extent that might not have previously been possible (see Downs & Jones, 2002; Raustiala, 1997; Young, 1989). Yet the magnitude of the political and economic costs associated with cooperation, in addition to the free-riding problem, frequently remain prohibitive for achieving outcomes beyond the lowest common denominator (Falkner et al., 2010). In order to evaluate the empirical presence of over-compliance in international environmental regimes, this chapter relies on three key case illustrations: i) the phasing out of CFCs under the Montreal Protocol, ii) the 1st Commitment Period of the Kyoto Protocol, and iii) the European Union's (EU) Bathing Water Directive. As noted in the introduction, the consideration of the Kyoto Protocol within the context of this chapter is preliminary in nature and will be expanded upon in Chapter 5.

2.2.1 The Montreal Protocol on Substances that Deplete the Ozone Layer

In 1989, two years after it was signed, the Montreal Protocol came into force (Montreal Protocol on Substances That Deplete the Ozone Layer, 1989). The treaty aimed to phase out the

use of a number of substances linked to the depletion of the ozone layer, especially chlorofluorocarbons (CFCs), a type of hydrocarbon frequently found in refrigeration and air conditioning, with production levels of nearly one million tons per year by the early 1970s (*Montreal Protocol on Substances That Deplete the Ozone Layer*, 2019). The treaty imposed measures to phase out the consumption of ‘major’ CFCs among developed and developing countries by 1996 and 2010 respectively (see Annex I for full list of over-compliant developed/developing states)(American Chemical Society National Historic Chemical Landmarks, 2019; *Montreal Protocol on Substances That Deplete the Ozone Layer*, 2019). While the Montreal Protocol focuses on the phasing out of a number of different substances, including CFCs, halons, carbon tetrachloride, methyl chloroform, hydrobromofluorocarbons, and others, for the purposes of this case illustration, this chapter will focus on state behavior with respect to CFCs, given that they represent one of the primary ozone depleting substances which the treaty aimed to address at its inception, and the availability of data on this substance (*Montreal Protocol on Substances that Deplete the Ozone Layer*, 1987).

While the aims of the treaty to mitigate the impact of CFCs and other substances on the ozone layer were clear, the costs associated with taking such actions were widely differentiated (Murdoch & Sandler, 1997). For countries such as the United States (US), the phasing out of CFCs was estimated to save “\$6.4 trillion by 2075 in costs associated with skin cancers”, as well as facilitating the use of new technologies (Murdoch & Sandler, 1997, p.333). Hence, the costs facing the United States and other highly developed nations already engaged in the phasing out of CFCs, through the introduction of domestic legislation, were arguably lower than other states in the face of benefits, both material and immaterial, from international cooperation. However, for developing states and members of the European Union (EU), the phasing out of CFCs was perceived to be

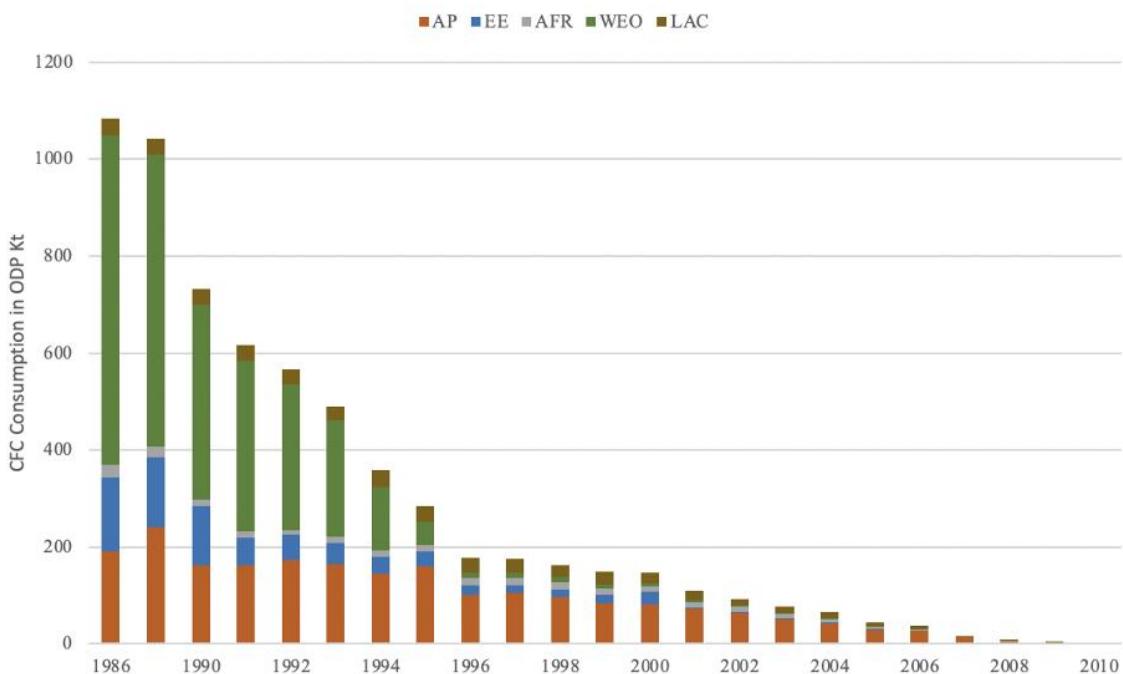
particularly costly due to higher levels of consumption and a general lack of readily available alternatives (DeSombre, 2000). Oberthür noted that:

In the mid-1980s, the member states of the EU accounted for more than 40 percent of global production of CFCs and about 30 per cent of global CFC consumption, the considerable surplus production making the EU the biggest exporter of CFCs (Oberthür, 1999, p. 645; Oberthür, 1998).

Additionally, the large financial costs associated with the phasing out of CFCs – such as the replacement or modification of equipment, higher maintenance costs, and higher energy consumption – weighed particularly heavily on developing countries (Lieberman, 1994, p.3).

Graph 2.1: CFC Consumption in ODP Kilo Tonnes by Region, 1986-2010

Data from: *Montreal Protocol | Ozone Secretariat, 2021*



Note: AP = Asia-Pacific, EE = Eastern Europe, AFR = Africa, WEO = Western Europe and Others, and LAC = Latin America and the Caribbean

Table 2.1: Pace of CFC Phase Out Among Parties to the Montreal Protocol, 1986-2010

Data from: *Montreal Protocol | Ozone Secretariat, 2021*

Classification	Number of states
CFC phase out ahead of schedule	137
CFC phase out in line with schedule	8
CFC phase out behind schedule	40
Total	185

Despite the final treaty recognizing differentiated responsibilities for developing states, the speed at which emerging states sought to phase out the consumption of CFCs at times surpassed fixed timelines, pointing to the presence of over-compliance with respect to the Montreal Protocol. For example, Peru, which recorded relatively high levels of CFC consumption in the years prior to the treaty's introduction – reaching a high of 1058.30 Ozone Depletion Potential (ODP) tonnes in 1986, seven years prior to the state's ratification of the convention in 1993 – phased out CFCs by 2007, three years prior to the expected deadline (Ozone Secretariat Data, 2021). In Indonesia, CFC consumption was reduced from 9012 ODP tonnes in 1996 to 0 ODP tonnes in 2008, resulting in the phasing out of CFCs two years ahead of schedule (Ozone Secretariat Data, 2019). In fact, of the one hundred and eighty-five states party to the Montreal Protocol, for which there is time series data, one hundred and thirty-two out of the one hundred and thirty-seven states that achieved the phasing out of CFCs in advance of proposed targets were developing states (*Data in Tables / Ozone Secretariat, 2019*).

The presence of over-compliance in the Montreal Protocol raises an interesting question with respect to cooperation in the area of climate change. Why, despite differentiated requirements, would developing states elect to phase out CFC use domestically prior to the 2010 deadline in the

face of potentially high sectoral costs? Despite the Protocol's ability to sanction non-compliance through the imposition of trade restrictions (Barrett, 1999), initial indications point to the importance of non-IO centric mechanisms in accounting for over-compliant behavior with respect to the Montreal Protocol. Given the differentiated levels of CFC consumption across the globe prior to the signature and entry into force of the Montreal Protocol (Oberthur, 1997), two factors may provide the best account for states' over-compliant behavior: i) low costs of reducing CFC consumption in the form of little previous consumption of Ozone Depleting Substances (ODSs), and ii) the relative efficiency of national administrations in implementing domestic reforms aimed at reducing CFC consumption and production. Both of these arguments attribute the extent of over-compliance seen not to a conscious effort by national governments to exceed the stated timeline, but rather as a by-product of states' bureaucratic efficiency and financial resources (for arguments concerning bureaucratic capacity and its impact on compliance patterns, see Chayes & Chayes, 1993 and Tallberg, 2002 for a more thorough discussion of political and economic capacity problems), pointing to the potential salience of non-IO centric domestic explanations in accounting for the phasing out of CFCs by countries ahead of schedule.

However, a preliminary examination of the literature on the Montreal Protocol highlights the need to also consider IO-centric mechanisms in accounting for states' over-compliance. Oberthür (1998) points to the incentives associated with the decision to overly invest upfront in the reduction of CFCs, owing to a state's inability to predict or control the consumption and illegal trade of these substances by sub-national actors at any given time (Oberthür, 1998). Thus, national governments seeking to conform with the 1995 and 2010 target deadlines also had to account for stochastic variation in CFC consumption, this may have led them to pursue more drastic reforms to reduce consumption than would have occurred in the absence of the agreement. This argument

corresponds to the hypothesis advanced by Shimshack and Ward (2008) in the environmental economics literature whereby firms may over-comply with environmental regulations to minimize the probability of involuntary non-compliance due to stochastic differences in emission/pollution levels at any given time. As such, the monitoring mechanisms provided for in the Montreal Protocol, in addition to the negative stigma attached to non-compliance with international minimum standards, may have incentivized states to over-comply as a way to increase the probability of compliance. As a result, the case of the Montreal Protocol highlights the presence of over-compliance in the area of environmental policy, while simultaneously illustrating the potential salience of both non-IO and IO centric mechanisms in accounting for states' over-compliant behavior.

2.2.2 The 1st Commitment Period of the Kyoto Protocol

In 1997, amidst eleven days of intense negotiations for the Kyoto Protocol, debates concerning who would be subject to binding emissions requirements abounded. Despite mutual recognition “of common but differentiated responsibilities” within the framework of the 1992 United Nations Framework Convention on Climate Change (UNFCCC) and the Berlin Mandate, questions regarding how to ensure a fair and equitable distribution of the costs associated with limiting emissions among developing and developed countries took center stage (Jotzo, 2005, p.3). While the final agreement would impose binding targets on Annex I parties – members of the Organization for Economic Cooperation and Development (OECD) in 1992, who were widely agreed to have contributed significantly to global pollution levels (Breidenich et al., 1998, p.315) – negotiating parties sought to understand how to classify and deal with economies in transition (EITs). How should countries such as Russia and its former sub-states in Central and Eastern Europe be treated, when they could not be argued to be free of responsibility for global pollution,

yet were viewed as being too politically and economically unstable to face costly binding targets (Buchner, 2004, p.5)?

Conversations regarding the inclusion of EIT's in Annex I were met with flexibility mechanisms within the treaty, including the ability to designate a baseline year other than 1990, and an exemption from participation in Annex II of the treaty, which obliged Annex I parties to provide funding to developing countries to produce clean technologies (*Parties & Observers / UNFCCC*, 2019). Yet, in light of the costs associated with meeting international minimum requirements with respect to the Kyoto Protocol, EITs committed and complied with at times costly binding emissions targets.

Following the fall of the Berlin Wall in 1989, a large number of Soviet successor states sought to solidify or, in some cases, find their place within the international community. As newly independent states, the desire to both participate in the international community, and gain access to the benefits stemming from membership in various international institutions, was apparent. Thus, when negotiations for the Kyoto Protocol began in the late 1990s, EITs were arguably well incentivized to undertake commitments above and beyond what was required of them as a potential way to facilitate their reintroduction into international society (Baumert et al., 1999).

Yet a commitment to the binding targets of Annex I and subsequent compliance with these standards implied high costs. Although the costs of reducing emissions among post-Soviet states were arguably much lower than for other parties to the treaty owing to the 'hot air surplus', the costs associated with compliance with targets still represented an estimated 420 billion US dollars for CEE states (Müller, 2002, p.8), raising questions as to the willingness and ability of EITs to live up to their commitments. As noted by Shishlov, Morel & Bellassen (2016, p.770):

All EIT countries reduced their emissions significantly more than committed. More specifically, all of the EITs except Croatia and Slovenia overreached their respective targets by more than 20%.

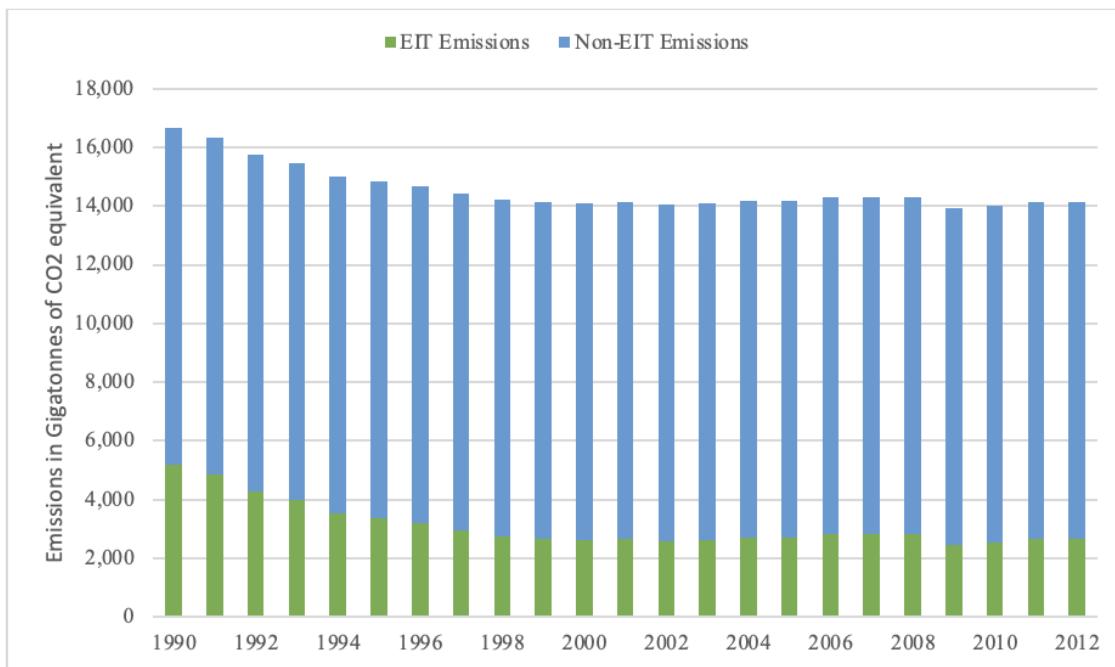
A large proportion of the reduction in greenhouse gas (GHG) emissions among CEE states can be attributed to the “contraction of economies” following the collapse of the Soviet Union (Shishlov et al., 2016, p.771) in 1991 (see **Graph 2.2**), providing support for the role of domestic political conditions in bringing about the outcome of over-compliance. However, Shishlov, Morel, and Bellasen (2016) find that compliance above required targets in the CEE and compliance more generally of parties to the treaty did not hinge solely on this hot air surplus.

Graph 2.2: Average GHG Emissions in Gigatonnes of CO₂ equivalent with LULUCF

Accounting for Annex 1 Parties, 1990-2012

Data from: (*Greenhouse Gas Inventory Data - Time Series - Annex I*, 2019; *Kyoto Protocol Base*

Year Data (for the First Commitment Period of the Kyoto Protocol) | UNFCCC, 2019



In light of these findings, why have EIT and other Annex 1 parties⁶ exceeded their Kyoto Protocol targets? In the case of EIT states, a 1999 report by the World Resources Initiative notes that increased investment in infrastructure, coupled with economic reforms and “sound reform measures in the energy sector and investments geared to reduce both air pollution and fuel use”, resulted in the rapid reduction of emissions in states such as Estonia and the Czech Republic (Baumert et al., 1999, p.14), highlighting that the adherence and/or exceeding of Annex I goals was likely at least in part a deliberate effort by national governments in light of international requirements, pointing to the possible importance of both IO and non-IO centric explanations in accounting for over-compliant behavior with respect to the Kyoto Protocol.

Given that the timing of these reforms coincides with a period of economic liberalization and an increased focus on international cooperation in CEE states, the exceeding of minimum standards by EITs and other parties within the context of the Kyoto Protocol presents a tricky case for determining the primary motivating factors underpinning over-compliant behavior. Nonetheless, it is apparent that states may have been incentivized to over-comply due to the potential payoffs from signaling their commitment to an international institution, as well as their adherence to common rules and norms (such as environmental protection). For CEE states, these include the potential economic and political gains from re-integrating into the international community after the end of the Cold War, as well as CEE states’ alignment with the West after the fall of the Soviet Union and Yugoslavian wars (Moravcsik & Vachudova, 2003). Additionally, over-compliance with their respective Kyoto targets for EITs and developed states⁷, may be viewed as a deliberate strategy to minimize the probability of involuntary non-compliance due to

⁶ Annex 1 refers to parties who were members of the OECD in 1992 in addition to a number of EIT states.

⁷ Further consideration of the mechanisms underpinning over-compliance among developed states will be addressed in Chapter 5.

stochastic variations in emission levels. These findings point to the importance of both IO and non-IO centric mechanisms in accounting for states' over-compliant behavior in the 1st Commitment Period of the Kyoto Protocol, which will be explored further in Chapter 5.

2.2.3 EU Directive 2006/7/EC – Bathing Water Quality

To conclude the examination of environmental regimes in this chapter, this section turns to the complex network of European Union directives and regulations in the area of water pollutants. While different in scope than global environmental regimes such as the Kyoto and Montreal Protocols, the European Union has gone further than any other international institution to address the regulation of national industries in the area of the environment (European Commission: Environment and Climate Change, 2019; Holzinger et al., 2008). For the purposes of this case illustration, this section will focus on EU Directive 2006/7/EC concerning the management of bathing water quality in European coastal and interior waterways. The directive establishes the primary mechanism through which public bathing waters are maintained and monitored across the continent. While EU Directive 2006/7/EC and its updated rating system were not introduced until 2006, since the early 1970s, the EU has sought to report on a yearly basis the quality of bathing water across member states in line with the 1975 Bathing Water Directive (*Bathing Water Quality - Environment - European Commission*, 2019). Regular monitoring, paired with community-led initiatives, resulted in significant improvements in the quality of bathing water across member states from the late 1970s onwards (Georgiou & Bateman, 2005). Yet, “advances in pollution science, related technology and managerial expertise” pointed to the need to reform existing legislation in the early 2000s (Georgiou & Bateman, 2005, p.431).

Consequently, reforms and updates to previously existing European legislation on bathing water quality were codified in the 2006 directive, which aimed to ensure that, by the end of the 2015 bathing season, all bathing waters in the EU were rated at least ‘sufficient’:

They (member states) shall take such realistic and proportionate measures as they consider appropriate with a view to increasing the number of bathing waters classified as ‘excellent’ or ‘good’ (Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 Concerning the Management of Bathing Water Quality and Repealing Directive 76/160/EEC, 2006).

However, in light of this minimum requirement to achieve sufficiency in the quality of all European bathing waters, many EU member states endeavored to achieve higher standards domestically. In 2015, 96% of all EU bathing water sites achieved a target of ‘sufficient’, with 84.4% achieving the ranking of excellent (*European Bathing Water Quality in 2015 — European Environment Agency*, 2016). As such, over-compliance with EU Directive 2006/7/EC points to the relevance of the concept across a multitude of diverse institutional settings.

In light of this finding, the question emerges as to the potential benefits states could reap from exceeding EU minimum standards with respect to the quality of bathing water at the national level. To further investigate this question, this section will look at the illustrative case of the United Kingdom, where high costs to reforming industry practices proved to be a substantive barrier to improving bathing water quality in the face of tangible benefits.

Since 1976, bathing waters in the European Union have been subject to testing and monitoring aimed at improving quality and preventing harm to the environment and public health (Holzinger et al., 2008). First regulated under Directive 76/160/EEC, the European Union introduced regular water sampling to detect the presence of harmful substances (Council Directive 76/160/EEC of 8 December 1975 Concerning the Quality of Bathing Water, 1976). This directive was then replaced in 2006 by Directive 2006/7/EC in light of new technical developments. The

new directive required states to provide more regular reporting and to make data publicly available regarding the quality of bathing waters across the EU (*Bathing Water Quality - Environment - European Commission*, 2019). Specifically, the directive required both fresh and coastal bathing waters within EU member states to be classified as either poor, sufficient, good, or excellent on the basis of uniform EU standards (Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 Concerning the Management of Bathing Water Quality and Repealing Directive 76/160/EEC, 2006). Importantly, bathing waters rated as ‘poor’ for more than five years in a row would require national governments to take measures to prohibit their use (*ibid*). For the purposes of this case illustration, bathing waters rated ‘good’ or ‘excellent’ will be considered to have exceeded EU minimum requirements.

In 2006, when the updated bathing water quality directive entered into force, 90.9% of British fresh water bathing areas complied with the directive’s mandatory requirements, and only 27.3% of British fresh water bathing areas over-complied with the directive’s guided values,⁸ achieving a designation of ‘good’ or ‘excellent’ (*Bathing Water Quality - Environment - European Commission*, 2007). Additionally, 80.4% of coastal waters met the previous directive’s guided values (i.e., over-complied) and 99.6% complied with the directive’s mandatory requirements (*Bathing Water Quality - Environment - European Commission*, 2007). Twelve years later, 61.7% of all English bathing waters met a standard of excellent and as such can be labelled over-compliant, and nearly all (97.9%) “met at least the minimum standard of the Bathing Water Quality Directive of 2006” (Bathing Water - Department for Environment, Food, and Rural Affairs, 2018).⁹ These significant changes to the quality of UK bathing water may be attributed to increased

⁸ The ‘guided values’ of the previous directive were non-binding suggestions above and beyond that of the directive’s mandatory minimum requirements.

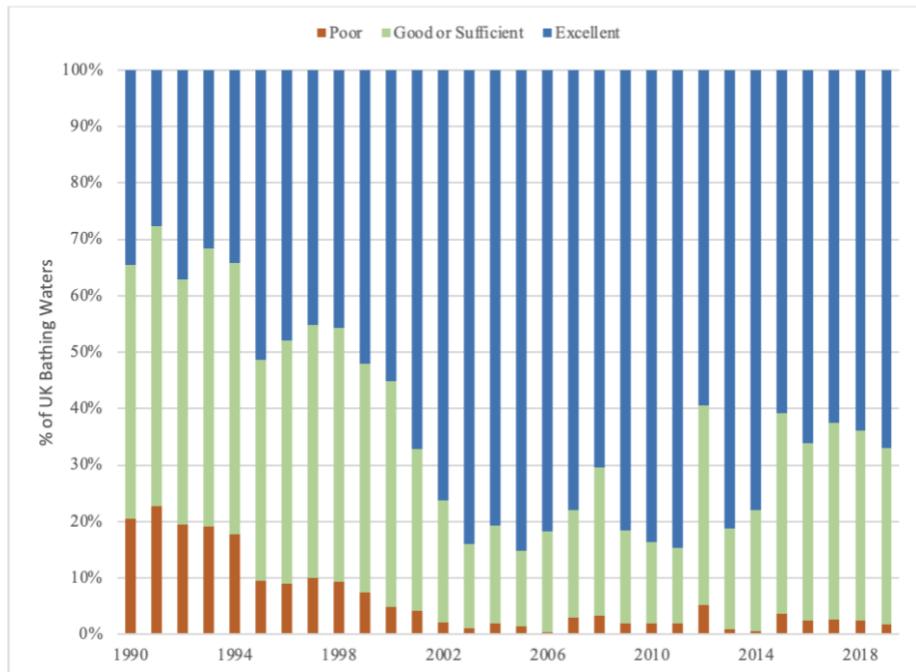
⁹ The 2006 data from the U.K. government on English Bathing Waters includes both fresh water and coastal bathing waters.

regulation stemming from the EU, underlining the possible salience of IO-centric mechanisms in explaining the UK's over-compliance with the EU Directive.

According to the directive's requirements, UK bathing waters were subject to testing at regular intervals, with "the minimum number of samples taken per bathing season being four" (Bathing water quality - data and maps, 2012). Similar to over-compliance in the Montreal Protocol, the UK may have sought to increase the probability of compliance by adopting over-compliant measures to prevent EU sanctions in instances of stochastic variance in the discharge of pollutants into waterways and fluctuations in bacterial levels. Hence, the IO, in this case the EU, may provide an incentive-structure through stringent monitoring mechanisms that motivates states to not merely comply with international law, but to exceed it.

Graph 2.3: Percentage of Bathing Waters in the United Kingdom Rated - Poor, Good or Sufficient, or Excellent in line with EU Directives 76/160/EEC and 2006/7/EC

Data from: (*Bathing Water Directive - Status of Bathing Water — European Environment Agency, 2021*)



Prior to the 1970s, sewage was regularly discharged into UK coastal and inland waters, and little was done to regulate the release of industry pollutants into waters intended for use by the public (Thorn, 2016). Hanley, Bell, and Alvarez-Farizo (2003) argue that improvements in water quality in the 1980s and 1990s implied high costs for the United Kingdom due to necessary upgrades of sewage treatment facilities, the maintenance of coastal bathing waters year-round, and the need to ensure UK bathing waters pass regular quality checks. Yet the benefits stemming from increasing the cleanliness of UK fresh and coastal bathing water sites were also clear, such as higher tourism figures and increased welfare for citizens (Hanley et al., 2003). Thus, while compliance was perceived as being very costly, over-compliance also brought about tangible rewards. The potential benefits achieved domestically through the adoption of over-compliant standards and the influence of the EU in enforcing regular and stringent monitoring therefore point to the importance of both IO and non-IO centric mechanisms in accounting for the UK's over-compliant behavior.

Following the UK's exit from the EU in 2020, debates regarding the ongoing monitoring of UK bathing water quality have abounded (Thorn, 2016) and questions remain regarding whether the UK will continue to make progress in this area in the absence of stringent monitoring and regulation from the EU. Importantly, if the UK opts out of monitoring water quality in future, this could provide some indication that their past over-compliance was in part the direct result of EU influence, pointing to the potential importance of IO-centric mechanisms in explaining over-compliant behavior.

2.3 Human Rights Regimes: The Convention on the Elimination of Discrimination Against Women

The adoption of and subsequent compliance with international requirements within the context of international human rights regimes has been an area of wide debate and diverse

scholarship (e.g., Hathaway, 2007; Moravcsik, 2000; Simmons, 2010). While some scholars outline the ability of cooperation in the area of human rights to ‘lock-in’ policies at the national level to prevent backsliding, other studies have pointed to the reputational gains associated with appearing in line with international human rights norms (Hathaway, 2007; Moravcsik, 2000). The question as to why states cooperate in the area of human rights has received greater attention within the international relations literature, but scholars still disagree on what might lead states to subsequently comply with human rights treaties in light of few tangible benefits (e.g., Simmons, 2010).

Nielsen and Simmons (2015) find little empirical support for the ‘reward-for-ratification’ hypothesis in the area of human rights, arguing that states that ratify treaties receive few tangible benefits in terms of increased aid or intangible rewards, such as increased praise from Western states. Moreover, scholars such as Neumayer have found “that rarely does treaty ratification have unconditional effects on human rights”, thus raising further questions as to when commitment to, and subsequent compliance with, international human rights regimes is likely to occur (Hafner-Burton & Tsutsui, 2005; Hathaway, 2002; Neumayer, 2005, p. 925). The relative ineffectiveness of human rights regimes paired with the general lack of strong enforcement mechanisms thus points to the potential importance of non-IO centric explanations in explaining over-compliant behavior. This section will focus explicitly on two areas of cooperation in human rights, both predicated on the voluntary participation of states: the adoption and compliance with general recommendations No. 31 and No. 13 to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

This section examines states’ conduct with respect to the CEDAW, owing to its focus on the issue of gender equality more generally, and its specificity in providing states with non-binding

yet authoritative recommendations to promote measures against the discrimination of women in a diverse set of policy areas (see *OHCHR / Working Methods*, 2019 for a list of areas covered). Moreover, given the treaty's extensive monitoring mechanisms, instances in which states exceed international minimum requirements are readily identifiable. These monitoring mechanisms include provisions for the production of regular reports by ratifying states, submitted every four years to the CEDAW Committee, and the possibility of states to adopt additional monitoring and sanctioning mechanisms under the optional protocol¹⁰ to the treaty (*OHCHR / Working Methods*, 2019). By electing to focus on CEDAW's general recommendations, which outline how states may promote the rights of women in the workplace, at home, and in political life, this section builds on data that reflects states' efforts to promote gender equality norms at the national level (Convention on the Elimination of All Forms of Discrimination Against Women, 1979).

Perhaps the most interesting aspect that has evolved out of CEDAW's extensive monitoring system is the production of 37 general recommendations concerning how the treaty should be interpreted by member states (*OHCHR / General Recommendations*, 2019). These recommendations cover areas as broad as violence against women to equitable access to legal systems within countries (*ibid*). While the General Recommendations can be viewed as non-binding in nature, given their authoritative role in clarifying the reporting obligations and legal duties of states under the convention, they are viewed as having a substantive impact on state behavior (Meegan, 2016).

¹⁰ The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women endows the CEDAW Committee with the right to receive and consider individual complaints once all domestic channels are exhausted. In so doing, it creates a mechanism through which the Committee may consider cases and issue comments in the event of 'grave and systematic violations' of the treaty (Optional Protocol CEDAW, 2019; Tang, 2000).

Compliance with CEDAW requirements would require that states submit regular reports every four years detailing efforts taken at the national level with respect to fulfilling the treaty's requirements (*OHCHR / Working Methods*, 2019). These reports are then reviewed by the CEDAW Committee, which subsequently provides state parties with a list of issues to be addressed (*OHCHR / Working Methods*, 2019). States then submit responses to these issues and questions in a written report, which serves as the basis of a "constructive dialogue" between the CEDAW Committee of twenty-seven experts and state parties (*ibid*). Thus, while mere compliance with the requirements of CEDAW would entail states submitting regular national reports and fully participating in the entirety of the treaty's review system, the adoption of and adherence to the committee's non-binding general recommendations represents a step beyond the treaty's minimum requirements.

While the mechanism of self-reporting may inevitably bias the reliability of the data produced by states in national reports, the feedback provided by the Committee, coupled with the involvement of civil society actors in monitoring, should provide some evidence of whether implementation of the chosen recommendations corresponded with the date of treaty ratification and tangible changes at the domestic level (*OHCHR / Working Methods*, 2019). Moreover, given the requirement that country representatives stand ready to answer questions regarding the content of the regular report submitted every four years and the adoption of the optional protocol by some states, there are additional mechanisms through which to check the reliability of state reports (*ibid*).

2.3.1 General Recommendation No. 13: Equal Renumeration for Work of Equal Value

Among perhaps the most elusive commitments made in the text of the CEDAW treaty is that of the right of men and women to receive equal pay for equal work in the labor market (Convention on the Elimination of All Forms of Discrimination Against Women, 1979). Notorious

for its lack of success in practice – owing to a variety of factors including workplace practices, such as a lack of transparency in the reporting of salaries and structural barriers to salary negotiations facing women in the workplace – individual country efforts to provide for equal pay for equal work have varied widely (Fredman, 2013). For example, at the time of the treaty's signature in 1979, the earnings gap between men and women in OECD countries ranged from 41.3% in Japan to 16.6% in Sweden in 1978 (*OECD Family Database - OECD*, 2019). Furthermore, structural issues stemming in part from further segregation in the workplace in developing states has contributed to a wide spread between the median earnings of men and women across the globe (Nopo et al., 2011), raising questions about how to best capture the role of women who are employed outside of traditional sectors (Ferrant et al., 2014). This gap in earnings has been further compounded in South Asia and sub-Saharan Africa, where differences in educational attainment and high levels of unemployment have contributed to large differences in earnings between men and women (Nopo et al., 2011). Yet studies by Appleton, Hoddinott, Krishnan and others point to reasons for optimism, finding that female overrepresentation in the public sector in Ethiopia, Uganda, and Cote d'Ivoire make the gender wage gap narrower than expected in some developing contexts (Appleton et al., 1999, p.304).

In light of these issues, a number of international conventions and treaties have sought to encourage states to take action at the national level to address inequalities in pay, including CEDAW, the Beijing Platform for Action, and the ILO's Convention on Equal Remuneration in the Workplace (*Convention C100 - Equal Remuneration Convention, 1951 (No. 100)*, 1951; *Convention on the Elimination of All Forms of Discrimination Against, 1979; The Beijing Platform for Action*, 2015). This case illustration will focus on the adoption of General Recommendation No. 13, aimed at addressing a lack of progress made at the national level ten

years from the adoption of the convention, in the sphere of equal work for equal pay (General Recommendations Adopted by The Committee on the Elimination of Discrimination Against Women Eighth Session (1989) General Recommendation No. 13: Equal Remuneration for Work of Equal Value, 1989). Among the measures recommended to states to facilitate the achievement of equal pay for equal work is that of the request to state parties “that have not yet ratified ILO Convention No. 100 to be encouraged to do so” (ibid). This General Recommendation will be the focus of this section.

ILO Convention No. 100 recognizes a legally binding commitment on behalf of all state parties to the convention to achieve “equal remuneration for men and women workers for work of equal value” through the adoption of national laws, collective agreements between workers and employers, and national mechanisms through which to undertake wage determination (*Convention C100 - Equal Remuneration Convention, 1951 (No. 100)*, 1951). At the time of the convention’s entry into force in 1953, only six states, Austria, Belgium, the Dominican Republic, France, Mexico, and the Philippines, were willing to make a public and legally binding commitment to equal remuneration (ibid). Today, however, 173 countries have ratified the convention, representing six continents and all but fourteen members of the ILO (*Convention C100 - Equal Remuneration Convention, 1951 (No. 100)*, 1951). For the purposes of this case illustration, this section will examine the ratification of ILO Convention No. 100 in relation to the adoption of General Recommendation No. 13 by the Committee on the Elimination of Discrimination Against Women. To do so, this section will assess those cases in which states adopted ILO Convention No. 100 within a three-year period following the introduction of General Recommendation No. 13 in February of 1989. This lag will enable the case illustrations to account for the time spent between the issuing of the recommendation and the drafting and adoption of legislation at the national level.

Accordingly, legislation introduced preceding this period or occurring three years after the issuing of General Recommendation No. 13 is less likely to be attributable to the CEDAW committee pointing away from an IO centric explanation for over-compliance in this area.

Five countries ratified ILO Convention No. 100 within the previously described period: Zimbabwe in 1989, China in 1990, Croatia in 1991, North Macedonia in 1991, and Uruguay in 1989 (*Convention C100 - Equal Remuneration Convention, 1951 (No. 100)*, 1951). Given the immediacy of the ratification of the convention in Zimbabwe in 1989, the availability of data concerning Croatian ratification in 1991, and the concerted effort to promote gender equitable renumeration after the issuing of General Recommendation No.13 in Uruguay, these three cases provide three examples of over-compliance with respect to General Recommendation No. 13.¹¹ While the case of Zimbabwe presents an instance in which retroactive justification of the ratification of ILO Convention No. 100 was linked to the issuing of General Recommendation No. 13, the timing of implementation and content of national legislation points more strongly to the importance of non-IO centric domestic mechanisms in shaping the state's over-compliant behavior. The case of Croatia could challenge assumptions regarding the influence of CEDAW recommendations, instead highlighting the possible importance of non-IO centric international factors. Specifically, the diffusion of policies across borders in the post-independence rush to align itself with international requirements across a wide swarth of issues in preparation for eventual accession to the EU may have motivated the state to adopt over-compliant standards. Finally, the case of Uruguay may suggest some salience of IO-centric mechanisms for over-compliance with

¹¹ The following cases are illustrative in purpose. As such, they aim merely to determine if over-compliance occurred in the cases of Croatia, Zimbabwe, and Uruguay as well as the potential relevance of IO and non-IO centric mechanisms.

General Recommendation No. 13 since the ratification of ILO Convention No. 100 given the timing of the adoption of said standards.

2.3.1.1 General Recommendation No. 13: Zimbabwe

In December of 1989, ten months following the issuing of General Recommendation No. 13, Zimbabwe ratified ILO Convention No. 100 and modified its national labor law, introduced five years earlier, to provide for the elimination of discrimination on various grounds, including sex, in all private sector employment in the “determination or allocation of wages, salaries, pensions, accommodation, leave or other such benefits” (*Convention C100 - Equal Remuneration Convention, 1951 (No. 100), 1951; Direct Request (CEACR) - Adopted 1992, Published 79th ILC Session (1992) Equal Remuneration Convention, 1951 (No. 100) - Zimbabwe (Ratification: 1989), 1992*). In so doing, Zimbabwe provided for the introduction of national legislation that aimed to guarantee equal remuneration for equal work in the late 1980s. Yet, despite the reform of national labor law coinciding with the issuing of General Recommendation No. 13, there is considerable anecdotal evidence suggesting that non-IO centric mechanisms such as domestic political conditions and non-governmental organizations (NGOs) contributed to the push for ratification of ILO Convention No. 100 well before 1989 (Mazingi & Kamidza, 2011).

For example, mobilized civil society groups and organized workers pushing for labor reforms had increasingly gained traction, with wildcat strikes erupting in 1980 and mounting pressure on the government to issue workplace regulation in the following years (Mazingi & Kamidza, 2011). This, coupled with the pivotal case of *Wazara v Principal*¹², resulted in larger pressure for reforms to national labor legislation to provide for greater equality between men and

¹² The case involved the removal of a woman from a teaching training course after falling pregnant. The complainant then filed a lawsuit before the High Court on the grounds of discrimination on the basis of gender (Mutangi, 2016).

women (Mutangi, 2016). The state subsequently adopted a Labor Relations Act in 1985, which afforded workers greater access to and participation in the determination of workplace conditions, which was later amended to provide for equal remuneration (Mazingi & Kamidza, 2011; Mutangi, 2016). Therefore, while General Recommendation No. 13 may have provided further incentives for the state to adopt ILO Convention No. 100, and over-comply with CEDAW minimum standards, historical evidence points to the importance of non-IO centric mechanisms in explaining the introduction of equal pay for equal work. In light of this evidence, Zimbabwe's *ex post* justification of its ratification of ILO Convention No. 100 in national reports to the CEDAW Committee is all the more interesting. In the country's 2009 report, Zimbabwean officials repeatedly point to the ratification of ILO Convention No. 100 on Equal Remuneration as evidence of the "Government's commitment to the elimination of discrimination against women in employment" in line with the treaty's recommendations (*Combined Report of the Republic of Zimbabwe in Terms of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, 2009). While the underlying reasons for Zimbabwe's over-compliance with General Recommendation No. 13 are likely nested in the country's domestic political context, the attribution of over-compliance to the treaty's recommendations by national officials provides anecdotal evidence for states potentially seeking to reap benefits at the international level by adopting over-compliant standards.

Progress in the area of equal remuneration in Zimbabwe cannot be described as wholly positive, with the ILO noting in 1992 and in subsequent reports that,

in practice, job classifications and wage rates laid down in collective bargaining agreements and in employment regulations issued pursuant to Part IX of the Act, are established usually on the basis of job evaluation" (Direct Request CEACR, 1992).

This, combined with the World Economic Forum's 2015 assessment which ranked Zimbabwe number 57 of 145 states in addressing the gender wage gap, indicates that while national reform of workplace legislation can lead to over-compliance on paper, goal achievement remains largely unattainable in spite of domestic pressures (Mutangi, 2016; *The Global Gender Gap Report*, 2015). As such, ratification of ILO Convention No. 100 in Zimbabwe underlines the importance of accounting for non-IO centric domestic explanations such as the strength of civil society in explaining why states might elect to over-comply while also indicating the potential salience of signaling based explanations.

2.3.1.2 General Recommendation No. 13: Croatia

Following the breakup of the former Yugoslavia in 1991, the newly independent state of Croatia sought to ratify and adopt a number of international commitments (Croatian Ministry of Foreign and European Affairs – Human Rights, 2019). While the former Yugoslavia had signed and ratified CEDAW in 1980 and 1982 respectively, Croatia's ratification of ILO Convention No. 100 in 1991 preceded the newly formed country's signature and ratification of CEDAW in September of 1992 (*Convention C100 - Equal Remuneration Convention, 1951 (No. 100)*, 1951; CEDAW State Parties , 2019). As a result, there is mixed evidence in terms of whether General Recommendation No. 13 played a pivotal role in the state's ratification of ILO Convention No. 100 given its adoption prior to the country's ratification of CEDAW. Moreover, as mentioned above, the former Yugoslavia had previously ratified CEDAW, and the constitution of the Socialist Federal Republic of Yugoslavia guaranteed equal pay for equal work since 1963 (Dobos, 1983). Consequently, the case of Croatia points to the relevance of non-IO centric mechanisms in explaining Croatia's decision to over-comply with General Recommendation No. 13. This finding must be qualified by the acknowledgement that not all over-compliance with respect to CEDAW

and ILO requirements can likely be attributed to non-IO centric mechanisms. For example, throughout the early 1990s, Croatia sought to ratify and join various international institutions, including the United Nations, European Communities, and the World Bank (Rodríguez-Pose, 2002). In 1991 alone, Croatian lawmakers ratified six of the eight ILO core conventions in quick succession, seeking to achieve alignment nationally with the organization's protection of workers (Cazes et al., 2003).

Through the adoption of a number of ILO Conventions and subsequent over-compliance with General Recommendation No. 13 Croatia may have sought to achieve alignment with the EU with respect to labor market and gender equality policies. Importantly, all EU members had ratified ILO convention No. 100 prior to 1990 (*Convention C100 - Equal Remuneration Convention, 1951 (No. 100)*, 1951), in turn enabling Croatia to signal its commitment to Western and EU standards through the adoption of ILO Conventions. Hence, there is anecdotal evidence that the distant prospect of EU membership and reintegration into European society may have also played a role in explaining Croatia's decision to adopt ILO Convention No. 100. However, other international non-IO centric influences, such as the need to appeal to the international community, in particular during the Yugoslav crisis, indicate that Croatia's over-compliance with General Recommendation No. 13 was likely a by-product of both IO and non-IO centric mechanisms.

2.3.1.3 General Recommendation No. 13: Uruguay

Finally, in the case of Uruguay, there is strong evidence in support of the influence of General Recommendation No. 13 in bringing about changes in legislation domestically that exceeded international minimum commitments with respect to equal remuneration. In 1981, Uruguay signed and ratified CEDAW, creating a long-term commitment to the creation and implementation of national policies and practices in line with the treaty's requirements

(Convention on the Elimination of All Forms of Discrimination Against Women, 1979). Following ratification, fueled in part by the mobilization of women's groups and the National Institute for Family and Women's Affairs created in 1987, the state sought to progressively implement international legislation domestically and to foster programs ensuring women's rights above and beyond CEDAW Committee requirements (Espino & Pedetti, 2012; Espino, 2017).

It would not be until 1989, however, following the issuing of General Recommendation No. 13 by the CEDAW Committee, that Uruguay would finally ratify Convention No. 100 concerning Equal Remuneration and ILO Convention No. 111, aimed at reducing discrimination in the workplace, in part on the basis of sex. In so doing, the state introduced "Act No. 10,045 of 1989 [which] prohibits discrimination which violates the principle of sexual equality in all aspects of work" (ILO Country Report on Women's Participation in Economic Activity in Uruguay, 2002). Thus, in the case of Uruguay, both the timing and content of reforms to national legislation coincide directly with the Committee's recommendations, providing anecdotal support for the notion that IO-centric mechanisms led to the adoption of over-compliant standards.

While evidence of the mobilization of women's groups in Uruguay provides anecdotal evidence in support of the assumption that the ratification of ILO Convention No. 100 would have garnered public support domestically (see Espino & Pedetti, 2012), historical factors point to the underlying political and economic costs associated with such legislation. Up until the restoration of democracy in Uruguay in 1985 following a military dictatorship, the state had regularly agreed to policies in conjunction with trade unions and other groups that had "differences of more than 20% between men's and women's remuneration" (Espino, 2017, p.131). This, combined with a lack of previously existing legislation providing for equal pay for equal work, indicates that the adoption of such legislation was in fact a departure from prior practice. As such, despite the

mobilization of women's groups in the country from the mid-1980s onwards, non-IO centric mechanisms cannot fully account for the transformation of legislation in Uruguay.

The above cases point to the empirical relevance of over-compliance with CEDAW General Recommendation No. 13 and provide key illustrations of the potential importance of both non-IO and IO centric mechanisms in accounting for this phenomenon.

2.3.2 General Recommendation No. 31: Rights of the Child on Harmful Practices

To conclude the examination of over-compliance in the area of human rights, this section focuses on the case of Nepal and General Recommendation No. 31 on the Rights of the Child on Harmful Practices. Nepal not only over-complied through the adoption of the non-binding General Recommendation but also took measures above and beyond its stated requirements. General Recommendation No. 31 pertains to the rights of children in the face of harmful practices, such as female genital mutilation, child marriage, and protection of children from honor crimes introduced in 2014 (No. 31 General Recommendation, 2014). The recommendation aims to clarify the obligations and reporting practices of states with respect to the implementation of Articles 2, 5, and 16 of the CEDAW Treaty and was selected for this case illustration owing to its clear identification of minimum binding standards capable of being exceeded (No. 31 General Recommendation, 2014). Among those suggestions contained in the recommendation is the provision of additional services at the national level to ensure that vulnerable populations, such as children, can report and have access to appropriate resources in the event of a violation of their rights (ibid). Hence, the recommendation provides for the creation of a 'free 24-hour hotline' at the national level,

staffed by trained counsellors, to enable victims to report instances when a harmful practice is likely to occur or has occurred and provide referral to needed services and accurate information about harmful practices (ibid).

In those cases in which states actively sought to create and support national hotlines, as well as introduce additional measures aimed at facilitating the reporting of harmful practices, states can be labelled as having over-complied. Owing to data availability, this section will focus on the case of Nepal as an example where, despite considerable structural barriers, great efforts have been undertaken to advance the rights of children and eliminate harmful practices above and beyond the recommendations contained in General Recommendation No. 31.

Among those practices classified as harmful in General Recommendation No. 31 is that of child marriage, a common practice in Nepal (No. 31 General Recommendation, 2014). In 2017, United Nations Children's Fund (UNICEF) estimated that 37% of children in Nepal were married by the age of 18, making the country the 16th worst perpetrator of child-marriage in the world (*Child Marriage Around the World: Where It Happens*, 2017). As such, being party to both CEDAW and the Convention on the Rights of the Child (UNCRC), the country faced mounting pressures to address the issue domestically (*ibid*). Consequently, Nepal has sought to pursue national policies aimed at the reduction of child marriages, including the creation of 75 new positions at the federal level to persecute perpetrators of child marriage in addition to the introduction of new reporting mechanisms such as the recommended 24-hour hotline (List of Issues and Questions in Relation to the 6th Periodic Report of Nepal, 2018). Moreover, the country has sought not only to reform national law to condemn and prosecute individuals found to be participating in harmful practices, but also to prevent harmful practices before they occur through media campaigns, scholarship programs, and increased resources and educational training programs for law enforcement officers (List of Issues and Questions in Relation to the 6th Periodic Report of Nepal, 2018).

As a result, Nepal has sought to not only fulfill the non-binding requirements of General Recommendation No. 31, but also to introduce additional measures aimed at decreasing the prevalence of harmful practices. While non-IO factors have undoubtedly contributed to the decision of the state to over-comply and take additional steps for the protection and rights of children, participation in and interaction with IOs such as the United Nations are likely to have also contributed to increased attention to these issues domestically, creating further pressure on the government to take all measures possible to reduce a widely condemned practice.

2.4 Social and Labor Policy in the European Union and International Labor Organization

The following section will provide a brief overview of the state of maternity and paternity leave guarantees in the European Union (EU), as well as the Minimum Age Convention within the context of the International Labor Organization (ILO). In electing to examine social and labor policy, areas which directly impact the relative economic competitiveness of states, this section will investigate the empirical relevance of over-compliance in policy areas in which the adoption of standards above and beyond IO minimum requirements may imply high costs (Huber & Stephens, 2001; Kuhnle & Sander, 2010; Obinger et al., 2013).

2.4.1 The European Union: Parental Leave Policies

With an accession process requiring not only economic convergence, but also political and normative transformations, membership in the EU implies significant costs and benefits. As a result, its ramifications for national policy are far reaching, with the incorporation of the EU *acquis* shaping national legislation in diverse policy areas, ranging from consumer protection to migration. As such, the focus of this section concerns a policy area arguably at the core of European values and the EU *acquis* – the adoption and implementation of national parental leave legislation. Parental leave is a policy area which is key to promoting one of the EU's central norms:

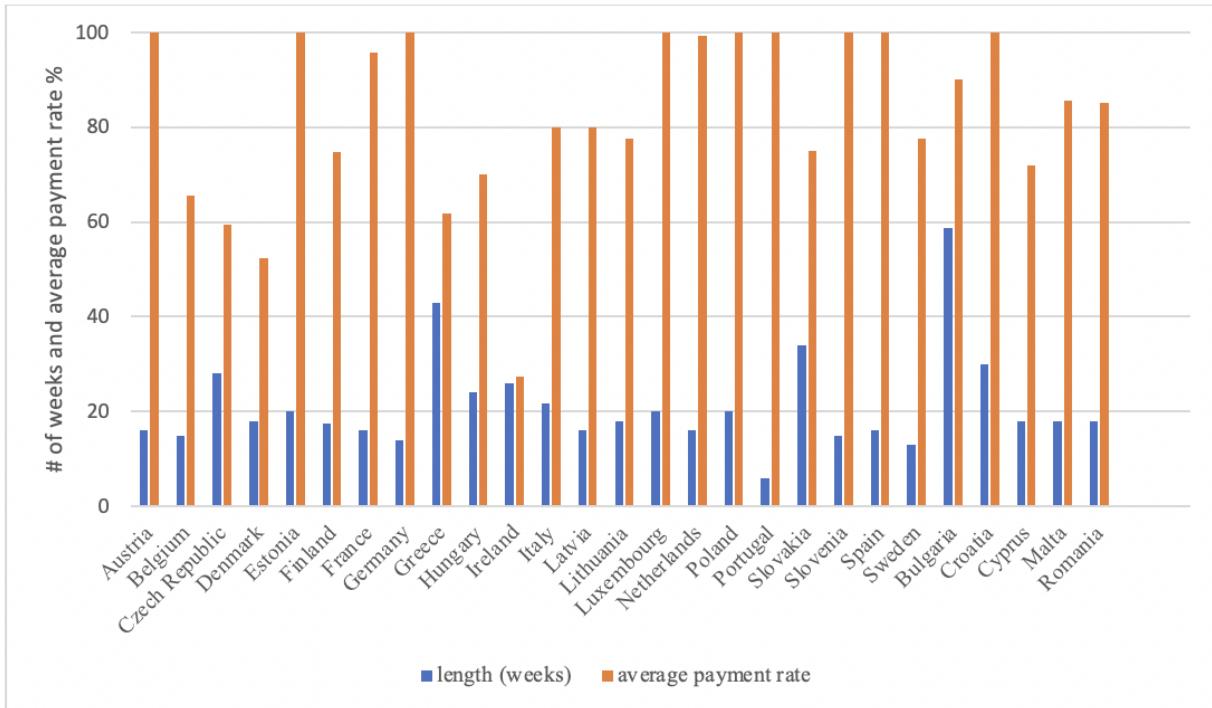
that of gender equality (*European Commission Gender Equality*, 2017). Historically, the European Commission has argued that gender equality remained among the “founding values” of the organization since its earliest days, when the principle of “equal pay for equal work” was included in the Treaty of Rome (*European Commission Gender Equality*, 2017). In the years since, the European Commission and Parliament have made considerable efforts to foster gender equality throughout the Union, working to incorporate “[a] gender equality perspective … into all EU policies as well as into EU funding programs” (*ibid*).

The EU currently provides for a minimum period of maternity leave “of a least 14 weeks allocated before and/or after confinement in accordance with national legislation and/or practice” (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 (Tenth Individual Directive within the Meaning of Article 16 (1) of Directive 89/391/EEC), 1992). Additionally, within the context of the EU, a minimum paid paternity leave standard of ten working days was introduced under Directive 2019/1158, with an implementation deadline of 2nd August 2022, and debates regarding the issue have recently resurfaced within EU institutions, indicating its increasing salience (Schulze & Gergoric, 2015).

Graph 2.4: Maternity Leave Provision Across the European Union, 2021

Data from: OECD Parental Leave Systems, 2021 and can be found at the following link:

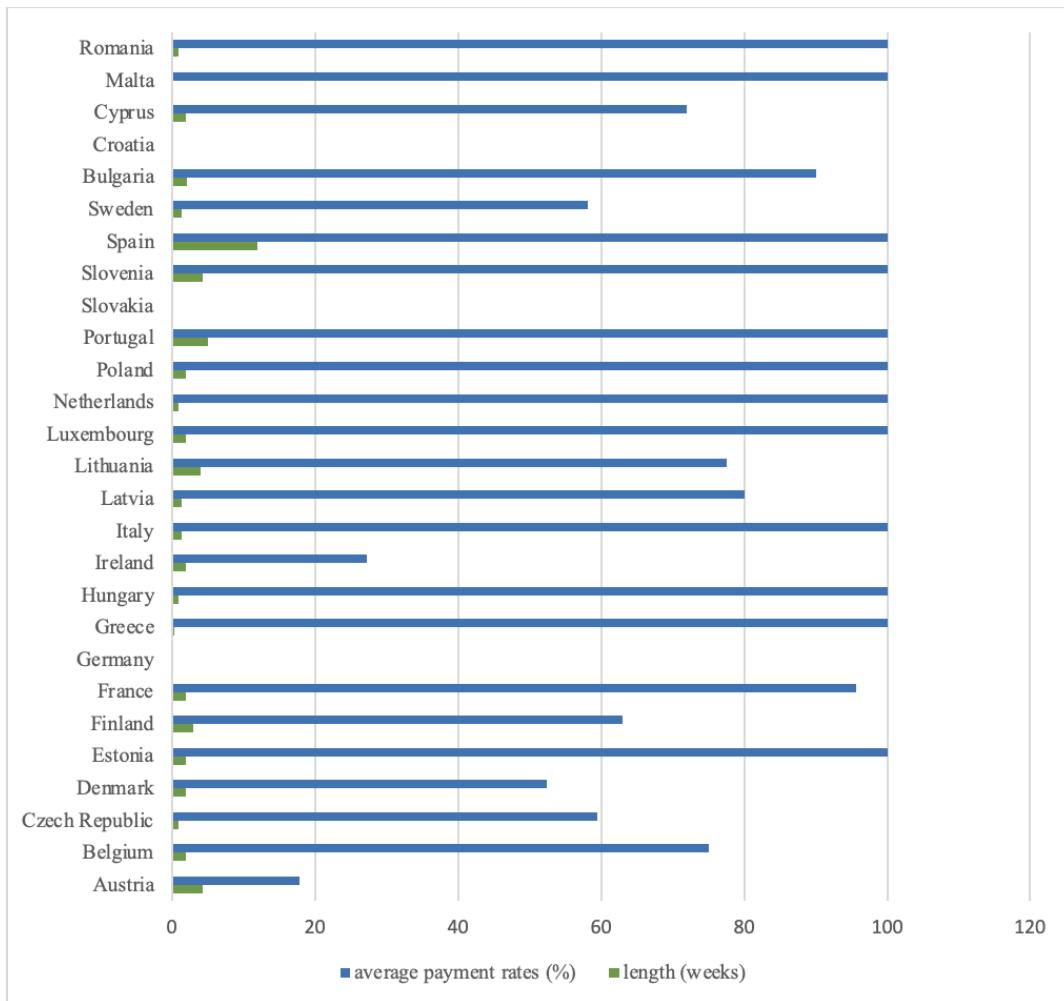
https://www.oecd.org/els/soc/PF2_1_Parental_leave_systems.pdf



Graph 2.5: Paternity Leave Provision Across the European Union, 2021

Data from: OECD Parental Leave Systems, 2021 and can be found at the following link:

https://www.oecd.org/els/soc/PF2_1_Parental_leave_systems.pdf



Today, EU countries offer, on average, 22 weeks of paid maternity leave, with an average compensation rate of 82.55 percent of previous income, well above the EU's minimum requirement of fourteen weeks of paid maternity leave (*OECD Family Database - OECD*, 2021). Additionally, twenty-four member states offered some guarantee of paternity leave, with twelve states offering 100 percent compensation of previous income (*OECD Family Database - OECD*, 2021). The average duration of paid paternity leave across the EU was 2.2 weeks, with an average

compensation rate of 72.9 percent of previous income (ibid). Thus, twenty-four EU member states can be said to exceed EU minimum requirements with respect to a paid maternity leave. Furthermore, sixteen member states offer two or more weeks of paid paternity leave at the national level (*EU Rights to Work-Life Balance*, 2022). Chapter 4 will explore the causal mechanisms underpinning the adoption of over-compliant parental leave standards in the Baltic states.

Table 2.2: Over-Compliance, Compliance, and Non-Compliance with Parental Provision in the European Union, 2021

Data from: OECD Parental Leave Systems, 2021 and can be found at the following link:

https://www.oecd.org/els/soc/PF2_1_Parental_leave_systems.pdf

Parental Leave in the EU	Maternity leave	Paternity leave
Number of non-compliant states	2	11
Number of compliant states	1	8
Number of over-compliant states	24	8

Note: In the case of paternity and maternity leave, given that Directive 2019/1158 has an implementation deadline of 2nd August 2022 and that compliance with respect to the minimum maternity leave could also be achieved through the provision of parent specific parental leave, those states currently labelled non-compliant may subsequently become compliant/over-compliant (Schulze & Gergoric, 2015).

2.4.2 The International Labor Organization: Minimum Age Convention

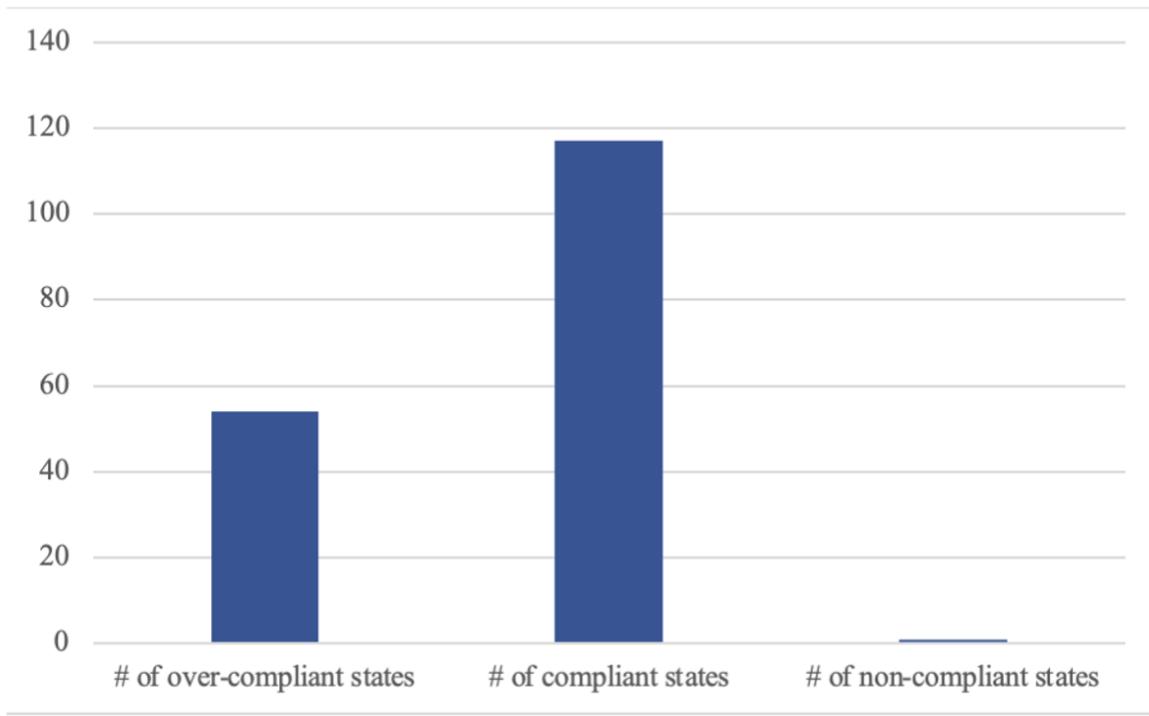
The second IO examined in this section is the International Labor Organization. Founded in 1919 under the framework of the League of Nations, the ILO aims to advance workers' rights across the globe (*History of the ILO*, 2018). Today, the ILO is a part of the United Nations, with 187 member states capable of individually ratifying over one hundred conventions and recommendations with respect to labor protection (*History of the ILO*, 2018). Unsurprisingly, the ILO has received substantial academic attention, with scholars focusing on a wide range of issues from explaining ratification patterns by states to the general impact of its conventions on tangibly

advancing the rights of employees across member states (see Baccini & Koenig-Archibugi, 2014; Boockmann, 2006; Strang & Chang, 1993). The ILO's clear provision of minimum standards, paired with readily accessible data and a large body of literature, make it a good case for qualitative case illustrations.

The Minimum Age Convention outlines the basic minimum age at which individuals may undertake employment in those areas that are “not likely to jeopardize the health, safety or morals of young persons” (*Convention C138 - Minimum Age Convention, 1973 (No. 138)*, 1973). While the convention binds states to a minimum working age of fifteen, exceptions are made for “light work” and for those states “whose economy and educational facilities are insufficiently developed at the time of ratification” (*Convention C138 - Minimum Age Convention, 1973 (No. 138)*, 1973), providing an avenue for developing countries to over-comply by adhering to a higher minimum age than required by the ILO. This section will look at those states who not only elected to opt in, but also specify an age above the convention’s minimum requirement of fourteen. A preliminary look at the ILO data shows that a number of developing countries specified an age above the convention’s minimum requirement of fourteen (ibid). Additionally, developed countries that specify a minimum age of 16 or greater may also be labelled over-compliant and as such will also be considered at greater length in Chapter 6.

Graph 2.6: Over-Compliance, Compliance, and Non-Compliance with the ILO's Minimum Age Convention (No. 138), 2021

Data from: *Convention C138 - Minimum Age Convention, 1973 (No. 138) - Ratifications, 2021*



For example, in the case of Guinea, the country elected to adopt a minimum working age of 16 despite access to the Conventions opt-out (*Convention C138 - Minimum Age Convention, 1973 (No. 138)*, 1973). This is especially surprising in light of the high costs sustained through the exclusion of children under the age of 16 in the formal labor market. Between 2010 and 2016, the United Nations estimated that 28% of all children in the country between the ages of 5-14 were employed in some form of child labor (*Child Labor Statistics UNICEF*, 2017). This trend of costly commitment in relation to the Minimum Age Convention can also be seen in Kenya. Despite access to the opt-out, the Kenyan government specified a working age of 16, even though 26% of all children in the country between the ages of 5-14 were thought to have engaged in child labor between 2010-2016 (*Child Labor Statistics UNICEF*, 2017; *Convention C138 - Minimum Age Convention, 1973 (No. 138)*, 1973).

Convention, 1973 (No. 138), 1973). As such, the case of exceeding minimum age requirements in Kenya and Guinea can be considered over-compliance, whereby states agree to and subsequently implement higher minimum age requirements than required.

In Kenya, ratification occurred in 1979, a year marked by a general election and further moves on behalf of the state to position itself closer to the West. Tensions between Kenya and its neighboring state of Somalia were running high following the former state's turn towards socialism in the late 1960s and early 1970s (Khapoya & Agyeman-Duah, 1985). This served to exacerbate tensions between border communities, eventually resulting in a number of skirmishes (Chau, 2010), possibly incentivizing the Kenyan government to align itself closer to the West. Closer alignment with Western policies and norms such as child protection may have made IO-centric mechanisms increasingly relevant in explaining the state's over-compliant behavior. In Guinea, ratification would not occur until 2003, coinciding with a presidential election in the state and increasing concerns regarding rebel groups and the use of the country's natural resources ("Guinea Country Profile," 2019). As a result, Guinea was potentially subjected to pressures from the international community to pursue closer alignment with the West in an attempt to address stability concerns stemming from the incursion of militant groups.

These two cases point to the potential need to consider both IO centric and non-IO centric mechanisms as the primary driving forces behind over-compliant behavior. While further analysis is needed to determine which factors lead states to exceed minimum age requirements, general structures of labor markets, access to secondary education, national politics, and population demographics may all play a role in determining the costs associated with the introduction of higher standards in states. Having established the empirical relevance of the concept of over-compliance in the areas of social and labor policy, the third and final case study of this thesis in

Chapter 6 will be a quantitative examination of compliance patterns with ILO Convention No. 138.

2.5 Development and Security Regimes: UN General Resolution A/RES/2626(XXV) and the Convention on Cluster Munitions

2.5.1 UN General Resolution A/RES/2626(XXV): Official Development Assistance

The provision of systematic development aid has long been a hotly contested foreign policy tool of developed states (see Apodaca, 2017; Dietrich et al., 2019; Milner & Tingley, 2013). The allocation of funds out of the government budget is often perceived as a zero-sum game that can lead to strong domestic political opposition to foreign aid programs as voters seeks to secure funding for projects at home (Lundsgaarde, 2012). This contestation over the allocation of scarce resources is reflected most evidently in the case of the United Kingdom. Gaston (2021) argues that shifting public opinion towards foreign aid has resulted in the government's temporary reduction in aid following the Covid-19 pandemic. As a result, the UK's overall foreign aid contribution as a percentage of Gross National Income (GNI) fell from 0.7% to 0.5% in 2021 (Gaston, 2021). This, in combination with a survey carried out by the British Foreign Policy Group indicating that 72% of Britons support reducing or stopping the UK's foreign aid spending during the pandemic, points to an ever-growing consensus in the UK and abroad that the focus of national governments and budgets should be on the domestic context (*ibid*). In light of these findings, this section will ask whether, and if so, why states would adopt and exceed international non-binding minimum requirements with respect to official development assistance (ODA)?

Despite contestation over foreign aid among the domestic electorate, international consensus would come to rest on a single overarching target for developmental assistance applicable across developed states in the 1960/70s (*The 0.7% ODA/GNI Target - a History -*

OECD, 2022). This target, proposed by Dutch economist, Jans Tinbergen, advocated for an international commitment on behalf of developed states to spend 0.75% of their gross national product on developmental assistance (ibid). The logic behind the 0.75% target stemmed from the notion that this would provide sufficient capital inflows and liquidity to the international economic system to help developing states achieve optimal growth rates (*Modernising Development Finance*, 2013). The proposed target would then be subsequently revised by the Pearson Commission¹³ in 1969 to 0.7% after the “deducted net value of non-concessional flows” was taken into account (*Modernising Development Finance*, 2013). Following the release of the Partners in Development Report, the 0.7% target was adopted by the UN General Assembly in 1970 through UN Resolution A/RES/2626(XXV) (*The 0.7% ODA/GNI Target - a History - OECD*, 2022). UN Resolution A/RES/2626(XXV) provided that

Each economically advanced country will progressively increase its official development assistance to the developing countries and will exert its best efforts to reach a minimum net amount of 0.7 percent of its gross national product ... by the middle of the Decade (A/RES/25/2626 - International Development Strategy for the Second United Nations Development Decade - UN Documents: Gathering a Body of Global Agreements, 2022).

While the adoption of UN Resolution A/RES/2626(XXV) did not cement a binding constraint on developed state’s national budgets with respect to development policy, it represents an interesting case through which to examine the impact of non-binding international minimum standards on state over-compliance outside the realm of social/labor policy, human rights, and environmental regimes.

¹³ The Pearson Commission was appointed in 1968 to evaluate the effectiveness of World Bank Development Assistance (Jolly, 1970).

Historically, development aid has been at the crux of debates concerning the role/responsibilities of developed states to provide for the capital needed to promote economic growth in the periphery (Cracknell, 2000). Following the end of the imperial system and the exploitative extraction of natural resources on behalf of colonial powers, many developing states lacked the adequate capital, depth of financial markets, and institutional capacity needed to support sustainable economic development in a post-1960s era (*ibid*). One solution proposed to address the lack of adequate capital inflows needed to sustain long-term growth was the provision of liquidity, both concessional and non-concessional, to support development goals on a multilateral and bilateral basis (Klein, Sangaré & Semeraro, 2014). This, in combination with different growth logics (i.e., export orientated growth strategies and import substitution industrialization), interacted with and challenged conceptions of what policies/practices at the international and domestic level would best ensure growth in the long run. Unsurprisingly, in light of these debates, much of the existing development literature has considered the interrelationship between foreign capital inflows, economic growth, and market liberalization (see Driffield & Jones, 2013; Karras, 2006; Yiew & Lau, 2018). While robust debate has surrounded the conditions under which foreign capital inflows may lead to economic growth (see Adewale, 2017; Chauvet & Guillaumont, 2003), all three of the above papers find a positive and significant relationship between development aid and economic growth in the long run even when controlling for a host of other factors (Driffield & Jones, 2013; Karras, 2006; Yiew & Lau, 2018).

Specifically, Driffield and Jones (2013) find that foreign capital inflows have a strong positive effect on economic growth when considering the quality of national institutions. They argue that overseas capital flows (including both FDI and ODA) in combination with codified rules governing the rights of investors and bureaucracies capable of disbursing aid in an efficient and

apolitical manner have an important positive impact on overall economic growth in developing states (Drifford & Jones, 2013). These findings are further supported by Rodrik (2007) who finds that property rights protection in association with capital flow mobility can serve to promote economic growth. Having established the empirical basis for arguing that there is indeed a relationship between ODA and economic growth, it is important to note two primary logics through which developed states may be incentivized to comply and over-comply with international development assistance targets even in the face of higher costs. First, economic growth in the periphery may lead to increased aggregate demand (Ravenhill, 2017). As a result, growth in developing states may enable developed states to find willing markets for their goods/exports. Moreover, developmental assistance may serve to promote trade liberalization and the removal of barriers to capital mobility as donors tend to reward trade-friendly behavior in developing states (Gnangnon, 2017). As a result, increases in overall aggregate economic welfare¹⁴ stemming from the interrelationship between developmental aid and economic growth are argued to be achieved by economic liberals (Ravenhill, 2017).

Second, developmental assistance may also serve to prevent or alleviate the levers of instability stemming from conflict over resource allocation and the provision of state benefits (Guillaumont & Chauvet, 2001). Kosack (2003) finds that developmental assistance is more effective in facilitating economic growth in the presence of good governance which may serve to promote “life quality-enhancing programs (p.3).” As a result, targeted aid in combination with robust domestic institutions in recipient countries may serve to lower the overall risk that donor countries are subject to the negative externalities of conflict, migration, and disease in recipient

¹⁴ This is not to dismiss the potential negative externalities of capital mobility in times of economic volatility (i.e., capital flight during the 1997 Asian Financial Crisis etc.) (see *Capital Flows and Financial Fragility - OECD*, 2012 for a more detailed discussion of the relationship between capital inflows and financial stability).

states. While the interaction of factors needed to ensure effective developmental assistance is not the focus of this section, the rationale as to why states might elect to take on non-binding international commitments with regards to developmental assistance in the face of high costs is fundamental in explaining state behavior with respect to UN Resolution A/RES/2626(XXV).

Today, official development assistance varies greatly in terms of gross national income (GNI) across developed states. For example, in 2021 Norway spent 0.93% of its GNI on developmental assistance while Israel spent only 0.08% (*Official Development Assistance (ODA) - Net ODA - OECD Data, 2022*). This variation in development aid provision is further reflected in the fact that of the thirty countries that are members of the OECD Development Assistance Committee (DAC) today, only six countries can be said to have met or exceeded the 0.7% target from 2018-2021 (ibid). Of these six countries who are members of the DAC, only three (i.e., Luxembourg, Norway, and Sweden) can be argued to have consistently exceeded the 0.7% target during the period of observation. Outside of the DAC, only Turkey a non-member can also be said to have not only met but exceeded the stated target in the 2018-2021 period making the total number of over-compliant states equal to four (ibid). Another twenty-six developed countries can be said to be non-compliant with the 0.7% target.

Table 2.3: Descriptive Statistics for Official Development Assistance Provision (Developed States), 2021

Data from: *Official Development Assistance (ODA) - Net ODA - OECD Data, 2021*

ODA Provision Among Developed States (2021)	
Minimum ODA as % of GNI	0.08
Average ODA as % of GNI	0.38
Maximum ODA as % of GNI	0.99
Number of non-compliant states	29
Number of compliant states	0
Number of over-compliant states	6

*base year is 2021

In light of the above data, the provision of 0.7% of gross national income for development assistance appears at face value to not imply a shallow commitment on behalf of states. This is unsurprising in that matters of national budget allocation are likely to be highly contested especially with regards to the provision of aid to an external country (see Lundsgaarde, 2012; Tingley, 2010; Thérien & Noël, 2000 for arguments concerning the interrelationship between domestic politics, foreign aid, and public attitudes). As such, the question as to why and under what circumstances did Luxembourg, Norway, Sweden, and Turkey over-comply with UN Resolution A/RES/2626(XXV) raises important questions about the relationship between development assistance and donor state aims. To further explore this question and the relevance of over-compliance to the literature on development policy, this section will examine two cases in which the rationale for over-compliant behavior can be said to have differed in both substantive and immaterial terms: Sweden and Turkey.

In the case of Sweden, which in 2021 spent 0.92% of its GNI on developmental assistance, both IO and non-IO centric factors appear to explain this seemingly counterintuitive behavior

(*Official Development Assistance (ODA) - Net ODA - OECD Data, 2022*). Neumayer (2003) argues that a strong desire on behalf of national elites to appear as a leader in the field of developmental assistance within the context of both the UN and OECD has provided the impetus for Sweden's sustained high levels of development aid. This image as a leader in the area of development policy has been reflected in the country's historic position as among the largest international donors relative to the size of its national economy and has focused the aims of Swedish aid on the promotion of good governance and human rights across recipient countries (ibid). As a result, Swedish leadership in the area of development policy has been widely recognized as informing international debates on the issue (Stokke, 2019).

Since the 1960s, domestic political factions in Sweden have sought to frame aid both in terms of the country's global foreign policy aims and as "a combination of enlightened self-interest and moral responsibility (Stokke, 1978, pp.21-22)." This focus on the moral implications of aid provision has underpinned a desire to go above and beyond international standards. Today, Swedish aid is primarily directed to a limited number of poor developing states in which it seeks to promote long term development through strengthening domestic institutions and governance (*Sweden - Donor Tracker, 2022*). As such, both a desire to appear as a moral leader in the policy area of developmental assistance in combination with a domestically internalized norm supporting aid provision has enabled the state and the relevant political factions within it to provide increasingly generous aid allocations over time. As a result, the case of Sweden points to the important potential role of both IO and non-IO centric explanations in accounting for over-compliant behavior.

In the case of Turkey, the country's generous provision of development aid in recent years can be explained primarily by its foreign policy goals. In light of high levels of economic and

political instability, Turkey has increasingly sought to solidify its position within the region and convey its commitment to bilateral cooperation among its allies at the international level (Kavaklı, 2018). Among the tools Turkey has sought to utilize to further its foreign policy aims is that of increasingly generous developmental assistance (Tüyloğlu, 2021). This choice of development aid as a foreign policy instrument is reflected in the fact that in 2020, Turkey's ODA contribution represented 1.14% of its gross national income (Waltz, 1990). Tüyloğlu (2021) argues that this relatively large jump in official development assistance can be directly explained as a result of both the country's foreign policy aims and domestic political contestation. Specifically, the foreign policy goals of the governing political party, the Justice and Development Party (AKP), have led the country to increasingly seek to signal its foreign policy aims to the larger international community through the provision of aid (Tüyloğlu, 2021). Thus, the role of aid in Turkey as a signal of foreign policy intentions is reflected in the fact that most of the country's aid is provided on a bilateral basis in which:

Close interpersonal relationship with key government officials is central to funding decisions, and specific projects are often agreed upon in such high-level meetings, at the behest of the recipient countries' officials. In the minds of Turkish aid officials, this makes TDA more efficient and responsive (*ibid*, p.14).

This interconnection between aid provision on a bilateral basis and Turkey's overall foreign policy may point to the importance of both IO and non-IO specific explanations in explaining the state's over-compliant behavior.

Consequently, while the potential logics underpinning over-compliance with UN Resolution A/RES/2626(XXV) may differ across the cases of both Sweden and Turkey, a desire on behalf of both states to over-comply with development assistance targets reflects a potentially

complex interrelationship between both IO and non-IO centric factors in the face of higher than necessary costs. Furthermore, while not touched upon at length in this thesis, domestic interest formation among both left and right parties (i.e., Social Democrats in Sweden and AKP in Turkey) may serve to promote the adoption of more generous standards than provided for at the international level with respect to development assistance. As such, future work may seek to explore the relationship between partisanship, development assistance, and over-compliance.

2.5.2 The Convention on Cluster Munitions: Destroying Ahead of Schedule

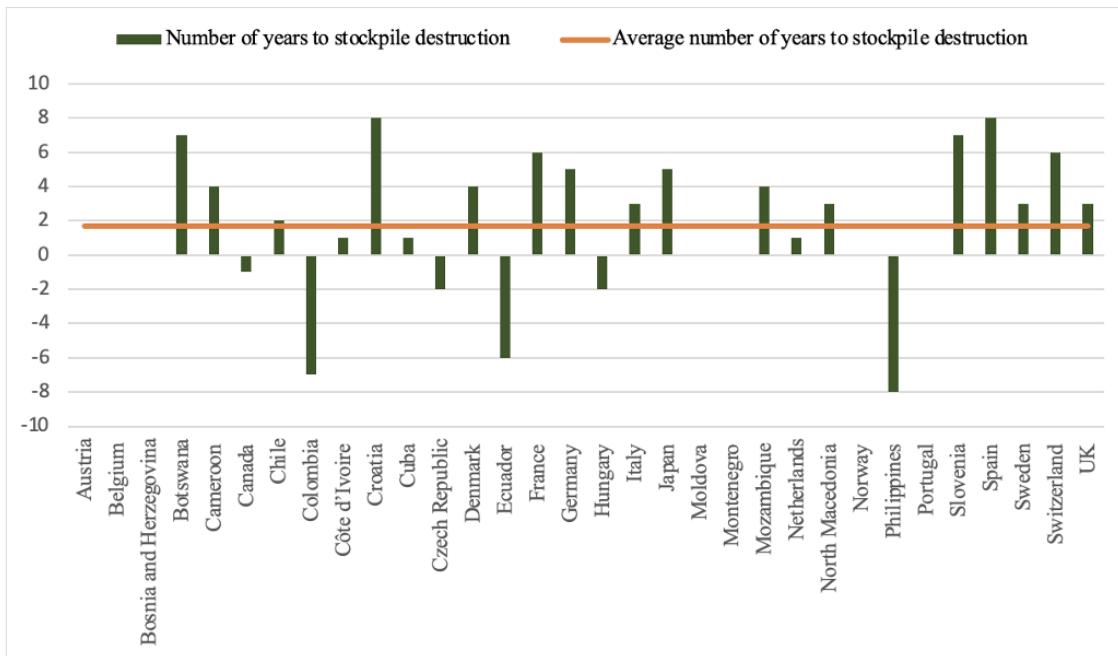
Entering into force in 2010, the Convention on Cluster Munitions represents the first major international effort aimed at preventing the use, production, transfer, and stockpiling of specific types of fragmentation weapons (“Oslo Process - Convention on Cluster Munitions,” 2022). In spite of this growing consensus on the issues stemming from the use of cluster munitions, international efforts to ban their use prior to 2010 have been vigorously debated and until recently were largely overlooked in international negotiations (Rosert, 2019). Specifically, large powers such as the United States, China, and Russia have continued to view international efforts to ban the use of cluster munitions as an intrusion of the international community on the sovereignty and ability of states to ensure their survival in an international system governed by anarchy (Bolton & Nash, 2010). This, combined with a general lack of consensus as to the types of cluster munitions that should be banned even among proponents of an international agreement on their use have underpinned the failure of negotiations prior to the early 2000s (Rosert, 2019).

Despite the ramifications for states’ sovereignty, an international ban on cluster munitions’ use - codified in the Convention on Cluster Munitions – emerged in 2008. The convention requires all parties to declare, destroy, and cease production of cluster munitions within an eight-year period of the conventions entry into force within a given country (*2008 Convention on Cluster Munitions*,

2014). Furthermore, the convention goes a step beyond merely requiring the non-use of these weapons by requiring state parties to provide victim assistance (ibid). This represents the first time a treaty governing international humanitarian law (IHL) has required states to provide robust assistance through medical care and economic inclusion (ibid). In addition to robust reporting procedures, the convention also outlines a non-compliance procedure aimed at addressing issues prior to them escalating (ibid). As a result, in the years following its entry into force the use, stockpiling, and clearance of these munitions has resulted in a dramatic fall in their prevalence (*Stigmatizing Cluster Munitions: A Decade of Success / Arms Control Association*, 2020). Thus, the question emerges as to why states might elect to not only meet but exceed these targets in view of a generally perceived internalized interest to gain military advantages relative to other states in an international system governed by anarchy (Waltz, 1990)?

Graph 2.7: Time to Cluster Munitions Stockpile Destruction Among Convention Parties, 2021

Data from: *Cluster Munitions Monitor 2021 - Landmine & Cluster Munitions Monitor*, 2021



Note: The number of years to stockpile destruction takes on a negative value for those countries that have destroyed their stockpiles of cluster munitions prior to the Convention's entry into force.

Graph 2.8: Number of Cluster Munitions Held in Thousands by Convention Parties Prior to Stockpile Destruction, 2021

Data from: *Cluster Munitions Monitor 2021 - Landmine & Cluster Munitions Monitor, 2021*

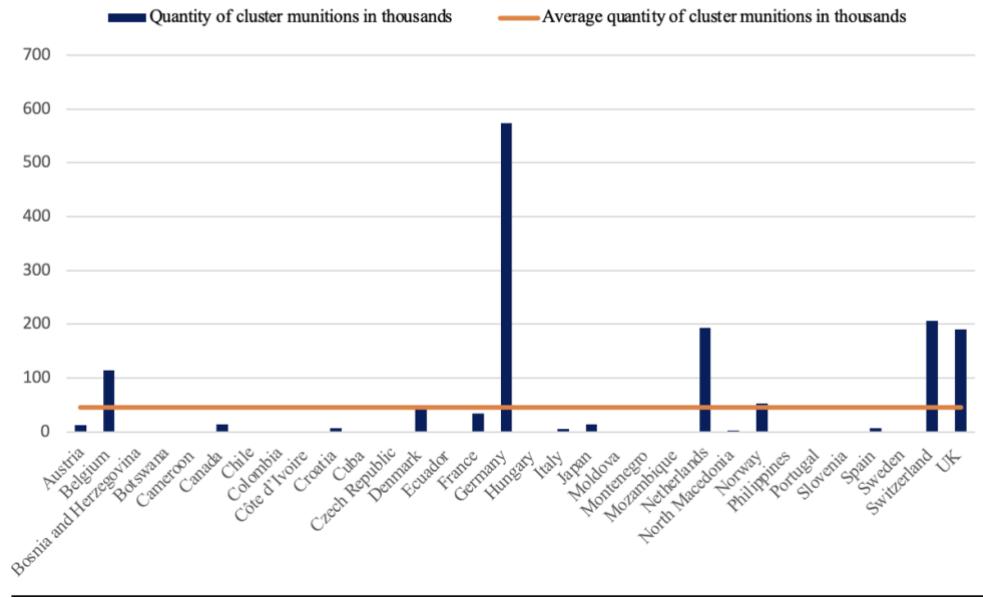


Table 2.4: Descriptive Statistics for the Convention on Cluster Munitions, 2021

Data from: *Cluster Munitions Monitor 2021 - Landmine & Cluster Munitions Monitor, 2021*

Descriptive Statistics for the Convention on Cluster Munitions (2021)	
Min. number of years to stockpile destruction after ratification	-8
Avg. number of years to stockpile destruction after ratification	2
Max. number of years to stockpile destruction after ratification	8
Min. quantity of cluster munitions in thousands	0
Avg. quantity of cluster munitions in thousands	46
Max. quantity of cluster munitions in thousands	574
Min. quantity of cluster submunitions in thousands	0
Avg. quantity of cluster submunitions in thousands	5,572
Max. quantity of cluster submunitions in thousands	62,924
Number of non-compliant states	0
Number of compliant states	2
Number of over-compliant states	30

Note: The number of years to stockpile destruction takes on a negative value for those countries that have destroyed their stockpiles of cluster munitions prior to the Convention's entry into force (*Cluster Munitions Monitor 2021 - Landmine & Cluster Munitions Monitor, 2021*).

A preliminary look at the data concerning compliance with the Convention on Cluster Munitions points to an exceptionally good performance record on behalf of signatory parties (*Cluster Munitions Monitor 2021 - CMC*, 2021). All current parties to the convention have either met or exceeded the eight-year target deadline to destroy existing stockpiles (ibid). Of the thirty-two parties to the convention for which there is annual data, thirty can be said to have over-complied by destroying their stockpiles well in advance of their mandated deadline (ibid). In the case of the two remaining parties, Croatia and Spain, both can be labelled compliant after achieving their target within the year of their respective deadlines (ibid). As a result, compliance with the Convention on Cluster Munitions can be viewed as exceptionally good. These high levels of compliance and over-compliance may serve to reflect the logic of “shallow commitments” in which states take on only those international commitments which they view as likely to be met (Downs et al., 1996). Further support for this view can be found in the fact that for a number of countries stockpile destruction was completed prior to the Convention’s entry into force (*Cluster Munitions Monitor 2021 - CMC*, 2021).

Nevertheless, this logic may not explain all over-compliance observed for two primary reasons. First, of the thirty states that can be labelled over-compliant with the Cluster Munition Convention twenty-six did not achieve compliance through the elimination of national stockpiles until after the Convention’s entry into force within their respective states (ibid). Thus, the timing of stockpile destruction appears to be – at face value - highly correlated with the signing and implementation of the Convention. Second, the costs associated with eliminating stockpiles can be argued to be relatively high. The United Nations estimates a total of \$40 million in clearing costs alone with states bearing significant additional costs associated with the safe destruction of existing stockpiles (Anzalone, 2010). As a result, the high costs of stockpile destruction in

combination with losing a potentially powerful military weapon that can curtail states' abilities to defend themselves, points to substantive adjustment costs associated with complying or over-complying with the Convention on Cluster Munitions.

Among the most relevant explanations for state over-compliance with the Convention are both IO and non-IO centric mechanisms. Given that an internalized norm against the use of cluster munitions led to the drafting and entry into force of the Convention itself (Rosert, 2019), it is unsurprising that those states which elected to ratify the Convention may have possessed a strong normative preference against the stockpiling and use of these weapons and as such may have lobbied for their immediate elimination. However, Bolton and Nash (2010) also highlight that the diffusion of norms governing warfare at the international level may have been a driving force behind the Convention. The authors argue that the evolution in international norms governing cluster munitions has progressively raised the costs of their use to such an extent that "some commentators predict that the weapons' intensifying stigmatization may lead to a de facto transfer ban, drastic reduction in production and little use in the future (Bolton & Nash, 2010, p.173)." Second, in line with the environmental economics literature by Cavaliere (2000) and Shimshack & Ward (2008) arguing that the prospect of involuntary non-compliance may lead firms to over-comply in an effort to minimize the probability of non-compliance, states wishing to comply with the Convention on Cluster Munitions may have sought to undertake stockpile destruction and clearance well in advance of their designated deadline owing to the specific technological knowledge/skills needed to ensure safe stockpile destruction (*Cluster Munitions Monitor 2021 - CMC, 2021; Nepram, 2009*). As such, both non-IO and IO-centric explanations could be relevant in accounting for states over-compliant behavior.

In the case of Germany, stores of cluster munitions amounting to 573,700 weapons in total required significant financial resources to be destroyed (*Cluster Munitions Monitor 2021 - CMC*, 2021). As noted in a 2013 report, “Germany reported that it spent a total of €11.8 million on stockpile destruction prior to the entry into force of the convention and a further €29.6 million was allocated from 1 August 2010 to 2016, making [the sum total of expenditure]...€41.4 million (US\$53.2 million) (*Cluster Munitions Monitor - Germany*, 2013).” To highlight the scale of these efforts to achieve stockpile destruction by the end of 2018, the German military used no less than three different locations to destroy cluster munitions: Nammo Buck in Pinnow, Spreewerk Lübben in Lübben, and Muniberka in Dietersdorf (ibid). In late 2015, Germany completed its stockpile destruction and retained “570 cluster munitions and 52,801 submunitions” the most of any party to the convention for training purposes (*Cluster Munitions Monitor - Germany*, 2021). In light of the above factors, what best explains Germany’s rapid destruction of cluster munition stockpiles three years ahead of schedule in the face of substantive costs?

According to van Woudenberg, 2007, Germany’s policy towards the use of cluster munitions has been a long and contentious road. As a user of cluster munitions during the Second World War and an exporter in the years following, the country sought to reconcile a normative distaste for these munitions while recognizing their perceived role as a tool of military interest (van Woudenberg, 2007). As a result, in 2007 Germany sought to actively participate in international negotiations governing IHL seeking to define cluster munitions in such a way that a limited exception would remain for ‘reliable/accurate’ munitions (ibid). While the final version of the Convention on Cluster Munitions would include provisions such as the ability to engage in military training with states that are not party to the convention, as well as an exception for munitions that contain fewer than ten submunitions, both advocated on behalf of Germany and

other states such as the United Kingdom, in many respects the Convention introduced a ban on munitions that went well beyond Germany's own preferences (van Woudenberg, 2007; 2008 *Convention on Cluster Munitions*, 2014). As such, its rapid stockpile destruction may be preliminarily attributed to changing domestic and international consensus on the use of cluster munitions and a desire to be found in compliance with its international commitments.

As the above data suggest, over-compliance with the Convention on Cluster Munitions has been a relatively widespread phenomenon with state parties often seeking to destroy stockpiles well in advance of binding deadlines (*Cluster Munitions Monitor 2021 - CMC*, 2021). This rapid change in IHL reflects a changing normative consensus based around the rules of warfare paired with the technological and physical barriers associated with stockpile destruction. In light of the data presented, over-compliance with the Convention on Cluster Munitions appears to occur more frequently than might be anticipated. This is arguably surprising in light of the centrality of security concerns on behalf of large states and middle powers (Bolton & Nash, 2010; Grieco, 1988). Future studies aimed at understanding the relevance of over-compliance to the issue area of security policy may wish to examine international efforts to create or enforce agreements governing the use of chemical weapons, autonomous weapons, and nuclear disarmament.

2.6 Conclusion

This chapter has sought to provide an overview of the theoretically confounding, but empirically relevant concept of over-compliance. In so doing, this chapter has provided i) evidence across multiple institutions and issue areas of the empirical relevance of the concept of over-compliance, and ii) anecdotal evidence for the need to consider both IO and non-IO centric mechanisms in accounting for states' over-compliant behavior. The aim of this exercise has been to show that in international regimes as diverse as the Kyoto Protocol to the ILO, and countries

spanning the globe, states are frequently motivated to not just comply with international minimum requirements, but to exceed them.

These case illustrations cannot serve to explain when and under what circumstances states will elect to over-comply with their international minimum requirements. Instead, they aim to point to a previously underexplored area of compliance – namely, over-compliance – that can be seen and identified in a wide number of institutions and policy areas, necessitating the need to better distinguish between the processes that drive states to comply with international law and those processes that lead countries to over-comply. In the following chapter, these insights will be developed into a theoretical framework capable of explaining over-compliance across a wide range of institutions and policy areas.

Chapter 3: Explaining Over-Compliance

3.1 Introduction

International organizations (IOs) play a central role in helping states overcome collective action and cooperation problems by monitoring the implementation of common standards and enforcing compliance through the use of sanctioning mechanisms (Börzel et al., 2010; Tallberg, 2002). This enables states to maximize absolute gains, while simultaneously providing a framework to minimize relative losses through a more equitable distribution of gains from cooperation (Abbott & Snidal, 1998; Keohane & Axelrod, 2010; Koremenos et al., 2001). However, cooperation at the international level is not without costs, both material and immaterial. Through the adoption of binding requirements, states take on legal and behavioral expectations that, at times, require action (or inaction) that is politically and economically costly at the domestic level (Abbott & Snidal, 2000). Hence, compliance within a rationalist framework is viewed as a costly but ultimately utility-maximizing strategy, as it enables states to enjoy the absolute gains from cooperation (Tallberg, 2002). This presents an interesting puzzle with respect to over-compliance: if mere compliance is sufficient to secure the gains of cooperation at the international level, then why might states elect to exceed international minimum requirements even in the face of possibly higher costs?

To answer this question, this thesis seeks to establish clear causal mechanisms that distinguish between IO and non-IO centric mechanisms for over-compliance. Potential IO-centric mechanisms center on the role of the international institution in bringing about the outcome of over-compliance. Specifically, these mechanisms aim to trace a direct causal link stemming from the institution itself to the decision to over-comply on behalf of a state. As such, they assume that, in the absence of the international institution, over-compliance would not have occurred. For this

thesis, five primary IO-centric mechanisms will be examined: two-level games, signaling, uncertainty/sanctions, policy leadership, and over-commitment. While these five causal pathways can in no way be labelled as exhaustive, they present clear mechanisms through which to assess institutional influence. Non-IO centric explanations for over-compliance center on the role of domestic political processes, country-specific preferences, the diffusion of standards across states outside of IO membership, and historical legacies in shaping both the extent of national legislation and its content. As such, two non-IO centric mechanisms will be considered in this chapter: domestic political preferences and policy diffusion.

Figure 1.2: Causal Pathways to Over-Compliance

	IO-Centric Explanations	Non-IO Centric Explanations
International	<ul style="list-style-type: none"> • Signaling • Uncertainty/Sanctions • Policy Leadership • Over-Commitment 	<ul style="list-style-type: none"> • Policy Diffusion
Domestic	<ul style="list-style-type: none"> • Two-Level Games 	<ul style="list-style-type: none"> • Domestic Political Preferences

IO and non-IO centric mechanisms are further delineated by the distinction between *domestic* and *international* factors, as shown in **Figure 1.2**. IO-centric *domestic* mechanisms focus on how the interaction between international institutions and domestic actors may bring about over-compliant behavior. For example, policymakers may overstate international minimum requirements in an effort to try and pass legislation conforming to their private preferences that might otherwise not have been possible to achieve owing to strong domestic opposition, akin to Putnam's two-level games (Putnam, 1988). Conversely, IO-centric *international* mechanisms

focus on how interactions within international institutions and among states at the international level may result in over-compliant behavior. In this case, states may adopt over-compliant policies to signal their credible commitment to an IO, which could provide tangible benefits such as increasing the probability of accession for candidate countries. Non-IO centric *domestic* mechanisms argue that over-compliance is the by-product of domestic political considerations independent of international institutions and interactions between states at the international level. In this case, over-compliance could be the result of policymakers passing legislation congruent to their independent and pre-existing domestic political preferences. Finally, non-IO centric *international* mechanisms examine how interactions between states at the international level, outside of the context of international institutions, may result in the adoption of over-compliant standards. For example, a state may adopt over-compliant measures in an effort to mirror policies found in other states independent of institutional influence.

In the following sections, the chapter will first consider the international relations literature on cooperation and compliance within international institutions. The discussion will begin by briefly reviewing realist, rationalist institutionalist, and constructivist accounts of international cooperation. It will then explore enforcement, management, and cultural approaches to explaining why states might comply or not comply with international law. This discussion will provide the basis for identifying potential causal mechanisms, as well as mediating factors that may also influence a state's decision to over-comply. Following this discussion, the chapter will consider the development of the concept of 'over-compliance' within the international relations and environmental economics literature. This chapter will argue that current IR literature suffers from four primary deficits: i) an overly narrow focus on over-compliance within specific national contexts, ii) a lack of cross-national, large N-studies examining the empirical relevance of the

concept, iii) a failure to identify and clearly distinguish between causal mechanisms through which states may be incentivized to over-comply with international law, resulting in iv) a failure to derive a coherent theoretical framework through which to analyze and explain over-compliance. This will provide the basis for the subsequent structure of the theoretical framework and for a more general discussion pertaining to definition of over-compliance employed in this thesis. Following this discussion, the chapter explores those explanations concerning why states might elect to over-comply with international law, before considering those factors that may be said to constrain or enable these mechanisms. Finally, this chapter concludes by addressing the methodological approach and case selection that stems from the proposed framework and research questions.

3.2 Cooperation Within International Institutions

The circumstances under which states may elect to create and subsequently participate in international institutions has been at the center of debates in the international relations literature. These debates can be broadly classified into three major theoretical camps: realism, rational institutionalism, and constructivism. For realists, the anarchic nature of the international system forces states to be primarily concerned with their relative position vis-à-vis other states in the international arena (Mearsheimer, 1994, p.12; Waltz, 1990). As a consequence, states are expected to seek to maximize their own power relative to other states in an effort to ensure their own survival and security (Grieco, 1988, p.498; Mearsheimer, 1994, p.12). This means that realists view cooperation as relatively unlikely in the international system, owing primarily to two reasons: first, states are assumed to always have an incentive to defect from international agreements. Second, realists focus on how the fixed and materially determined preferences of states make cooperation and compromises unlikely even in the face of opportunities to maximize absolute gains (Mearsheimer, 1994, p.12).

When states do decide to cooperate, realists argue it is primarily for two reasons: i) when faced with a common external threat or a larger adversary, smaller states can cooperate to counterbalance larger forces (Snidal, 1985; Webb & Gilpin, 1989). Second, under a unipolar international system states can focus on pursuing absolute (rather than relative) gains, which incentivizes international cooperation (Rittberger et al., 2012, pp.16-17). Despite the historical prevalence of realist thought in international relations, scholars by and large agree today that “realists underestimate the utility of IOs, even to the powerful” (Abbott & Snidal, 1998, p.8). Through the provision of rules, practices, and norms in an increasingly interconnected world, rationalist institutionalism and constructivism focus on how international institutions both shape and constrain state behavior to a greater extent than realist theory might ascribe (Abbott & Snidal, 1998; Johnston, 2001). Rational institutionalism seeks to address this problem by arguing that states are not only concerned about relative gains, but absolute gains as well (Abbott & Snidal, 1998).

As a consequence, rationalist institutionalists argue that international institutions play an important role in helping states solve collective action and cooperation problems enabling states to maximize absolute gains (Abbott & Snidal, 1998). This, combined with the iterative nature of cooperative games within international institutions, raises the costs of defection owing to the need of states to always account for the ‘shadow of the future’ (Fearon, 1998, p.270). As such, the theory emphasizes the central role of international institutions in facilitating cooperation among states through enabling repeated games, disseminating information, monitoring behavior, and sanctioning defections (Rittberger et al., 2012, pp.21-24).

Rationalist institutionalist approaches to understanding cooperation at the international level, however, are not without critique. Scholars such as Abbott and Snidal (2000) have noted

that “law is both an interest-based and a normative enterprise” (Abbott & Snidal, 2000, p.425). Consequently, cooperation in the international system is both a product of the functional role institutions serve, as well as the normative underpinnings that constitute the goals and means through which institutions promote cooperation (*ibid*). This can be seen in the example of how the norm of economic liberalism has underpinned the structure and functioning of groups advocating for intellectual property rights (*ibid*). In arguing that cooperation among these groups at the international level is a product of states’ desire to both maximize their own self-interest, as well as promote the norms of ‘fairness’ and ‘property’, they point to the need to explicitly consider the role of norms and values in research designs aimed at explaining international cooperation (Abbott & Snidal, 2000, p.425).

The second criticism frequently posed at rationalist institutionalist and realist explanations for international cooperation stems from an assumption of fixed preferences at the state level (Johnston, 2001). Both realism and rationalist institutionalism treat states as unitary actors with exogenously determined and fixed preferences (Johnston, 2001, p.488). For realists, states are concerned about maximizing relative gains, whereas rationalist institutionalists conceptualize the state as a utility-maximizer seeking absolute gains (Grieco, 1988). It is often argued that this assumption oversimplifies and overlooks how actors’ preferences are shaped over time by processes such as international cooperation or domestic political developments, which can have a significant impact on external policy outcomes (Checkel, 1997; Johnston, 2001).

Constructivist theories seek to address both criticisms. Constructivism holds that the international system itself is the result of social interactions and hence socially constructed, disputing the idea that state preferences are exogenously determined (Johnston, 2001). As a result, the theory highlights the need to consider the effect of norms and values on state behavior and the

role that social influence and persuasion play in shaping a state's willingness to participate in, and subsequently cooperate in, international institutions (Hopf, 1998, p.173). Focusing on not only what constitutes rational utility-maximizing behavior, but also what is normatively "appropriate" in any given situation, constructivist explanations for international cooperation capture how international institutions can have a constitutive impact on state behavior (Hall & Taylor, 1996, pp.15-16). Given that states are unable to conceive of each decision independently of prior decisions, the choice to cooperate or not is argued to be inherently shaped by prior experiences of states (Haas, 1998). In recognizing that cooperation within international institutions is predicated on some level of shared knowledge, values, and perceptions of oneself within the international community, Johnson (2001) argues that constructivist accounts of international cooperation provide a more complete picture of the factors that drive states to cooperate.

Moreover, constructivist accounts provide insights into the non-material costs and benefits associated with international cooperation. States are argued to be more likely to participate in institutions in which they feel a shared sense of identity or values with members (Simmons, 2010). However, when states are surrounded by like-minded countries with similar preferences and norms, they are also likely to care about how they are perceived by their peers. As such, constructivism highlights that there are not only material costs associated with defection, but also immaterial costs based on the loss of a country's reputation (Johnston, 2001; Simmons, 2000). Consequently, 'back-patting' and 'censure' within international institutions and by states within them can play an important role in shaping state cost/benefit calculations when deciding whether to cooperate (Johnston, 2001, p.501).

Critiques of constructivist explanations for international cooperation focus on the theory's inability to clearly identify the causal processes through which state preferences and behaviors

change. In his 2001 article, Checkel argues that in focusing on the end state of socialization – that is, compliance with international obligations – much constructivist work has relied heavily on rationalist mechanisms in explaining when and how socialization occurs (Checkel, 2001). This tendency towards ‘methodological individualism’ has resulted in a lack of focus on the role of processes such as learning and ‘non-instrumental social interaction’ in shaping the degree to which states decide to cooperate within international institutions (Checkel, 2001, p.561). This, combined with a lack of discussion concerning when and under what circumstances norms are likely to matter has resulted in a lack of clear and testable propositions (*ibid*). Yet, in light of both rationalist and constructivist explanations for international cooperation, the question as to how states arrive at the decision to comply or not comply with individual laws once admitted to an IO remains unaddressed. In the following section, the chapter will focus on how enforcement, management, and cultural approaches seek to explain variation in compliance patterns across states.

3.3 Compliance in IR

While realist, constructivist, and rationalist institutionalist schools of thought provide interesting insights into the circumstances under which states choose to cooperate with one another, the question as to when states elect to comply with international law after agreeing to cooperate in the first place remains another area of contentious debate. A multitude of studies have sought to explain the circumstances under which states may be more or less likely to *comply or not comply* with international commitments across different international institutions and policy areas (Börzel et al., 2010; Stein, 2005; Wilson, 2007). These studies can broadly be classified into two theoretical camps with three major approaches: the rationalist theories, which include *enforcement* and *management* approaches, and constructivist theories which include *cultural* approaches.

Within an enforcement framework, states choose to comply or not comply with international law based on cost-benefit calculations (Tallberg, 2002; Zürn & Joerges, 2011). For example, in the case of policy misfit – a situation in which there is a disjuncture between the requirements of an IO and an existing policy at the national level – states may deem it too costly to adopt new legislation, preferring instead to incur the costs of non-compliance (Mastenbroek, 2005; Schimmelfennig, 2000; Sedelmeier, 2009). This is because, according to Downs, Rocke, and Barsoom, the greater the degree of reform required domestically to implement and subsequently comply with international law, the higher the perceived political and economic costs (Downs et al., 1996). The logic underpinning this rationale is simple. Cooperation that requires states to behave in ways that are fundamentally different to how they would have otherwise behaved are assumed to be costlier than cooperation in areas in which compliance entails minimal to no change in state behavior (*ibid*). Moreover, compliance with international law can be costly owing to other structural factors, such as the number of veto players a government has to convince to transcribe international law into domestic law (Haverland, 2000).

International organizations can influence states' calculations, for example, through the adoption of more effective monitoring mechanisms and larger material sanctions, which serve to increase the expected costs of non-compliance (Fearon, 1998). Consequently, enforcement theorists argue that "states (will) choose to defect when confronted with an incentive structure in which the benefits of shirking exceed the costs of detection" (Tallberg, 2002, p.611). This implies that if the costs of compliance for a given state are higher than the expected costs of non-compliance, the rational decision of states will be not to comply with international obligations. Conversely, if the costs of compliance are smaller than the expected costs of non-compliance, states will choose to comply with international law. The costs of non-compliance can be thought

of as being the product of the size of sanctions, the probability of detection, and the prospective loss from future cooperation. This means that, for the purposes of this thesis, we would assume that the expected costs of non-compliance rise as a direct consequence of both an increase in the perceived likelihood of detection and an increase in the resulting costs of non-compliance for states.

In contrast to the enforcement approach, management approaches to understanding non-compliance focus on the role of structural factors, such as the strength of national bureaucracies, in determining whether states *can* comply with international law (Chayes & Chayes, 1993). As such, non-compliance is not viewed as being the result of a deliberate decision-making process, but rather an unintended outcome resulting from a state's limited capacity to transpose international law into domestic law in a timely and efficient manner (Zürn & Joerges, 2011). Limitations on state capacity can be broadly divided into two categories: political and economic. Political capacity captures the level of contestation facing a government in implementing and complying with an international agreement, as well as its ability to respond effectively to opposition (Tallberg, 2002, p.613). Therefore, management theorists argue that when political capacity problems are acute, governments may lack the ability to comply with international requirements despite their intention to do so, owing to an inability to "secure ratification" from domestic political actors (Tallberg, 2002, p.613). Alternatively, political capacity problems can stem from the structure of governance (i.e. federal or unitary) in a given country, and hence the number of possible veto players needed to ratify international obligations and to secure compliance in the long run (Haverland, 2000; Linos, 2007, pp.552–553). As such, if a national government exercises less control over sub-national actors, such as in a federal system, we might expect it to

be more difficult for states to adopt international commitments within the national context (Haverland, 2000).

The second type of capacity problem is economic in nature. Economic capacity describes a government's financial capabilities to allocate sufficient resources to effectively transpose international law into domestic law (Tallberg, 2002, p.613). Economic capacity problems stem from "resource limitations" that prevent states from being able to undertake the reforms or administrative action necessary to ensure compliance (Tallberg, 2002, p.613). The combination of political and economic capacity problems can prevent states from complying with international law, even when states fully intended to do so when an agreement was reached. Unsurprisingly, management theorists observe that many international organizations seek to resolve economic capacity problems. They do so either through providing financial resources directly to states, or through providing access to technical expertise that help states to adapt institutional structures and processes in such a way that achieving compliance with international law becomes feasible (Chayes & Chayes, 1993).

The second strand of management theory focuses on the language of international agreements themselves. Given the need to achieve cooperation among many states with oftentimes competing preferences, international law is frequently characterized by a high degree of ambiguity (Zürn & Joerges, 2011; Chayes & Chayes, 1993). This ambiguity can result in different interpretations of the same language and consequently produce divergent responses at the national level. Therefore, management theorists tend to focus on how international bodies can create mechanisms to adjudicate disputes over the meaning of shared language and thus provide a degree of transparency concerning the nature of commitments states make at the international level and what this subsequently should look like in practice domestically (Tallberg, 2002, p.614).

One critique frequently leveled at enforcement theory, and the compliance literature more generally, concerns the relatively good compliance records of states in international institutions with relatively weak sanctioning and monitoring capabilities (Downs et al., 1996). In the absence of contestation over compliance with international law, management theorists point to the importance of structural factors at the domestic level, such as the capabilities of national administrations and bureaucratic efficiency, in explaining the strong compliance records of states (Chayes & Chayes, 1993). Yet management critiques of enforcement theory oftentimes overlook the fact that the selection of international treaties by states is an endogenous process (Downs et al., 1996; Stein, 2005). States can choose between a wide range of international institutions with varying requirements, therefore necessitating differing levels of commitment. This means that:

states will rarely spend a great deal of time and effort negotiating agreements that will continually be violated. This inevitably places limitations on the inferences we can make from compliance data alone (Downs et al., 1996, p.383).

As a consequence of states' rationally motivated behavior (i.e., to select those treaties which incur the smallest costs and require the most shallow-level of commitment), an absence of observable monitoring and sanctioning behavior at the international level, as argued by Downs, Rocke, and Barsoom, is not indicative of a lack of rational cost/benefit calculations on behalf of states, but in fact a direct result of them (Downs et al., 1996).

Finally, cultural approaches focus on how cultures of 'law observance' and the domestic salience of international norms affect compliance patterns across states (Cortell & Davis, 2000; Falkner et al., 2007, p.395). Falkner, Hartlapp, and Treib argue that variation in compliance across EU member states can be explained by differing historical and cultural variables that inform how states understand and approach "adaptation requirements" (Falkner et al., 2007, p.404). The authors argue that in differing contexts, constraints such as the number of veto players or the level

of misfit between domestic law and international requirements are likely to matter more or less, depending upon the degree to which states value successful transposition and subsequent compliance as “a goal in itself” (Falkner et al., 2007, p.405). Moreover, constructivist accounts for compliance with international requirements largely focus on how states are socialized within the international context to share and, in some instances, to adopt the norms of an organization (Johnston, 2001). In so doing, these approaches argue that the benefits from compliance with international law cease to be merely about material gains, and become tied to immaterial benefits (Schimmelfennig, 2000). Finally, the ‘domestic salience’ of a given international requirement is also argued to be of direct relevance. Cortell and Davis (2000) argue that the degree to which international norms are salient within the domestic context, and, as a result, are accepted as legitimate, has a direct impact on the probability of compliance.

3.4 Over-Compliance in IR

While compliance has been at the center of a larger debate concerning the role of IOs in the international system and their ability to shape or restrain state behavior, over-compliance has arguably been undertheorized within the broader international relations (IR) literature. The two published articles that do discuss over-compliance *per se* largely focus on the occurrence of this phenomenon in the areas of human and labor rights.

Lightfoot (2010, p.84) examines the role of cultural and historical legacies in explaining Canada's and New Zealand's “over-compliance” with respect to the United Nations' Declaration on the Rights of Indigenous Peoples, while Fontana and Grugel (2017) focus on the implementation of the ILO's convention on child labor in Argentina and Bolivia. In investigating the causes behind Canada's and New Zealand's over-compliance, Lightfoot (2010) focuses on how colonial legacies and underlying historical circumstances shaped national law and practices to such

a degree that some states might over-comply even in the absence of underlying binding commitments. Meanwhile, Fontana and Grugel (2017, p.633) focus on the role of domestic politics in influencing state behavior in the area of labor policy, arguing that over-compliance can be the result of states:

accept(ing) the rightness of both the international agreement and the underlying principles with such enthusiasm that their response goes significantly beyond what is required under international law (Fontana & Grugel, 2017, p.633).

Importantly, both papers stress that it is domestic attitudes towards international human rights and labor norms, in addition to mobilized civil society actors, that leads states to not only adopt international law, but to go above and beyond minimum standards.

This thesis seeks to build on the existing work by i) outlining a clear and generally applicable definition of over-compliance in line with the work of Fontana and Grugel (2017), ii) differentiating between different causal pathways that may lead states to exceed international minimum standards, iii) carrying out two large-N analyses to investigate the concept of over-compliance across states, and iv) providing a comprehensive theoretical framework through which to understand and analyze over-compliance.

While the above articles are important and provide the basis for the definition of over-compliance employed in this thesis, existing literature on over-compliance within IR largely fails to place the concept within a broader context. Specifically, both articles focus on over-compliance within narrow national contexts. For example, in limiting the scope of her study to how states understand and interpret international requirements domestically, Lightfoot (2010) defines over-compliance as a “counter-intuitive behavior in international relations...when a state’s legal or policy behavior exceeds its treaty or international normative commitments” (Lightfoot, 2010, p.84). The inclusion of states’ international normative commitments, which may be viewed as

highly subjective, prevents Lightfoot (2010) from establishing a clearly identifiable external threshold through which to identify the phenomenon across policy areas and institutions. Moreover, by not requiring that states ascribe to a given requirement to be considered over-compliant, the paper raises substantive questions concerning what should and should not be labelled as (over-)compliance (*ibid*). Fontana and Grugel (2017) provide a more intuitive definition of over-compliance, stating that it is a state's policy “response [that] goes significantly beyond what is required under international law” (Fontana & Grugel, 2017, p.633), but their focus only on Argentina and Bolivia fails to establish more broadly the empirical relevance of the concept.

Furthermore, throughout both papers there remains a degree of ambiguity regarding the causal processes at work, leaving the question open as to whether over-compliance is influenced by processes of norm diffusion stemming from the IO itself, or the result of independent and exogenously determined domestic political preferences within states. For example, while Fontana and Grugel (2017) suggest that Argentina's over-compliance with respect to ILO Convention No. 138 was largely the result of trade union mobilization and a strong state apparatus, they do not provide a systematic framework through which to identify and attribute over-compliant behavior to specific causal mechanisms. Additionally, both articles largely overlook the agency of IOs in possibly inducing states to over-comply.

This is especially problematic with respect to social policy. As observed by Obinger, Schmitt, and Starke (2013) and Zürn (2005), much of the current literature on comparative welfare policies has focused on states as the key actors, resulting in a form of ‘methodological nationalism’, often leading scholars to overlook the potential “vertical interdependencies” between national and supranational contexts (Obinger et al., 2013, pp.112–116). As a result, IR lacks an overarching and comprehensive theoretical framework through which to analyze over-compliant

behavior across states and institutions. This, combined with, a lack of studies examining the empirical relevance of over-compliance to the IR literature, highlights the need for a comprehensive study of this phenomenon. While Chapter 2 has aimed to address the latter problem, the focus of this chapter will be to address the former.

3.5 Over-Compliance and Environmental Economics

In contrast to the limited focus on over-compliance in the international relations literature, the concept has received far greater attention from environmental economists seeking to explain why firms may elect to reduce discharges of pollutants well above industry requirements. This literature broadly distinguishes between over-compliance in two forms: *direct* and *indirect*. Direct over-compliance is the result of conscious choices on behalf of firms to over-comply with environmental standards in an effort to promote environmentally friendly products, or to develop a reputation as environmentally conscious companies or industries (Cavaliere, 2000). In line with this argument, firms over-comply to obtain a competitive advantage vis-à-vis other firms and/or to signal a firm's desire for more extensive regulation of the market.

In their 1995 paper, Cangopadhyay and Arora present a model that accounts for how the desire of firms to differentiate themselves vis-à-vis other firms may provide material and reputational incentives for the adoption of over-compliant behavior (Cangopadhyay & Arora, 1995). The material incentives stemming from the adoption of over-compliant behavior by firms arise from the fact that in a world in which “all consumers value environmental quality”, and are willing to pay to promote this value, firms may use the adoption of over-compliant behavior as a way to differentiate their products from competitors and to capitalize on a growing market share (Cangopadhyay & Arora, 1995, p.289).

Similarly, Cavaliere (2000) highlights that the structure of the market in which firms operate can also incentivize the adoption of over-compliant legislation (Cavaliere, 2000). For example, the potential entry of new firms into a given product market may “lead monopolists to alter their strategic choice concerning environmental quality” by adopting over-compliant standards (Cavaliere, 2000, p.198). Additionally, consumers’ expectations of stronger regulation may lead monopolists to adopt over-compliant environmental standards in order to “confirm consumers’ beliefs...even if the firm is aware that no intervention is going to take place” (ibid, p.198). These propositions are classified as ‘potential entry’ and ‘potential threat’ arguments, respectively (ibid, p.198). Finally, in cases where firms wish for stronger regulation in a given area, the adoption of over-compliant behavior may be one mechanism to signal this desire to environmental agencies (Cangopadhyay & Arora, 1995).

Conversely, indirect over-compliance refers to decisions taken at the firm level to avoid sanctions in the case of unintended events (Cavaliere, 2000). For example, Shimshack and Ward (2008) argue that the “credible enforcement” of environmental regulations and standards can result in indirect over-compliance on behalf of firms (Shimshack & Ward, 2008, p.1). Given that information about the regulatory environment – and, specifically, the probability of detection – comes directly from observing other firms, firms are constantly engaged in a process of updating information and practices (Shimshack & Ward, 2008). The authors argue that if sanctions are placed on one firm, other firms subsequently update their information about the regulatory environment and come to perceive the relative likelihood of sanctions to increase (ibid). As a result, they find that in periods of stronger regulatory enforcement, the adoption of over-compliant behavior by firms increases (ibid). This argument is further supported by Blauberger and Schmidt in their 2017 paper - examining how uncertainty regarding the adjudication of disputes within the

European Court of Justice (ECJ) may lead companies “to take legislative action in the first place” to avoid the possible risk of adverse judgements” (Blauberger & Schmidt, 2017, p.915).

In line with these arguments, firms wishing to avoid the costs of sanctions in the event of an unexpected discharge may be more likely to reduce emissions below regulatory thresholds (Shimshack & Ward, 2008). In this case, over-compliance itself is not the goal of firms’ choices, but rather the indirect consequence of cutting emissions in order to minimize the likelihood of sanctions. Thus, over-compliance becomes conceptualized as a rationally motivated response to a regulatory environment that is both uncertain and competitive.

While the environmental economics literature focuses on explanations of over-compliance at the firm level, it provides interesting insights into the circumstances under which states may be incentivized to over-comply with international law. This thesis aims to transcribe these mechanisms and insights to the state level and argues that, similarly to firms, states i) are primarily concerned with utility-maximization, and ii) over-compliance can be a logical policy choice for states seeking to minimize the probability of involuntary non-compliance.

3.6 Definitional and Conceptional Considerations

This thesis opts for a binary definition of over-compliance for three primary reasons. First, the definition of over-compliance employed in this thesis builds on existing literature in IR and environmental economics. Current IR definitions of over-compliance (see Lightfoot, 2010 and Fontana and Grugel, 2017) define the concept as a “response that goes significantly beyond what is required under international law (p.633).” This focus on a policy choice on behalf of a state that exceeds a stated international minimum requirement implies an inherently binary dichotomy: states either exceed international minimum requirements or they do not. As a result, the choice to go above international minimum standards is viewed as being relatively more important than the

degree to which a state does so. This definition of over-compliance within the current IR literature and emphasis on the relative importance of the phenomenon itself rather than the degree to which states exceed international minimum standards is directly reflective of the central puzzle of this thesis: why and under what circumstances would states choose to exceed international minimum standards in the face of potentially higher costs?

Furthermore, given the absence of discussion of the relative extent of over-compliance found in the current IR literature (see Fontana & Grugel, 2017; Lightfoot, 2010) the definition of over-compliance provided in this thesis serves as a preliminary starting point on which future studies may seek to build. Nevertheless, the extent of over-compliance observed is also considered as a secondary element to the overall framework of this thesis, particularly when examining the salience of mediating factors in accounting for patterns of over-compliance. In asking what factors may not necessarily explain over-compliance *per se* but rather impact the likelihood or extent of over-compliance observed, this thesis seeks to provide a more nuanced discussion of the concept while prioritizing in the first instance the conventional definition used within the relevant literature.

The use of a binary definition of over-compliance also stems directly from methodological considerations since it more readily allows for a quantitative exploration of the concept across a range of international institutions and policy areas in which there are clearly identifiable and codifiable minimum standards. Thus, while a binary definition implies some loss of granularity as well as the ability to capture a larger range of compliance behavior, for the purposes of this thesis it serves to establish in the first instance the empirical relevance of the concept across policy areas, problem structures, and institutional settings. Moreover, rather than being restrictive in nature, the definition of over-compliance employed in this thesis allows for the widest possible range of

behaviors to be classified as over-compliance highlighting the overall relevance of the concept while providing the necessary foundations for future research. Finally, the choice of definition used in this thesis is also the result of the research design adopted. Given that the primary aim of the quantitative analysis was to understand the impact of a given covariate on the probability of over-compliance (or survival), the outcome variable of interest in the first instance was inherently two-dimensional (i.e., whether a state experienced event occurrence or not). Nevertheless, future studies may wish to employ other methodologies such as a multinomial logit model to achieve a higher degree of granularity.

Third, in electing to use a binary definition of over-compliance the thesis omits any normative or practical judgements as to whether over-compliance that goes slightly beyond a minimum standard or much higher than the stated standard is worthy of consideration. An empirical strategy based on selecting only those cases which exceed by larger or smaller margins risks overlooking key explanatory factors and may bias the findings towards a certain subset of explanations. For example, a framework based solely on non-IO centric domestic explanations may be more readily able to explain high degrees of over-compliance in those settings in which states have strong policy preferences, than a framework based on IO-centric international explanations. As such, a binary definition serves to reflect both the existing literature on over-compliance and practical considerations stemming from the adoption of a robust empirical strategy aimed at avoiding selection bias.

3.7 Theoretical Framework

This section of the chapter will present a framework through which to understand and explain over-compliant behavior, regardless of the institutional context or issue area . It builds on

the above literature to derive a number of partially competing and complementary mechanisms underpinning the adoption of over-compliant behavior.

3.7.1 Domestic Political Preferences (Conjecture #1)

As highlighted by Fontana and Grugel (2017) and Lightfoot (2010), the exceeding of minimum standards may not be the result of membership in or accession to an IO. Domestic political, economic, and social explanations underpin much of the scholarly literature on compliance more generally and provide an important challenge to IO-centric mechanisms for over-compliance. As such, *Domestic Political Preferences (Conjecture #1)* states that if countries exceed international minimum requirements, then it is the result of pre-existing domestic preferences independent of the requirements of IO membership.

Scholars interested in this line of inquiry would focus on the domestic origins of national policies, as well as on the ability of states to support or impose policies at the international level that mirror domestic standards (Downs et al., 1996). Much of the IR literature on over-compliance has focused particularly on the domestic origins of policy choices in specific issue areas, explaining why mobilized societal groups or favorable governing parties can account for a state's relative willingness to exceed international minimum requirements (Lightfoot, 2010; Fontana & Grugel, 2017). In other words, in these explanations, the exceeding of minimum standards is merely a by-product of independent domestic political, economic, or social preferences, rather than an outcome of IO membership and/or association.

Conjecture #1: Countries are more likely to exceed IO minimum standards if pre-existing domestic preferences are more demanding than IO requirements.

3.7.2 Policy Diffusion (Conjecture #2)

A second set of mechanisms of interest to scholars stems from interactions between states, rather than within states or within IOs. The policy diffusion literature is of relevance to the study of over-compliance. Focusing on how “policy choices in one country affect policy choices in other countries, so causing policies to converge”, the policy diffusion literature provides both a theoretical and methodological framework on which future studies of over-compliance could build (Meseguer & Gilardi, 2009, p.528).

As argued by Weyland (2005), states are likely to emulate the policy choices of neighboring states, or states with which they share a high degree of norm congruence and/or economic dependence. There are four primary logics by which states might elect to emulate the policies in other states (ibid). First, IOs may impose similar policies on member states through both coercive and economic pressures, leading states to adopt legislation that mirrors that of fellow IO members (Weyland, 2005, p.269). Second, states wishing to gain ‘international legitimacy’ may be more inclined to adopt the policies of neighbors in order to promote or advertise their adherence to international norms (ibid). Third, emulation might be the result of ‘rational learning’, whereby decision makers in one state look abroad for possible policy innovations to address domestic problems (ibid). Fourth, according to the logic of cognitive heuristics, policy makers may use “inferential shortcuts”, electing to simply adopt legislation from other states perceived to be innovative rather than spending time and effort to develop their own policies (Weyland, 2005, p.271). Thus, while *Policy Diffusion (Conjecture #2)* is classified as non-IO centric for the purposes of this thesis, it is important to note that diffusion can be facilitated both by forces internal and external to the IO.

Conjecture #2: Countries with neighbors who exceed IO minimum standards are subsequently more likely to exceed them, as well.

3.7.3 Two Level Games (Conjecture #3)

According to Putnam (1988), international negotiations offer forums through which states may “adopt(ed) policies different from those that they would have pursued in the absence of international negotiations” (Putnam, 1988, p.428). Thus, membership in IOs creates a two-level game in which both international and domestic factors may impact the choices pursued by states. Putnam argues that states’ negotiating positions are influenced by private policy preferences of the negotiators, domestic political dynamics, and electoral preferences (ibid). Oftentimes negotiators operating at the international level have incomplete information about the preferences of domestic actors or possess private preferences that might differ from those expressed at the national level (Putnam, 1988, p.457). In this case, international actors may pursue or agree to policies that differ from domestic electoral and party preferences. This argument becomes increasingly relevant in the case of over-compliance. In those states where governing policy elites prefer more stringent regulation than is possible to achieve domestically, membership in an IO may offer the opportunity to pursue policy choices that would not have been available in the absence of international negotiations. This may enable national politicians to overstate IO requirements to achieve otherwise unattainable domestic reforms, which could lead states to over-comply (e.g., for two level games in international institutions, see Jacquot & Woll, 2004; Parau, 2009).

Conjecture #3: In countries where governments hold a private preference for more extensive legislation than what is politically viable domestically, the exceeding of IO minimum standards is more likely.

While this mechanism provides a clear example of a domestic IO-centric explanation, it is not tested at length in the thesis¹⁵, owing to the methodological difficulties with ascertaining private government preferences across a wide variety of cases and times. Nevertheless, it represents a potential avenue for further exploration within a small-N context, building on archival work and interviews.

3.7.4 Signaling (Conjecture #4)

The first IO-centric international explanation introduced in this chapter is derived from the IR literature on signaling, defined as the costly and credible conveyance of information and preferences by and between actors in the international arena (Gaubatz, 1996). While states may elect to signal credible commitments to reveal information or preferences, scholars such as Simmons (2000) have argued that the signaling associated with compliance with international law can also be explained in part by reputational concerns (ibid). Governments, irrespective of their position within IOs, are more likely to abide by international legal agreements if fellow governments in their region do so, as well (ibid). Therefore, over-compliance might be induced by a state's desire to signal to other states its willingness to adhere to the rules of an IO by adopting costly legislation surpassing minimum requirements.

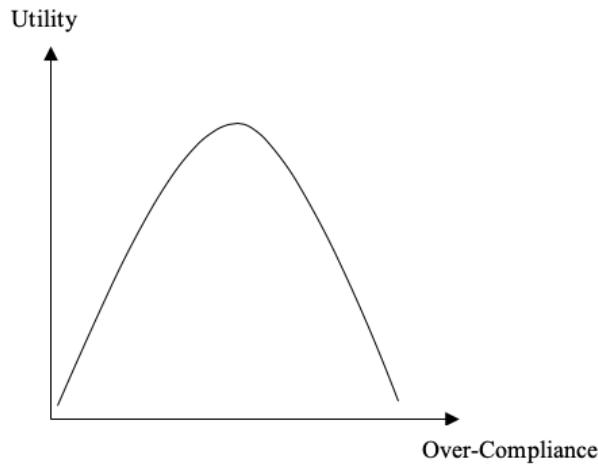
The signaling based explanation for over-compliance is particularly relevant for candidate countries, which may be willing to go beyond mere compliance if the adoption of over-compliant legislation enables them to 'signal' their commitment to shared norms and international law, thereby increasing the probability of accession. As a result, the prospect of membership in an IO may change incentive structures in states to such an extent that they may be willing to incur the costs of over-compliance in exchange for a higher probability of future payoffs resulting from

¹⁵ The two-level games hypothesis is examined in Chapter 4.

membership. This implies that when states seek to evaluate the utility gained from the adoption of over-compliant legislation, they must strike a balance between the immediate and known costs associated with the adoption of over-compliant legislation (such as a loss of relative economic competitiveness in the case of stricter labor protection laws or more extensive parental leave), and the utility gained from signaling to a given IO. This tradeoff is also influenced by the need to discount the future benefits of membership.¹⁶ Given that the costs of over-compliance are immediate and the expected payoffs for this behavior lie in the future (i.e., the increased probability of reaping the benefits from accession), states have to engage in time discounting. Hence, while the adoption of one more ‘unit’ of over-compliant legislation than the required minimum may proportionally increase the probability of accession, it may not offset the immediate costs of it in the present. This results in a negative parabolic utility curve, with over-compliance on the x-axis and utility on the y-axis, as shown in **Figure 3.4**. As states over-comply to a greater degree, the marginal utility rate decreases until it turns negative when the immediate costs of over-compliance outweigh the expected future payoffs.

¹⁶The concept of time discounting implies that benefits given in the present are valued more than potential benefits given at a future date and is a staple in behavioral economics (Frederick et al., 2002).

Figure 3.4: Utility and Over-Compliance



This means that states need to make a rational decision based on cost/benefit calculations.

If the costs of said adoption are lower than the increase in utility gained in terms of a higher probability of accession, then we might expect states to consider adopting over-compliant legislation. Previous criticisms in a given policy area are also likely to have a direct impact on the cost/benefit calculations undertaken by states. This is because criticism from an IO may negatively impact a state's likelihood of accession, thereby making the subsequent adoption of over-compliant legislation more likely to offset this negative impact.

This implies that accession processes to and membership in an IO can change the expected payoffs from (over)complying. However, this thesis argues that this shift in incentive structures is not unique to accession processes – signaling through over-compliance may also occur at crucial junctures unrelated to IO accession, wherein a state's commitment to a highly salient policy provides greater expected returns. For example, as explored further in Chapter 6 on the ILO, over-compliance may be more likely to occur in periods where specific policy areas are highly salient at the international level and as a consequence are able to draw on greater international and

domestic attention. As such, over-compliance with the ILO Minimum Age Convention 138 during the 1990s and early 2000s, when international attention was focused on the issue of child protection and child labor owing to the introduction of the UN Convention on the Rights of the Child (UNCRC) and ILO Convention No. 182, provides evidence for this conjecture.

Conjecture 4: Countries in an accession process to an IO or facing a crucial juncture wherein an issue is highly salient, are more likely to exceed IO minimum standards.

3.7.5 Uncertainty/Sanctions (Conjecture #5)

Similar to firms operating in an uncertain regulatory environment, member states of an IO can also collect information about the likelihood of sanctions and the general regulatory environment by observing other states (Shimshack & Ward, 2008). Hence, the concept of indirect over-compliance from the environmental economics literature can also be applied to IR. If sanctions are placed on one state for non-compliance, it is likely that other states will perceive the likelihood of detection and subsequent sanctioning for non-compliance in a given policy area to have risen. This increase in the expected costs of non-compliance may subsequently lead states to adopt over-compliant policy measures in an effort to minimize the probability of involuntary non-compliance (Cavaliere, 2000; Shimshack & Ward, 2008). This explanation is further complemented by literature focused on the role of stochastic variations in emissions from environmental economics (Shimshack and Ward, 2008). Similar to firms concerned with the potential of being found non-compliant due to stochastic variations in emissions, states may elect to over-comply as a means through which to ensure compliance. This conjecture rests on the assumption that the immediate costs of over-compliant legislation are offset by the expected costs of non-compliance.

Conjecture #5: Countries are more likely to over-comply if the expected costs of non-compliance are high.

3.7.6 Policy Leadership (Conjecture #6)

Building on the signaling literature, *Policy Leadership (Conjecture #6)* focuses on how states' concerns regarding their relative positions in international organizations may lead some states to adopt over-compliant legislation. For states that lack hard power within international institutions, the adoption of over-compliant legislation may be used as a 'smart strategy' allowing states to maximize their relative influence within IOs by drawing on the immaterial resources associated with reputation and credibility (Grøn & Wivel, 2011; Nasra, 2011; Thorhallsson & Wivel, 2006). This differs from states seeking to demonstrate their ability to comply, particularly during the accession process, in that 'smart strategies' seek to increase a state's relative standing within an IO, rather than merely maximizing the chances of admission, through four key elements: commitment, network capital, resources, and deliberation (Nasra, 2011, p.167).

This conjecture is also partially based on the environmental economics literature. Similar to firms seeking to differentiate themselves from others in the market in order to gain a greater market share, states may choose to adopt over-compliant legislation to differentiate themselves from other member states, in turn seeking to advance their relative position within an IO, akin to direct over-compliance in the environmental economics literature (Cangopadhyay & Arora, 1995). As a consequence, over-compliance may enable states to wield more influence at the IO level when it comes to policy-making processes in issue areas in which states have a reputation as a 'policy entrepreneur' (Kingdon, 1984; Knill & Lenschow, 1998).

Conjecture #6: Countries are more likely to exceed IO minimum standards in those policy areas in which they want to advance their reputation as a policy leader.

3.7.7 Over-Commitment (Conjecture #7)

Over-Commitment (Conjecture #7) considers the link between over-compliance and over-commitment – defined as a public pledge by a country to adhere to more stringent than necessary compliance targets. Kucik and Pelc (2016) argue that accession processes to international institutions, such as the World Trade Organization (WTO), can incentivize states to take on commitments above and beyond what is necessary. As a result of the accession process, states often take on commitments beyond what they can realistically achieve at the domestic level (Kucik & Pelc, 2016). Kucik and Pelc (2016) argue that over-commitment within the context of the WTO often results in higher levels of non-compliance. At first glance, this logic would seem to suggest that states that over-commit with respect to their international requirements would also be less likely to over-comply. However, the lowest common denominator standards found in many international institutions suggest that over-commitments are more likely to be met than in the case of the WTO, where accession criteria vary on a case-by-case basis and may not reflect lowest common denominator standards. Furthermore, a public pledge to adhere to more stringent compliance targets is argued to also change the cost/benefit calculations for states. Over-commitment may create a reputational lock-in for governments, wherein subsequent non-compliance with these standards diminishes the credibility of any future commitments by that government. As a result, countries that previously over-committed may be more likely to over-comply as a way to ensure adherence to their initial commitments since the expected costs of non-compliance would outweigh the immediate costs of over-compliance.

Conjecture # 7: Countries are more likely to exceed international minimum standards if they formally committed to more extensive compliance targets than IO minimum requirements.

Table 3.5 provides an overview of how these mechanisms serve to highlight specific causal pathways stemming both from the IO itself and from other factors.

Table 3.5: Causal Pathways to Over-Compliance (Conjectures)

		Domestic	International
Non-IO Centric	Domestic Political Preferences (Conjecture #1)	Policy Diffusion (Conjecture #2)	
IO-Centric	Two Level Games (Conjecture #3)	Signaling (Conjecture #4) Uncertainty/Sanctions (Conjecture #5) Policy Leadership (Conjecture #6) Over-Commitment (Conjecture #7)	

3.7.8 Costs (Mediating Factor #1)

This section focuses more explicitly on those factors that may act as enablers or potential constraints for over-compliance. These factors may shed light onto cases where states have strong incentives to over-comply, yet do not exceed international minimum standards. As such, the first mediating factor considered in this chapter is that of costs. If the costs associated with the adoption of over-compliant measures are higher than the perceived benefits, over-compliance is less likely to occur. For example, the introduction of more stringent labor protection regulation in developing states would incur potentially higher costs than in developed states. This is because developing states oftentimes rely on a lower relative cost of labor to attract foreign direct investments (FDIs) and build up manufacturing and industrial sectors (Busse, 2002). As a consequence, the introduction of more stringent labor protection laws could thus lead to a decline in FDIs, making over-compliance among developing countries less likely. Similarly, over-compliance with

environmental policies on behalf of states may affect specific industries to a greater degree than others. For example, countries with large hydrocarbon-based sectors such as refining, and petrochemicals are more likely to face higher costs when adopting over-compliant standards with respect to environmental agreements than countries with relatively less carbon-intensive industries. More generally, states facing relatively higher cost curves in light of the adoption of over-compliant standards are argued to be less likely to over-comply. For the purposes of this thesis, costs are defined as the loss of relative economic competitiveness associated with the adoption of over-compliant legislation.

Mediating Factor #1: Countries that face higher costs from over-compliance are both less likely to over-comply and to a lesser extent.

3.7.9 Capacity (Mediating Factor #2)

Building on the compliance literature on management, this thesis would expect states with stronger bureaucracies to more readily transpose and subsequently comply with international law. The logic underpinning this is the following: more capable national bureaucracies are expected to be more effective in transposing international law due to both their technical expertise and the resources at their disposal (Chayes & Chayes, 1993; Hille & Knill, 2006). Conversely, it is possible to infer that those states with less efficient national bureaucracies and limited financial resources are also less able to over-comply. Additionally, in line with arguments pertaining to management capacity, the regime type is likely to influence both the extent and likelihood of over-compliance. For example, democratic states may face a higher number of veto players in adopting over-compliant legislation than authoritarian regimes in which decision-making power may rest with a smaller number of actors (Tsbelis, 1995). While authoritarian regimes may face a smaller number

of veto players, this thesis argues this effect may largely be offset by the relative concentration of wealth in democracies (i.e., the global north) and their relatively higher levels of integration within international institutions (Mansfield & Pevehouse, 2006) that enabled national bureaucracies to gain experience in efficiently transposing international requirements into national law.

Mediating Factor #2: Countries with lower administrative capacity are less likely to over-comply and to a lesser extent.

3.7.10 Normative Fit (Mediating Factor #3)

The last mediating factor considered in this section focuses on the degree of normative fit between international requirements and domestic contexts. As argued by Cortell and Davis (2000), the saliency of international norms within specific national contexts has a direct bearing on the likelihood of compliance. In states in which a high level of incongruence exists between the norms enshrined in institutional minimum standards and domestic attitudes, the political costs of adopting said legislation are higher, leading to a lower likelihood of compliance. These insights can also be applied to the concept of over-compliance. For example, if a state is party to an international agreement that bans the use of the death penalty but does not possess an internalized norm against capital punishment at the domestic level, the state may be less likely to over-comply and to a lesser extent.

Mediating Factor #3: Countries with a lower degree of normative fit are both less likely to over-comply and to a lesser extent.

3.8 Case Selection

This thesis focuses on over-compliance in the EU, UNFCCC, and ILO for three primary reasons. First, examining over-compliance across these three institutions will allow this thesis to examine the salience of IO versus non-IO centric explanations in accounting for over-compliance

owing to the varying degrees to which these institutions exercise influence over their member states. For example, in the case of the EU, an institution with a stringent accession process and strong enforcement mechanisms, signaling may be more relevant than in the ILO, an organization with nearly universal membership. Second, the different cases also allow this thesis to examine the salience of domestic versus international explanations across three policy areas. Given the inherently domestic nature of social and labor policy, over-compliance in these policy areas is more likely to be attributed to domestic political preferences than in other policy areas. Finally, investigating over-compliance across the three institutions will also enable this thesis to examine the differentiated impact of mediating factors on the likelihood and extent of over-compliance.

3.8.1 EU Parental Leave

Few international organizations outside of the EU have such specific and well-defined criteria to which future members must adhere in order to gain admission and have had such success in tying conditionality to domestic political transformation in Central and Eastern Europe (Dimitrova & Pridham, 2004). While the impact of the accession process on domestic policy choices within candidate countries has been widely discussed in academic literature (Schimmelfennig & Sedelmeier, 2004), the ability of the EU to bring about changes in national legislation above and beyond mere compliance has thus far not been addressed. As a consequence, if the EU is able to induce over-compliance among member states and candidate countries, then the influence of the organization on domestic policy choices, and particularly the impact of conditionality during periods of accession, may have been underestimated. Second, the salience of gender equality to the EU as a whole, and the institution's historic focus on promoting shared parental responsibilities, implies that states would have strong incentives to over-comply with parental leave legislation as a highly visible signal of a state's commitment to core EU norms

(Pascall & Lewis, 2004). As such, the European Union serves as a most likely case for the adoption of over-compliant legislation due to signaling based explanations.

Chapter 4 aims to examine the above framework by focusing on the provision of paid maternity, parental and paternity leave in the EU. Paternity leave has been argued to result not only in a more equitable distribution of childcare responsibilities, minimizing the negative externalities associated with the birth of a child for women, but also as a means through which to challenge the traditional view of men as the primary breadwinners and women as the primary caregivers in society (van Belle, 2016). However, paternity leave remained unregulated at the EU level despite recommendations from the European Parliament for the introduction of an EU wide paternity leave of two weeks until 2019, when the European Parliament and Council of Ministers reached an agreement on a directive providing for 10 days of paid leave for fathers pending further consideration (*EU to Guarantee Fathers 10 Days Paid Paternity Leave*, 2020). This leave period subsequently entered into force under Directive 2019/1158, with an implementation deadline of 2nd August 2022 for member states to comply with the EU's minimum standard for a paid paternity leave of at least ten working days.

As such, the provision of over-compliant parental leave standards, and paternity leave in particular, provides direct insights into a policy area central to the public provision of benefits within a state. If over-compliant parental leave measures can be adopted in the Baltic states, then previous assumptions regarding the limited role of international organizations in shaping both the extent and nature of national policies in highly salient and historically domestic-centered policy areas may have been underestimated.

3.8.2 1st Commitment Period of the Kyoto Protocol

Examining over-compliance in the context of environmental agreements allows this thesis to test the transferability and applicability of the environmental economics literature from the firm-to the state-level. As such, the Kyoto Protocol's 1st Commitment Period provides the ideal case through which to examine the relevance of already existing explanations for over-compliance within a context in which similar factors may be at play. Moreover, the Kyoto Protocol is uniquely suited to examine the salience of both IO and non-IO centric mechanisms. On the one hand, over-compliance in the area of environmental policy may be more readily explained by IO-centric mechanisms such as the role of uncertainty/sanctions in the face of stochastic variations in emissions, than in the case of parental leave in the Baltic states or labor policy in the ILO.

On the other hand, academic literature has placed a great deal of importance on the 'hot air surplus' in accounting for states' relatively good compliance records during the 1st Commitment Period (Shishlov et al., 2016), indirectly attributing most over-compliance within the context of the Kyoto Protocol to non-IO centric domestic factors. As such, in electing to examine over-compliance within the context of the Kyoto Protocol this thesis will test the salience of both non-IO and IO-centric mechanisms in an environment in which both institutions and domestic political contexts are argued to be particularly relevant. Finally, the case of the Kyoto Protocol will allow this thesis to examine an institutional context in which there was a degree of flexibility with respect to states' commitments, enabling those states wishing to take on greater emissions reductions efforts the ability to do so. As a result, the case of the Kyoto Protocol enables this thesis to investigate and illustrate the possible relationship between the concept of over-commitment and that of over-compliance.

3.8.3 ILO's Minimum Age Convention

The ILO's heterogenous and near universal membership will allow this thesis to test the above framework in a context in which variation among states, both in terms of levels of relative economic development and regime type, is greater than in the EU and among Annex I parties to the Kyoto Protocol. As such, the examination of over-compliance in the ILO will allow this thesis to ascertain the applicability of the previously presented framework in accounting for over-compliant behavior across both developed and developing states, providing greater external validity to its findings. Furthermore, due to its highly heterogenous membership, the case of the ILO will also allow this thesis to effectively examine the potential impact of mediating factors on the likelihood of over-compliance. As briefly addressed earlier in this chapter, highly developed countries may face fewer economic and capacity constraints in light of the adoption of over-compliant behavior than relatively less developed countries.

The potential salience of mitigating factors is further amplified by the nature of the policy area chosen in the case of the ILO. Child labor touches directly upon issues pertaining to the structure of labor markets within countries, further increasing the role of mediating factors in accounting for the extent and likelihood of over-compliant behavior. As a result, examining over-compliance within the context of the ILO's Minimum Age Convention will allow this thesis to directly investigate and capture the possible impact of differentiated economic costs on the likelihood of over-compliance. For example, Chapter 6 will control for the structural make-up of states' economies since the costs associated with reducing child labor in states in which manufacturing occupies a greater share of GDP may be different to the costs in those states with relatively smaller manufacturing sectors. Finally, given the inherently domestic nature of policies governing child labor, the case of the ILO will enable this thesis to address the impact of non-IO

centric international influences on the adoption of over-compliant legislation, such as the possible diffusion of over-compliant policies across states. If over-compliant standards can be found to have diffused across states, then traditional arguments surrounding the role of labor competition in inducing a ‘race to the bottom’ may be overstated (Singh & Zammit, 2004).

As such, this thesis examines three distinctive cases in which various causal mechanisms are expected to provide competing and/or complementary accounts for over-compliant behavior (see **Table 3.6**).

Table 3.6: Case Selection - Over-Compliance in the EU, UNFCCC, and ILO

<u>Case Selection</u>	<u>Relevant Explanations</u>	<u>Issues or Consideration</u>
Parental Leave in the EU	<ul style="list-style-type: none"> • Signaling (Conjecture #4) • Domestic Political Preferences (Conjecture #1) • Policy Leadership (Conjecture #6) • Two-Level Games (Conjecture #3) 	<ul style="list-style-type: none"> - The incentives associated with the EU accession process - Intrinsic nature of social policy as a domestic consideration - Desire to distinguish oneself as a leader in the area of parental leave - International negotiations during accession
1st Commitment Period of the Kyoto Protocol	<ul style="list-style-type: none"> • Uncertainty/Sanctions (Conjecture #5) • Domestic Political Preferences (Conjecture #1) • Over-Commitment (Conjecture #7) 	<ul style="list-style-type: none"> - Stochastic nature of emissions - Impact of the ‘hot air surplus’ and shallow commitments - Flexible nature of state commitment with respect to the 5% benchmark
ILO’s Minimum Age Convention No. 138	<ul style="list-style-type: none"> • Policy Diffusion (Conjecture #2) • Signaling (Conjecture #4) • Domestic Political Preferences (Conjecture #1) 	<ul style="list-style-type: none"> - Converse of the ‘race to the bottom’ logic for labor competition - Adherence to international norms, values, and regulations - The inherently domestic aspect of policies touching upon the labor market

While the above mechanisms may appear to be relatively distinct in terms of their causal processes, in practice, distinguishing between competing mechanisms requires substantive methodological considerations. As such, issue-specific considerations and the operationalization of indicators will be addressed in detail for each case study in its respective chapter.

3.9 Conclusion

Cooperation at the international level incurs significant costs and benefits. While states delegate agency to IOs to help solve collective action and cooperation problems, compliance with international law nonetheless remains a taxing and seemingly counterintuitive behavior (Abbott & Snidal, 1998). Consequently, the question as to why states might elect to not just comply but to over-comply with international law is all the more puzzling. This chapter has aimed to illuminate the circumstances under which states may elect to over-comply with international minimum requirements by constructing a coherent theoretical framework that distinguishes between IO and non-IO centric mechanisms.

In so doing, this chapter has argued that over-compliance, despite being a seemingly counterintuitive behavior, can be explained as a rationally motivated choice of states seeking to maximize utility gains in light of international requirements. In focusing on factors that might explain certain patterns of over-compliance across states, rather than only on the causes of this phenomenon, such as costs and capacity, this chapter seeks to illuminate the mediating factors that could constrain or enable this behavior. These conjectures will then be tested in the following chapters through a mixed-methods approach aimed at addressing the causes of over-compliance in the EU, Kyoto Protocol to the United Nations Convention on Climate Change, and the ILO.

Chapter 4: Over-Compliance and the European Union: A Case Study of Parental Leave in the Baltic States

4.1 Over-Compliance in the European Union

This chapter focuses on the adoption of over-compliant parental leave measures in the European Union, an organization whose breadth and scope not only requires member states to undertake far reaching reforms, but which also imposes significant costs in the face of non-compliance. While a multitude of studies have focused on both the material and immaterial costs associated with compliance with EU regulations (see Mastenbroek, 2005; Tallberg, 2002), few have sought to understand why, and under what circumstances, member states and candidate countries might elect to go beyond minimum requirements. This is particularly surprising in light of the fact that accession to the EU, as well as compliance with the European Union's *acquis*, requires not only economic convergence, but also political and normative transformations, implying the incurrence of significant upfront costs to reap the future economic and political benefits of membership. Hence, the timely incorporation of the EU *acquis*, and subsequent compliance with it, represents a powerful tool through which states may signal their commitment to institutional norms, values, and practices. This chapter investigates the role of both IO and non-IO centric mechanisms in accounting for the Baltic states' over-compliance with EU parental leave legislation.

Parental leave represents an area in which both member states and candidate countries have done significantly more than required by the EU. It is a policy area that has increasingly taken center stage in European Union debates regarding the role of families and the place of the state in providing social support (Anderson, 2015). No more so has this issue become increasingly pressing in the face of a growing reliance on dual parenting to provide for childcare needs while ensuring career opportunities for both partners (Pascall & Lewis, 2004). While the European Union's

journey into the area of social policy, an area previously strictly within the purview of individual member states, has been tenuous and trying (Anderson, 2015), the focus on the provision of minimum standards for parental leave has highlighted the union's ability to induce substantive reforms of national legislation among candidate and member countries (Haas, 2003).

As referenced in Chapter 2, EU member states offer among the most generous parental leave benefits in the world (Belle, 2016). With countries such as the Czech Republic offering twenty-eight weeks of paid maternity leave, compensated at a rate of 59.4% of previous income, and Spain offering twelve weeks of paid paternity leave paid at a rate of 100%, EU member states offer more extensive and higher compensated periods of paid leave than non-member states with similar levels of economic development (*OECD Parental Leave Systems*, 2021). This provision of generous and more equitable leave periods in Europe has challenged conventional notions of the role of the welfare state in promoting shared parental responsibilities. One key factor behind these relatively generous parental leave guarantees at the national level has been an EU-wide effort to introduce legislative measures that promote work-life balance and to ensure equal and codified standards governing parental leave across the union (*EU Rights to Work-Life Balance*, 2022). For example, Directive 2019/1158 introduces a paid paternity leave of ten working days across member states, in addition to a minimum of four months of paid parental leave, with two months of this leave being non-transferable¹⁷ between parents (*EU Rights to Work-Life Balance*, 2022). This is in addition to Directive 92/85, which provides for fourteen weeks of paid maternity leave for women (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

¹⁷ Non-transferable periods of leave are individual entitlements that are lost in the event that a party (i.e., in most cases the father) elects to not take it up. The aim of such measures is to encourage a more equitable take up of leave periods among men and women (Shand, 2018).

Who Have Recently given Birth or Are Breastfeeding (Tenth Individual Directive within the Meaning of Article 16 (1) of Directive 89/391/EEC), 1992). In combination, these directives represent a significant effort on behalf of the EU to reform and rethink parental leave standards for the modern era. As such, this chapter asks why, and under what circumstances, do EU member states not only meet but exceed EU minimum requirements with respect to parental leave? To answer this question, over-compliance with EU parental leave standards will be defined as:

Figure 4.5: Over-Compliance with EU Directives 92/85 and 2019/1158

Paid parental leave > sixteen weeks = over-compliance

Paid maternity leave > fourteen weeks = over-compliance

Paid paternity leave > 10 working days = over-compliance

This chapter investigates the concept of over-compliance in relation to the adoption of parental leave legislation in the Baltic states. To do this, it utilizes both structured and semi-structured interviews and document analysis. As relatively new members of the European Union, Estonia, Latvia, and Lithuania represent ideal cases through which to examine institutional influence on the outcome of over-compliance. Faced with a historical legacy of long and relatively generous parental leave periods (Belle, 2016) in combination with a potential desire to emulate a Nordic social welfare model, the development and adoption of over-compliant parental leave measures in the Baltic states raises important questions regarding the relevance of international institutions and their impact on state behavior in an increasingly interconnected world (Karu & Pall, 2011; Marklund, 2017; Aidukaite, 2003).

Table 4.7: Parental Leave Provision in the Baltic States (2021/2022)

Note: All data is taken from OECD Parental Leave Systems, 2021 and respective governmental websites.

Country	Maternity Leave	Paternity Leave	Parental Leave
<i>Estonia</i>	20 weeks at 100% of previous income	30 calendar days compensated based on average income	62 weeks at 100% of previous income
<i>Latvia</i>	16 weeks at 80% of previous income	10 calendar days at 80% of previous income	78 weeks at 48.5% of previous income
<i>Lithuania</i>	18 weeks at 77.6% of previous income	4 weeks compensated at 77.6% of previous income	44 weeks at 77.6% of previous income
Over-Complied	Estonia, Latvia, Lithuania	Estonia, Lithuania	Estonia, Latvia, Lithuania

As of 2022, all three states can be labelled as having over-complied with EU parental leave standards with respect to periods of paid maternity and parental leave for women (see **Table 4.7**). Additionally, all Baltic states except Latvia¹⁸ can be said to have adopted over-compliant paternity leave standards from 2022 onwards. Specifically, Estonia offers a period of paid maternity leave of twenty weeks compensated at a rate of 100% of previous income and, from 2022 onwards, paid paternity leave of thirty calendar days (*Parental Leave / Sotsiaalministeerium*, 2021). Parents in Estonia are also entitled to a paid parental leave of sixty-two weeks compensated at a rate of 100% of previous income until a child reaches the age of three (*Parental Leave / Sotsiaalministeerium*, 2021). In Latvia, mothers receive sixteen weeks of paid maternity leave compensated at a rate of 80% of previous income, whereas fathers receive ten calendar days of paid leave, also compensated at a rate of 80% of previous income (*Latvian State Portal - Waiting and the Birth of a Child*, 2022).

¹⁸ While Latvia introduced a period of paid paternity leave in 2004, well in advance of EU minimum requirements in the area, subsequent reforms under Directive 2019/1158 have brought the state into mere compliance (Bego, 2015).

Additionally, parents are entitled to seventy-eight weeks of paid parental/home care leave compensated at a rate of 48.5% (*Latvian State Portal - Waiting and the Birth of a Child*, 2022).

Finally, with respect to Lithuania, mothers are eligible for eighteen weeks and fathers for four weeks of paid leave, both compensated at a rate of 77.6%, (*OECD Parental Leave Systems*, 2021).

Parents in Lithuania are also able to take a paid parental leave of forty-four weeks compensated at a rate of 77.6% of previous income (Braziene, 2020).

In the following sections, this chapter will first consider what insights may be gained from applying the previously discussed framework to the cases of Estonia, Latvia, and Lithuania. Specifically, this chapter will consider how issue area specific considerations, such as a post-communist legacy in CEE states, may explain the adoption and extent of over-compliant parental leave legislation in the Baltic states. This framework is then examined through a small-N study of over-compliance in the EU utilizing interviews and secondary document analysis. This analysis results in three key findings.

First, the introduction of most over-compliant parental leave legislation in Estonia, Latvia, and Lithuania coincided with EU accession processes and/or criticism(s) of national parental leave policies, providing preliminary support for *Conjecture #4* (Signaling). However, while the adoption of most over-compliant measures in the Baltic states coincided with the association/accession period (1995 to 2004), country experts and national bureaucrats in Estonia and Latvia largely attribute this over-compliance to the domestic context (Interviews 1, 4, 5, 7), wherein a declining population motivated the reform of national parental leave policies. These findings provide strong support for *Conjecture #1* (Domestic Political Preferences) and highlight the important role of the national context in accounting for over-compliant behavior.

Second, in the case of Lithuania, the adoption of over-compliant parental leave measures was argued to have been driven not only by the domestic context, but also by the desire to adopt both EU norms and the Nordic model for social policy at the national level (Interviews 6, 8). As a result, both signaling (Conjecture #4) and domestic political preferences (Conjecture #1) are argued to provide the best account for the adoption of over-compliant parental leave standards in the Baltic states, while diffusion-based explanations (Conjecture #2) receive some support. Finally, the costs, capacity, and degree of normative fit associated with the adoption of over-compliant legislation (Mediating Factors #1, #2, #3) are argued to be key indicators in explaining when and under what circumstances over-compliance with EU parental leave standards will occur.

These findings point to an important role of EU accession in potentially shaping the cost/benefit calculations associated with the adoption of over-compliant measures. The chapter will conclude by considering some of the conceptual and methodological issues facing those who might elect to study over-compliance within and outside of the European Union in the future.

4.2 Explanatory Framework

This section will consider the applicability of the previously presented framework (see Chapter 3) to the case of the Baltic states' over-compliant parental leave standards.

4.2.1 Domestic Political Preferences (Conjecture #1)

Concerned with the provision of goods and services to achieve welfare maximization in a given society, social policy has historically been within the purview of nation-states (Baldock et al., 2011). Specifically, states have sought to maximize the welfare of their citizens through the adoption of measures aimed at protecting individuals from the negative externalities of globalization and periods of economic downturn (LSE - What is Social Policy, 2021). It is this redistribution of resources by the state on behalf of groups of individuals that has long governed

debates concerning the role or authority of the state to intervene to offset potential risks to their populations (Baldock et al., 2011). Central to this discussion are the attitudes, preferences, and politics of the state itself, and the individuals who take decisions on how resources should be allocated and distributed (Obinger et al., 2013). Given the inherently domestic nature of social policies and their high salience amongst domestic publics, *Conjecture #1* argues that it is the specific national context in which parental leave policies emerge that best explains over-compliant behavior. For example, if a state possesses a relatively paternalistic view of child rearing predicated on a women's place in the home and a lack of mobilized civil society, then the decision to take on the potential higher costs of introducing a paid period of paternity leave may be unlikely. However, if a state has strong domestic support for a more gender equal distribution of care responsibilities and the political/economic wherewithal to adopt these measures, then over-compliance can be argued to be the direct result of these preferences.

To capture the effect of *Domestic Political Preferences (Conjecture #1)*, this chapter examines the extent of national parental leave legislation prior to EU accession. If parental leave standards in the Baltic states exceeded EU requirements prior to the start of accession negotiations, then these standards are likely to be the result of domestic political preferences. Moreover, further evidence in support of this conjecture would include references by interviewees to domestic political factors, such as national elections, mobilized civil society groups, and demographic issues as the primary motivating force behind the adoption of over-compliant standards within the Baltic states.

4.2.2 Policy Diffusion (Conjecture #2)

As argued by Obinger et al. (2013), modern understandings of the welfare state cannot be solely predicated on the internal economic and political conditions found within states. The authors

argue that interactions among and between states have a direct bearing on the shape and extent of social protections seen within states (*ibid*). Similar to the arguments put forward in the IPE literature on the diffusion of financial and monetary policies across states (see Meseguer & Gilardi, 2009 for an overview of this literature), states can learn from and adopt the social policies found in other states.

As such, *Conjecture #2* argues that over-compliance with EU parental leave standards can be the result of the diffusion of policies across states. In the case of the EU, where freedom of movement exists, states may face greater incentives to adopt congruent or more generous parental leave measures. This is because social policy provision in one state may have externalities in other member states. For example, more generous leave policies in one state may cause increased labor migration to that country, in turn resulting in a ‘brain drain’ in countries with less competitive social policies (see Mayr & Peri, 2009 for a more thorough discussion of the concept and its applicability to migration in Europe).

Conversely, more generous social policies that result in higher costs of labor may also decrease the general level of investment in a country if private sector companies choose to operate in countries with lower labor costs (see Cook, 2010 for a discussion of labor competition and labor policies in Central and Eastern European states). To capture this effect, this chapter looks for evidence of emulation by the Baltic states of parental leave models found in high prestige reference groups (i.e., the Nordic states). If relevant policy texts and national experts point to a desire to learn from and copy parental leave systems found within the region, then this would provide support for *Conjecture #2*.

4.2.3 Two-Level Games (Conjecture #3)

Conjecture #3 argues that in states where politicians possess a private preference for more extensive parental leave policies than is possible to achieve at the domestic level, the EU itself may provide the cover necessary for them to undertake these reforms domestically. Similar to sequential approaches (i.e., linking interactions between domestic political actors with the international level consecutively), the use of a ‘scapegoat’ such as the EU to deflect blame for unpopular national reforms may provide domestic policymakers with the ability to adopt over-compliant parental leave measures even in the absence of domestic support (Vreeland, 1999). As a result, the existence of EU rules governing parental leave may provide an environment in which over-compliance would not have occurred in the absence of the institution itself (Putnam, 1988). While at face value there may be little contestation at the domestic level over the introduction of more generous measures of parental leave, the potential impact of over-compliant parental leave legislation on employers and their respective labor costs should not be underestimated. Consequently, two-level game dynamics may provide cover for national governments wishing to go beyond minimum standards in the face of potentially strong non-governmental organizations (NGO) or civil society opposition.

To capture the potential effect of *Two-Level Games (Conjecture #3)*, this chapter utilizes interviews and document analysis to determine if a disjuncture existed between the preference of the ruling government at the time of adoption of over-compliant standards and domestic political preferences. Evidence in support of this conjecture would focus on how international negotiations, such as the EU accession process, may have created the opportunity to embrace over-compliant standards that would not necessarily have been adopted in the absence of international cooperation. Given that this conjecture is largely based on a counterfactual (i.e., what would have happened in

the absence of the negotiation), in the absence of a natural experiment, evidence in support of *Conjecture #3* in the case of the Baltic states' parental leave regime is derived exclusively from interviews and must be taken in the first instance as anecdotal.

4.2.4 Signaling (Conjecture #4)

Conjecture #4 focuses on how incentive structures during accession processes to an IO may allow states to derive overall utility from over-complying with international law. Prospective members stand to gain greatly from accession to international organizations, both in terms of material access to larger markets (the Single Market in the case of the EU or preferential trade rules in the case of the WTO) and intangible benefits, such as the ability to profit from 'politics of scale'¹⁹ at the IO level (Ginsberg, 1999, p.438; Moravcsik & Vachudova, 2003, p.43). As a result, accession to and/or association with the EU may have shifted incentive structures to such a degree that the benefits from over-compliance (i.e., the increased likelihood of accession) outweighed its immediate costs.

Evidence for *Signaling (Conjecture #4)* focuses on the timing of the adoption of over-compliant standards and on previous criticism in the area of parental leave by the EU. Specifically, if states adopted over-compliant legislation during the EU accession process or following criticism from the IO, then this over-compliance may not be entirely attributable to domestic political preferences (Conjecture #1). Instead, over-compliance may be seen as a rationally motivated response to IO minimum standards. Additionally, interviews with national experts and bureaucrats are used to establish causality, linking the timing of the adoption of over-compliant measures with institutional influence.

¹⁹ Ginsberg (1989) defines the 'politics of scale' as the benefits stemming from joint rather than unilateral action with respect to foreign policy decisions.

4.2.5 Uncertainty/Sanctions (Conjecture #5)

Conjecture #5 focuses on the probability of sanctions and the role of uncertainty in motivating over-compliant behavior. As an institution capable of imposing significant fines in the absence of compliance (Hartlapp, 2007), the EU's ability to enforce compliance may serve to motivate states to go beyond the institution's minimum standards. Specifically, states wishing to offset the potential risk of being found in non-compliance may elect to adopt more extensive measures than necessary.

As noted by the management literature on compliance, the role of uncertainty/risk is particularly relevant in policy areas in which requirements are opaque and/or possess a high degree of variability (Zürn & Joerges, 2005; Chayes & Chayes, 1993). In the case of the EU, Blauberger and Schmidt (2017) argue that the supremacy of EU law and the role of the ECJ in adjudicating disputes results in firms taking preventive steps to avoid disputes in the first instance. As a result, *Conjecture #5* argues that over-compliance may be the by-product of proactive efforts on behalf of states seeking to avoid the potential costs of being found in non-compliance with EU rules. In the case of the Baltic states, uncertainty regarding compliance with EU standards may be particularly salient during the states' accession process to the EU. This is because the perceived costs of non-compliance are assumed to be higher owing to the potential negative impact on the likelihood of accession.

Uncertainty/Risk (Conjecture #5) focuses on the probability of sanctions. Specifically, it examines, through discussion with national experts, whether the Baltic states feared non-compliance with EU parental leave standards at the time of the adoption of over-compliant measures. If over-compliant behavior is attributed to a desire to avoid the potential sanctions

associated with non-compliance on behalf of the Baltic states, then the prospect of sanctions may shift incentives structures to such a degree that over-compliance is the rational outcome.

4.2.6 Policy Leadership (Conjecture #6)

Conjecture #6 focuses on the role of policy leadership in explaining over-compliant behavior. States wishing to project an image as a leader in the area of social policy may be incentivized to adopt over-compliant parental leave standards as a means through which to solidify this image at the international level. As countries emerged from a post-Soviet context, the Baltic states faced strong pressures to conform with international norms and rules in the early 1990s and 2000s (Aidukaite, 2003). Scholars have argued that the desire to appear as a credible partner at the international level has had an important impact on domestic policies and politics within the Baltic states (see Kelley, 2004 for a more detailed discussion of the influence of European institutions on ethnic politics in the Baltic states). One avenue through which the Baltic states may have sought to reintegrate into liberal Western society may have been through the adoption of over-compliant parental leave measures, thereby solidifying their country's commitment to Western norms. Therefore, over-compliance may be viewed as a rational response in light of a state's desire to take on a leading role within the international community with respect to parental leave. To capture the effect of *Policy Leadership (Conjecture #6)*, structured and semi-structured interviews were utilized to examine whether relevant national experts viewed their respective countries as policy leaders in the area of parental leave at the time of the adoption of over-compliant measures.

4.2.7 Over-Commitment (Conjecture #7)

Given the lack of discretion granted to EU member states to make their own commitments with regards to EU directives, this chapter will not consider a potential link between over-commitment and over-compliance.

4.2.8 Costs (Mediating Factor #1)

As referenced in Chapter 3, mediating factors build on the compliance literature to derive insights into potentially relevant factors affecting both the likelihood and extent of over-compliance. The first mediating factor considered in this chapter is that of costs. The probability of adopting over-compliant legislation is argued to be the direct product of both the tangible and intangible costs associated with its adoption. In the case of parental leave, these costs can be understood to stem from both the financial resources needed to provide extensive parental leave benefits and the subsequent adjustment costs associated with changing national legislation (Tallberg, 2002; Börzel & Sedelmeier, 2017). For the Baltic states, a historical legacy of generous parental leave provision may have served to reduce the overall costs of adopting new measures. However, economic circumstances, changing demographic factors, as well as attitudes towards shared parental responsibilities may have a direct bearing on the costs of over-compliance over time. To assess costs in the case of the Baltic states, this chapter will examine existing birth rates and the relative economic strength of countries in conjunction with references by interviewees to the material costs associated with the adoption of over-compliant measures.

4.2.9 Capacity (Mediating Factor #2)

The second mediating factor considered in this chapter concerns the capacity of states to adopt and implement over-compliant parental leave legislation. In states where there is a high

number of veto players (Falkner et al., 2007), this chapter assumes that the expected costs of adopting over-compliant legislation may be higher. For example, if a state requires approval of a national legislature to adopt and implement EU regulations, then the likelihood of adopting over-compliant measures may be adversely affected owing to the need to justify to additional actors the potentially higher costs. Additionally, the capacity of states to undertake national reforms is argued to be the direct result of the strength and expertise of national bureaucracies (Chayes & Chayes, 1993). In states in which national bureaucracies are relatively weak, this chapter expects capacity problems to adversely affect states' likelihood of over-complying and its extent. Evidence in support of this mediating factor would be references in interviews to the difficulties (i.e., technical or capacity related) associated with the adoption and implementation of over-compliant measures at the national level.

4.2.10 Normative Fit (Mediating Factor #3)

The final mediating factor considered in this chapter is that of normative fit. According to the IR literature on compliance, the degree to which EU rules and regulations are congruent with domestic norms and practices has a direct impact on the probability of compliance (Duina & Blithe, 1999; Mastenbroek, 2005). For example, if a country does not subscribe to gender equality notions governing the sharing of parental leave responsibilities, the costs associated with adopting over-compliant legislation is perceived to be higher. In the case of the EU, the degree to which member states subscribe to gender equality norms may provide insights into the extent, as well as likelihood, of adopting over-compliant legislation. As such, *Mediating Factor #3* states that countries that have lower levels of norm congruence with EU parental leave legislation are less likely to over-comply and to a lesser extent. Interviews will be used to establish the degree to

which experts and national officials viewed gender equality norms within their state to be congruent with EU norms and aims.

4.3 Analysis and Findings

4.3.1 Secondary Document Analysis

This section will first consider evidence in support of the previously presented conjectures derived from the secondary document analysis. The discussion of findings will then be considered in light of evidence from a series of structured and semi-structured interviews conducted with experts and national officials from Estonia, Latvia, and Lithuania from December 2021 to March 2022. To do this, this chapter will first consider the timing of the adoption of over-compliant legislation owing to its relevance to both *Conjecture #1* (Domestic Political Preferences) and *Conjecture #4* (Signaling) as the primary mechanisms underpinning over-compliant behavior in the EU. Interviews will then be employed to establish causality – seeking to understand whether the timing of the adoption of over-compliant standards can be linked to a desire on behalf of states to signal to the EU. Following this discussion, alternative explanations for over-compliance will be considered.

In Estonia, the introduction of over-compliant maternity leave standards took place during the accession process. In 2002, following earlier initiatives in the late 1990s, Estonia sought to reform its parental leave regime to offer a paid paternity leave and a paid maternity leave of 10 weeks (Karu & Pall, 2011). However, it was not until further reforms were taken during the accession process that maternity leave was extended to 20 weeks at 100 percent of previous income to achieve alignment with the EU *acquis*. This resulted in more extensive leave guarantees than required by the EU, providing evidence for Conjecture #4 (Signaling) (Karu & Pall, 2011). In the case of Lithuania, we see the existence of 18 weeks of fully compensated maternity leave in the

state as early as the 1980s, that would be further codified under the laws on Sickness and Maternity, and on Holidays in 2000 (Voormann & Helemae, 2017). Therefore, despite evidence of reform during the accession process aimed at increasing equal access for both men and women, pre-existing maternity leave standards in Lithuania were above EU requirements prior to the beginning of formal association with the EU in 1995, indicating support for Conjecture #1 (Domestic Political Preferences). Similarly, in Latvia, as early as in the 1980s, the state offered a fully compensated maternity leave of 16 weeks that would not be reformed again until 2004 as part of the EU accession process (Eurofund, 2019). As a result, the cases of both Lithuania's and Latvia's over-compliant maternity leave legislation can be preliminarily attributed to Conjecture #1 (Domestic Political Preferences).

With respect to paternity leave, all three states introduced measures that exceeded EU minimum standards during or after the EU accession process, providing evidence for Conjecture #4 (Signaling). Estonia introduced a paid paternity leave of 10 days in 2002 (Karu & Pall, 2011), with Latvia and Lithuania quickly following suit, introducing a paid period of paternity leave in 2004 and in 2006, respectively (Bego, 2015; Karu & Pall, 2011; Voormann & Helemae, 2017). As a result, the introduction of paid periods of paternity leave appears to be closely linked to accession negotiations, which supports Conjecture #4 (Signaling), as well as the rational cost/benefit calculations undertaken by states regarding the expected payoffs of over-compliance.

However, it is interesting to note that all three countries temporarily lowered or suspended paternity leave benefits during the financial crisis, pointing to the potential important role of Mediating Factor #1 (Costs) on the extent and likelihood of over-compliance (Karu & Braziene, 2017). Estonia suspended paternity leave from 2009 to 2011, while Latvia reduced the compensation rate paid to fathers from 100% to 80% in 2011, and Lithuania introduced a ceiling

for paternity leave in 2010, stipulating that the maximum remuneration awarded to fathers cannot exceed “3.2 times the average insured monthly income” approved by the government for the current year (Karu & Braziene, 2017). Hence, the suspension or reduction of over-compliant paternity leave benefits in the Baltic states during the 2008 financial crisis indicates the importance of cost-benefit calculations, supporting the role of Mediating Factor #1 (Costs), in affecting the likelihood and extent of over-compliant behavior. As soon as the immediate costs of over-compliance increased due to an external financial shock, making the maintenance of relative economic competitiveness through lower labor costs and fiscal discipline in light of a global financial crisis more important, the three countries reduced the extent of over-compliance due to its discounted future value. While this observation must be qualified by the fact that this occurred post-accession, it still provides some evidence for the notion that states discount the value of over-compliant behavior due to the payoffs lying in the future, such as being recognized as a policy leader by the EU (Conjecture #6) and having greater influence over intra-EU policymaking processes over time.

Additionally, previous EU feedback or criticism in support of Conjecture #4 (Signaling) also appears to have had an impact on the timing of the adoption of over-compliant legislation for the three countries. All three states reformed national parental leave legislation in the lead up to EU accession. In the case of Estonia, this chapter finds support for a relationship between previous criticism and the adoption of over-compliant legislation. While this chapter found no evidence of significant criticism with respect to parental leave standards between the period of 1999 to 2003, it found numerous reports criticizing the country in the area of gender equality more broadly (*1999/2003 Regular Reports from the Commission on Estonia’s Progress Towards Accession, 1999/2003*). While this is not *prima facie* evidence that the state faced no specific criticism in the

adjustment area of parental leave, it does point to a cost-benefit calculation whereby states are incentivized to signal their credible commitment to EU norms (Conjecture #4), such as gender equality, through over-compliance in related areas – in this case parental leave, and in particular, paternity leave. For Latvia, this chapter also found no outright criticisms of national parental leave standards in EU accession progress reports from 1999 to 2002, but once again found criticism with respect to areas of gender equality more broadly (*1999/2002 Regular Reports from the Commission on Latvia's Progress Towards Accession*, 1999/2002). These findings, coupled with the timing of the introduction of over-compliant standards and pressures from the EU level, indicate that signaling behavior (Conjecture #4) on behalf of these states was likely to have been influential in shaping the adoption of over-compliant measures. They also provide further evidence in support of the relevance of previous criticism in states such as Estonia and Latvia.

In the case of Lithuania, this chapter finds that the alignment of parental leave legislation was a significant area of criticism and praise in national progress reports. The chapter found direct references to parental leave alignment in the 2000, 2001, and 2003 progress reports (*1999/2003 Regular Reports from the Commission on Lithuania's Progress Towards Accession*, 1999/2003). While references were initially positive regarding the adoption of parental leave in the state, as early as 2003, criticism of the state's failure to properly transpose the EU's parental leave directive was apparent (*ibid*). This issue primarily stemmed from the state's failure to provide for the minimum period of parental leave as required by the EU Directive 96/34/EC. This provides support for the notion that the reform of pre-existing extensive maternity leave, and the introduction of a period of paid paternity leave compensated at 100% of previous income post accession, may possibly be linked to the state's desire to offset the negative impact of EU criticisms on the likelihood of accession by signaling (Conjecture #4) and its commitment to the EU and the area

of gender equality more broadly. While it is true that paternity leave was not introduced in the state until 2006, two years after accession to the EU, the timing of the state's introduction of paid paternity leave and the existence of previous criticism with respect to the transferable nature of parental leave in the state provide some evidence in support of Conjecture #4 (Signaling). As such, the timing of national reforms, in addition to the level of pre-existing legislation, provide two fruitful avenues through which to explain over-compliant behavior.

4.3.2 Interviews

While the above discussion points to preliminary evidence in support of a signaling based explanation (Conjecture #4) with respect to the timing of the adoption of over-compliant parental leave standards in Estonia, Latvia, and Lithuania, evidence from interviews with national officials and experts finds strong support for Conjecture #1 (Domestic Political Preferences) in the cases of both Estonia and Latvia. Specifically, national experts in Estonia and Latvia point to the important role of demographic factors, such as low birth rates in the Baltic states, and political contestation among parties as key explanatory factors in shaping their national parental leave systems (Interviews 4, 5, 7). Importantly, experts argue that the adoption of over-compliant parental leave standards in Estonia and Latvia were the direct result of commitments made by politicians to shore up support prior to an electoral campaign (Interviews 4, 5, 7). As such, both the cases of Estonia and Latvia provide further support for Conjecture #1 (Domestic Political Preferences) in explaining over-compliant behavior. This, in combination with the role of various stakeholders, such as labor unions and employment relations groups, are argued to be integral in shaping both the extent and the timing of the adoption of over-compliant measures in all three states (Interviews 2, 4, 5, 9).

In the case of both Estonia and Latvia, national experts and officials point to the salient role of demographic factors as a key motivating factor behind the adoption of over-compliant parental leave measures. As noted by one Estonian expert:

I wouldn't say that in 2004, when the parental leave and benefit system was introduced, that it was... [about] European standards and values. I think the main thing was that we are a country with 1.3 million (people) and we were shrinking... There were families who had loans, young families, and the reason why people didn't want to have a child was that they couldn't afford to take time off from their work. [The reforms came into] force the first of January 2004 and Estonia became [a] member of the EU... first of May 2004. I know that the politicians weren't sure how our referendum [on EU membership] was going to go and if our nation would vote to become a member of the EU... I don't think it was any values coming from [the] EU. It was just a measure of some alarming demographic indicators, which said that if we don't do something now, we will die out (Interview 1).

As acknowledged in this interview, while the adoption of over-compliant standards in Estonia coincided with EU accession processes, concerns regarding a low birth rate due in part to the prohibitive costs of child rearing, resulted in few citizens possessing the financial resources to have multiple children. This point is supported by historical data concerning birth rates in Estonia from 1989 to 1998, which points to a large decline in birth rates from 2.2 births per woman in 1989 to 1.28 in 1998 (*Fertility Rate, Total (Births per Woman) - Estonia / Data*, 2022). These low birth rates would not begin to climb until the early 2000s, coinciding with the adoption of over-compliant parental leave measures (*ibid*).

This data provides further support for the notion that the introduction of over-compliant standards in Estonia was a response to a falling birth rate, requiring a sustained national effort on behalf of all political parties. Interestingly, Estonian experts pointed to the bipartisan nature of the introduction of over-compliant standards in the state:

it was the Conservative Party who initiated... further changes [to national parental leave standards]. But their driving force, was the birth rates... It was the Social Democrats who were able to raise the child benefit and create the benefit for large families... this boosted births a bit (Interview 7).

As noted in Interview 1, while the introduction of over-compliant parental leave measures coincided with EU accession processes, the aim of these reforms differed in purpose from the overall goal of the European Union to promote a more gender equitable distribution of childcare responsibilities among men and women (Interview 1). These statements provide preliminary evidence that a lack of normative fit (Mediating Factor #3) between Estonian goals and EU values resulted in the adoption of over-compliant parental leave standards for primarily instrumental purposes. Specifically, Estonian national politicians and bureaucrats viewed the adoption of EU standards and their subsequent over-compliance with them as a means through which to promote birth rates while at the same time ensuring alignment with EU standards (Interviews 1, 7).

The lack of congruence between EU gender equality norms and practices within the Baltic states (Mediating Factor #3) was noted by several interviewees, who expressed the view that traditional norms governing the role of women in caring for and raising children in post-Soviet states served to create disparities within society regarding take up of leave periods and the focus of national parental leave policies (Interviews 1, 4, 5, 6). One Lithuanian official in the Department of Social Insurance noted:

We are trying to...encourage fathers to think about parental and paternity leave. It's [been] quite hard because of the culture of things... [we have] fathers...saying that...the mother has to take care of the child, and the father has the obligation...to earn money...even the mothers are saying the same [thing]... that's really hard to change (Interview 6).

While experts argue that a lack of normative fit with respect to promoting more gender equitable care responsibilities is a key determinant of take-up rates and the extent of national legislation, national officials in both Estonia and Latvia point to political contestation in support of Conjecture #1 (Domestic Political Preferences) as the primary determinant of the adoption of over-compliant measures. Importantly, national elections are argued to provide a key account for when over-compliant parental leave standards were adopted in Estonia and Latvia.

As noted by one official in the Latvian Permanent Representation to the EU, “these reforms are mostly initiated before... [national] elections” (Interview 3). In the case of both Estonia and Latvia, national parliamentary elections in 2003 and 2002 respectively, indicate that the timing of the adoption of over-compliant measures coincided with domestic political contestation (Conjecture #1) (*European Election Database - Parliamentary Elections*, 2022). Additionally, as mentioned by one Estonian expert, given the relatively shallow nature of EU standards in the area of parental leave, the adoption of over-compliant measures within the state was largely the by-product of domestic preferences rather than institutional influence (Interview 7). These factors combined with the role of trade unions and women’s NGOs, all served to facilitate an environment in which the adoption of over-compliant standards in Estonia and Latvia was largely the result of domestic political preferences (Conjecture #1).

The case of Lithuania’s over-compliance with EU parental leave standards, however, requires further consideration. Despite strong evidence from national experts and officials in support of Conjecture #1 (Domestic Political Preferences) in the cases of Estonia and Latvia, signaling based explanations (Conjecture #4) find support in the case of Lithuania. Both academics and national officials in Lithuania point to a strong role of the EU in shaping the introduction of over-compliant paternity leave measures in the state (Interview 6, 8). Additionally, the introduction of greater flexibility with respect to the provision of parental leave, enabling both parents’ greater discretion to determine the timing and distribution of said benefit, is argued to stem directly from EU influence (Interviews 6, 8). One Lithuanian official noted:

the European Union has [a] really strong influence [on our system]. For example, we became a part of [the] European Union in 2004, and in 2007 we introduced (a paid) paternity leave for thirty calendar days. I think that because of [the] European Union our system is changing and it's becoming more gender friendly...in general, the system is changing because of all [of the international] organizations that we are in (Interview 6).

These statements are further supported by another expert who was involved in the drafting and consultation process associated with the introduction of over-compliant paternity leave standards in 2006 (Interview 8). Interviewee 8 stated that Lithuanian officials consistently pointed to and/or referenced standards in other EU member states while amending national parental leave measures (*ibid*). As such, in the case of Lithuania, over-compliance can be viewed as the result of institutional influence. This evidence, combined with the timing of the introduction of over-compliant standards in Lithuania, points to the powerful role of the EU in bringing about over-compliance among member states.

In light of these findings, both the role of domestic political preferences and signaling in bringing about the adoption of over-compliant behavior is apparent. These findings combined with the observation of one Legal Officer in the Directorate General for Justice and Consumer Affairs (DG JUST) that:

My impression [is] and I cannot prove it scientifically... is that it's kind of a vicious cycle. When there is a national policy [in relation to an] election [in a member state], then the Commission feels more inclined to also have EU legislation. This also triggers national policies in this direction, using EU legislation as a trigger (Interview 9).

point to the positive feedback loop between IO and non-IO centric mechanisms mutually reinforcing each other in explaining over-compliant behavior and indicate the difficulties stemming from the identification of causality in an increasingly interconnected and integrated EU.

Having considered the role of signaling (Conjecture #4) and domestic political preferences (Conjecture #1), this thesis will now consider alternative causal mechanisms potentially underpinning over-compliant behavior in the Baltic states. This chapter finds limited support for a diffusion-based explanation (Conjecture #2) for the adoption of over-compliant parental leave standards in all three cases. While experts in both Estonia and Lithuania note the predominance of a Nordic model for parental leave in the EU at the time of the adoption of over-compliant standards

(Interviews 6, 7, 8), multiple individuals pointed to the difficulties associated with transcribing foreign models into national law and the greater importance of domestic political preferences (Conjecture #1) in shaping the nature of leave policies (Interview 4, 7). As a result, rational learning and mimicry is argued to have taken on a secondary role to domestic political/economic conditions. Additionally, examination of national accession progress reports for all three states provides little indication that a divide between domestic publics and national elites resulted in the adoption of over-compliant measures that would not have occurred in the absence of international negotiations (Conjecture #3). This is illustrated by the fact that numerous experts pointed to the politically sensitive nature of parental leave within the Baltic states:

politically it has been a sensitive issue and somehow [you cannot criticize] when the periods [of parental leave] were prolonged and it became very, very costly. Somehow its sacred because it's for...the birth of a child. This attitude that children are the most important thing in social protection and family policy remains. And if we actually look over time, Estonia has...really the most generous parental benefits system as a result (Interview 7).

This link between the politically sensitive nature of parental leave provision, in combination with the desire on behalf of politicians to capitalize on the electoral benefits of more extensive leave provision, provides preliminary evidence against a two-level game-based explanation (Conjecture #3) for the adoption of over-compliant parental leave standards.

Conjecture #5 (Uncertainty/Sanctions) finds minimal support in both interviews and document analysis for the case of parental leave in the Baltic states. There was little if any ambiguity with regards to EU standards, and the states possessed sufficient national capabilities to implement and reform policies, providing a high degree of certainty regarding compliance with EU regulations (Interview 2, 9). In particular, given that EU member states had already transposed and implemented parental leave requirements prior to the accession of the Baltic states, numerous examples of what had been considered to be compliant or non-compliant by the EU gave the Baltic

states a higher degree of certainty regarding their own national reforms. Nevertheless, given the criticism found in accession progress reports of national parental leave standards and gender equality more generally, it would be a mistake to assume transposition and implementation was not without difficulties. However, as stated by one Latvian official regarding compliance with EU requirements, standards were not a matter of speculation, ensuring compliance in a practical sense was “not problematic” (Interview 3). Moreover, while in the case of Estonia there was some indication of a desire to appear as a leader (Conjecture #6) based on the extent of the provision of parental leave benefits in comparison to others, this is limited by the continual acknowledgement by officials and experts that other countries, such as Sweden, played a more prominent role in shaping EU standards (Interviews 6, 7).

As alluded to in the previous sections, costs (Mediating Factor #1), capacity (Mediating Factor #2), and normative fit (Mediating Factor #3) are all found to be strong factors in determining the extent and likelihood of over-compliant behavior. Specifically, numerous officials and experts pointed to the importance of financial constraints on the generosity of leave offerings, as well as the ability to transpose and implement over-compliant standards. One Latvian official stated:

We are not the richest country in the EU.... if we are increasing any financial support, it impacts...our national budgets. [We have to ask] what...will be the [financial] situation with aging and who are... [the] economically active people [who can support] the system so that we can be so generous (Interview 5).

The adoption of over-compliant parental leave standards in the Baltic states implied high costs. As a result, the ability to sustain these costs through more generous leave provisions was largely related to the social, economic, and demographic factors within these countries. Moreover, in addition to the costs of providing said measures, the degree to which a state had the capacity to adopt and subsequently integrate over-compliant standards into domestic law was also argued to be particularly pertinent:

We are always trying to be the best and to take the best practice[s] from other countries. It's always [a] question of how our neighbor countries...deal with these issues. We always try to...make this provision better for our citizens. [However], the system is very complicated [and it's] not always [that] we can take something from other countries and put [it] in our system. It's very hard sometimes to explain [this to] politicians - that we cannot just [because we] think something [is] very good from Estonia...put [it] in our social insurance system. It might not work in our system. But we always try to be the best in these issues (Interview 4).

Thus, the economic costs, the degree to which EU standards are congruent with norms at the domestic level, and the capacity to adopt and implement such measures all have a direct bearing on the extent of over-compliance seen. While states may be motivated to adopt over-compliant standards owing to domestic political preferences (Conjecture #1) or the desire to signal a credible commitment to the EU (Conjecture #4), the extent of these measures is largely contingent on the costs, capacity, and degree of normative fit found at the domestic level.

4.4 Conclusion

This chapter aimed to apply the previously presented theoretical framework to the case of the Baltic states over-compliance with EU parental leave standards. In so doing, it sought to examine the relative validity of competing explanations in accounting for the adoption of over-compliant standards. Therefore, this chapter aims to fill a gap in the current IR literature and to move discussions of conditionality and compliance beyond a binary understanding of compliance, while simultaneously endeavoring to get to the bottom of a seemingly paradoxical behavior.

The findings of this chapter are two-fold. First, over-compliance in the Baltic states with respect to parental leave standards can largely be attributed to domestic political preferences (Conjecture #1) and EU accession pressures, whereby states sought to signal their credible commitment to the EU (Conjecture #4). In the cases of Estonia and Latvia, reform of national parental leave standards largely coincided with demographic and electoral pressures within these states. In the case of Lithuania, both domestic political preferences (Conjecture #1) and signaling

(Conjecture #4) can be argued to have worked in conjunction to bring about the adoption of over-compliant standards. Thus, while the EU cannot be argued to have played the primary role in shaping state behavior with respect to the adoption of over-compliant parental leave measures in two of three cases, the timing of the introduction of said measures in all three states points away from a purely domestically driven account of over-compliance in the Baltic states.

Second, costs (Mediating Factor #1), capacity (Mediating Factor #2), and normative fit (Mediating Factor #3) were all found to have had a direct impact on the extent of over-compliance in the Baltic states. In those countries in which the costs of maintaining and supporting over-compliant legislation were unsustainable, over-compliant measures were subsequently suspended in times of economic downturn. This is evidenced by the decision on behalf of all three states to suspend over-compliant benefits during the 2008 financial crisis (Karu & Braziene, 2017). These findings point to the important role of both domestic political/economic contexts shaping states' over-compliant parental leave regimes.

Finally, while this chapter examined seven potential conjectures regarding the causes of over-compliant behavior in the Baltic states, it is far from comprehensive. Future work might seek to build on this framework by investigating other factors, such as the impact of levels of female representation in government and the ideology of governing parties, which might shape the degree to which states over-comply, particularly in the area of parental leave. Furthermore, a large-N study of over-compliance would provide greater external validity to the conjectures proposed in this chapter and increase the depth of our understanding of this phenomenon. As such, in subsequent chapters, this thesis will explore over-compliance through two large-N studies of the Kyoto Protocol's 1st Commitment Period and the ILO's Minimum Age Convention (No. 138).

Chapter 5: Over-Compliance and Multilateral Environmental Agreements: A Case Study of the Kyoto Protocol's First Commitment Period from 2008 to 2012

5.1 Introduction

The ability of multilateral environmental agreements (MEAs) to bring about substantive changes in state behavior with respect to environmental protection has been the subject of contentious debate (Crossen, 2003; Victor, 1999). While compliance with MEAs has been argued to be particularly good (Crossen, 2003), many scholars have questioned the efficacy of these agreements in bringing about substantive change. In particular, academics and practitioners have attributed the high levels of observed compliance not to the willingness of states to take on substantive efforts to reform national practices, but instead to the ‘shallowness’ of MEAs and their general lack of clear, binding, and enforceable targets (Palmer, 1992; Victor, 2003). Because of this view, MEAs have been generally perceived to have little substantive impact both in terms of their effects on state behavior and in addressing their espoused goal of preventing environmental degradation.

Signed in 1997 and coming into force in 2005, the Kyoto Protocol represented a significant departure from the conventional view of MEAs as toothless institutions (*What Is the Kyoto Protocol? / UNFCCC, 2021*). As the first agreement of its type to introduce clearly quantifiable and legally binding emissions reduction targets to address the issue of global climate change, the Kyoto Protocol defies traditional conceptions of MEAs as lacking clear, binding, and enforceable standards (Grubb, 2016). The Kyoto Protocol possesses features of a ‘highly legalized institution’ (Abbott & Snidal, 2000), complete with a Compliance Committee capable of imposing ‘hard penalties’ in cases of non-compliance, such as suspension from the use of flexibility mechanisms (Boyd & Schipper, 2002; Stokke et al., 2005). Nevertheless, despite optimistic assessments of the Protocol at the outset, shortcomings stemming from the institution’s inability to independently

measure and assess national emissions records (*ibid*) has resulted in a general view by scholars and practitioners alike that, despite being seen as an unprecedented effort to address climate change on a global scale, the Kyoto Protocol has largely come up short of its ultimate goal of bringing about substantive and meaningful reductions in greenhouse gas emissions (GHGs) (Krug, 2018; Kuriyama & Abe, 2018).

Criticisms of the Kyoto Protocol have typically been aimed at one of two factors: first, the design and use of the Protocol's flexibility mechanisms, such as the emissions trading scheme, constructed to encourage investment in green technology and development while reducing the costs of compliance for Annex I parties (i.e., parties subject to binding emissions reduction targets), has been argued to allow signatory countries to meet compliance targets without undertaking substantive emissions reduction efforts at home (e.g., see Bollen et al., 1999; Michaelowa et al., 2003; Stein, 2008). Second, the surplus emissions credits stemming from a collapse in heavy industry among Central and Eastern European states in the early 1990s, hereafter referred to as the 'hot air surplus', lowered emissions certificate prices and offered participating states an alternative, less costly means of meeting binding targets without incurring the costs of undertaking intentional emissions reduction efforts (Woerdman, 2005).

While both of these factors have been argued to be major impediments to the Protocol's ability to achieve its stated aim to "prevent dangerous anthropogenic (human induced) interference with the climate system," legal compliance with the Protocol's binding commitments has been high (Shishlov et al., 2016; *What Is the Kyoto Protocol? / UNFCCC*, 2021). Of the thirty-six countries that participated fully in the first commitment period, twenty-eight states not only met their binding targets but exceeded them. Moreover, of these thirty-six states, twenty-two elected to take on binding emissions reduction targets that exceeded a greater than 5% reduction in national

emissions. As a result, these countries can be said to have over-committed with respect to the Kyoto Protocol by taking on emissions reduction targets above and beyond the Protocol's stated aim of reducing emissions by a 5% average from 2008 to 2012 relative to a country's base year²⁰ (*UNFCCC Fact Sheet the Kyoto Protocol*, 2011). While the aforementioned factors substantially lowered the costs of compliance, the question remains why countries might elect to incur the costs of exceeding their targets, if mere compliance would have been sufficient to reap the benefits of cooperation. In light of this observation, an important question emerges with respect to the Kyoto Protocol - to what degree has the institution led states to over-comply?

This chapter aims to address this question through an in-depth study of the Protocol's first commitment period from 2008 to 2012. To do this, this chapter examines whether conventional assessments of the Protocol's effectiveness have discounted the institution's capacity to bring about substantive changes in state behavior above and beyond mere compliance. It is the seemingly paradoxical nature of this behavior that raises important questions with respect to the nature of MEAs and rationalist conceptions of state compliance centered on utility maximization (Tallberg, 2002; Zürn & Joerges, 2011). As such, this chapter addresses two primary research questions: i) why, and under what circumstances did Annex 1 parties to the Kyoto Protocol over-comply, and ii) what, if any, relationship exists between a state's initial decision to over-commit and the outcome of over-compliance.

To answer these questions, this chapter utilizes a quantitative research design aimed at identifying those factors driving states' over-compliant behavior. Utilizing logit models and relevant descriptive statistics, this chapter finds that non-IO centric factors can largely account for

²⁰ For all Annex I parties, compliance with binding targets during the 1st Commitment Periods was measured against a historical base year (e.g., in most cases 1990). However, a number of EITs including Bulgaria, Hungary, Poland, Romania, and Slovenia have alternative historical base years (*Kyoto Protocol Base Year Data (for the First Commitment Period of the Kyoto Protocol)* / UNFCCC, 2019).

state's over-compliance with respect to the Kyoto Protocol. In particular, a state's downward emissions trajectory prior to Kyoto's entry into force (Conjecture #1) is found to be the single most important determinant of whether a state will exceed their binding emissions target during the first commitment period. This effect holds even when accounting for the degree to which stochastic emissions (Conjecture #5) and the saliency of environmental policy among governing elites affect state behavior (Conjecture #6).

However, anecdotal evidence points to a relationship between over-commitment and over-compliance among Annex 1 parties to the Kyoto Protocol, indicating that an over-commitment (Conjecture #7) by states may shape their subsequent decision to over-comply in an effort to avoid being found in non-compliance with voluntarily chosen higher targets. These findings have direct implications not only for how we understand compliance and commitment within the context of the Kyoto Protocol, but also in multilateral agreements and institutions more generally. If over-compliance is in fact a byproduct of over-commitments on behalf of states, then flexible agreements in which states exercise some measure of discretion over target setting may incentivize states with a preference for more extensive standards to go above and beyond self-imposed higher requirements. This finding points to the potential secondary role of institutional design in determining the degree of institutional impact.

This chapter will begin with a brief review of the literature and data concerning over-compliance and over-commitment (i.e., taking on a more ambitious target than the minimum requirement) during the Kyoto Protocol's first commitment period. Importantly, this discussion will focus on the relative occurrence of over-commitment and over-compliance and will address several conceptual/definitional issues stemming from the IR and environmental economics literature. Second, this chapter will apply the previously presented theoretical framework (Chapter

3) to the case of the Kyoto Protocol, focusing on the role of both the institution and exogenous factors in shaping states' compliance. In particular, this chapter will examine the impact of the saliency of environmental protection to governing elites (Conjecture #6) on the outcome of over-compliance, as well as the role of states' prior emissions trajectories (Conjecture #1), and the degree to which uncertainty regarding the regulatory environment (Conjecture #5) may influence a state's decision to over-comply. Third, through the use of a quantitative research design, this chapter will outline the key mechanisms underpinning over-compliant behavior during the Kyoto Protocol's first commitment period. Finally, the chapter will conclude by discussing the implications of these results and avenues for future studies of over-compliance with respect to MEAs.

5.2 Compliance, Commitment & the Kyoto Protocol

Despite the high costs and cooperation problems oftentimes associated with reducing emissions and participating in international climate regimes, international cooperation in the area of the environment has gone further than many have expected. Scholars argue that states' considerations regarding their reputation in the international system, domestic political pressures, and the development of new clean technologies have incentivized and enabled states to cooperate with international environmental regimes to an extent that might not have been previously possible (see Downs & Jones, 2002; Raustiala, 1997; Young, 1989). Yet, the magnitude of the political and economic costs associated with cooperation in the area of the environment, in addition to the free-riding problem, frequently remain prohibitive to achieving international standards beyond the lowest common denominator (Falkner et al., 2010).

As such, the development and drafting of the United Nations Framework Convention on Climate Change (UNFCCC) in May of 1992 provided a direct challenge to conventional views of

the role of MEAs in combating the progression of anthropogenic climate change (*What Is the Kyoto Protocol? / UNFCCC*, 2021). The agreement – first proposed in Rio de Janeiro – aimed to reduce emissions of greenhouse gases among signatories, committing states to regular and sustained reporting of emissions, and laid the groundwork for a series of agreements that would follow (ibid). First entering into force in 1994, the UNFCCC would serve as the basis for three separate agreements²¹, including the Kyoto Protocol, which aimed to go one step further than what was achieved in 1992 by imposing binding targets on developed states. The aim of the protocol was to reduce overall global emissions while recognizing the “common but differentiated responsibilities” of developed and developing states to contribute to global climate protection (Stone, 2004, p.276). While a recognition of differentiated responsibilities was not without precedent in international law (e.g., the ILO, World Bank, and Montreal Protocol), the Kyoto Protocol has served as a test case of the reliability and effectiveness of differentiated commitments on behalf of states aimed at addressing collective action problems (Stone, 2004).

From the outset of the UNFCCC, opinions regarding the merits of binding targets for reducing the effects of climate change remained contentious. Countries such as the United States argued in favor of non-binding cooperation in the area of climate change, while developed European states led efforts to set binding targets (*Timeline UN Climate Talks*, 2021). The divisions about the means through which to achieve a reduction in global greenhouse gas emissions have had important implications not only for the targets set within the Kyoto Protocol, but also for who elected to participate in the agreement. Notably, the United States, while having signed the treaty, is not party to the Kyoto Protocol after facing significant hurdles to ratification domestically (Hovi et al., 2012).

²¹ These are the United Nations Convention on Climate Change (1992) and two further agreements - the Kyoto Protocol (1997), and the Paris Agreement (2015) (*About the Secretariat / UNFCCC*, 2022).

While the introduction of binding targets remained a highly disputed issue and one dimension along which states' preferences during the negotiations were distributed, various interests, including susceptibility to the negative externalities of climate change, served to foster other country groupings (*ibid*). The Alliance of Small Island States, along with a number of African states subjected to severe droughts, argued in favor of serious efforts to mitigate the effects of climate change while seeking recognition for their limited contributions to historic emission levels (Yamin, 1998). Conversely, the Organization of Petroleum Exporting Countries (OPEC) pushed to limit the effects of emissions reduction targets on the price and consumption of non-renewable energies (*ibid*). These conversations were underpinned by the G77, which pushed for reforms that would not impede their subsequent development, while noting the unique responsibility of developed states to bear the costs of historic emissions (*ibid*). Yet a desire for binding targets took precedent and the outcome that emerged centered on the provision of binding targets for developed states aimed at reducing global greenhouse gas emissions by an average of 5% from 1990 levels until the end of 2012 (*What Is the Kyoto Protocol? / UNFCCC, 2021*). It is against this backdrop that this chapter examines states' commitments and compliance during the first commitment period. Why, in light of a clear and articulated standard, did so many states elect to take on commitments above and beyond the 5% reduction and in many cases even exceed these?

For the purposes of this chapter, the thesis will distinguish between two types of over-compliance. Expansive over-compliance refers to those cases in which states reduced national emissions beyond their specified binding target. Restricted over-compliance refers to only those cases in which states undertook a greater than 5% reduction in national emissions regardless of their specified binding target. This definition serves as a robustness check for the results of the

quantitative analysis in this chapter and places emphasis both on institutional minimum requirements and state's own targeted commitments.

Figure 5.6: Over-Compliance and Over-Commitment During the 1st Commitment Period of the

Kyoto Protocol

Over-Commitment:

Binding emissions target > 5% reduction versus their base year = over-commitment

Expansive Over-Compliance:

Reduction in national emissions > specified Kyoto target = over-compliance

Restricted Over-Compliance:

Reduction in national emissions > 5% reduction versus the designated base year = over-compliance

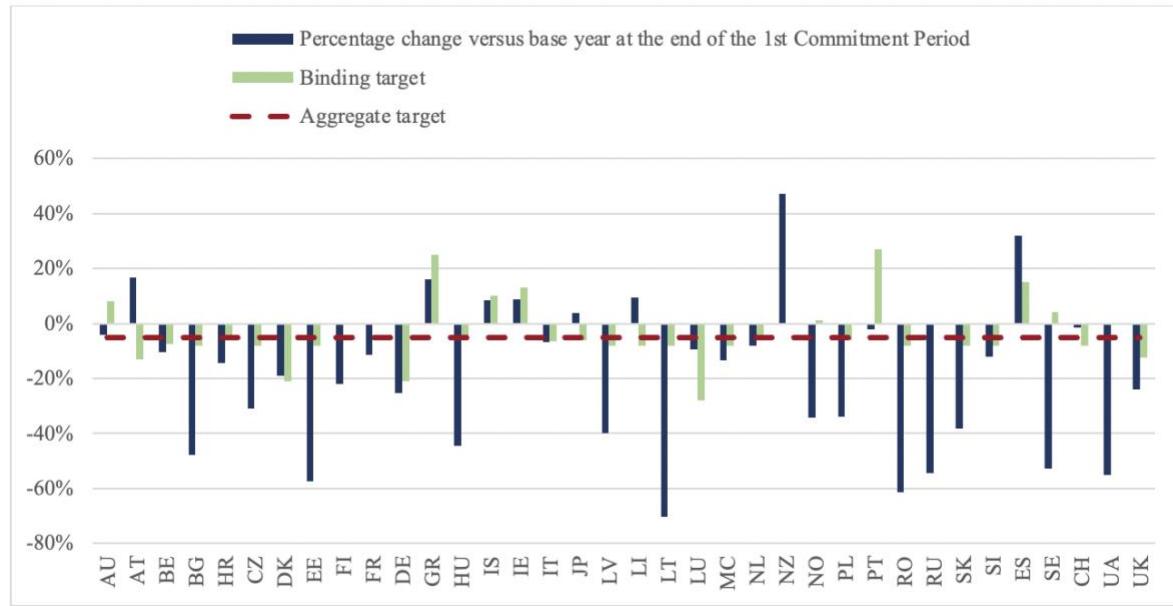
Additionally, this chapter also considers the role of 'over-promising', herein known as over-commitment, and its potential relationship to over-compliance (Kucik & Pelc, 2016). Kucik and Pelc (2016) define over-commitment as the taking on of 'overly ambitious commitments' during international negotiations, oftentimes above and beyond what a state is capable of achieving domestically. For the purposes of this chapter, over-commitment will be defined in a more neutral sense, merely referring to the act of taking on a commitment more ambitious than the minimum standard required of a state. As such, this chapter aims to separate the concept from any judgement about its ability to be met. In the case of the Kyoto Protocol, this would involve a commitment that entails a greater than 5% reduction in national emissions. A preliminary review of the data points to the presence of both over-commitment and over-compliance during the first commitment period of the Kyoto Protocol. **Graph 5.9** depicts the range of commitments taken on by Annex 1 parties during the first commitment period of the Kyoto Protocol and their subsequent average emissions reductions.

Graph 5.9: Kyoto Protocol First Commitment Period Quantified Emissions Targets and Average

Emissions Targets in CP1, 2008-2012

Data: (Greenhouse Gas Inventory Data - Time Series - Annex I, 2019; Kyoto Protocol Base Year

Data (for the First Commitment Period of the Kyoto Protocol) | UNFCCC, 2019)



In the following sections, this chapter will examine the applicability of the previously presented framework (Chapter 3) to the case of Annex 1 parties' over-compliance with the Kyoto Protocol.

5.3 Defining Over-Compliance with Respect to the Kyoto Protocol: From the Marrakesh Accords to the First Commitment Period

This section will provide further justification for the definition of over-compliance employed in this chapter and will consider the relevant debates surrounding emissions accounting with respect to the Kyoto Protocol. As argued by Gupta, Olsthoorn, and Rotenberg in their 2003 piece, compliance with respect to the Kyoto Protocol has been a subject of controversial debate owing to the fact that:

two parties can both claim to have reduced their GHG emissions by an equal amount, and although one claim may be substantially more uncertain [with respect to their real emissions levels] than the other, both parties are equally compliant with the Kyoto requirements (p.482).

As a result, uncertainty regarding the accuracy of emissions accounting on behalf of states has governed ample debate and consideration within the academic literature seeking to understand the degree to which states undertook substantive emissions reduction efforts in the face of international standards (Grubb, 2016; Gupta et al., 2003). While Shishlov, Morel, and Bellasen (2017) note the relatively good compliance records of parties with binding targets during the first commitment period, scholars such as Grubb - while acknowledging this success - also note that:

the huge degree of overcompliance – illustrates at a national level a remarkably consistent pattern in most quantity-based environmental legislation on industry: targets which at the outset are viewed as onerous, challenging, and costly have usually proved to be far easier to meet than expected (Grubb, 2016, p.674).

Thus, a substantive debate within this literature has sought to answer not only to what extent in technical terms Kyoto targets were achieved but also the extent to which this achievement incurred substantive costs for states wishing to reform national practices.

This thesis argues that a fundamental understanding of how compliance within the Kyoto Protocol was measured is first required. According to Gupta, Olsthoorn, and Rotenberg (2003) emissions reporting within the context of the Kyoto Protocol was assessed through an aggregate reduction in a basket of six greenhouse gases designated as being of particular relevance. The comprehensive approach (i.e., the decision to focus on a ‘basket’ of greenhouse gases rather than seeking to regulate emissions on a ‘gas by gas’ basis) faced avid criticism from some experts who

argued “that it would provide no incentive to make reductions to important problem gases like CO₂” which were viewed as being essential to the effort to reduce environmental degradation (p.476).

This focus on the ability of the Kyoto Protocol to substantively reduce greenhouse gas emissions was further complicated by the varying degree of uncertainty in the accounting of certain gases, such as CO₂, which was more easily accounted for than emissions of other types (Gupta et al, 2003). As a result, priority was placed on attempting to create a detailed set of requirements governing emissions estimation and tracking within the context of the Marrakesh Accords to ascertain the true levels of GHG emissions in a given country for the purposes of assessing compliance with the Kyoto Protocol (Boyd & Schipper, 2002). A summary of reporting requirements can be found in the Kyoto Protocol Reference Manual on Accounting of Emissions and Assigned Amounts (*Kyoto Protocol Reference Manual on Accounting of Emissions and Assigned Amounts*, 2008). In line with a desire to provide further clarity with respect to state commitments, a standard definition of compliance was provided capable of being applied across states. According to Gupta, Olsthoorn, and Rotenberg (2003):

Compliance [with respect to the Kyoto Protocol] is measured by comparing the commitment with the emissions reduction—the change in the net inventory figure reported in the base year and the average value of the net inventory figures reported in the commitment period (p.481).

This definition of compliance with respect to the Kyoto Protocol itself has been used across the relevant literature examining compliance patterns during the first commitment period and reflects stated guidelines in the *Kyoto Protocol Reference Manual on Accounting of Emissions and Assigned Amounts* which notes that if “the Party’s total emissions over the commitment period are

less than or equal to its total assigned amount, the Party will be in compliance with its emissions limitation and reduction commitment (e.g., Harris & Lee, 2017; Shishlov et al., 2016; *Kyoto Protocol Reference Manual on Accounting of Emissions and Assigned Amounts*, 2008, p.19)."

As such, the definition of over-compliance employed in this thesis is derived directly from this literature. A state is labelled as having over-complied if it reduced/increased national emissions on average across the whole of the first commitment period relative to the base year by more/less than the stated limitation and reduction commitment. In the case of a negative target (an overall net reduction in emissions relative to the base year referred to as a reduction commitment), a decrease in national emissions above the stated target constitutes over-compliant behavior. In practice, this means for a country like the United Kingdom that committed to a 12.5% reduction relative to their 1990 base year their subsequent aggregate emissions reduction of 24.18% during the first commitment period would be labelled over-compliant (*Greenhouse Gas Inventory Data - Time Series - Annex I*, 2019).

In line with the above definitions, compliance and over-compliance may also occur in the event of a positive target (i.e., limitation commitment - a capped increase in the overall net emissions relative to the base year). For example, in the case of Ireland, the state was allocated a 13% increase relative to their 1990 base year for the first commitment period (*Kyoto Protocol Base Year Data (for the First Commitment Period of the Kyoto Protocol) / UNFCCC*, 2019). An overall average net increase in emissions of 12.9% or less relative to the base year would hence be labelled as over-compliant. This definition of over-compliance is directly in line with existing literature by Gupta, Olsthoorn, and Rotenberg (2003) and Shishlov, Morel, and Bellasen (2016) examining compliance with respect to the Kyoto Protocol. Furthermore, the coding of the dependent variable for the purposes of the quantitative analysis is built on the work of Harris and Lee (2017) who

argue that “compliance is whether a country complies with the GHG-reduction target shown in the form of a dichotomized variable (p.783).” A more detailed discussion of this coding is included later in this chapter.

Finally, to further address potential concerns surrounding the use of states individualized commitments within the context of the Kyoto Protocol, this thesis employs a robustness check for the purposes of the quantitative analysis by delineating the concept of ‘restrictive over-compliance,’ which refers to a greater than 5% reduction in national emissions relative to the base year for all Annex I parties. This alternative definition of over-compliance is employed as a purely methodological consideration to assess the validity and robustness of the framework. The use of the term ‘restrictive over-compliance’ stems directly from the desire to control for the effect of previous over-commitments on the outcome variable of over-compliance. Under the ‘expansive’ definition of over-compliance, a country that over-committed by pledging to reduce national emissions in excess of five percent²², would subsequently be labelled compliant if it met this new, more ambitious target, over-compliant if it exceeded it, and non-compliant if it did not meet the target. As a result, this definition risks underrepresenting the relative frequency of over-compliance within the context of the Kyoto Protocol.

For example, under the expansive definition of over-compliance those states that have undertaken substantive adjustments above and beyond the aggregate 5% reduction target may still be coded as either non-compliant or merely compliant if they previously over-committed and did not exceed this more ambitious target. As such, the inclusion of restrictive over-compliance, through the 5% average reduction target, serves as a yardstick through which to intuitively assess

²² This thesis acknowledges that while the overall 5% aggregate target relative to 1990 levels has no direct effect on the assessment of compliance at the state level with respect to the Kyoto Protocol, as the only commonly shared quantifiable target, it is used to provide the basis of the restrictive definition of over-compliance employed in the thesis.

over-compliance and as an additional check on the robustness of the presented results by controlling for previous over-commitment by assessing the relative frequency of over-compliance against the 5% aggregate reduction target.

However, it is important to note that for the purposes of the models employed in this chapter, priority was placed on the standard definition of compliance found within the existing literature on international climate politics and its applicability to the concept of over-compliance. The use of states' individual binding emissions targets is prioritized for two primary reasons. First, applying a 5% reduction target across the board for a state to be labelled over-compliant ignores the salient role of individualized commitments in the context of the Kyoto Protocol. As such, it less accurately reflects the aims and rules of the Protocol itself and must be treated as secondary in nature. Second, given the relative importance to existing studies of the standard definition of compliance within the Kyoto Protocol, continuity was prioritized over conceptional debates as to the relative degree to which a state's behavior with respect a reduction or limitation target can be truly labeled as over-compliant.

5.4 Explanatory Framework

For the purpose of the analysis, this chapter will differentiate between the causal mechanisms stemming from IO and non-IO centric explanations for over-compliance.

5.4.1 Domestic Political Preferences (Conjecture #1)

One of the most apparent explanations for over-compliance within the context of the Kyoto Protocol, and MEAs more generally, pertains to factors exogenous to the institution. If, for example, a party to the Protocol elected to reduce emissions of a particular greenhouse gas as a consequence of it becoming obsolete or it being replaced by alternatives domestically, as some have argued in the case of the Montreal Protocol (see Sandler, 2017 on the case of the United

States), then it might not be the agreement itself that leads states to over-comply, but instead factors independent of the institution. *Conjecture #1* argues that the Kyoto Protocol has had little to no impact on state behavior with respect to over-compliance, and that, instead, domestic political preferences are the primary motivating factor behind over-compliant behavior during the first commitment period (2008-2012). In line with this expectation, this conjecture will explore the role of previous emissions trajectories in explaining over-compliant behavior. If states reduced national emissions prior to the Protocol's entry into force, then any over-compliance can likely be attributed to factors independent of the agreement itself (e.g., independent domestic political preferences or the 'shallow' nature of these commitments) (Downs et al., 1996). If a state recorded, on average, lower emissions from 1990 to 1995 than their binding target for the first commitment period, then the institution itself is unlikely to have caused the state to exceed international minimum standards.

Conjecture #1 (Domestic Political Preferences) considers emissions reductions undertaken prior to and independent of the Kyoto Protocol: the previous exceeding indicator captures whether the average annual GHG emissions of a given state from 1990 to 1995 were already below a state's binding target in the first commitment period of the Kyoto Protocol. The binary variable will be constructed in the following manner: 1 if the state's average annual GHG emissions across the five-year period is below their binding target, and 0 if not. While this construction of the previous exceeding variable discounts the degree to which states' may have undertaken individual actions in preparation for the first commitment period, it provides a stringent test of the previously proposed framework. If annual GHG emissions of states exceeded their Kyoto targets prior to the beginning of the first commitment period and before the agreement was signed, it is unlikely that the institution itself played a key role in shaping state behavior.

5.4.2/3 Policy Diffusion (Conjecture #2) & Two-Level Games (Conjecture #3)

While not considered at length within the context of the Kyoto Protocol because of the methodological difficulties associated with incorporating these mechanisms into a quantitative research design, two additional explanations for over-compliance should be noted. First, international environmental agreements such as the Kyoto Protocol oftentimes reflect traditional two-level game dynamics (Barrett, 1992; Putnam, 1988). For example, if elites within a given country have a private preference for more extensive regulation than is possible to achieve domestically, MEAs may serve as a means through which governing elites can achieve domestic reforms that would not otherwise be possible in the absence of an international agreement (Putnam, 1988). As such, one reasonable alternative to these mechanisms draws on the importance of these two levels in informing states' subsequent compliance records. Second, diffusion-based mechanisms can also provide another account for over-compliant behavior. If a state is incentivized to reduce national emissions above and beyond what is required owing to its desire to emulate policy choices in another country, then over-compliance may be the direct result of the diffusion of environmental standards across states. Diffusion-based explanations are not considered at length in this chapter owing to the methodological difficulties associated with distinguishing between environmental policies passed as a result of commitment in the Kyoto Protocol and non-IO centric factors. As such, these mechanisms represent interesting areas for future work and have been considered at greater length in Chapters 4 and 6.

5.4.4 Signaling (Conjecture #4)

The fourth conjecture considered in this chapter focuses on the role of signaling in leading states to not only meet but exceed their international commitments. In the case of the Kyoto Protocol, through the inclusion of newly democratized EIT states in Annex 1, there is reason to

think that the influence of i) EU accession and ii) their status as newly independent countries may have also led them to seek to further cement their own reputation as ‘good citizens’ within the international community through over-commitment and over-compliance in forums such as the Kyoto Protocol. This argument regarding a desire to be a recognized member of the international community is supported by several studies showing that not only has compliance among newly democratized CEE states been relatively good (Sedelmeier, 2008), but that these states tend to be more willing to take on international commitments than might be expected due to their limited capacities to comply (Avdeyeva, 2007). As a result, the desire to appear as a ‘good citizen’ with respect to international environmental governance may motivate EITs to adopt over-compliant environmental commitments within the context of the Kyoto Protocol (Avdeyeva, 2007). It is important to note that in the case of the Kyoto Protocol, signaling stemming from EU association/acquisition, as well as a desire on behalf of newly democratized states to convey their commitment to international rules and norms, may lead states to over-comply.

As such, the indicator will capture whether a state underwent an accession or association process to the European Union from 1997 to 2008. If a state underwent an association and/or accession process to the European Union from 1997 to 2008, then it will be coded as 1, and 0 if not. Data for this variable will be taken from the European Commission and individual state reports regarding association and accession. A further indicator will be coded as a dummy variable taking on the value of 1 if a state was classified as an EIT, and 0 if otherwise. However, owing to issues stemming from multicollinearity both indicators will not be employed in same model but rather serve as a check on the robustness of the results.

5.4.5 Uncertainty/Sanctions (Conjecture #5)

The fifth causal mechanism for over-compliance considered in this chapter is derived from the environmental economics literature. Similar to firms concerned with the stochastic nature of plant emissions, states may make the deliberate choice to reduce emissions and/or purchase emissions certificates above and beyond what is required in order to avoid the risk of unintended non-compliance (Shimshack & Ward, 2008). Owing to the methodological difficulties associated with incorporating the use of flexibility mechanisms in assessing states' compliance records, they are not considered at length in this thesis. However, they represent an important and fruitful avenue for future research focused on over-compliance within the context of the Kyoto Protocol. For example, states may have resorted to purchasing carbon offsets from the Kyoto emissions trading scheme to ensure compliance with their targets. This could have resulted in over-compliance even in those cases in which states failed to meet their compliance target through a real reduction in GHG emissions. In the case of the Kyoto Protocol, this chapter would expect the anticipated costs of non-compliance to be two-fold: i) the material cost of sanctions imposed on the state by the international community, and ii) the political costs, primarily immaterial, incurred by national policy makers from domestic publics and the international community in the case of non-compliance.

Political cost would be particularly relevant in countries with strong climate-protection preferences among the electorate and governing party. Thus, while the Protocol's flexibility mechanisms, in addition to other measures, provided some means through which to mitigate the potential impact of stochastic emissions, this chapter would not expect these measures to fully cover or alleviate concerns regarding non-compliance, nor eliminate the risk of potential political cost should governing parties be found violating public promises regarding environmental

protection. This is further supported by the fact that the material costs associated with non-compliance could be perceived as substantial, with a non-compliant state being required “to make up the difference between its emissions and its assigned amount during the second commitment period, plus an additional deduction of 30%” (*Introduction / UNFCCC*, 2019). As such, it is reasonable to expect that states exhibited a desire to avoid sanctions and reputational risks, thus leading to more extensive action than they might have otherwise undertaken so as to avoid being found in non-compliance.

Uncertainty is particularly relevant in the context of the Kyoto Protocol for two primary reasons. First, owing to the stochastic variation in emissions of greenhouse gases, compliance in the area of MEAs that govern the emittance of certain substances is less certain than in policy areas in which states merely seek to transcribe international standards (i.e., the adoption of EU parental leave standards). Second, given that the extent to which certain behavioral adjustments (e.g., cutting emissions in certain sectors) are divorced from the final decision as to what constitutes compliance, there is a high level of ambiguity concerning whether specific actions undertaken by a state will ensure compliance. Both the variation in national emissions, paired with the ambiguity of what constitutes compliance, make *Conjecture #5* particularly relevant in the case of the Kyoto Protocol.

To capture the degree of uncertainty – *Uncertainty/Sanctions (Conjecture #5)* - facing individual states in achieving their specified targets, this chapter calculates the standard deviation of national emissions from 2007 to 2011. A higher standard deviation indicates an increased level of uncertainty with respect to future emissions levels, stemming from larger historic variations in national emissions over time. Data for this variable is taken from the UNFCCC time series data

for the First Commitment Period of the Kyoto Protocol (*Greenhouse Gas Inventory Data - Time Series - Annex I*, 2019).

5.4.6 Policy Leadership (Conjecture #6)

The penultimate explanation for over-compliance considered in this chapter stems from the salience of environmental issues among governing elites. If governing elites have a strong preference for environmental protection, then there is reason to anticipate that they may be more willing to act on this preference through reductions above and beyond their binding commitments. In support of this assertion, studies have found a relationship between the willingness of states to ratify MEAs and environmentally friendly attitudes among governing elites (Schulze, 2014). Similar to the literature on smart strategies (see Grøn & Wivel, 2011; Nasra, 2011; Thorhallsson & Wivel, 2006), elites with environmentally friendly preferences may seek to enhance their credibility and image as an environmentally friendly state through the adoption of more stringent standards. Furthermore, as argued by Cangopadhyay and Arora (1995), firms may elect to over-comply as a means through which to differentiate themselves from competition. In the case of the Kyoto Protocol, like the behavior of firms wishing to differentiate their products, over-compliance may be one means through which to draw attention to a country's expertise/policy leadership in a given policy area. For example, the Kyoto Protocol can be argued to create a focal point around which a visible international commitment is made. As a result, the IO serves to make possible an outcome that may not have occurred in the absence of the institution itself.

To examine the role of *Policy Leadership (Conjecture #6)*, this chapter builds upon data both from the UNFCCC itself and from external sources such as the Comparative Manifesto Project (CMP) (Comparative Manifesto Project Dataset Version (2020), 2020). To examine this relationship, a proxy variable was constructed looking at the relative salience of environmental

protection among governing elites using CMP indicator 501. The indicator captures the number of positive references to environmental protection in party manifestos. If environmental protection is highly salient among governing parties, then there is reason to think that they may be more likely to pursue an image of policy leadership (Kingdon, 1984; Knill & Lenschow, 1998) in addressing global climate change on the international stage. In the case of coalition governments, the indicator takes the weighted average saliency of parties in government proportional to their percentage of parliamentary seats within the governing parliamentary block. This data is then weighted by the total number of months spent in government during the first commitment period.

5.4.7 Over-Commitment (Conjecture #7)

The final causal mechanism considered in this chapter explores the link between over-compliance and over-commitment. In the context of the Kyoto Protocol conventional views of over-commitment would suggest states that over-commit would also be more likely to fail to meet their targets. However, the unique design of the Protocol itself, in which states took on binding targets reflective of their own underlying preferences (Böhmelt & Butkutė, 2018) and not resulting from *ad hoc* accession processes, suggests that the over-commitments taken on by states are more likely to be subsequently complied with. This could, in part, be a result of the reputational lock-in that over-commitments create for national governments, wherein subsequent non-compliance with self-selected standards diminishes the credibility of any future commitments by that state.

For *Conjecture #7* (Over-Commitment), the indicator captures the potential impact of over-commitment on the probability of over-compliance. The binary variable for over-commitment takes on a value of 1 if a state took on a commitment that entailed a greater than 5% reduction in emissions relative to its designated base year, and 0 otherwise. Data for this variable comes from

the UNFCCC time series data for the first commitment period of the Kyoto Protocol (*Greenhouse Gas Inventory Data - Time Series - Annex I*, 2019).

5.4.8-10 Costs (Mediating Factor #1), Capacity (Mediating Factor #2), and Normative Fit (Mediating Factor #3)

For the purposes of this chapter, costs are the primary mediating factor considered with respect to the Kyoto Protocol. The costs of reducing national emissions above IO minimum requirements can be thought of as a direct product of two key factors: i) the extent to which national emissions reductions entail deliberate and extensive adjustments, and ii) the relative economic strength of a given country. Lower levels of emissions and relative economic prosperity may serve to offset the costs associated with reducing emissions beyond institutional minimum requirements. As such, this chapter expects that the costs of over-compliance have a direct bearing on the likelihood and extent of state commitments and subsequent emission reduction efforts. While both capacity and normative fit provide additional indicators through which to examine the role of specific national contexts in impacting the extent and likelihood of over-compliance, they are not included as separate indicators for the quantitative analysis to avoid overfitting the model.

Furthermore, the contraction of economies that occurred following the collapse of heavy industry in former Communist states in the early 1990s, resulted in a sharp and steady decline in industrial emissions in CEEs (Shishlov et al., 2016). As such, a substantive proportion of CEE states' emissions reductions could be attributed to 'hot air' and subsequently have been argued to account for the good compliance records of EITs (ibid). Nevertheless, as EIT states recovered from the exogenous shock of the dissolution of the Soviet Union, the magnitude of the effect of the hot

air surplus on EITs' emissions levels is likely to decline over time. Therefore, a temporal element²³ is necessary for the analysis to ascertain the relative probability of over-compliance across the duration of the first commitment period.

The model accounts for the role of Mediating Factor #1 (Costs) in two primary ways. First, to examine the impact of the contraction of economies in Central and Eastern European (CEE) states following the collapse of the Soviet Union in the 1990s, the chapter builds on the work of Shishlov, Morel & Bellessen (2018) to estimate the total amount of hot air created by the contraction of CEE economies during this period by taking “the difference between base-year and 1997 emissions for EITs” (p. 771). Shishlov, Morel & Bellessen (2018) argue that owing to the relative recovery of EIT's economies by 1997, this estimate roughly accounts for any excess emission reductions during this period unrelated to the Protocol itself and the relative costs associated with cutting national emissions more than required. If the results indicate that IO centric causal mechanisms are in fact significant, even when controlling for the hot air surplus, then there is greater reason to think that IO-centric explanations for over-compliance are relevant for the case of the Kyoto Protocol. Second, in order to account for costs in a more direct capacity, GDP per capita is controlled for to isolate the potential impact of relative economic wealth.

5.5 The Dependent Variable

For the purpose of the logit model, the dependent variable (Expansive Over-Compliance) will be a binary variable, taking on the value of 1 if a state recorded average national emissions that were lower than its binding target across the whole of the first commitment period (which may have been greater than the 5% minimum requirement), and 0 otherwise. Additionally, as a

²³ This chapter uses a Kaplan Meier model to estimate the probability of survival (i.e., not having over-complied) from 1990 to 2018. If a state reduced emissions in excess of their Kyoto target prior to the Protocol's entry into force in 2005, this would provide support for Conjecture #1.

robustness check, the model will be re-run with restricted over-compliance as the dependent variable, taking on a value of 1 if a state reduced national emissions by greater than 5% relative to the designated base year, and 0 otherwise. As a result of the binary dependent variable, this chapter will use a logit model to estimate the probability of over-compliance within the Kyoto Protocol. While a binary dependent variable may lose some of the nuance associated with varying levels of exceeding – for example, if a state exceeds by a relatively small margin or a significantly larger one – from a conceptual standpoint there is little reason to differentiate between the degrees of over-compliance.

For the purposes of the Kaplan Meier model, time will refer to the year in which a state's emissions fell below their stated Kyoto target from 1990 to 2018. If a state did not have lower emissions than their stated target at any time within the period of observation (i.e., 1990 to 2018), it will be considered as right censored. It is important to note for the purposes of the Kaplan Meier model in this chapter that the event of interest is not the time to over-compliance since compliance with the Kyoto Protocol was a measure of aggregate emissions across the 1st Commitment Period. Instead, the time to exceedance captures in which year states recorded lower annual GHG emissions than the average yearly emissions implied in their Kyoto target.²⁴

A second linear probability model will also be estimated for ease of interpretation of the coefficients and as a robustness check of these results and is included in Annex V. The data used for the dependent variable comes from the cross-sectional time series data for the Kyoto Protocol released by the UNFCCC in 2019 (*Greenhouse Gas Inventory Data - Time Series - Annex I*, 2019).

²⁴ Compliance with the Kyoto Protocol's first commitment period targets was determined by the aggregate anthropogenic GHG emissions across the whole of this period not exceeding the amount of Kyoto Protocol units allocated for a state. For the purposes of this thesis, over-compliance with the Kyoto Protocol was defined as the average yearly reduction in GHG emissions surpassing the Kyoto target, which is a function of both the base year and a minimum percentage reduction in emissions.

It provides national emissions data for all Annex 1 parties from 1990 to 2018, categorized by gas and by sector, with and without LULUCF accounting (*Greenhouse Gas Inventory Data - Time Series - Annex I*, 2019). For the purposes of the binary DV, over-compliance was defined as the average yearly reduction in GHG emissions surpassing the Kyoto target, which is a function of both the base year and a minimum percentage reduction in emissions.

5.6 Findings

This section presents an overview of the data, as well as the results of the two-staged quantitative analysis. Through the use of both logit and Kaplan Meier models, this chapter finds little evidence for the influence of the Kyoto Protocol on states' over-compliant behavior. Instead, the level of previous emissions (Conjecture #1), in addition to the existence of previous over-commitment (Conjecture #7)²⁵ provide the best account for state over-compliance with the Kyoto Protocol.

5.6.1 Data and Patterns

This chapter looks at aggregate GHG emissions in kt²⁶ CO₂ equivalent units from 1990 to 2018 for thirty-six Annex 1 parties to the Kyoto Protocol who participated fully during the first commitment period. As Annex 1 parties, all thirty-six states took on binding requirements with the aim of an average 5% reduction in global emissions from 1990 levels by the end of the first commitment period in 2012 (Shishlov et al., 2016). While this commitment could be in effect 'bubbled' – that is, distributed among certain groups of states (e.g., the European Union) – it was at the discretion of the parties to decide how best to achieve substantive emissions reductions in

²⁵ The role of over-commitment will be discussed independent of the quantitative results as it is found to be an insignificant predictor of over-compliant behavior.

²⁶ Kilo tonnes of carbon dioxide equivalent units.

line with previously agreed upon commitments (UNFCCC – Targets for the First Commitment Period, 2019). **Table 5.8** provides an overview of the data.

Table 5.8: Kyoto Protocol 1st Commitment Period - Descriptive Statistics, 2008-2012

Data is from: (Greenhouse Gas Inventory Data - Time Series - Annex I, 2019; Comparative Manifesto Project, 2020; own enumeration)

	Total (N=36)
Expansive Over-Compliance	
Over-Complied	28 (77.8%)
Did Not Over-Comply	8 (22.2%)
Economy in Transition	
Economy in Transition	12 (33.3%)
Highly Developed Country	24 (66.7%)
Previous National Emissions Trajectory Below Specified Kyoto Target	
Previous Emissions Levels Not Below Kyoto Target	12 (33.3%)
Previous Emissions Levels Below Kyoto Target	24 (66.7%)
Saliency of Environmental Policy to Governing Elites	
Mean (SD)	4.29 (2.46)
Median [Min, Max]	3.95 [0.380, 9.17]
Undergoing an Accession or Association Process to the EU	
Undergoing an Accession/Association Process with EU	11 (30.6%)
Not Undergoing an Accession/Association Process with EU	25 (69.4%)
Over-Commitment	
Over-Committed	22 (61.1%)
Did Not Over-Commit	14 (38.9%)

A few patterns can be observed from the data, summarized in **Tables 5.8, 5.9, 5.10**. First, sixteen states can be said to have both over-committed and over-complied (expansive) (*Greenhouse Gas Inventory Data - Time Series - Annex I, 2019*). Of these sixteen states, ten are EITs and, thus, will be considered separately. The remaining six states – Belgium, Germany, Italy, Monaco, the Netherlands, and the United Kingdom – all over-committed and exceeded their over-

commitments without the use of flexibility mechanisms²⁷. Interestingly, both the Netherlands and the United Kingdom, key negotiators from the EU delegation in support of the Luxembourg presidency, were both able to arrive at commitments that reflected their previously stated preferences for emissions targets, owing to their important role within the negotiations as previous holders of the presidency of the European Council (Afionis, 2019). For example, in the case of the United Kingdom, the state committed to a 12.5% decrease in average annual emissions relative to their 1990 base year (*Kyoto Protocol Base Year Data (for the First Commitment Period of the Kyoto Protocol) / UNFCCC*, 2019). Yearly emissions including LULUCF accounting show a steady and consistent drawdown, with the state achieving an average reduction of emissions of 24.18% relative to their respective base year during the first commitment period (Time Series Annex I, Greenhouse Gas Data Interface, United Nations Climate Change, 2020). This is also the case for Germany, which committed to a 21% reduction, and subsequently reduced emissions by an average of 25.25% relative to their respective base year during the first commitment period (*Greenhouse Gas Inventory Data - Time Series - Annex I*, 2019).

²⁷ For the purposes of the quantitative analysis and this chapter, the thesis does not consider the use of flexibility mechanisms with respect to compliance. This is owing to the highly technical nature of the emissions trading scheme and accounting system employed. Furthermore, following the end of the true-up period, almost all parties to the Protocol could be labelled as over-compliant or compliant thereby minimizing the granularity with which to examine state's tangible emissions reduction efforts (*Compliance under the Kyoto Protocol / UNFCCC*, 2021). However, as previously mentioned this presents a fruitful avenue for future research.

Table 5.9: Crosstabulation: Over-Commitment and Expansive Over-Compliance - Kyoto

Protocol 1st Commitment Period, 2008-2012

Note: Data from Kyoto Protocol Base Year Data (for the First Commitment Period of the Kyoto Protocol) / UNFCCC, 2019

Over-Commitment (0 = No, 1 = Yes)	Expansive Over-Compliance
0.00	12
1.00	16
Grand Total	28 ²⁸

Table 5.10: Descriptive Statistics – Quantified Binding Emission Targets for Annex 1 Parties

- Kyoto Protocol 1st Commitment Period, 2008-2012

Note: Data from Kyoto Protocol Base Year Data (for the First Commitment Period of the Kyoto Protocol) / UNFCCC, 2019 – all figures include Land Use, Land-Use Change and Forestry (LULUCF) accounting

Descriptive Statistics	Results
<i>Arithmetic Average Emission Reduction Target</i>	3% decrease relative to the designated base year
<i>Maximum Emission Reduction Target</i>	27% increase relative to the designated base year, Portugal
<i>Minimum Emission Reduction Target</i>	28% decrease relative to the designated base year, Luxembourg

²⁸ Of the thirty-six parties with binding Annex I targets, twenty-eight can be labelled over-compliant.

The above descriptive statistics point to several preliminary areas of interest. First, the relationship between over-commitment and over-compliance is more apparent than expected given the current literature's focus on the potential role of over-commitment in driving state non-compliance (Kucik & Pelc, 2016). This is interesting because it points to a potential relationship between previous over-commitments and over-compliance. If states elect to make additional efforts due to their previously overly ambitious commitments, then over-compliance may be accounted for in part by the increased costs and pressures associated with their initial over-commitment. Third, many Annex 1 parties over-complied with their Kyoto targets, but a significant proportion of this over-compliance came from CEE states who had also experienced emissions reductions owing to the collapse of heavy industry in the early 1990s.

5.6.2 Models

To address the above research questions, a cross-sectional dataset was constructed to assess over-compliance during the first commitment period across the thirty-six parties that can be said to have participated fully. To do this, the chapter built on data from the United Nations Framework Convention on Climate Change (UNFCCC)²⁹ and constructed several indicators using data from the Comparative Manifesto Project and EU Accession/Association Reports aimed at assessing the impact of the Kyoto Protocol on states' over-compliant behavior. The results of the logistic models point to a significant relationship between the probability of over-complying and a state's average annual emissions prior to the 1st Commitment Period (Conjecture #1). Specifically, this chapter finds strong support for the notion that over-compliant behavior by states during the first

²⁹ While the expansive and restrictive over-compliance indicators were coded on the basis of both LULUCF accounting and without LULUCF accounting for the purposes of the dataset, the final models presented in this thesis use the data including LULUCF accounting in determining state's overall emissions reductions. This decision was made on the basis that LULUCF accounting can work both against and in favor of states.

commitment period can largely be explained by factors exogenous to the Protocol itself. This result is robust when controlling for both the salience of environmental policy among governing elites (Conjecture #6) and the degree to which states can be said to have experienced significant stochastic variations in emissions (Conjecture #5).

Furthermore, whether a country experienced an accession/association³⁰ process with the EU (Conjecture #4) from 1997 to 2008 is also insignificant when controlling for previous exceeding. As such, there is little evidence to support the notion that the Kyoto Protocol itself is the primary motivating factor behind over-compliance during the first commitment period. Nevertheless, the flexible nature of the Kyoto Protocol's commitments may have created an environment in which over-commitment (Conjecture #7) incentivized states to exceed international minimum requirements not captured by the quantitative models, indicating a potential secondary role for the institution in bringing about substantive reforms at the national level.

Logistic Regression Models

Logistic Model 1 has a statistically significant coefficient at the 5% level for the previous exceeding variable (Conjecture #1) when controlling for the degree of stochastic emissions (Conjecture #5), over-commitment (Conjecture #7), and the saliency of environmental policy among governing elites (Conjecture #6). A state whose emissions were already below their specified emissions reduction target prior to the first commitment period (Conjecture #1) was 9.87³¹ times more likely to (expansively) over-comply, holding constant stochastic emissions, over-commitment, and the salience of environmental policy to governing elites. This result provides very strong support for the notion that those states that had undertaken emissions

³⁰ See Annex IV for a model including EU accession/association.

³¹ For easy of interpretation, logits are converted to odds ratio for the discussion in the text by taking the exponential of the logit coefficient.

reductions prior to the signature of the Kyoto Protocol (1990 to 1995) were more likely to over-comply during the first commitment period than those who had not.

Table 5.11: CP1 Kyoto Protocol (2008-2012): Logistic Models

	Dependent variable:		
	Expansive Over-Compliance		Restricted Over-Compliance
	(1)	(2)	(3)
Previous Emissions Levels Below Kyoto Target	2.290** (1.011)	2.217** (0.984)	3.532*** (1.096)
Saliency of Environmental Policy	-0.229 (0.215)	-0.171 (0.192)	-0.232 (0.217)
Over-Commitment	-1.241 (1.108)		
Stochastic Emissions	-0.00001 (0.00003)	-0.00001 (0.00003)	-0.00002 (0.00003)
Constant	2.085 (1.554)	1.139 (1.192)	0.187 (1.181)
Observations	34	34	34
Log Likelihood	-13.199	-13.903	-12.545
Akaike Inf. Crit.	36.398	35.807	33.091

Note:

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

Logistic Model 2 has a statistically significant coefficient for previous exceeding at the 5% level when controlling for the saliency of environmental policy among governing elites (Conjecture #6) and the level of stochastic emissions (Conjecture #5). A state is 9.18 times more likely to (expansively) over-comply during the first commitment period if it exceeded its binding Kyoto target prior to 2008. Over-commitment is dropped from this model following its identification (i.e., the use of a Wald test³²) as an insignificant predictor of over-compliance. However, given the small sample size employed and the potential degree of congruence seen

³²According to UCLA Statistical Methods and Data Analytics (2022), the Wald test “suggests that removing the variables from the model will not substantially harm the fit of that model, since a predictor with a coefficient that is very small relative to its standard error is generally not doing much to help predict the dependent variable.”

between over-commitment and over-compliance in the contingency table (see **Table 5.5**), over-commitment will be discussed further at the end of this section.

Logistic Model 3 is the best fitted model and examines the effect of previous exceeding (Conjecture #1) on the probability of over-compliance when defined as a greater than 5% reduction in national emissions across the whole of the first commitment period (2008-2012), herein referred to as restricted over-compliance. Controlling for the level of stochastic emissions (Conjecture #5) and the salience of environmental policy among governing elites (Conjecture #6), the previous exceeding variable is significant at the 1% level. A state that has previously exceeded their binding target for the first commitment period is 34.19 times more likely to over-comply (restrictive), holding stochastic emissions and the salience of environmental policy to governing elites constant. This provides further support for the notion that, rather than the level of stochastic emissions or saliency of environmental policy to governing elites, it is the level of previous annualized emissions that best explains over-compliant behavior during the first commitment period. Furthermore, the magnitude of the effect for restricted over-compliance suggests that a greater than five percent reduction in emissions prior to the Protocol's inception is largely driven by factors exogenous to the institution itself.

Table 5.12: Crosstabulation: Over-Commitment and Expansive Over-Compliance

- Kyoto Protocol 1st Commitment Period, 2008-2012

Note: Data from Kyoto Protocol Base Year Data (for the First Commitment Period of the Kyoto Protocol) | UNFCCC, 2019

Over-Commitment (0 = No, 1 = Yes)	Expansive Over-Compliance
0.00	12
1.00	16
Grand Total	28 ¹

Owing to the relatively small sample size employed ($N = 36$), a few limitations of this undertaking must be noted both in terms of its ability to establish causality definitively and its explanatory power. First, while the sample size is within the parameters needed to run a quantitative model, its small size may diminish the reliability of the results and their ability to identify causal relationships between over-compliance and specific explanatory variables in which variance between groups may be higher. As noted in Annex IV, Logit 1 and Logit 2 while offering well fitted models overall, are not significant within the context of the Wald Test, indicating that while the explanatory variables employed provide some insights into those factors leading states to over-comply, they may not be the only or even most important predictors of over-compliant behavior within the Kyoto Protocol. Second, given the small sample size priority was placed on not overfitting the model. As such, the presented models include only the most theoretically relevant explanatory variables. A model with additional explanatory variables is included in Appendix IV.

Having considered the effect of previous exceeding on the outcome of subsequent over-compliance, this section will address the role of over-commitment as a potential sufficient condition for (restrictive and expansive) over-compliance. If over-commitment is a sufficient condition for over-compliance, then those states that over-commit will also have subsequently over-complied. However, a number of countries, such as Austria, took on initial over-commitments and subsequently failed to meet these commitments absent of the use of flexibility mechanisms (*Kyoto Protocol Base Year Data (for the First Commitment Period of the Kyoto Protocol)* / UNFCCC, 2019). In the case of Austria, the country was even found to be non-compliant with the less stringent overall target of a 5% reduction in emissions over the course of the first commitment period, were it not for the use of flexibility mechanisms to bring the state

into compliance (ibid). As a result, over-commitment does not appear to be a sufficient condition for over-compliance.

Nevertheless, despite the results of the logit models, there is good theoretical reason to suspect that prior over-commitment may raise the likelihood of subsequent over-compliance. Over-commitments may serve to create a lock-in effect for states, whereby not meeting more stringent, self-selected targets could incur higher reputational costs. Furthermore, the ability to voluntarily set more stringent targets in the Kyoto Protocol may also increase the potential cost of sanctions in the case of subsequent non-compliance, with states having to make up the difference between their assigned amounts and their actual emissions, plus an additional 30% deduction (*Introduction / UNFCCC*, 2019). Therefore, the decision to over-commit and subsequently not meet these targets would potentially require very high reductions in subsequent years.

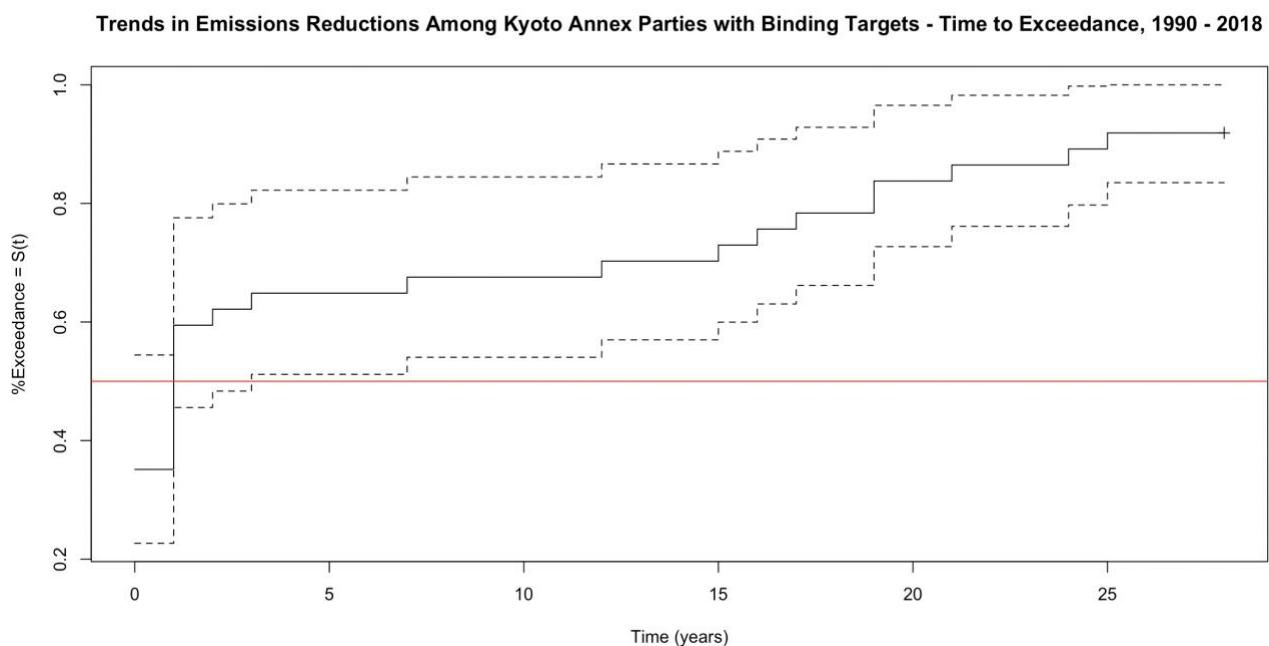
Kaplan-Meier Model

A Kaplan Meier model was also estimated to assess the probability of event occurrence (exceedance) over time. Specifically, we would expect that if a state reduced national emissions prior to the Protocol's entry into force in 2005, then the institution itself is unlikely to account for this over-compliant behavior. The results of the model provide additional support for a domestic political preference (Conjecture #1) based explanation for over-compliance in the Kyoto Protocol. The probability of survival (i.e., a state not exceeding) by 1997 was only 0.3243, or 32.4%. This finding indicates that in many cases, compliance and subsequent over-compliance with Kyoto targets reflected a relatively 'shallow commitment' on behalf of states. Nevertheless, as seen in **Graph 5.7**, a handful countries did reduce national emissions in excess of their Kyoto targets (i.e., exceeded) from 2005 onwards. As a result, while most exceedance can, in fact, be explained by factors independent of the Protocol itself, for a small number of countries, the institution may have

provided the necessary impetus to not just comply with their Kyoto targets, but to exceed them. This finding points to the need for more fine-grained qualitative research to explore the drivers of over-compliance.

Graph 5.10: Trends in Emissions Reductions Among Annex 1 Parties to the Kyoto Protocol,

1990 – present



5.7 Conclusion

The Kyoto Protocol represents a new development in the trajectory of MEAs. As the first international environmental agreement requiring a limited number of parties to take on binding emissions reduction targets, it represented a substantial step forward in the area of environmental cooperation (Grubb, 2016). Nevertheless, it has largely failed to live up to its expectations. In line with this view, this chapter finds limited support for the notion that the Kyoto Protocol provided an impetus for participating states to draw down emissions domestically. National efforts to reduce emissions often predated the Protocol's introduction and the exceeding of binding targets can, in

the vast majority of cases, be attributed to factors exogenous to the institution. This finding is robust even when the definition of over-compliance is changed and important explanatory factors, such as over-commitment, are held constant. It is further supported by the results of the Kaplan Meier model, which indicates that most states reduced national emissions below their Kyoto Protocol targets well in advance of its entry into force. This finding must be qualified by the acknowledgement that not all over-compliance in the Kyoto Protocol can be attributed to factors independent of the institution itself. States that elected to take on initial over-commitments may have complied to a greater extent than would have been evident in the absence of the institution, owing to the use of flexibility mechanisms. Furthermore, the results from the Kaplan Meier model suggest that for some states the Kyoto Protocol may have provided the necessary impetus to over-comply.

Consequently, further research aimed at examining the link between the exceeding of international minimum standards and IO impact is required to better ascertain the usefulness of the concept of over-compliance to the literature on MEAs. While MEAs such as the Kyoto Protocol point to the potential role of institutions in serving as focal points around which environmental commitments are made, the evidence in this chapter points to the importance of non-IO centric explanations, namely domestic preferences, in accounting for states' compliance patterns in environmental agreements. Furthermore, additional research is needed to ascertain the relationship between over-compliance and over-commitment. While some evidence indicates a potential relationship between the two, over-commitment does not appear to be either a necessary or a sufficient condition for over-compliance. Finally, if institutional design features, such as flexibility in designating reduction targets (e.g., as seen in the design of the Paris Agreement), serve to

increase the probability of over-compliance, then MEAs may play a powerful role in enabling states to move beyond lowest common denominator standards.

Chapter 6: Over-Compliance and International Labor Standards: A Case Study of the ILO's Minimum Age Convention No. 138

6.1 Compliance, Commitment & the ILO

In 2020, the International Labor Organization (ILO) estimated that 160 million children were engaged in some form of child labor (*Child Labor Global Estimates 2020, Trends and the Road Forward*, 2021). It is believed that nearly half of these children (79 million) are employed in work that is hazardous to their health, safety, and moral development (*Child Labor Global Estimates 2020, Trends and the Road Forward*, 2021). Despite substantial gains over the last twenty years in addressing child labor globally, 2020 marked an inopportune stalling point for progress in this area (*Child Labor Global Estimates 2020, Trends and the Road Forward*, 2021). Covid-19, global instability, and the reduction of social protection schemes across many developing countries, in part the result of the economic downturn that ensued, are estimated to have put an additional nine million children at risk as many families have been forced to turn to child labor as a source of much needed income (*Child Labour - UNICEF*, 2022). These developments provide an important test for international efforts aimed at reducing child labor globally.

Today, there are three primary international instruments governing child labor: ILO Convention No. 138, referred to as the Minimum Age Convention (1973); ILO Convention No. 182: Worst Forms of Child Labor Convention (1999); and the United Nations Convention on the Rights of the Child (UNCRC) (1989). All three conventions focus on the rights of children and outline specific obligations of states to protect minors from work deemed to be hazardous to their health and well-being. While the international community does not appear to be well placed to meet its international commitment to end child labor by 2025, much progress has been made with states in Asia/Pacific, Latin America, and the Caribbean regions, which have made substantive

reductions to child labor in recent years (*Child Labor Global Estimates 2020, Trends and the Road Forward*, 2021).

This chapter focuses on the ratification of and compliance with the ILO's Minimum Age Convention No. 138 (No.138), the first international instrument introduced specifically to govern child labor at the international level (*History of Child Rights*, 2022). While highly technical and dense in legal interpretation, the convention specifies a minimum working age of 15 for light work and 18 for work that may be deemed hazardous to an individual's health, safety, and welfare (*Convention C138 - Minimum Age Convention*, (No. 138), 1973). In line with its technical framing, the convention specifies that for those states whose

economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years (*Convention C138 - Minimum Age Convention*, (No. 138), 1973).

As a result, ratifying parties to the convention deemed to be least developed countries (LDCs) have the right to exercise a degree of discretion with regards to their designated minimum working age for children. It is this inherent flexibility – both on behalf of LDCs to specify a lower minimum age and for developed countries to designate a higher minimum age – that makes Convention No. 138 an ideal instrument through which to examine over-compliant behavior among a larger and more diverse grouping of states. As such, for the purposes of this chapter, over-compliance with ILO Convention No. 138 will be defined in the following manner:

Figure 6.7: Over-Compliance with ILO Convention No. 138

Developed States: minimum working age of ≥ 16 years = over-compliant

Least Developed States: minimum working age ≥ 15 years = over-compliant

This chapter focuses on over-compliance with international child labor regulations for two primary reasons. First, over-compliance in this area offers an interesting challenge to conventional arguments focused on the negative role of labor competition on labor standards in developing states (Singh & Zammit, 2004). Specifically, scholars have focused on how labor competition between developing states may result in the adoption of lowest common denominator standards in an effort to attract foreign direct investment (Olney, 2013). This raises the question as to why a any state would voluntarily elect to adopt over-compliant standards when mere compliance would be sufficient to reap the gains of cooperation? Current literature points to a more complex relationship between labor competition and labor standards than might be expected (e.g., see Davies & Vadlamannati, 2013, Blanton & Blanton, 2012). Davies and Vadlamannati find in their 2013 work that labor standards are positively correlated across countries, suggesting that a reduction in labor standards in one country can lead to a reduction in standards elsewhere. Furthermore, Busse (2003) and Singh and Zammit (2004) argue that the relationship between FDI inflows and the lowering of national labor standards is less concrete. If over-compliant standards can be argued to have diffused across states, then conventional assumptions regarding the role of labor competition and FDI inflows in reducing labor standards within states may be overstated.

Second, this chapter builds on the work of Fontana and Grugel (2017), examining the adoption of over-compliant measures in Argentina with respect to Minimum Age Convention No. 138. In electing to examine over-compliance with respect to labor policy, the authors' point to the important role of domestic political preferences (Conjecture #1) in shaping policies across states (Fontana & Grugel, 2017). As such, the chapter begins by considering how the previously presented framework in Chapter 3 can be applied to the case of the ILO's Minimum Age Convention. Similar to the cases of Parental Leave in the European Union and the Kyoto Protocol's

first commitment period, the chapter distinguishes between IO and non-IO centric explanations for over-compliance in the ILO. This framework is then modified to capture issue-area specific considerations, such as GDP in the year of convention ratification, which seek to capture potential mediating factors like the costs of over-compliance. These explanations are then tested through a large-N study of over-compliance in the ILO utilizing logistic and survival models.

First, the chapter assesses the effect of a number of indicators on the probability of over-compliance. This discussion is then followed by a consideration of the effect of certain covariates on the probability of over-compliance, taking into account time (i.e., the hazard of event occurrence may change over time). To do this, the chapter utilizes an original dataset of state over-compliance patterns across 187, building both on existing data sources and self-constructed indicators. The results of this analysis indicate that, in the case of the ILO's Minimum Age Convention, a country's relative level of economic development (Mediating Factor #1), in combination with a lack of previous legislation governing child labor (Conjecture #1)³³ and relative level of government effectiveness (Mediating Factor #2), provide the strongest account this seemingly counterintuitive behavior and the patterns observed in the data. Furthermore, the timing of the adoption of over-compliant standards points to a potential albeit limited desire of states to signal their commitment to international norms and values governing child labor (Conjecture #4) As such, future studies aimed at exploring over-compliance in the ILO could focus on the incentives associated with adopting over-compliant measures during periods of high visibility for international labor standards and the role of labor competition in shaping the diffusion of certain policy models from developed to developing states.

³³ The results of the logit models point to a negative relationship between the existence of previous standards and the adoption of over-compliant behavior. As such, the existence of previous legislation may serve to increase the relative adjustment costs for states seeking to adopt over-compliant standards. This finding points to the relative importance of adjustment costs in explaining patterns of over-compliance with respect to ILO Convention No. 138.

6.2 Explanatory Framework

Applying the previously presented framework to the case of the ILO, there is reason to suspect that both policy diffusion (Conjecture #2) and signaling (Conjecture #4) may have greater relevance, owing to the salient role of labor competition on the diffusion of policies across states and the desire of states to appear as credible partners for economic cooperation. As such, the ILO represents an ideal test case for both IO and non-IO centric explanations for over-compliance at the international level.

6.2.1 Domestic Political Preferences (Conjecture #1)

In their seminal piece on variation in labor output across countries, Hall & Jones (1999) note that it is the *social infrastructure* – defined as “the institutions and government policies that determine the economic environment within which individuals accumulate skills, and firms accumulate capital and produce output” (p.84) – that determines the degree to which the outputs of production translate to private returns. It is the nature of this social infrastructure that *Conjecture #1* argues provides the best account for when over-compliance among ILO members will occur. States that possess both the institutions and actors needed to translate strong domestic preferences for labor protection into enforceable laws are those most likely to over-comply. Over-compliance in these cases is argued to be the direct result of the interests and ideas that govern the national context and are largely divorced from international considerations. For example, Fontana and Grugel (2017) argue that the primary motivating factor for Argentina’s over-compliance with ILO Convention No. 138 was the pressure applied by state and union movements, not the ILO nor national and international NGOs (p.651).

Conjecture #1 focuses on the role of domestic political preferences for more extensive protections against child labor as a likely determinant of over-compliance with ILO Convention

No. 138. A preliminary review of the data indicates that for most developed states, pre-existing legislation governing child labor existed prior to the adoption of ILO Convention No. 138. Thus, an interesting dynamic may be at play in the ILO, wherein the costs of convention ratification were relatively low for developed states, as it represented a ‘shallow commitment’ that merely reflected a state’s pre-existing domestic preferences.

The indicator for *Domestic Political Preferences (Conjecture #1)* looks at the existence of previous legislation governing child labor in a given country prior to ratification of ILO Convention No. 138. This indicator was constructed using ILO’s NATLEX records concerning the ‘elimination of child labor, protection of children and young persons’ for all of the 187 states that are members of the ILO (*NATLEX - International Labor Organization*, 2022). In those cases where states were found to have introduced some regulation governing child labor prior to ratification,³⁴ they were coded 1, and otherwise 0. This indicator is intended to capture a pre-existing preference for strong protections against child labor prior to ratification.

6.2.2 Policy Diffusion (Conjecture #2)

As argued by Baccini and Koenig-Archibugi (2014), ratification of ILO conventions can be explained in part by the diffusion of norms and ideas across states (Baccini & Koenig-Archibugi, 2014), which is the second explanation considered in this chapter. From this perspective, states that interact with each other on a regular basis, be it through joint IO membership or other means, are socialized to adopt and adhere to the same practices through means such as social learning or shaming (e.g., see Johnston, 2001 and Checkel, 1997). In the case of the ILO, state over-compliance may be viewed as the result of this internalization of shared

³⁴ This indicator is deliberately coded in the broadest sense possible, to present the most stringent test of IO-centric mechanisms for over-compliance.

norms and practices, which are then translated into the adoption of standards above and beyond what is required at the international level. This internalization of shared norms and practices within states can be seen as the result of two different mechanisms: i) the diffusion of norms and practices governing child labor *independent of IO membership*, and ii) the diffusion of child labor policies across states *as the result of ILO Convention ratification*, not necessitating prior convergence in domestic practices and norms.

In the latter case, over-compliance can be viewed as relatively more costly, because norms governing labor protection may not have been adopted within the domestic context, implying a higher degree of normative misfit (Mediating Factor #3). While distinguishing definitively between these two different mechanisms for diffusion at the state level is not possible through a large-N study of over-compliance in the ILO, a number of controls were introduced to the quantitative models with the aim of providing a preliminary indication as to the specific mechanism at work. In line with this logic, *Conjecture #2* states that the probability of over-compliance increases if a neighboring state has over-complied in the recent past. Building on the work of Pollins (1989), this chapter argues that diffusion is more likely to occur between those states that are geographically proximate and interact amicably. As such, both the timing of the adoption of over-compliant standards, as well as the behavior of neighboring states, will be considered when constructing an indicator to test this conjecture.

The second element of this conjecture examines the impact of labor competition on the diffusion of over-compliant standards. One potential negative externality of international commerce and trade is the so called ‘race to the bottom’ (Olney, 2013). The concept refers to the cutting of regulation by firms and/or states to achieve a competitive advantage relative to other actors (Olney, 2013). In line with this argument, a state wishing to compete for and attract foreign

direct investment (FDI) inflows may be incentivized to designate the lowest possible minimum wage that is still compliant with ILO rules to prevent other states from gaining a competitive advantage. As a result, labor standards would be expected to converge to reflect the lowest common denominator preferences of states. In line with this thinking, over-compliance with ILO Convention No. 138 would present a particularly confounding puzzle.

If states are only interested in attracting FDI inflows and these investments are won solely based on cheaper production and labor costs, then there is little, if any, incentive for a state with an open economy to over-comply. However, as noted by Busse (2003), Davies & Vadlamannati (2013), and Kucera (2002), the relationship between FDI inflows and labor standards is far more complicated. In his 2002 article, Kucera argues that higher levels of child labor are not in fact positively associated with FDI inflows. He argues that this finding is not counterintuitive, owing to the fact that FDI is not entirely determined by production/labor costs, but instead highly correlated with the skill level of labor within a given country (Kucera, 2002). As a result, child labor, which is largely unskilled, may in fact be a deterrent or have little effect on FDI inflows.

To test these arguments, the thesis builds on two self-constructed indicators that look at both the timing and the presence of over-compliance within a given region. For the diffusion indicator, a state is coded 1 if it over-complied within plus/minus five years of a neighboring over-compliant state. The dual components of this indicator – time and relative proximity – serve to capture the degree to which over-compliant standards diffused across borders. A further indicator, referred to as proximity, is coded for *Conjecture #2* as a robustness check. This indicator examines whether another neighboring state can also be labelled over-compliant, regardless of when this over-compliance occurred.

The final indicator for *Conjecture #2* is FDI inflows as a percentage of GDP for the year of ratification. FDI has been used as a common measure of labor competition within the literature – as it illustrates the degree to which states compete for and succeed in securing international investment (Olney, 2013; Davies & Vadlamannati, 2013). Specifically, the chapter focuses on FDI as a percentage of national GDP in the year of ratification to control for the relative sensitivity of an economy to changes in FDI. In states with higher FDI inflows, both the competing effects of labor competition and product differentiation³⁵ may serve to foster the diffusion of policies across states. The data for this indicator is taken from the World Bank Databank and spans a period from 1970 to 2019 (*Foreign Direct Investment, Net Inflows (BoP, Current US\$) / Data*, 2022). In those cases, in which yearly data was missing, data for the nearest year available was employed.

6.2.3 Two-Level Games (*Conjecture #3*)

While undoubtedly a relevant explanation for over-compliance, two-level games (Putnam, 1988) arguments prove difficult to test empirically utilizing a quantitative research design.³⁶ For example, it is beyond the scope of this thesis to assess the private preferences of the national governments of all 54 countries that can be labelled over-compliant with ILO Convention No. 138, and how this may have resulted in the adoption of higher standards than what would have been possible in the absence of international cooperation (Putnam, 1988). Nevertheless, the ratification of ILO Convention No. 138 can be argued to have served as a means through which national governments were able to pursue more stringent child protection measures than could be achieved domestically. For example, if a center-left government with strong support from labor unions

³⁵ Product differentiation focuses on how states may seek to distinguish themselves relative to other states in an effort to attract FDI inflows and will be discussed at length with regards to *Policy Leadership (Conjecture #6)*.

³⁶ Two level games refer to how international negotiations can interact with domestic settings thereby producing an outcome that would not have occurred in the absence of an institution (Putnam, 1988).

utilized international negotiations to introduce stricter regulation than would be acceptable to the political opposition in the country in line with their private preferences and under the pretense of complying with international requirements, over-compliance may be the likely outcome. However, given the difficulties with assessing the internal political dynamics of 54 countries, two level games explanations are not explored at length in this chapter.

6.2.4 Signaling (Conjecture #4)

Unlike parental leave in the European Union, this chapter examines signaling behavior in relation to two separate, but potentially complementary, contexts: i) signaling with respect to the ILO itself, and ii) signaling to Bretton Woods institutions, such as the World Trade Organization. The logic behind signaling to the ILO is as follows: while ILO membership requires both financial and practical obligations, “member States of the ILO are strongly encouraged but *not required* to ratify the Conventions adopted by the International Labour Conference” (*Membership in the International Labour Organization Information Guide*, 2014). As a result, conventions can be ratified at any time by member states and in any order. Given the flexible nature of ILO membership, this chapter instead focuses on signaling in relation to the adoption of a given convention (*How International Labour Standards Are Created*, 2022). In the case of ILO Convention No. 138, ratification of the convention within the first five years of its introduction or following a period in which child labor was a particularly salient issue at the international level (i.e., an international campaign aimed at addressing child labor that includes the introduction of a number of international instruments as seen in the 1990s) would provide some support for a signaling-based explanation. For example, state ratification of Convention No. 138 relatively soon after its introduction may be understood as a signal of a state’s commitment to others (i.e., the ILO, other states, transnational corporations) to uphold a reputation as a predictable actor with respect

to labor rights (Simmons, 2000). This signal of ‘good standing’ at the international level may be understood as beneficial to states in two respects. First, it may bring material returns to states, in the form of foreign direct investment, and immaterial benefits, in terms of a greater perceived credibility. Second, signaling with respect to the Bretton Woods institutions – namely the World Trade Organization (WTO), International Monetary Fund (IMF), World Bank (WB) – and other institutions may provide states with an image as a ‘good complier’ with respect to international agreements and, as such, capable of adhering to the rules and conditionality attached to IMF or WB loans and WTO trade conditions.

Signaling (Conjecture #4) is examined through the construction of a binary variable taking on the value of 1 if a state over-complied with the convention within three years of obtaining or launching an application for World Trade Organization (WTO) membership, and 0 if otherwise. The logic behind this indicator is that states wishing to convey a degree of stability to world markets or investors may be more likely to adopt and over-comply with ILO Convention No. 138 prior to, or soon after, WTO membership. To assess the robustness of the results, additional variations of this indicator were constructed to look at both shorter and longer time frames, as well as restricting the indicator to exclude countries whose applications for accession are still pending following submission. Data for this variable is taken from the World Trade Organization’s own website (*WTO Members and Observers*, 2022). In addition to WTO membership, this chapter also considers the timing of over-compliant behavior as an additional indicator for signaling. If a state over-complied soon after the introduction of the convention in 1973 (i.e., within five years), or in the 1990s/early 2000s following the introduction of ILO Convention No. 182 and the UN Convention on the Rights of the Child, there is greater reason to suspect that signaling-based explanations may be at play.

6.2.5 Uncertainty/Sanctions (Conjecture #5)

Given the absence of strong enforcement mechanisms within the context of the ILO and the voluntary nature of convention ratification, *Conjecture #5* is not considered in relation to this case. The logic behind this is three-fold. First, the ILO lacks strong enforcement mechanisms and relies largely on self-reporting by states and workers organizations within them to detect and address non-compliance (*International Labour Organization (ILO)*, 2022). Scholars such as Waas (2021) have noted that this reporting-based system has resulted in several deficiencies in spotting incidents of non-compliance. Many states simply do not provide reports at regular intervals and the workload of the Committee of Experts, which is tasked with discussing convention implementation, is substantial (Waas, 2021 and *International Labour Organization (ILO)*, 2022). This, combined with the technical and contested nature of its proceedings (Waas, 2021), provide states with little expectation that short-term non-compliance will result in substantive penalties. Second, given the voluntary nature of convention ratification, states experiencing higher levels of economic/political volatility are unlikely to adopt conventions they view as difficult to successfully translate into domestic law. Finally, given the lack of ambiguity concerning the minimum age to be designated in national law, uncertainty regarding what constitutes compliance is unlikely. As such, *Uncertainty/Sanctions (Conjecture #5)* is not considered within the context of the ILO owing to the difficulties in operationalizing and understanding uncertainty and the risk of sanctions with respect to convention ratification.

6.2.6 Policy Leadership (Conjecture #6)

The promotion of an image as a policy leader in the fight to eliminate child labor may provide states with a justification to over-comply. For those states in which strong norms regarding child protection predominate and have been translated into preferences at the national level, a state

may be more inclined to over-comply with ILO Convention No. 138 as a means through which to establish an image as a policy leader at the international level. Policy leadership in the area of child protection from economic exploitation may lend states greater credibility to frame future policy choices and to exercise authority within international networks aimed at addressing child labor (Mintrom, 1997). As a result, the incentives associated with policy leadership may be perceived to be sufficient to offset the costs associated with adopting over-compliant standards domestically.

In line with this argument, this thesis argues that in the case of the ILO, greater labor competition for FDI inflows may in fact lead to a positive relationship with over-compliance owing to the role of product differentiation (i.e., a concept describing how firms seek to distinguish themselves relative to other firms in the market through the adoption of over-compliant measures - see Chapter 3 for a detailed discussion). The logic underpinning this conjecture is as follows: Country A offers a higher level of labor protection than Country B. A firm from Country C producing ethical fast fashion products wishes to outsource labor through the establishment of a factory in either Country A or B. This decision of where to construct the factory is impacted by two key factors: i) a desire to avoid public relations (PR) backlash owing to poor labor standards in the country where garments are manufactured, and ii) the motivation to continue to produce products aligning with the firm's image as an ethically and sustainably sourced purveyor of fast fashion. As such, the firm elects to establish its factory in Country A. In response to this decision, Country B is incentivized to increase its labor standards above and beyond what is minimally required to compete with Country A for future investments. The above scenario points to a potential relationship between competition for FDI, product differentiation, and the introduction of over-compliant standards. However, this argument must be caveated by the acknowledgement

that this relationship is not always linear, nor are all firms assumed to be targeting consumers with preferences for ethical and sustainable products.

The indicator for *Policy Leadership* (*Conjecture #6*) focuses on the extent of workers' rights within a given country. To construct this indicator, the chapter utilizes data from the Quality of Governance Dataset, which examines workers' rights on a scale of zero to one hundred, with 1 indicating no protection and 100 indicating the highest level of protection (*The Quality of Government Standard Dataset, version Jan22. University of Gothenburg: The Quality of Government Institute*, 2022). Additionally, states that wish to establish an image as a policy leader in the fight against child labor are expected to have taken greater steps to protect workers' rights domestically. Unfortunately, this indicator is not included in the time-series data from the Quality of Governance Dataset and, as such, focuses on workers' rights at a single point in time, namely, 2018. As a result, the chapter assumes that current levels of worker protection are likely to be associated with past levels. However, it must be acknowledged that, especially for those states in which a regime change occurred following ratification or where ratification occurred early on, this indicator's predictive power may be limited.

6.2.7 Over-Commitment (*Conjecture #7*)

Given the flexible nature of designating a minimum age for employment in line with ILO Convention No. 138, over-commitment may be relevant in the case of the ILO. If states elect to designate a higher minimum age than required, then this over-commitment may translate into subsequent over-compliance. Due to the methodological difficulties associated with untangling over-commitment in relation to over-compliance in the case of the ILO (i.e., states are expected to designate a minimum age that suits their preferences at the outset and then subsequently transcribe this into national law to comply), over-commitment will not be considered at length in this chapter.

However, there is strong reason to suspect that a nearly one-to-one relationship between over-commitment and over-compliance would exist with respect to ILO Convention No. 138 and as such will be discussed further in later sections outside of the context of the quantitative models.

6.2.8 Costs (Mediating Factor #1)

In an area such as labor regulation, the expected costs associated with implementing over-compliant measures are particularly pertinent. Higher labor standards can imply higher costs of production, which can translate into less competitive pricing in world markets (N. H. Chau et al., 2001). This relationship between higher labor standards and higher costs of production is supported by Rodrik (1996) and Boockmann (2001), who find that ILO convention ratification has a positive impact on labor costs. Boockman (2001) notes that this effect is more pronounced among developing states, for whom the associated costs of ratification are found to be a stronger predictor for subsequent ratification than for developed states.

As such, the penultimate explanatory variable introduced in this chapter focuses on the role of costs as a mediating factor for accounting for over-compliance with ILO Convention No. 138. In line with the earlier discussion of the potential costs associated with compliance and over-compliance (see Chapter 3), this chapter understands the costs of over-compliance to stem from both the economic conditions within a given country. To capture the economic costs of over-compliance (Mediating Factor #1), the models use GDP per capita in USD from the World Bank (*GDP per Capita (Current US\$) / Data*, 2021). A higher national GDP may reflect a greater ability to offset the costs of over-compliant behavior and thus provide an account for the extent and likelihood of over-compliance.

6.2.9 Capacity (Mediating Factor #2)

This chapter aims to move beyond Boockman (2001) in conceptualizing costs, both in terms of GDP and overall government effectiveness. As a result, this chapter argues that costs can be viewed as stemming from both the economic capacity to transpose international labor standards into domestic law and the political capacity to ensure these standards are adhered to at the domestic level (Tallberg, 2002). As such, in countries with higher levels of bureaucratic capacity, the ability to adopt more extensive child labor protections is expected to be greater.

To capture the role of capacity in explaining the extent and likelihood of the adoption of over-compliant behavior (Mediating Factor #2), this chapter utilizes an indicator from the Quality of Governance Dataset examining levels of government effectiveness across states (*The Quality of Government Standard Dataset, version Jan22. University of Gothenburg: The Quality of Government Institute*, 2022). The indicator examines “the inputs required for the government to be able to produce and implement good policies and deliver public goods” and is available in a time series format from 1996 onwards (*The Quality of Government Standard Dataset, version Jan22. University of Gothenburg: The Quality of Government Institute*, 2022). States with higher levels of government effectiveness are expected to over-comply more frequently and to a greater extent.

Additionally, the regime type of a given country has a direct impact on the number of veto players involved in ratifying and implementing over-compliant legislation, which may translate into an overall impact on the costs associated with over-compliance. For example, a military dictatorship may face fewer obstacles in introducing over-compliant legislation than a parliamentary democracy which would require approval from a wider range of actors. Data for this indicator is taken from the Quality of Governance Dataset and is a six-fold classification of regime

type ranging from parliamentary democracy to royal dictatorship (*The Quality of Government Standard Dataset, version Jan22. University of Gothenburg: The Quality of Government Institute, 2022*).

6.2.10 Normative Fit (Mediating Factor #3)

Finally, this chapter examines the degree to which child labor standards are congruent with domestic norms. If a state does not possess a strongly internalized norm against child labor, it is less likely to over-comply to a lesser extent. Given the inability to operationalize a norm against child labor in a quantitative context (i.e., beyond the proxy variables already employed in this chapter examining workers' rights and the percentage of child ages 7-17 engaged in labor), normative fit will not be considered for the purposes of the quantitative models in this chapter.

6.3 Empirical Specification and Findings

To test the above framework, this chapter models the probability of over-compliance in the presence of a given covariate and the effect of various predictors on the probability of over-compliance taking into account time. Owing to the temporal component stemming from the prolonged period in which ratification occurred, a dual staged approach is needed to provide a more robust assessment of the framework. Over-compliance that occurred at the outset of the convention may be associated with a different set of predictors than over-compliance that occurred later. The use of a logistic regression stems from the binary nature of the dependent variable. For the purposes of this analysis, over-compliance is a binary variable taking on the value of 1 if a state over-complied and 0 otherwise. As specified at the outset of this chapter, a state will be classified as over-compliant if, in the case of a developing country, it specifies a minimum age of fifteen or above, or, in the case of a developed country, a minimum age of sixteen or above. A

linear probability model is also specified as a robustness check of the logistic regression results and is included in Annex IX.

The second stage of this analysis focuses on the probability of over-compliance taking into account time. To do this, the chapter looks at the time to the event (i.e., over-compliance), as well as the effect of the various predictors on the hazard ratio (i.e., a measure addressing how often an event occurs in one group relative to another over time) (Golub, 2009). For those cases in which over-compliance did not occur, the state is labelled as censored. This indicates that the event did not occur in the period of observation, but could theoretically occur in the future (ibid). For this chapter, both states that ratified the convention and did not over-comply and non-ratifiers are treated as censored. Given that ratification of the convention opened in 1973, the full period of observation in which a country could have over-complied is forty-eight years.

Additional controls are introduced for total factor productivity (TFP) growth in percentage terms, whether a country is an EU member, if a state is classified as an LDC, the percentage of children engaged in economic activity for more than one hour per week (aged 7-14), whether a country is a petroleum exporter, and whether a state has a communist legacy. TFP growth is included as a control because countries with higher TFP growth rates may be able to better offset the increases in the overall costs of labor associated with the adoption of over-compliant measures, given their higher levels of efficiency gains domestically. Data for this indicator is taken from the Total Economy Database and examines TFP growth rates from 1990 to 2021 (*Total Economy DatabaseTM - Data*, 2021). EU membership captures the potential impact of joint IO membership on over-compliance. Given the existence of EU-wide legislation governing child labor, minimum standards with respect to child labor may stem from the EU itself rather than from the ILO. The

data for this indicator is taken from the EU's own website and is coded as 1 if a country was a member of the EU at the time of convention ratification and 0 if not (*EU Country Profiles*, 2022).

Next, LDC status is a binary variable that captures whether the likelihood of over-compliance differed between developing and developed states. A state is coded 1 if it is classified as an LDC by the ILO and 0 if it is not (*Least Developed Countries (LDCs) / Department of Economic and Social Affairs*, 2022). Additional versions of this indicator were also coded utilizing data from the UN to specify a more granular level of development than is possible with a binary indicator (*Statistical Annex to the World Economic Situation and Prospects (WESP) Dataset*, 2014). The costs of over-compliant behavior are assumed to be higher for states with relatively lower levels of economic development. Additionally, the models also control for the total percentage of children involved in economic activity for more than one hour per week (aged 7-14) in a given country from 1994 to 2016 (*The Quality of Government Standard Dataset, version Jan22. University of Gothenburg: The Quality of Government Institute*, 2022). Countries with more children engaged in economic activity face higher potential costs from adopting over-compliant standards.

The penultimate control included in this model is a dummy variable coded as 1 if a country is labelled by the UN as a petroleum exporter and 0 if otherwise (*Statistical Annex to the World Economic Situation and Prospects (WESP) Dataset*, 2014). Work in upstream production³⁷ is both higher skilled and more physically intensive than work in other sectors, such as agriculture, meaning that children are less likely to be engaged. Therefore, over-compliance with child labor standards may send a relatively costless signal to the international community that a petroleum exporting country subscribes to and enforces international norms. Finally, a binary indicator is

³⁷ The upstream sector of the petroleum industry is involved in oil discovery, extraction, and production.

introduced to capture whether a state has a communist past. While children represented “the only privileged class” in the specific case of the USSR, many scholars have noted the presence of unreported forced and/or child labor in communist and post-communist societies (Stephenson, 2002, p.1). As a result, this indicator aims to capture any potential effects of this legacy on the adoption of over-compliant standards.

6.3.1 Data and Patterns

The descriptive statistics presented in this section can be divided into two parts. First, this chapter will consider trends among all ratifying parties of ILO Convention No. 138, regardless of whether they over-complied with the convention’s standards. Second, the chapter will consider only those states who over-complied.

Of the 187 countries belonging to the ILO, 173 ratified ILO Convention No. 138. This represents near universal ratification, with 92.5% of states having ratified and implemented the convention domestically. Among these 173 states, the mean year for ratification was 2000, potentially linking the larger push at the international level in the late 1990s and early 2000s to develop international standards governing child labor with the convention’s ratification. The earliest ratifications of the convention were by Cuba, Libya, and Romania in 1975, and the latest ratification by Myanmar in 2020.

On average, among countries that ratified the convention, 22.2% of children between the ages of 7 to 14 engaged in some form of economic activity for more than an hour per week. This relatively high level of child labor points to tangibly higher costs associated with convention ratification and may help explain the prolonged period between the convention’s introduction and subsequent ratification by many states. Additionally, workers’ rights were relatively high for countries during their ratification year, with an average score of 71.5 out of 100, potentially

indicating a relationship between ratification and domestic preferences for more stringent labor regulations. Parliamentary democracies (24.5%) and civilian dictatorships (26.6%) are found to be the most likely to ratify the convention.

Table 6.13: Descriptive Statistics Concerning Ratification of ILO Convention No. 138

Minimum Age Convention, 1973 – present

(Data from numerous sources including the World Bank, Total Economy Database, and the Quality of Governance Dataset, 2022)

	Total (N=187)
Year of Ratification	
Mean (SD)	2000 (11.2)
Median [Min, Max]	2000 [1980, 2020]
Ratified Convention	
Yes	173 (92.5%)
No	14 (7.49%)
Over-Compliance - Ratifying Parties	
Over-Complied	54 (28.9%)
Did Not Over-Comply	133 (71.1%)
Least Developed Country (ILO Definition)	
Least Developed Country	70 (37.4%)
Developed Country	117 (62.6%)
Regime Type in Ratification Year	
Parliamentary Democracy	45 (24.5%)
Mixed (semi-presidential) Democracy	22 (12.0%)
Presidential Democracy	30 (16.3%)
Civilian dictatorship	49 (26.6%)
Military dictatorship	24 (13.0%)
Royal dictatorship	14 (7.61%)
Diffusion	
Diffusion	19 (10.2%)
No Diffusion	168 (89.8%)
Existence of Legislation Governing Child Labor Prior to Ratification Year	
Pre-Existing Legislation	90 (48.6%)
No Pre-Existing Legislation	95 (51.4%)
WTO Member/Applicant within Five Years of Ratification	
Yes	56 (31.1%)
No	124 (68.9%)
Workers' Rights - (0-100), Ratification Year	
Mean (SD)	71.5 (20.3)
Median [Min, Max]	73.0 [3.00, 100]
Percentage of Children in Employment - (7-14) During Year of Ratification	
Mean (SD)	22.2 (16.6)
Median [Min, Max]	17.9 [1.00, 74.4]

This finding points away from a direct relationship between regime type and higher levels of convention ratification. Furthermore, democratic regime types make up only 52.8% of the

government's found in ratifying states. Additionally, diffusion appears to have little effect on ratification, with only 10.2% of over-compliant ratifying states having a neighbor who also did so within a five-year period. Finally, and perhaps most interestingly, pre-existing labor standards governing child protection do not appear to have a strong relationship to convention ratification. Of the 173 countries that ratified the convention, only 48.6% had pre-existing legislation, with 51.4% having no such legislation at the time of ratification.

Of the 54 states that can be said to have over-complied with ILO Convention No. 138, the average year of convention ratification is 2000. On average, it took over-compliant states 26.2 years to ratify the convention. 41 of the 54 countries that over-complied can be considered developed countries (75.9%) by the ILO's definition. This points to a strong relationship between over-compliance and a state's relative level of economic development (Mediating Factor #1). Over-compliant countries also had a slightly smaller percentage (21.4%) of children engaged in some form of economic activity for more than an hour per week than ratifying countries. Interestingly, worker's rights in over-compliant countries as a subset of ratifying countries are only marginally higher than ratifying countries at 71.6%. Contrary to ratification, diffusion and proximity (Conjecture #2) both appear to have an impact on whether a state over-complied with the convention. Of the 54 countries that over-complied, 19 (35.2%) had a neighbor who did so within five years, and 38 (70.4%) had at least one neighbor who over-complied. Finally, among those countries that over-complied, there appears to be a weak relationship between pre-existing standards governing child labor (Conjecture #1) and adopting over-compliant standards. Only 22 (40.7%) out of 54 over-compliant states had previous legislation governing child labor.

Table 6.14: Descriptive Statistics Concerning Over-Compliance with ILO Convention

No. 138 Minimum Age Convention, 1973 – present

(Data from numerous sources including the World Bank, Total Economy Database, and the Quality of Governance Dataset, 2022)

	Total (N=54)
Year of Ratification	
Mean (SD)	2000 (10.5)
Median [Min, Max]	2000 [1980, 2020]
Time to Ratification in Years	
Mean (SD)	26.2 (11.9)
Median [Min, Max]	28.0 [3.00, 48.0]
Least Developed Country (ILO Definition)	
Least Developed Country	13 (24.1%)
Developed Country	41 (75.9%)
Regime Type in Ratification Year	
Parliamentary Democracy	13 (24.1%)
Mixed (semi-presidential) Democracy	9 (16.7%)
Presidential Democracy	6 (11.1%)
Civilian dictatorship	17 (31.5%)
Military dictatorship	5 (9.26%)
Royal dictatorship	4 (7.41%)
Diffusion	
Yes	19 (35.2%)
No	35 (64.8%)
Existence of Legislation Governing Child Labor Prior to Ratification Year	
Pre-Existing Legislation	22 (40.7%)
No Pre-Existing Legislation	32 (59.3%)
WTO Member/Applicant within Five Years of Ratification	
Yes	16 (30.2%)
No	37 (69.8%)
Workers' Rights - (0-100), Ratification Year	
Mean (SD)	71.6 (19.0)
Median [Min, Max]	76.0 [3.00, 92.0]
Percentage of Children in Employment - (7-14) During Year of Ratification	
Mean (SD)	21.4 (16.1)
Median [Min, Max]	17.9 [1.00, 52.3]

6.3.2 Models

6.3.2.1 Logit Models

Table 6.15: ILO Convention No.138 - Logistic Regression

	Dependent variable:		
	Over-Compliance		
	(1)	(2)	(3)
Developed Country	1.621*** (0.565)	1.684*** (0.558)	1.466*** (0.457)
WTO Membership Within 5 Years (No)	-0.373 (0.493)		
Pre-Existing Legislation (No)	1.152** (0.456)	1.174*** (0.456)	1.223*** (0.398)
Mixed (semi-presidential) Democracy	1.408 (0.888)	1.311 (0.873)	
Presidential Democracy	-1.659* (0.972)	-1.658* (0.971)	
Civilian dictatorship	1.203 (0.827)	1.131 (0.822)	
Military dictatorship	0.771 (0.935)	0.770 (0.934)	
Royal dictatorship	0.254 (1.055)	0.284 (1.062)	
Percentage of Children Aged (7-14) Engaged in Labor	0.023 (0.019)	0.024 (0.019)	0.016 (0.016)
Government Effectiveness	1.064** (0.426)	1.129*** (0.424)	0.726** (0.354)
Constant	-1.861 (1.177)	-2.102* (1.141)	-1.431** (0.584)
Observations	138	138	138
Log Likelihood	-70.678	-70.965	-80.685
Akaike Inf. Crit.	163.357	161.930	171.370

Note:

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

The results of *Logit Model 1*³⁸ point to a strong and statistically significant relationship at the 5% level between over-compliance and government effectiveness, when holding constant LDC status, WTO membership/association (5 years), pre-existing legislation, regime type, and percentage of children (7-14) in the labor force. Countries with higher levels of government effectiveness are 2.9 times³⁹ more likely to over-comply than countries with lower levels of government effectiveness. Furthermore, *Logit Model 1* points to a strong and statistically significant relationship at the 1% level between over-compliance and LDC status, holding all other variables constant. Developed countries are 5.06 times more likely to over-comply than developed states. The relationship between over-compliance and an absence of pre-existing legislation is also significant at the 5% level, when controlling for LDC status, WTO membership/association (5 years), pre-existing legislation, regime type, and the percentage of children (7-14) in the labor force. Countries that do not have pre-existing legislation are 3.16 times more likely to over-comply than countries that had legislation governing child labor prior to ILO Convention No. 138 ratification. As such, *Logit Model 1* finds strong support for the role of mediating factors, such as costs and capacity, in explaining states' over-compliant behavior with respect to ILO Convention No. 138. Interestingly, the results of the logit models point to the role of pre-existing legislation that was aimed at capturing Conjecture #1 in the case of the ILO as a primarily mediating factor rather than providing a causal explanation for the adoption of over-compliant standards. The existence of pre-existing legislation may in fact increase the costs of adopting over-compliant measures as it requires amendments to already existing measures.

³⁸ For the logit models presented in the ILO chapter, sampled data was used to address a binary classification problem. Further details regarding this choice can be found in Annex VII.

³⁹ For ease of interpretation, logits are converted to odds ratio for the discussion in the text by taking the exponential of the logit coefficient.

The results of *Logit Model 2* point to a strong and statistically significant relationship at the 1% level between over-compliance and government effectiveness when holding constant LDC status, pre-existing legislation, regime type, and the percentage of children (7-14) engaged in child labor. Holding constant all other variables, countries with higher levels of government effectiveness are 3.09 times more likely to over-comply than countries with lower levels of government effectiveness. The absence of pre-existing legislation and LDC status are also significant predictors of over-compliance at the 1% level when controlling for regime type, the percentage of children (7-14) engaged in child labor, and government effectiveness. Developed countries are found to be 5.39 times more likely to over-comply than developing countries, while having no pre-existing legislation governing child labor makes states 3.23 times more likely to over-comply than states that do have pre-existing legislation, holding all other variables constant.

The results of *Logit Model 3* point to a strong and statistically significant relationship at the 1% level between over-compliance and the absence of pre-existing legislation, when holding LDC status, percentage of children (7-14) engaged in labor, and government effectiveness constant. Countries are 3.40 times more likely to over-comply if they did not have pre-existing legislation governing child labor than if they did, holding all other variables constant. Furthermore, both LDC status and government effectiveness are significant at the 1% and 5% level respectively holding all other variables constant. Developed countries are 4.33 times more likely to over-comply than developing states, while countries with higher levels of government effectiveness are 2.07 times more likely to over-comply than countries with lower levels of government effectiveness, holding all other indicators constant.

6.3.2.2 Results of the Logit Model

These results provide strong support for the notion that over-compliance is a phenomenon largely found among developed states. As such, it points to a greater need for studies examining how varying levels of economic development can best account for over-compliant behavior. Given that the absence of pre-existing legislation increases the probability of over-compliance, the ability of states to transpose international requirements into national law without first having to amend current practices may incentivize states to do more than what is required of them with respect to their international commitments. As a result, the costs (Mediating Factor #1), capacity (Mediating Factor #2), and material constraints associated with adopting over-compliant measures provide the strongest account in explaining the observed patterns of over-compliance with ILO Convention No. 138.

The remainder of this section will briefly consider other potential causal mechanisms and mediating factors not previously addressed within the context of the models presented. FDI inflows as a percentage of GDP⁴⁰ is insignificant at all conventional levels when controlling for regime type and percentage of children in the labor force ages 7-14 (see Annex VIII), lending little support for a labor competition-based explanation for over-compliance in the ILO. However, this finding must be caveated by the acknowledgement that FDI inflows as a percentage of national GDP may fail to capture in full the dynamics underpinning a ‘race to the bottom’ dynamic among developing states. Countries whose economies are dominated by specific sectors⁴¹ may be more dependent on child labor than others. For example, if a country’s economy is largely driven by the export of petroleum products rather than textiles, the relationship between FDI inflows as a percentage of

⁴⁰ Interestingly, FDI inflows as a percentage of GDP render LDC status insignificant potentially owing to a relationship between FDI inflows and a country’s relative economic competitiveness.

⁴¹ See Appendix VIII for a model including sectoral difference.

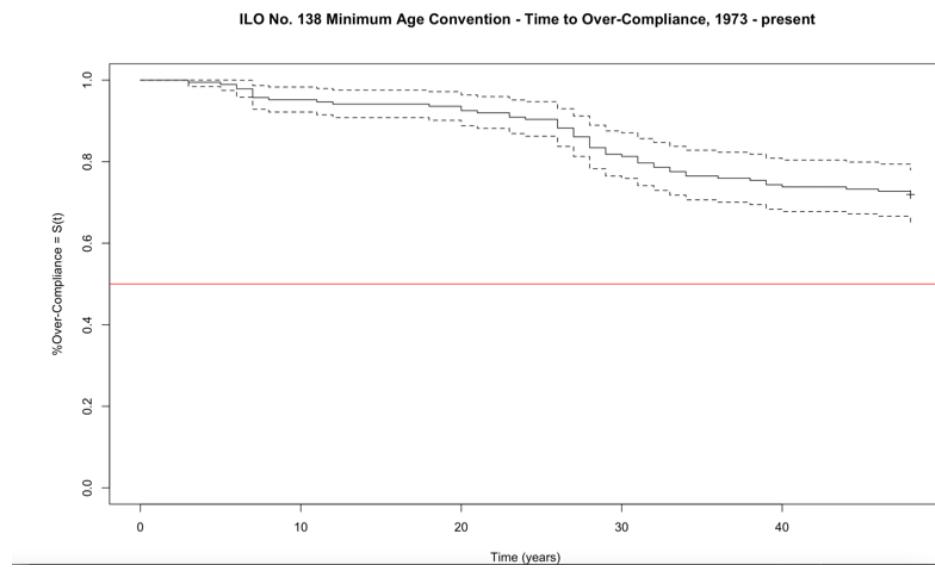
GDP and levels of child labor may not be linear and, as a result, the costs of over-compliance standards may vary.

Furthermore, WTO membership/association and attitudes towards labor rights are all found to be insignificant predictors of over-compliance (see Annex VIII) and as such are not included in the previously presented models owing to their limited ability in contributing to model fit.⁴² Furthermore, sectoral differences are not robust when other indicators are included such as percentage of children ages 7-14 in the labor force. As a consequence, these sectoral differences were dropped in favor of more parsimonious models. Appendix VIII includes all relevant robustness checks⁴³ as well as the results of the linear probability models that are not presented in the primary text owing to the better fit of the logit models in light of the binary dependent variable.

6.3.2.3 Kaplan-Meier Model

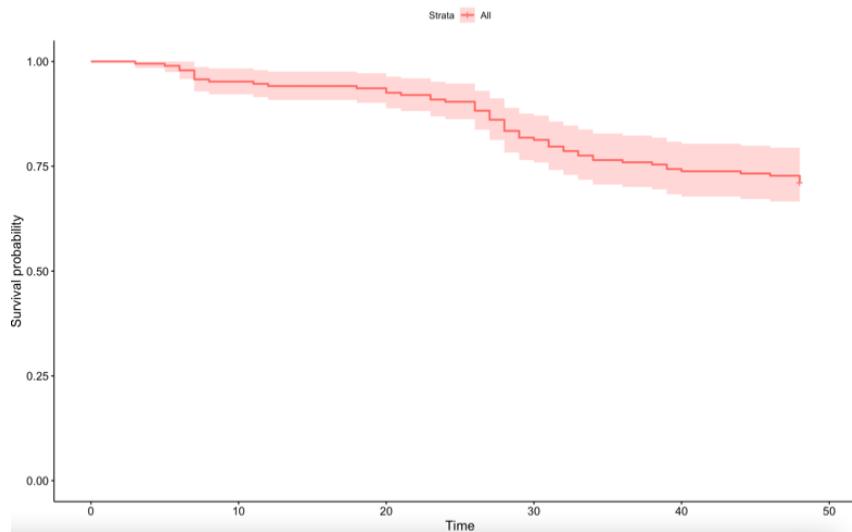
Graph 6.11 and Graph 6.12: Time to Over-Compliance with ILO Minimum Age

Convention No. 138, 1973 – present



⁴² They will however be included in the appendices for transparency's sake.

⁴³ The diffusion indicator was dropped after establishing it violated a number of model assumptions, owing in part to its low variability.



The results of the Kaplan Meier model provide anecdotal support for a signaling-based explanation (Conjecture #4) for over-compliance. Countries appear more likely to over-comply at the outset of the convention (1970s), and this probability increases significantly in the early 2000s, when additional measures were introduced at the international level governing child labor. For example, the probability of event occurrence (over-compliance) increases to 16.6% in 2001 from 6.4% in 1991. This implies that countries were two times more likely to over-comply following the introduction of additional international standards than in the ten years prior. While the Kaplan-Meier model does not provide conclusive evidence for a signaling-based explanation (Conjecture #4), it does provide some anecdotal evidence for the effect of international cooperation on the timing of convention ratification and subsequent over-compliance. As a result, these findings indicate that IO centric explanations for over-compliance cannot be entirely rejected in the case of the ILO.

The full output of the Kaplan Meier model is included in Annex X. The next section will examine the effect of various predictors on the probability of over-compliance - taking into account time - to better understand whether the presence of a given variable influenced the adoption of

over-compliant behavior. In light of the above results, the focus of the Cox Proportional Hazard model will be on ascertaining the impact of costs (Mediating Factor #1), capacity (Mediating Factor #2), and signaling (Conjecture #4) on the probability of over-compliance taking into account time.

6.3.2.4 Cox Proportional Hazard

The indicator for the absence of pre-existing legislation is significant at the 10% level for *Model 1*, indicating that at a given instance in time countries are 2.04⁴⁴ times as likely to over-comply when there is no pre-existing legislation versus when there is pre-existing legislation adjusting for all other indicators. These results are robust even when controlling for WTO membership/association (Conjecture #4), regime type (Mediating Factor #2), and the percentage of children (7-14) in the labor force. Moreover, LDC status is a strong predictor of over-compliance at the 1% level, implying that at a given instance in time over-compliance is 3.39 times as likely to occur among developed states than developing states adjusting for all other indicators. Interestingly, regime type appears to have a negligible impact on over-compliance holding all other indicators constant. The LR and Score (Logrank) tests are both significant at the 5% level, while the results of the Wald Test are significant at the 10% level, implying that the included explanatory variables are significant predictors of over-compliant behavior. The model has a concordance index of 0.74 (see Annex XI for further details and the results of the robustness checks) indicating a relatively well fitted model.⁴⁵

⁴⁴ All coefficients for the Cox Model are exponentiated for ease of interpretation.

⁴⁵ A Concordance Index of 0.7 or above implies a well fit model.

Table 6.16: ILO Convention No.138: Cox Proportional Hazards Model

<i>Dependent variable:</i>	
time, over-compliance	
Pre-Existing Legislation (No)	0.711* (0.402)
Developed Country	1.220*** (0.468)
Mixed (semi-presidential) Democracy	0.834 (0.833)
Presidential Democracy	-0.580 (0.922)
Civilian dictatorship	0.641 (0.779)
Military dictatorship	0.654 (0.873)
Royal dictatorship	0.083 (1.007)
WTO Membership Within 5 Years (No)	-0.176 (0.418)
Percentage of Children Aged (7-14) Engaged in Labor	0.005 (0.015)
Observations	97
R ²	0.172
Max. Possible R ²	0.935
Log Likelihood	-123.067
Wald Test	16.190* (df = 9)
LR Test	18.301** (df = 9)
Score (Logrank) Test	17.459** (df = 9)

Note:

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

6.3.2.5 Results of the Kaplan Meier and Cox Proportional Hazards models

The results of the Cox Proportional Hazards models have enabled this thesis to explore the effect of various predictors on the probability a state will over-comply given that it has not already

done so. LDC status and the absence of pre-existing legislation governing child labor are found to be significant predictors of whether a state will over-comply or not with ILO Convention No. 138. These findings paired with the results of the Kaplan Meier model and Logit models point to a strong relationship between the capacity of states and the costs of over-compliance in explaining patterns of over-compliance with ILO Convention No. 138. Additionally, the absence of pre-existing legislation (Conjecture #1) also takes on a mediating role in accounting for patterns of state over-compliance.

As such, it is the desire of a state to signal its commitment to an IO (Conjecture #4) that best explains the causes of over-compliance with ILO Convention No. 138. As such, these findings point to the important role of international efforts to fight child labor on the desire and/or willingness of states to adopt over-compliant standards.

6.6 Conclusion

The contributions of this chapter to the thesis are three-fold. First, in examining over-compliance across a greater subset of states, this chapter finds that over-compliance with ILO Convention No. 138 is largely the purview of developed states. Developed states are found to possess the capacity needed to translate preferences for over-compliant standards into reality. Second, in finding that the absence of pre-existing legislation governing child labor is a positive predictor of the adoption of over-compliant standards (Conjecture #1) the results of this chapter indicate that in those countries in which fewer barriers exist to amending domestic labor law, over-compliance with ILO Convention No. 138 is a more likely outcome. As a result, international institutions may be able to encourage behavior that goes above and beyond minimum standards in the pursuit of stronger labor regulations in those cases in which states have little to no regulation at all.

Finally, in addition to domestic political preference-based explanations for over-compliance in the ILO, signaling (Conjecture #4) provides a clear account for when over-compliance may be more or less likely to occur. For example, states experiencing international pressures are more likely to over-comply at times in which this commitment is more visible and salient. As a result, over-compliance can be seen to serve a secondary purpose, that is, as a clear signal to the international community, transnational firms, and to one's neighbors of a state's intent. Future research is needed to examine the specific mechanisms hindering over-compliance among developing states. Thus, while the results of this analysis provide a preliminary indication that labor competition may be driving LDCs to avoid the adoption of over-compliant standards, there is still reason to suspect these dynamics may vary across national contexts, and that government effectiveness has a direct bearing on the extent of over-compliance.

Chapter 7: Conclusion

7.1 Contributions

This thesis presents the first comprehensive study within the IR literature of over-compliance. It aims to answer two primary research questions: i) to what extent is over-compliance an empirically significant phenomenon, and ii) why would states choose to not only meet but exceed international minimum requirements? In answering the first question, the thesis has argued that conventional understandings of compliance largely overlook the range of possible options facing states when electing to respond to international commitments. This thesis has shown that across a multitude of institutional settings and issue areas, ranging from the environment, human rights, social, and labor policy, states are frequently electing to move beyond mere compliance. Using a mixed method research design, this thesis finds that over-compliance in the EU, UNFCCC, and ILO can largely be attributed to the domestic political preferences of states, in combination with specific features of the institutional context in which these measures were adopted.

The findings of this thesis have significant implications for how we understand the constitutive impact of international institutions on state behavior. If institutions can play a role in inducing states to not only comply with their international commitments but to exceed them, then their conceptualization as arenas in which states merely act out power relations understates the potential agency of institutions in shaping state behavior. The overarching framework developed in this thesis can be adapted and applied to a wide variety of settings and used to explore additional drivers of and mediating factors of over-compliance. For example, there is good reason to suspect that additional factors, such as openness of economies, may explain over-compliance in areas as diverse as international financial regulation to migration.

These results stem from a multi-staged research design utilizing both qualitative and quantitative research methods. Chapter 4 utilized both secondary document analysis and structured and semi-structured interviews with national officials, academics, and practitioners, to understand the causes of over-compliance with respect to EU parental leave standards in the Baltic states. To do this, the thesis reviewed government documents and EU accession/association reports from 1999-2004 for the Baltic states to investigate the timing of the adoption of over-compliant standards in Estonia, Latvia, and Lithuania. Additionally, interviews were employed to determine causality, linking the timing of the adoption of over-compliant measures with the stated intentions of relevant actors.

The findings suggest that, in the case of parental leave in the Baltic states, domestic political preferences, unrelated to membership in and/or association with the EU, provided the most salient account of over-compliant behavior. Specifically, all three states under examination – Latvia, Lithuania, and Estonia – were faced with an ageing population that amplified demographic concerns for policymakers, leading governments to adopt measures aimed at raising birth rates. Additionally, reforms of national parental leave policies were frequently employed as a political tool through which to shore up support ahead of national elections. However, the timing of the adoption of over-compliant measures in all three states points to the importance of institutional influence in shaping national parental leave policies. All three states reformed national parental leave policies during the accession process, providing support for the notion that the adoption of over-compliant measures may have also been at least in part the result of states signaling their commitment to EU norms, values, and rules. The case of Lithuania provides further support for this notion, with national experts directly attributing the state's over-compliance in the area of paternity leave to EU accession. Specifically, interactions within EU institutions resulted

in the diffusion of norms both across national elites and the domestic electorate, which resulted in the adoption of over-compliant legislation.

As such, Conjecture #1 (Domestic Political Preferences) and Conjecture #4 (Signaling) find the strongest support in accounting for the Baltic states' over-compliant behavior with respect to parental leave. Additionally, Mediating Factor #1 (Costs) and Mediating Factor #3 (Normative Fit) were found to be highly salient for the likelihood of adopting over-compliant legislation, and the extent of over-compliance found in the Baltic states. Policymakers, particularly from Latvia, noted that economic costs served as a direct constraint on the state's ability to adopt more generous parental leave policies (Mediating Factor #1). Furthermore, policymakers across all three states highlighted that the degree to which EU norms were congruent with conceptions of gender equality at the national level had a direct impact on both the likelihood and extent of over-compliant legislation (Mediating Factor #3). As such, while the non-IO centric mechanism of domestic political preferences provides the strongest account for over-compliant behavior in the Baltic states, this case also highlights the importance of IO-centric mechanisms, such as signaling, in accounting for states' over-compliant behavior. Consequently, an examination of both IO and non-IO centric mechanisms is required to provide a full account of the Baltic states' over-compliant behavior.

With respect to the case of the Kyoto Protocol (Chapter 5), an original dataset was constructed building on numerous indicators from the UNFCCC, World Bank, Total Economy Database, and the Comparative Manifesto Project. In many cases, owing to data constraints, this process involved not only identifying the relevant indicators in existing data sources, but also constructing and modifying data to build additional indicators. For example, to examine the saliency of environmental protection among governing elites, parliamentary data for all 36 Annex

1 parties to the Kyoto Protocol was used to weight the CMP indicator according to both the amount of time spent in government for respective parties, and in the case of coalition governments, a party's respective share of seats. This dataset was then used to run logit models, in addition to a Kaplan Meier model, examining the causes of over-compliance and time to exceedance with respect to the Kyoto Protocol. The results of this analysis constitute the first quantitative consideration of over-compliance in the IR literature.

The thesis finds that the extent of national emissions prior to the start of the first commitment period of the Kyoto Protocol is the single most important predictor of over-compliant behavior. The majority of the Annex 1 parties can be argued to have taken on international commitments that reflected their per-existing emissions levels. It appears that states elected to adopt commitments to minimize the substantive and costly emissions reductions that would be necessary to comply with the Kyoto targets. Nevertheless, the Kyoto Protocol can be argued in some cases to have provided states with the 'carrot and stick' necessary to reduce national emissions beyond what might have occurred in the absence of the Protocol (Drezner, 1999). The carrot in this case refers to the rewards stemming from being seen as a 'good complier' with international commitments, whereas the stick refers to the sanctions associated with being found in non-compliance, as well as the potential reputational costs associated with failing to comply with a publicly stated target.

In the case of the Kyoto Protocol, over-commitment may have served to raise both the rewards and costs associated with over-compliant behavior, raising the probability of subsequent over-compliance. However, parties to the Kyoto Protocol can be said to have over-complied owing primarily to the domestic political conditions found within states. Nevertheless, this finding has implications for how we understand institutional design, and its potential role through

individualizing state commitments, in enabling states with a strong domestic preference for more extensive environmental standards to go above and beyond international minimum requirements.

Finally, an original dataset was also constructed to examine over-compliance with the ILO's Minimum Age Convention No. 138 (Chapter 6). To do this, data from NATLEX, the World Bank, and the Quality of Governance Dataset was employed to understand the potential causes of over-compliance among ratifying parties. Emphasis was placed in the data collection phase on understanding how labor markets varied across countries. This dataset was then used for rigorous statistical analysis examining over-compliance within the context of international labor standards. As such, it provides a potential basis for future studies aimed at understanding over-compliance with respect to ILO Convention No.138.

Over-compliance with respect to the ILO's Minimum Age Convention is found to be a direct function of states' bureaucratic capacities and their relative level of economic development. Chapter 6 finds that developing states are significantly less likely to over-comply with respect to ILO Convention No. 138 than developed states. In part, the lower rate of over-compliance among developing states is a function of lower bureaucratic capacities, which serve to complicate the adoption of over-compliant legislation. It is important to highlight that these findings may be a byproduct of the degree to which ILO minimum standards served to reflect the preferences of developed states relative to developing states.

For example, developed states may be argued to have faced strong incentives to raise the minimum age for child labor globally, as it serves to increase the relative cost of labor in developing countries. Such measures would reduce the differential between labor costs in developed and developing countries, thereby reducing the overall comparative disadvantage of labor in developed states versus developing states. As a result, the introduction of an international

minimum standard may have served to create a more level playing field for developed states, while enshrining, on a global scale, a predominately Western norm against child labor. As such, this represents an interesting area for future research.

Once again in the case of the ILO the timing of the adoption of over-compliant standards points to the importance of IO centric explanations. For a number of states, the introduction of over-compliant standards coincided with a strong international push towards more stringent child protection policies in the 1990s and early 2000s. As a result, states may have been able to signal their commitment to international norms through the adoption of over-compliant legislation, further facilitating their reputation as ‘good citizens’ in the international community.

As a result, this thesis finds that most over-compliance can in fact be explained by factors exogenous to the international institutions considered, in particular, pre-existing domestic political preferences for more extensive standards explains a significant portion of the over-compliant behavior observed across the three cases considered. Furthermore, mediating factors, which may be unrelated to the IO itself, such as the relative costs of over-compliance and/or the effectiveness of national bureaucracies were largely able to account for the patterns of over-compliance observed with respect to the ILO’s Minimum Age Convention. However, this thesis has also shown that non-IO centric explanations cannot account for all instances of over-compliance. In the case of parental leave in the EU, the desire of the Baltic states to signal their commitment to the rules and norms of the organization resulted in the adoption of over-compliant parental leave standards. Furthermore, in the case of the Kyoto Protocol the institution itself may have provided the necessary incentive structures for states to exceed international minimum standards. Through the ability to set targets on an individual basis, this thesis argues that the Kyoto Protocol may have raised the costs of non-compliance with previous over-commitments to such an extent that over-

compliance was the outcome. As a result, the findings of this thesis highlight the need for a comprehensive theoretical framework examining both IO and non-IO centric explanations in accounting for states' over-compliant behavior.

7.2 Generalizability/Applicability of the Presented Framework and Findings Across Institutional Settings, Problem Structures, and Issue Areas

This thesis has demonstrated that over-compliance is a widely observed and empirically relevant phenomenon in international relations. In doing so, it has provided a framework through which to explain this seemingly counterintuitive behavior across a diverse range of institutional settings, problem structures, and issue areas. In this section, the thesis will address the applicability of this framework across the above areas while noting the degree to which this framework may be labelled broadly generalizable. As such, it will also serve to highlight the key takeaways stemming from the previously presented findings and their ability to speak to the broader literature on international institutions and more specifically on institutional design.

First, the institutional setting in which cooperation occurs can have direct implications for the relative frequency and extent of over-compliance that is observed. Building on the existing literature on institutional design (see Koremenos et al., 2001), this thesis argues that over-compliance can in fact be explained by the strength of institutional enforcement mechanisms, the homogeneity or heterogeneity of membership, and the nature of state's commitments. To examine the applicability of the presented framework across different institutional settings, the thesis sought to investigate over-compliant behavior in institutions in which there was a high degree of variation with respect to these factors. For example, the Kyoto Protocol can be argued to have relatively stronger enforcement mechanisms than the ILO. As a result, the degree to which there was uncertainty and subsequent fear of sanctions in the case of non-compliance may have lent greater validity to certain explanations than in other institutional contexts. However, in institutions with

both more homogenous memberships (i.e., the EU) and more heterogenous memberships (i.e., the ILO) this thesis provides a more generalizable account for over-compliant behavior finding that non-IO centric explanations appear to be more salient in institutions with heterogenous memberships owing to the different economic and political conditions found across member states. This is evidenced by the case of the ILO in which mediating factors such as the cost and quality of national bureaucracies proved highly salient. Finally, in examining the prevalence of over-compliance and its causes across institutional settings in which there is variation with respect to the flexibility of individual state commitments, this thesis finds that flexible institutional structures may enable states to move beyond lowest common denominator standards at the international level. As such, flexible institutional structures may more readily enable states to over-commit, thereby resulting in a form of political “lock-in” that may incentivize states to subsequently over-comply with their international commitments.

The above findings speak both to the generalizability of the framework across institutional settings and the degree to which institutional design may have direct implications for the prevalence and extent of over-compliance observed. Importantly, two key findings must be noted. First, in institutional settings in which strong enforcement mechanisms predominate, states may be more inclined to over-comply in an effort to avoid the sanctions of being found in non-compliance. Second, institutional settings with greater flexibility with regards to the designation of minimum binding targets may enable states with an underlining preference for more extensive standards to codify this at the international level, thereby, binding themselves to more ambitious efforts than what may have occurred in the absence of international cooperation. As such, this thesis argues that practitioners and experts wishing to design more effective international institutions (i.e., defined in terms of having a greater overall impact on state behavior) may wish

to incorporate stronger enforcement mechanisms and greater flexibility with regards to the designation of binding commitments.

Second, integral to the creation and design of international institutions and their ability to bring about behavioral changes in member states is the degree to which they help actors overcome traditional impediments to cooperation such as cheating and relative gains concerns (Grieco et al., 1993). As such, the explanations of over-compliance presented in this thesis must be viewed in light of not only the type of institutional setting examined but also the nature of the cooperation problem governing the specific issue area covered. This thesis specifically examines institutional settings in which both enforcement and distribution problems underpin cooperation. For example, this thesis examines over-compliance in the area of parental leave, which constitutes a policy area in which states may be incentivized to “cheat” in an effort to gain a competitive advantage by lowering the costs of labor. Similarly, the thesis also examines over-compliance in settings of traditional distributional problems such as environmental cooperation. The framework and findings of this thesis are able to account for over-compliance across different types of cooperation problems, highlighting that the theoretical framework is generalizable to the extent that it can be used to examine the concept of over-compliance in a diverse range of problem structures.

In settings in which concerns over cheating predominate, such as parental leave, IO-centric explanations are likely a major driving force behind states’ decision to over-comply. States may perceive signaling as a particularly important means through which to convey a credible commitment to an IO and international norms in policy areas traditionally prone to cheating. This is highlighted by the finding that both domestic political preferences and signaling provide a powerful account for the Baltic states over-compliant behavior with respect to EU parental leave standards. In institutions seeking to overcome acute distributional and coordination problems, such

as the area of environmental cooperation and in the case of this thesis the Kyoto Protocol, the presented framework is equally applicable and points to the importance of non-IO centric explanations in accounting for over-compliant behavior. States are more likely to over-comply in areas that are prone to free-riding problems when domestic political preferences and previous policy choices at the domestic level incentivize over-compliance with international standards in the first place.

Third, the theoretical framework delineated in this thesis can be used to examine over-compliance across issue areas. In electing to analyze over-compliance in the areas of social, labor, and environmental policy, the thesis touches upon issue areas in which the salience of international standards is likely to vary with respect to domestic publics. For example, Baldock, Vickerstaff, and Mitton (2011) argue that parental leave provision touches upon key issues of societal contestation - pertaining both to the role of women in the workplace and at home as well as the responsibility of the state and employers to provide protections for parents. As such, there is good reason to suspect that international efforts to shape parental leave provision within the context of sovereign and democratically accountable states are likely to garner higher levels of contestation than in policy areas that may be labelled as highly technical or not directly relevant to the day to day lives of the average citizen, which could render non-IO centric domestic explanations more salient. In line with this expectation, this thesis finds that domestic political preferences are more salient in the area of parental leave than with respect to the ILO's Minimum Age Convention in which cost-based explanations predominate. At the same time, the theoretical framework of this thesis can also be applied to policy areas which likely exhibit relatively less contestation at the domestic level such as bathing water quality targets, demonstrating the generalizability and applicability of the framework to examine the concept of over-compliance across policy areas.

7.3 Implications and Avenues for Future Research

The above findings and research design have substantive implications for the study of compliance and international institutions within the IR literature. First, while conventional understandings of compliance model the choice to comply or not comply with international law as dichotomous, this thesis demonstrates how these studies fail to provide a convincing account for the range of options available to states in the face of international requirements. Second, far from being a relatively infrequent and idiosyncratic behavior, this thesis argues that over-compliance can be found across a wide range of international institutions and policy areas. As such, future research aimed at understanding the causes of over-compliance, as well as the role of both IO and non-IO centric mechanisms in bringing about this outcome, is merited. Third, the findings of this thesis have important implications for how we understand cooperation within and across international institutions. Importantly, this thesis finds that states are likely to do more with respect to their international commitments when the necessary political and economic factors are in alignment with their commitments at the international level.

Several limitations of this thesis must be noted. First, in electing to only examine over-compliance in depth in the areas of the environment, labor standards, and social policy, this thesis is far from comprehensive in scope. Future studies could examine the relevance of the presented framework in explaining over-compliance in other institutional settings and policy areas. For example, there may be reason to suspect that the mechanisms motivating over-compliance in the area of human rights may differ from the dynamics in the area of international trade. Institutional design features, such as the relative strength of monitoring and sanctioning mechanisms, differ widely across policy areas, with human rights institutions having relatively weak sanctioning mechanisms, while institutions such as the IMF, World Bank, and WTO have stronger monitoring

and sanctioning powers. This renders some IO-centric explanations for over-compliance less salient than others for specific policy areas. It would be unlikely, for example, that states over-comply in international human rights regimes to avoid the potential cost of sanctions in the case of involuntary non-compliance. Instead, over-compliance in this policy area is more likely to be the result of states signaling their adherence to core norms and/or pre-existing political preferences.

Second, in electing to adopt a mixed-method research design, certain causal mechanisms were outside the scope of this thesis owing to the inability to observe and measure their empirical implications. For example, distinguishing between avenues of norms diffusion is particularly difficult in an international context in which states cooperate both within and outside of international institutions. This limits the ability of a quantitative framework to identify the specific causal pathway through which norm diffusion may result in over-compliance. As such, future research might seek to investigate the role of norm diffusion and other indicators not so easily captured by a quantitative model within a small-N context.

Third, while the thesis has defined over-compliance in the broadest possible terms, an argument for a narrower definition predicated on institutional impact may be more pertinent in the future. A narrower definition of over-compliance may enable future researchers to distinguish more systematically between the effects of domestic political preferences and international institutions on state behavior. Finally, more experimental methodologies, such as propensity score matching with complementary case studies, may provide a more rigorous test of the potential competing, as well as complementary, causal mechanisms outlined in the framework of this thesis.

In conclusion, this thesis has presented the first comprehensive study of over-compliance in the IR literature. In so doing, it has raised important questions regarding the role of institutional influence and the ability of the current compliance literature to move beyond a binary

understanding of state choice with respect to international minimum requirements. In diverse institutional settings and policy areas, states are electing to do more than what is required of them, presenting complex challenges for those wishing to understand the degree to which international institutions have a substantive impact on state behavior.

Appendices

Annex I: Over-Compliance with CFC Emissions Reduction Targets Among Developing and Developed States for Chapter 2

Table 8.17: Montreal Protocol CFC Emissions Targets and Zero Emissions Year, 1990-2010

Country	CFC Emissions in ODS tonnes	Year of last Emission
Afghanistan	220	2009
Albania	40	2007
Angola	116	2009
Antigua and Barbuda	430	2006
Austria	7,760	1994
Bahamas	51	2006
Barbados	16	2008
Belize	15	2007
Benin	15	2009
Bhutan	0	1988
Bolivia (Plurinational State of)	35	2008
Bosnia and Herzegovina	329	1989
Botswana	3	2008
Brazil	10,974	2010
Burkina Faso	23	2007
Burundi	32	2009
Cabo Verde	2	2005
Cambodia	94	2008
Cameroon	119	2012
Central African Republic	24	1996
Chad	16	2009
Chile	28	2009
Colombia	1,194	2009
Comoros	3	2007
Congo	17	2009
Cook Islands	2	1988
Costa Rica	243	2009
Côte d'Ivoire	142	2009
Croatia	515	2007
Cuba	884	2008
Democratic People's Republic of Korea	950	1993
Democratic Republic of the Congo	9	2009

Djibouti	22	2009
Dominica	0	1985
Ecuador	704	2009
El Salvador	332	2007
Equatorial Guinea	17	2008
Eritrea	20	2009
Eswatini	10	2006
Ethiopia	37	2009
European Union	301,930	2004
Fiji	17	1999
Finland	3,301	1994
Gabon	12	2006
Gambia	7	2009
Ghana	90	2007
Grenada	4	2005
Guatemala	482	2008
Guinea	25	2008
Guinea Bissau	20	2009
Guyana	18	2007
Haiti	0	1985
Holy See	0	1985
Honduras	88	1988
Iceland	195	1994
Indonesia	350	2007
Iraq	1,765	2009
Israel	4,142	1996
Jamaica	196	2005
Jordan	537	2008
Kenya	230	2008
Kiribati	1	1988
Lao People's Democratic Republic	2	2009
Lebanon	287	2008
Lesotho	5	2004
Liberia	54	2008
Libya	299	1988
Liechtenstein	37	1995
Madagascar	49	2008
Malawi	14	2007
Malaysia	2,190	2009
Maldives	0	1995
Mali	26	1989
Marshall Islands	1	2003
Mauritania	15	2008

Mauritius	57	2006
Mexico	8,818	2011
Micronesia (Federated States of)	1	1988
Monaco	6	1994
Mongolia	7	2009
Montenegro	443	2008
Morocco	346	2007
Mozambique	56	2009
Myanmar	1	1990
Namibia	18	2004
Nauru	1	2001
Nepal	25	2000
Nicaragua	87	2007
Niger	15	2009
Nigeria	1,718	2009
Niue	0	1988
North Macedonia	1,620	2006
Oman	305	2009
Pakistan	678	2009
Panama	130	2008
Papua New Guinea	49	2008
Paraguay	151	2009
Peru	1,058	2006
Philippines	1,876	2009
Qatar	85	2008
Republic of Moldova	280	1988
Romania	830	1988
Rwanda	35	2008
Saint Kitts and Nevis	6	2007
Saint Lucia	6	2006
Saint Vincent and the Grenadines	3	2007
Samoa	4	2002
San Marino	20	2008
Sao Tome and Principe	1	2008
Senegal	86	2009
Serbia	2,745	2009
Seychelles	3	2003
Sierra Leone	82	2009
Solomon Islands	0	1985
Somalia	266	2009
South Sudan	51	2011
Sri Lanka	215	2007
State of Palestine	285	2018

Sudan	339	2009
Suriname	40	2007
Sweden	4,962	1994
Thailand	2,300	2009
Timor-Leste	1	2009
Togo	35	2009
Tonga	2	1997
Trinidad and Tobago	102	2006
Tunisia	584	2009
Tuvalu	0	1999
Uganda	7	2005
United Republic of Tanzania	40	2009
Uruguay	323	2009
Vanuatu	0	1985
Venezuela (Bolivarian Republic of)	4,269	2009
Viet Nam	24	2009
Yemen	180	2009
Zambia	35	2008
Zimbabwe	281	2009

Annex II: List of Interviews with National Officials and Experts for the Chapter 4 on Parental Leave in the Baltic States

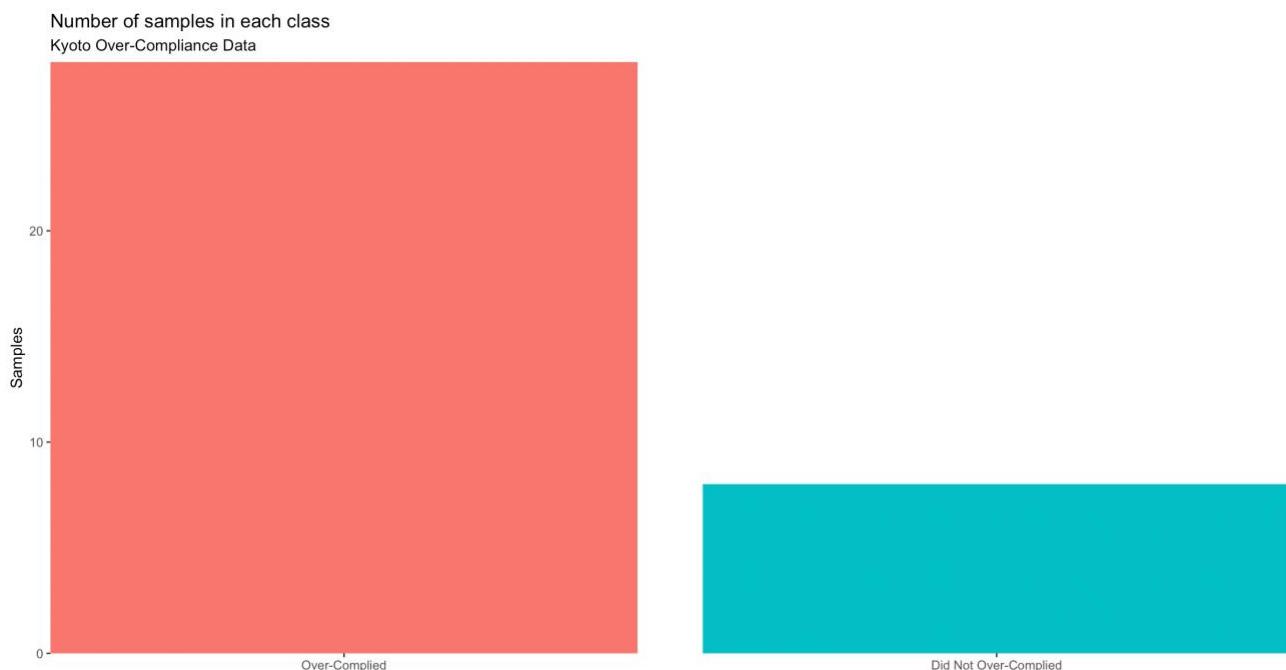
Table 8.18: List of Interviewees for Chapter on Parental Leave in the Baltic States

<u>#</u>	<u>Date</u>	<u>Profile of Interviewees</u>
1	December 8, 2021	Former Head of Family Policy at the Estonian Ministry of Social Affairs
2	December 16, 2021	DG JUST Legal and Policy Assistant
3	January 17, 2022	Counsellor for Employment and Social Affairs for the Permanent Representation of Latvia to the European Union
4	January 20, 2022	Senior Expert, Latvian Social Policy Planning and Development Department
5	January 20, 2022	Senior Expert, Latvian Social Insurance Department
6	January 24, 2022	Senior Adviser for the Lithuanian Social Insurance Department
7	February 9, 2022	Former Senior Expert Estonian Department of Social Security, Ministry of Social Affairs
8	February 22, 2022	Professor and Researcher at the Lithuanian Centre for Social Sciences, Institute of Sociology
9	March 14, 2022	Former DG JUST Legal Officer

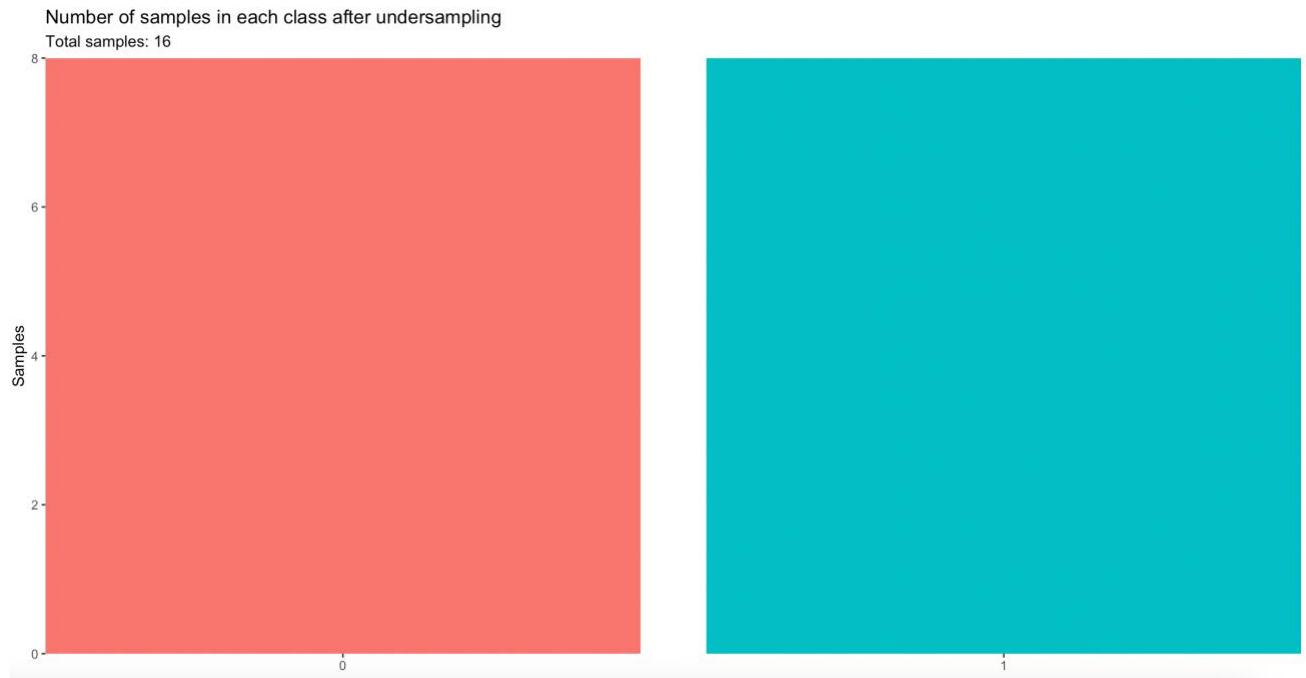
Annex III: Addressing Class Imbalances in the Data for Chapter 5 on the Kyoto Protocol's 1st Commitment Period

For the purposes of Chapter 5, the unbalanced data was used for the models presented in the text. The logic behind this decision was that in the majority of cases over-compliance was the outcome. As a result, the predictive power of the model in explaining over-compliance can be viewed as good in comparison to a case in which over-compliance represented a minority of cases. However, for the purpose of ensuring the robustness of the presented results both over sampling and under sampling techniques were employed. Given the relatively small sample size resulting from the under sampled data ($N = 16$) unsuitable for quantitative modeling, the logit models presented in Chapter 5 were rerun only using the over sampled data and the results are presented below. Notably, the previous exceeding indicator is significant at the 1% level across all three models when controlling for the saliency of environmental policy, stochastic emissions, and over-commitment.

Graph 8.13: Bar Chart for Kyoto Protocol - Unbalanced Data



Graph 8.14: Bar Chart for Kyoto Protocol – Under-Sampled Data



Graph 8.15: Bar Chart for Kyoto Protocol – Over-Sampled Data

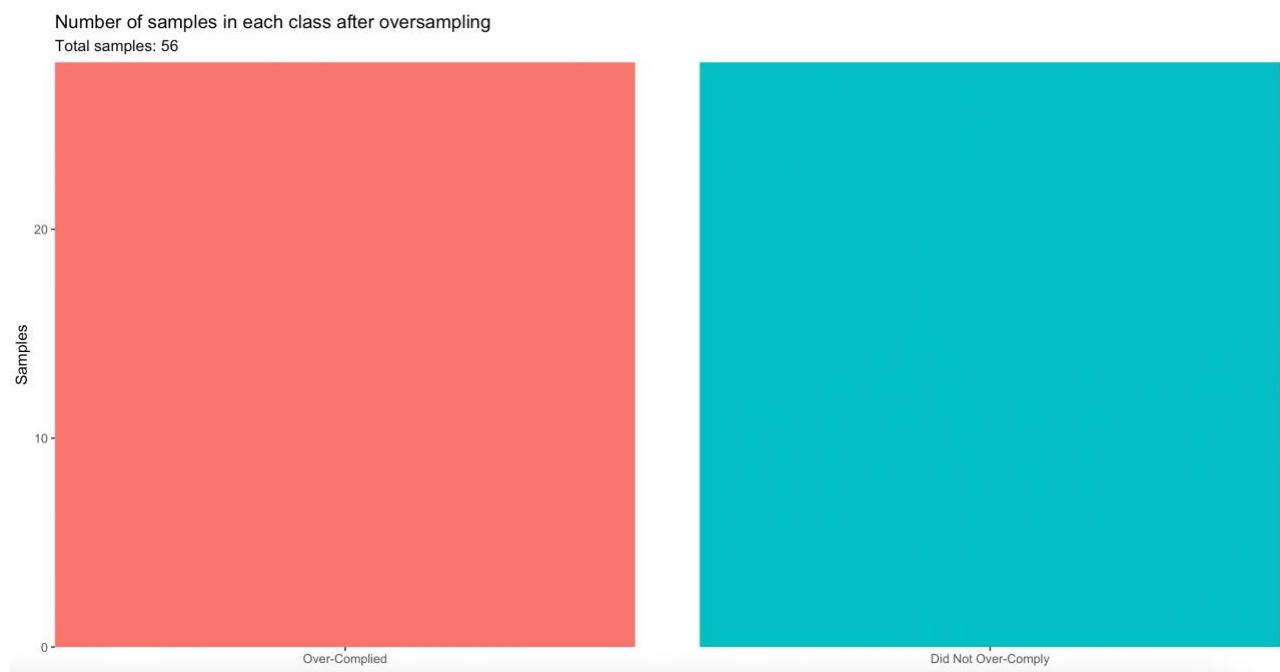


Table 8.19: Logistic Output Utilizing Over-Sampled Data

Table 8.19: CP1 Kyoto Protocol (2008-2012): Logistic Models - Over-Sampled

	<i>Dependent variable:</i>		
	Expansive Over-Compliance		Restricted Over-Compliance
	(1)	(2)	(3)
Previous Emissions Levels Below Kyoto Target	2.027*** (0.754)	1.901*** (0.681)	3.777*** (0.925)
Saliency of Environmental Policy	−0.354** (0.156)	−0.283** (0.134)	−0.250 (0.157)
Over-Commitment (No)	−1.375* (0.755)		
Stochastic Emissions	−0.00002 (0.00002)	−0.00001 (0.00002)	−0.00004* (0.00002)
Constant	−0.197 (0.783)	−0.322 (0.758)	0.120 (0.850)
Observations	53	53	53
Log Likelihood	−27.992	−29.818	−21.384
Akaike Inf. Crit.	65.984	67.636	50.768

Note:

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

Annex IV: Robustness Checks for the Logistic Models for Chapter 5 on the Kyoto Protocol's 1st Commitment Period

Given the relatively small sample size employed, the logit models for the Kyoto Protocol Chapter lack the predictive power of models derived for the ILO Chapter. Nevertheless, they offer important insights into those factors driving over-compliant behavior during the 1st Commitment Period.

Graph 8.16: GLM Diagnostic Plots for Logit 1 Kyoto Protocol

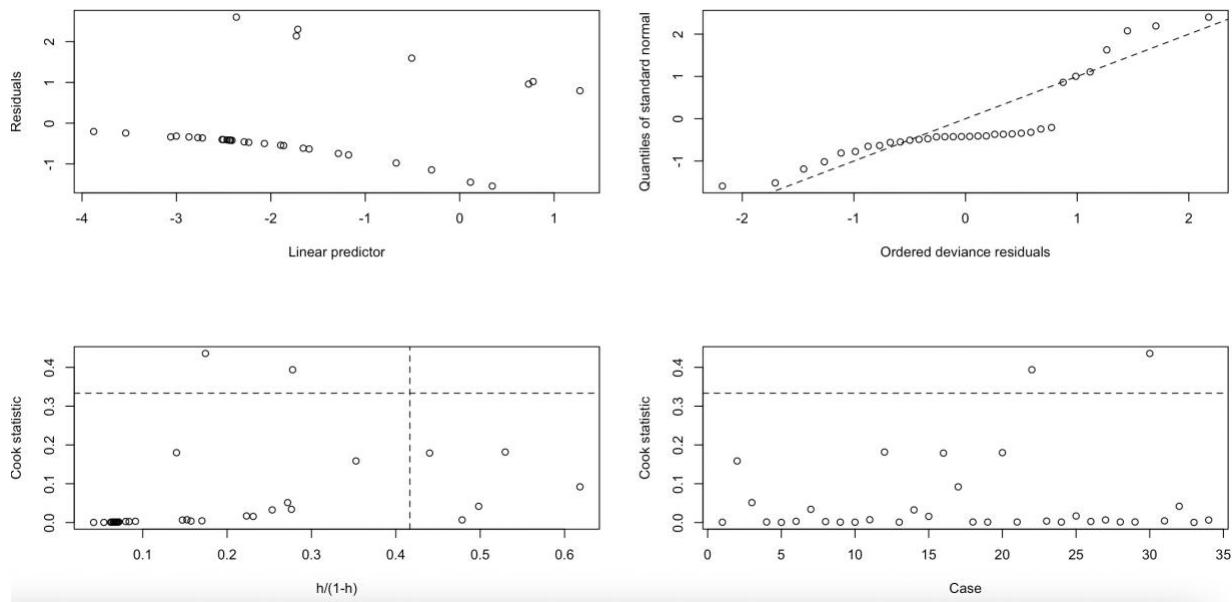


Table 8.20: Studentized Breusch-Pagan Test for Logit 1 Kyoto Protocol

studentized Breusch-Pagan test

```
data: logit4
BP = 4.7733, df = 4, p-value = 0.3114
```

Table 8.21: Wald Test for Logit 1 Kyoto Protocol

Wald test

```
Model 1: kyoto$over_compliance ~ kyoto$previous_exceeding +
  kyoto$smart_strategies + kyoto$over_commitment +
  kyoto$stochastic_emissions
Model 2: kyoto$over_compliance ~ 1
Res.Df Df      F Pr(>F)
1      29
2      33 -4 1.6066 0.1993
```

Table 8.22: Variance Inflation Factor for Logit 1 Kyoto Protocol

Variance Inflation Factor (VIF)

kyoto\$previous_exceeding 1.025294	kyoto\$smart_strategies 1.136668
kyoto\$over_commitment 1.144476	kyoto\$stochastic_emissions 1.039073

Graph 8.17: GLM Diagnostic Plots for Logit 2 Kyoto Protocol

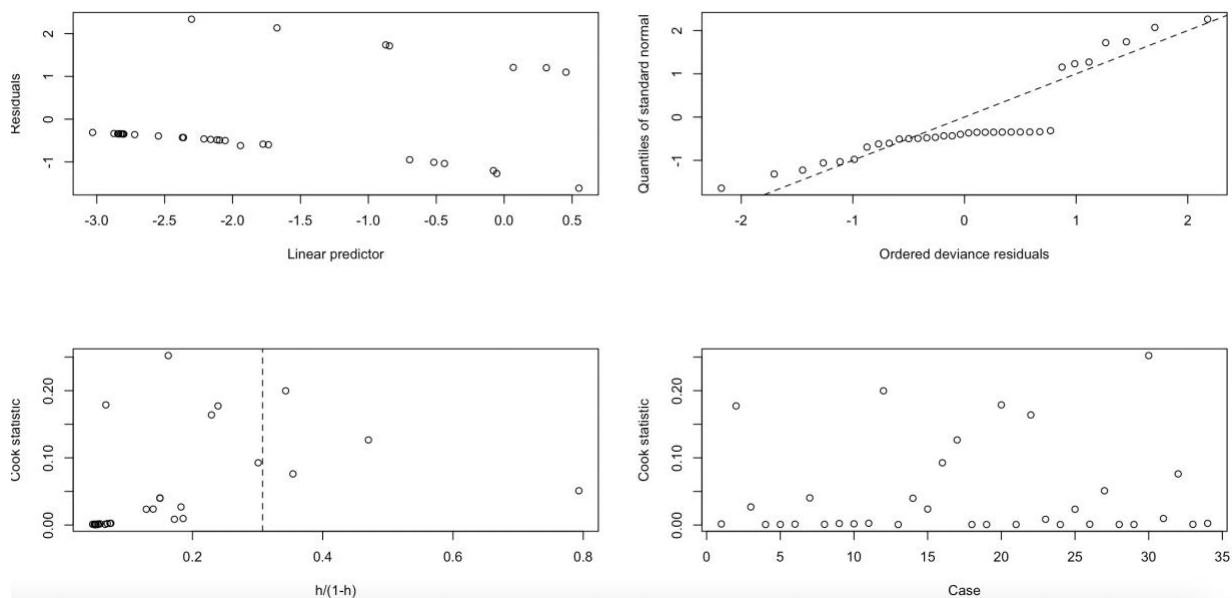


Table 8.23: Studentized Breusch-Pagan Test for Logit 2 Kyoto Protocol

studentized Breusch-Pagan test

```
data: logit5
BP = 7.7709, df = 3, p-value = 0.05099
```

Table 8.24: Wald Test for Logit 2 Kyoto Protocol

Wald test

```
Model 1: kyoto$over_compliance ~ kyoto$previous_exceeding +
          kyoto$smart_strategies + kyoto$stochastic_emissions
Model 2: kyoto$over_compliance ~ 1
Res.Df Df      F  Pr(>F)
1      30
```

2 33 -3 1.8706 0.1559

Table 8.25: Variance Inflation Factor for Logit 2 Kyoto Protocol Kyoto Protocol

Variance Inflation Factor (VIF)

kyoto\$previous_exceeding
1.025074

kyoto\$smart_strategies
1.08585

kyoto\$stochastic_emissions
1.105877

Graph 8.18: GLM Diagnostic Plots for Logit 3 Kyoto Protocol

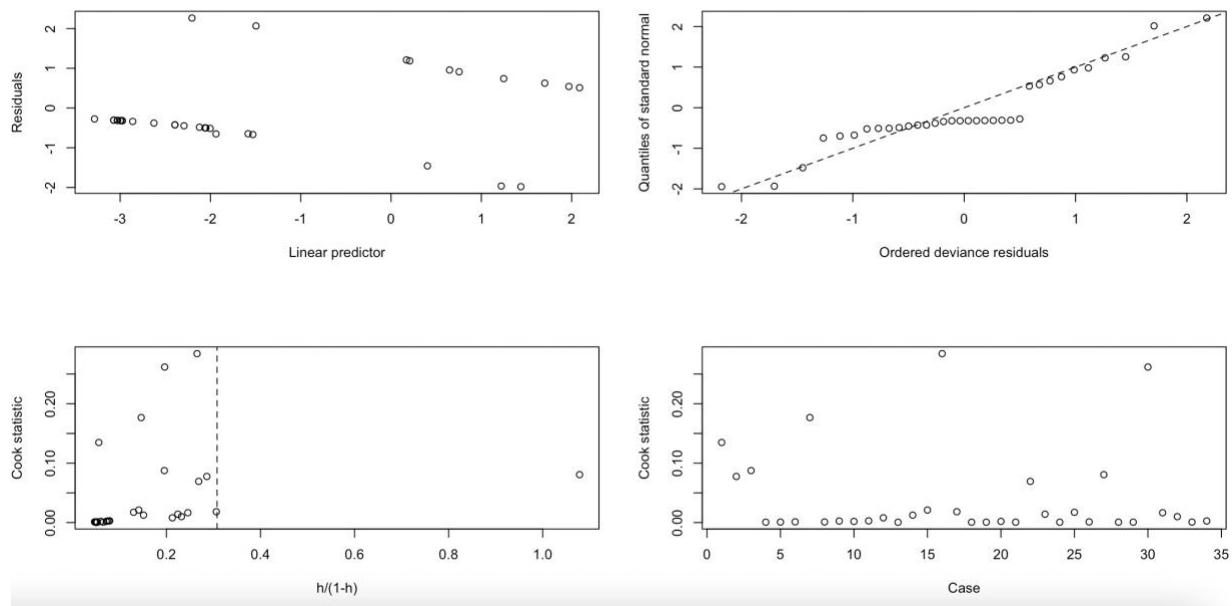


Table 8.26: Studentized Breusch-Pagan Test for Logit 3 Kyoto Protocol

studentized Breusch-Pagan test

```
data: logit6
BP = 4.9468, df = 3, p-value = 0.1757
```

Table 8.27: Wald Test for Logit 3 Kyoto Protocol

Wald test

```
Model 1: kyoto$restricted_over_compliance ~ kyoto$previous_exceeding +
          kyoto$smart_strategies + kyoto$stochastic_emissions
Model 2: kyoto$restricted_over_compliance ~ 1
Res.Df Df      F  Pr(>F)
1      30
2      33 -3 3.4899 0.02768 *
---
Signif. codes:  0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1
```

Table 8.28: Variance Inflation Factor for Logit 3 Kyoto Protocol

Variance Inflation Factor (VIF)

kyoto\$previous_exceeding	kyoto\$smart_strategies
1.135418	1.14309
kyoto\$stochastic_emissions	
1.126205	

Note: The previous exceeding indicator is significant even when controlling for whether a state underwent an accession/association process with the EU.

Table 8.29: Logit Model - Previous Exceeding and EU Accession/Association

	<i>Dependent variable:</i>	
	Expansive Over-Compliance Restricted Over-Compliance	
	(1)	(2)
Previous Emissions Levels Below Kyoto Target	1.705* (0.961)	2.803*** (1.018)
No EU Accession/Assocaiton	17.861 (3,242.457)	17.861 (3,242.457)
Constant	-17.861 (3,242.457)	-16.763 (3,242.457)
Observations	36	36
Log Likelihood	-13.899	-12.329
Akaike Inf. Crit.	33.798	30.658

Note:

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

Annex V: Linear Probability Models for Chapter 5 on the Kyoto Protocol's 1st Commitment Period

As an additional robustness check of the results presented in Chapter 5 and for ease of interpretation, a series of linear probability models were also run. These models were not presented in the text owing to the binary nature of the dependent variable making logit models a more appropriate choice from a methodological standpoint.

Table 8.30: CP1 Kyoto Protocol (2008-2012): Linear Probability Models

	<i>Dependent variable:</i>		
	Expansive Over-Compliance		Restricted Over-Compliance
	(1)	(2)	(3)
Previous Emissions (Yes)	0.376** (0.140)	0.365** (0.141)	0.637*** (0.131)
Saliency of Environmental Policy	-0.036 (0.029)	-0.026 (0.028)	-0.029 (0.026)
Over-Commitment (No)	-0.186 (0.139)		
Stochastic Emissions	-0.00000 (0.00000)	-0.00000 (0.00000)	-0.00000 (0.00000)
Constant	0.845*** (0.182)	0.683*** (0.183)	0.428*** (0.171)
Observations	34	34	34
R ²	0.252	0.206	0.457
Adjusted R ²	0.149	0.126	0.403
Residual Std. Error	0.379 (df = 29)	0.384 (df = 30)	0.357 (df = 30)
F Statistic	2.441* (df = 4; 29)	2.590* (df = 3; 30)	8.414*** (df = 3; 30)

Note:

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

Annex VI: Output of the Kaplan Meier Model for Chapter 6 on the Kyoto Protocol's 1st Commitment Period

Data for the Kaplan Meier Model stems from the UNFCCC's own website and examines states' emissions records from 1990 to 2018.

Table 8.31: Kaplan Meier Output for Kyoto Protocol

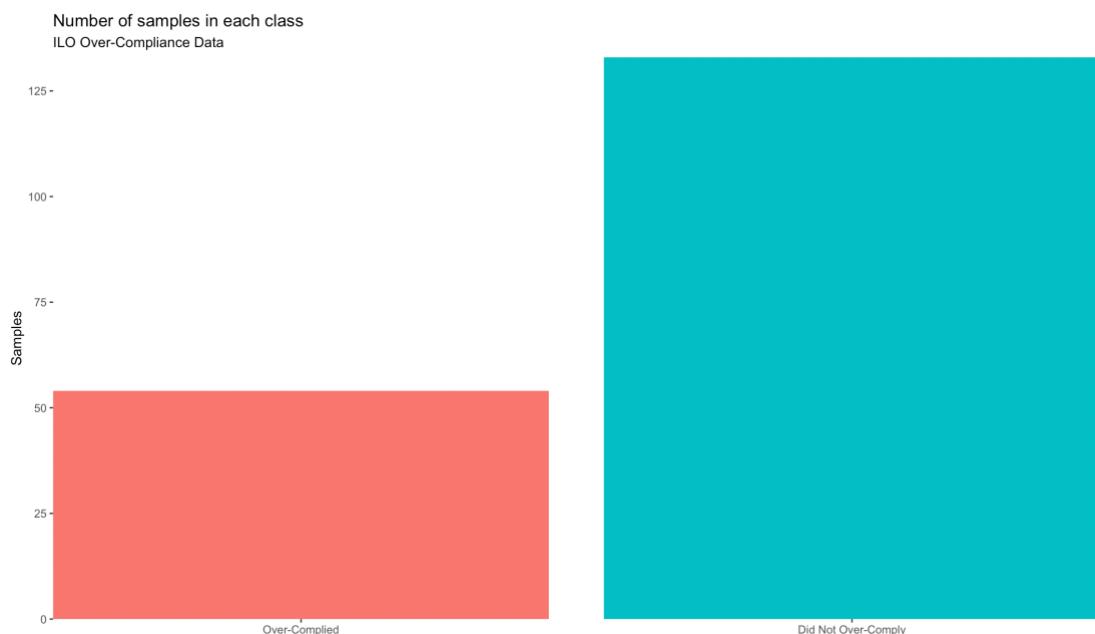
```
Call: survfit(formula = Surv(time, exceedance_factor) ~ 1, data = kaplan_meier_kyoto)
```

time	n.risk	n.event	P((s0))	P(1)
0	37	13	0.6486	0.351
1	24	9	0.4054	0.595
2	15	1	0.3784	0.622
3	14	1	0.3514	0.649
7	13	1	0.3243	0.676
12	12	1	0.2973	0.703
15	11	1	0.2703	0.730
16	10	1	0.2432	0.757
17	9	1	0.2162	0.784
19	8	2	0.1622	0.838
21	6	1	0.1351	0.865
24	5	1	0.1081	0.892
25	4	1	0.0811	0.919

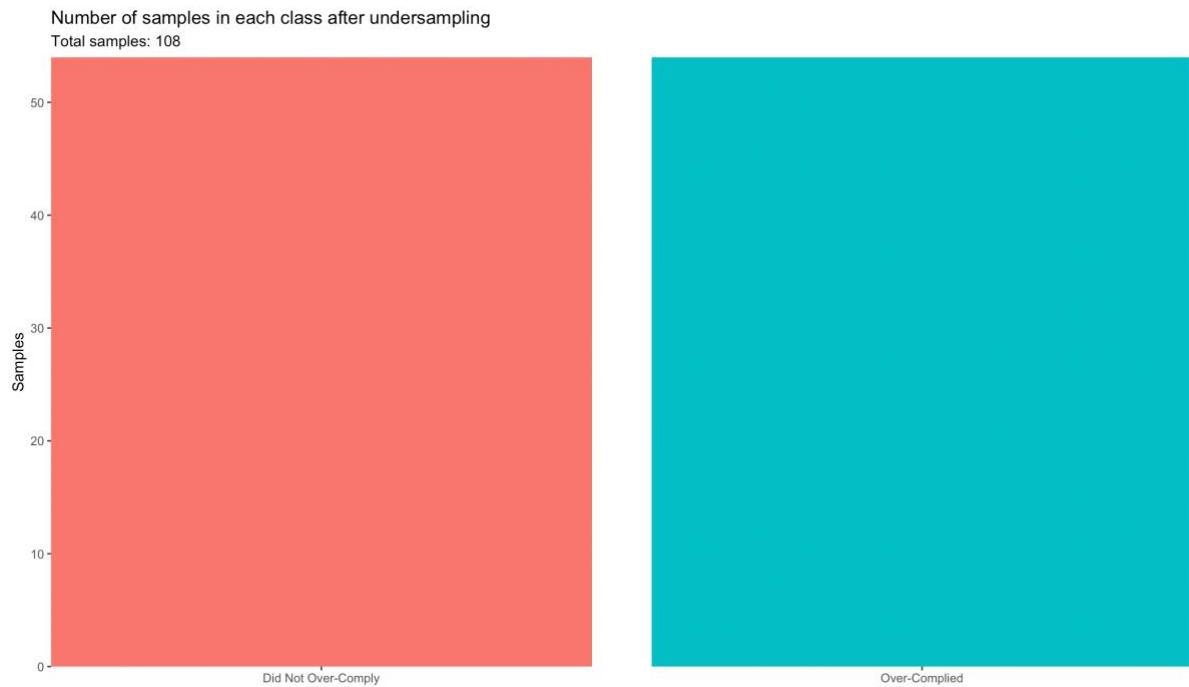
Annex VII: Addressing Class Imbalance in the Data for Chapter 6 on the ILO's Minimum Age Convention No. 138

Owing to the binary classification problem stemming from the fact that over-compliance represented the minority of cases with respect to ILO Convention No. 138, two different sampling techniques were employed to ensure higher model accuracy for the logit and linear probability models as well as their predictive power. In the first instance, the data was under sampled to ensure an equal proportion of cases between both classes. This process was then repeated for the over sampled data. For the purposes of this thesis, the over sampled data was employed. As a secondary robustness check, however, all presented models were then rerun with the unbalanced data in the interest of transparency and are presented below.

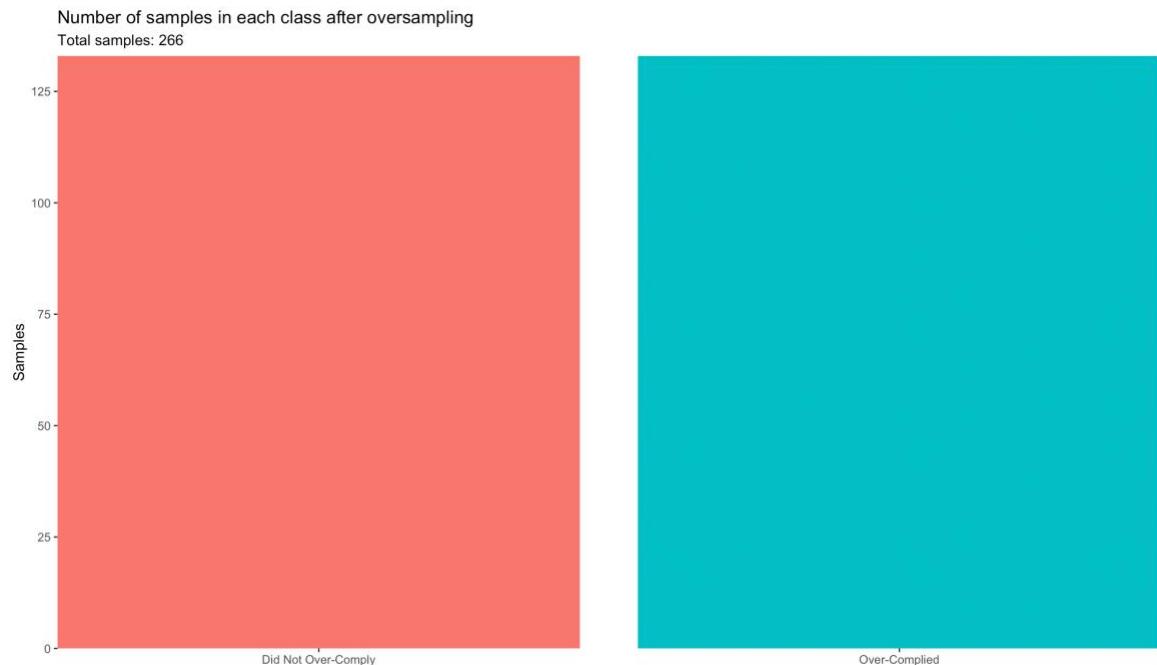
Graph 8.19: Unbalanced Data for the ILO



Graph 8.20: Under Sampled Data for the ILO



Graph 8.21: Over Sampled Data for the ILO



Note: The LDC indicator is significant at the 10% level when controlling for WTO membership, pre-existing legislation, regime type, percentage of children in the labor force, and government effectiveness. Additionally, government effectiveness is significant at the 10% level in two out of three models when controlling for all other indicators.

Table 8.32: ILO Convention No.138: Logistic Regression - UnBalanced data

	<i>Dependent variable:</i>		
	Over-Compliance		
	(1)	(2)	(3)
Developed Country	1.561* (0.852)	1.587* (0.843)	1.330* (0.757)
WTO Membership Within 5 Years (No)	−0.202 (0.772)		
Pre-Existing Legislation (No)	0.632 (0.706)	0.637 (0.707)	0.624 (0.622)
Mixed (semi-presidential) Democracy	0.615 (1.488)	0.601 (1.479)	
Presidential Democracy	−0.762 (1.473)	−0.746 (1.466)	
Civilian dictatorship	0.697 (1.401)	0.671 (1.393)	
Military dictatorship	0.668 (1.510)	0.681 (1.505)	
Royal dictatorship	−1.274 (1.716)	−1.309 (1.710)	
Percentage of Children Aged (7-14) Engaged in Labor	0.015 (0.026)	0.014 (0.026)	0.010 (0.024)
Government Effectiveness	1.062* (0.634)	1.094* (0.628)	0.759 (0.557)
Constant	−0.886 (1.818)	−1.023 (1.739)	−0.743 (0.982)
Observations	54	54	54
Log Likelihood	−30.662	−30.696	−33.018
Akaike Inf. Crit.	83.323	81.392	76.036

Note:

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

Annex VIII: Robustness Checks for Logit Models for Chapter 6 on the ILO's Minimum Age Convention No. 138

Graph 8.22: GLM Diagnostic Plots for Logit 1 ILO

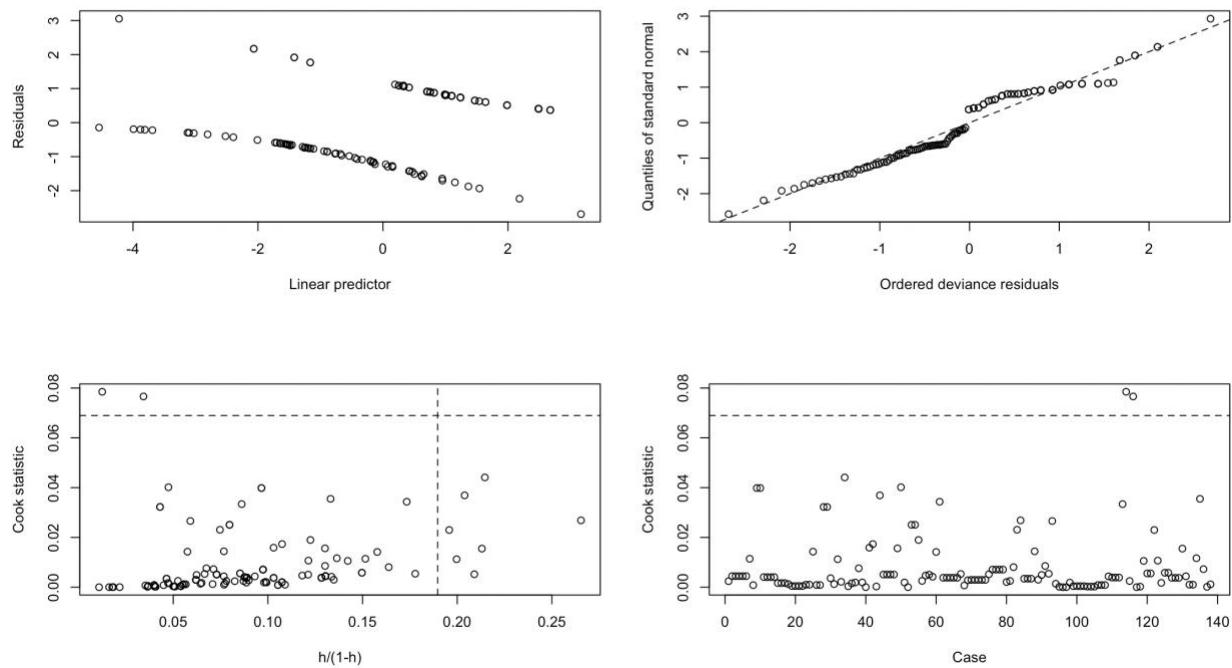


Table 8.33: Studentized Breusch-Pagan Test for Logit 1 ILO

studentized Breusch-Pagan test

```
data: logit_model_over_1
BP = 11.309, df = 10, p-value = 0.334
```

Table 8.34: Wald Test for Logit 1 ILO

Wald test

```
Model 1: over-compliance ~ LDC_status + WTO_five_years + pre_existing + regime_type +
          per_child_workforce + capacity
Model 2: over-compliance ~ 1
Res.Df Df      F    Pr(>F)
1      127
2      137 -10 3.0061 0.001937 **

Signif. codes:  0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1
```

Table 8.35: Variance Inflation Factor (VIF) for Logit 1 ILO

Variance Inflation Factor (VIF)

	GVIF	Df	GVIF^(1/(2*Df))
LDC_status	1.849403	1	1.359928
WTO_five_years	1.221492	1	1.105211
pre_existing	1.182633	1	1.087489
regime_type	1.776384	5	1.059141
per_child_workforce	1.883127	1	1.372271
capacity	1.514775	1	1.230762

Graph 8.23: GLM Diagnostic Plots for Logit 2 ILO

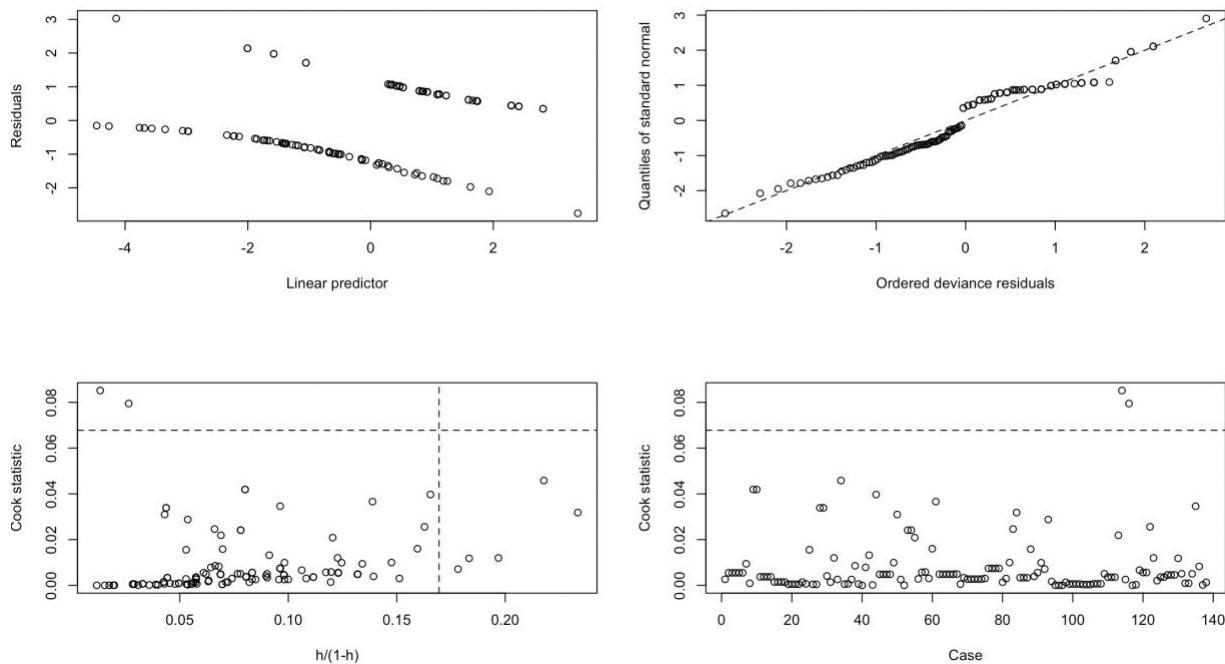


Table 8.36: Studentized Breusch-Pagan Test for Logit 2 ILO

studentized Breusch-Pagan test

```
data: logit_model_over_2
BP = 7.9596, df = 9, p-value = 0.5382
```

Table 8.37: Wald Test for Logit 2 ILO

Wald test

```
Model 1: over-compliance ~ LDC_status + pre_existing + regime_type + per_child_workforce + capacity
Model 2: over-compliance ~ 1
Res.Df Df      F    Pr(>F)
1     128
2     137 -9 3.3106 0.001155 **

Signif. codes:  0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1
```

Table 8.38: Variance Inflation Factor (VIF) Logit 2 ILO

	GVIF	Df	GVIF ^{1/(2*Df)}
LDC_status	1.811788	1	1.346027
pre_existing	1.185508	1	1.088810
regime_type	1.684000	5	1.053499
per_child_workforce	1.910804	1	1.382318
capacity	1.491711	1	1.221356

Graph 8.24: GLM Diagnostic Plots for Logit 3 ILO

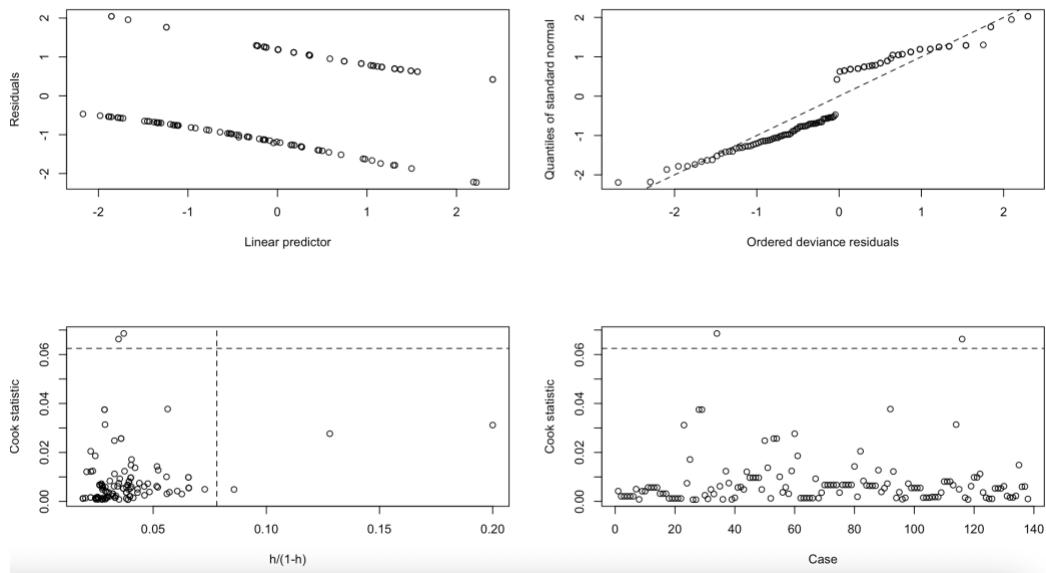


Table 8.39: Studentized Breusch-Pagan Test for Logit 3 ILO

```
studentized Breusch-Pagan test

data: logit_model_over_3
BP = 3.1707, df = 4, p-value = 0.5297
```

Table 8.40: Wald Test for Logit 3 ILO

```
Wald test

Model 1: over-compliance ~ LDC_status + pre_existing + per_child_workforce + capacity
Model 2: over-compliance ~ 1
  Res.Df Df      F    Pr(>F)
1     133
2     137 -4 5.7412 0.000271 ***
---
Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 ' ' 1
```

Table 8.41: Variance Inflation Factor (VIF) for Logit 3 ILO

```
Variance Inflation Factor (VIF)
```

LDC_status	pre_existing	per_child_workforce
1.420941	1.073857	1.527178
capacity		
1.249880		

Note: For **Table 8.42**, LDC status remains a significant predictor of over-compliance at the 10% level when controlling for sectoral differences, percentage of children in the labor force, pre-existing legislation, and levels of government effectiveness. For **Table 8.43**, government effectiveness and regime type are both statistically significant predictors of over-compliance when controlling for a host of alternative explanations. However, likely owing to the interrelationship between LDC status and FDI as a percentage of GDP, the former indicator is rendered insignificant.

Table 8.42: ILO Convention No. 138 - Logit Models with Sectoral Differences

<i>Dependent variable:</i>	
Over-Compliance	
Developed Country	1.266* (0.709)
No Pre-Existing Legislation	-0.214 (0.621)
Government Effectiveness	0.930 (0.640)
Percentage of Children in the Labor Force	0.012 (0.024)
Manufacturing Percentage of GDP	0.051 (0.041)
Agriculture Percentage of GDP	0.037 (0.033)
Constant	-1.888* (1.135)
Observations	59
Log Likelihood	-35.500
Akaike Inf. Crit.	85.001

Note:

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

Table 8.43: ILO Convention No. 138 - Logit Models with Alternative Explanations

<i>Dependent variable:</i>	
Over-Compliance	
Developed Country	2.105 (1.323)
No Pre-Existing Legislation	0.734 (1.187)
Government Effectiveness	3.811** (1.675)
Percentage of Children in the Labor Force	0.045 (0.037)
Domestic Attitudes Towards Workers Protection	-0.060 (0.044)
Mixed (semi-presidential) Democracy	4.064* (2.136)
Presidential Democracy	-0.079 (1.490)
Civilian dictatorship	2.773 (1.689)
Military dictatorship	5.134** (2.509)
Royal dictatorship	1.280 (1.922)
FDI as a Percentage of GDP	-4.242 (18.907)
Constant	0.915 (3.347)
Observations	40
Log Likelihood	-18.848
Akaike Inf. Crit.	61.696

Note:

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

Annex IX: Linear Probability Models for Chapter 6 on the ILO's Minimum Age Convention No. 138

While deemed less appropriate (e.g., issues with endogeneity) owing to the binary nature of the dependent variable, a series of linear probability models were run for ease of interpretation and as a further robustness check of the results presented in Chapter 6.

Table 8.44: ILO Convention No.138 - Linear Probability Models

	<i>Dependent variable:</i>		
	Over-Compliance		
	(1)	(2)	(3)
Developed Country	0.270*** (0.094)	0.280*** (0.092)	0.316*** (0.092)
No WTO Membership (5 years)	-0.060 (0.084)		
Pre-Existing Legislation (No)	0.204** (0.081)	0.208** (0.080)	0.251*** (0.079)
Mixed (semi-presidential) Democracy	0.221 (0.157)	0.213 (0.156)	
Presidential Democracy	-0.287* (0.164)	-0.286* (0.164)	
Civilian dictatorship	0.172 (0.147)	0.161 (0.146)	
Military dictatorship	0.071 (0.168)	0.070 (0.167)	
Royal dictatorship	0.019 (0.191)	0.019 (0.190)	
Percentage of Child Labor	0.003 (0.003)	0.003 (0.003)	0.003 (0.003)
Government Effectiveness	0.178** (0.070)	0.187*** (0.069)	0.142** (0.069)
Constant	1.247*** (0.193)	1.210*** (0.186)	1.203*** (0.111)
Observations	138	138	138
R ²	0.304	0.302	0.199
Adjusted R ²	0.250	0.253	0.175
Residual Std. Error	0.435 (df = 127)	0.434 (df = 128)	0.456 (df = 133)
F Statistic	5.559*** (df = 10; 127)	6.145*** (df = 9; 128)	8.255*** (df = 4; 133)

Note:

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

Table 8.45: ILO Convention No.138: Linear Probability Models - UnBalanced Data

	<i>Dependent variable:</i>		
	Over-Compliance		
	(1)	(2)	(3)
Developed Country	0.270*** (0.094)	0.280*** (0.092)	0.316*** (0.092)
No WTO Membership (5 years)	-0.060 (0.084)		
Pre-Existing Legislation (No)	0.204** (0.081)	0.208** (0.080)	0.251*** (0.079)
Mixed (semi-presidential) Democracy	0.221 (0.157)	0.213 (0.156)	
Presidential Democracy	-0.287* (0.164)	-0.286* (0.164)	
Civilian dictatorship	0.172 (0.147)	0.161 (0.146)	
Military dictatorship	0.071 (0.168)	0.070 (0.167)	
Royal dictatorship	0.019 (0.191)	0.019 (0.190)	
Percentage of Child Labor	0.003 (0.003)	0.003 (0.003)	0.003 (0.003)
Government Effectiveness	0.178** (0.070)	0.187*** (0.069)	0.142** (0.069)
Constant	1.247*** (0.193)	1.210*** (0.186)	1.203*** (0.111)
Observations	138	138	138
R ²	0.304	0.302	0.199
Adjusted R ²	0.250	0.253	0.175
Residual Std. Error	0.435 (df = 127)	0.434 (df = 128)	0.456 (df = 133)
F Statistic	5.559*** (df = 10; 127)	6.145*** (df = 9; 128)	8.255*** (df = 4; 133)

Note:

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

Annex X: Kaplan Meier Model Output for Chapter 6 on the ILO's Minimum Age Convention
No. 138

Note: The period of observation is from 1973 to 2021.

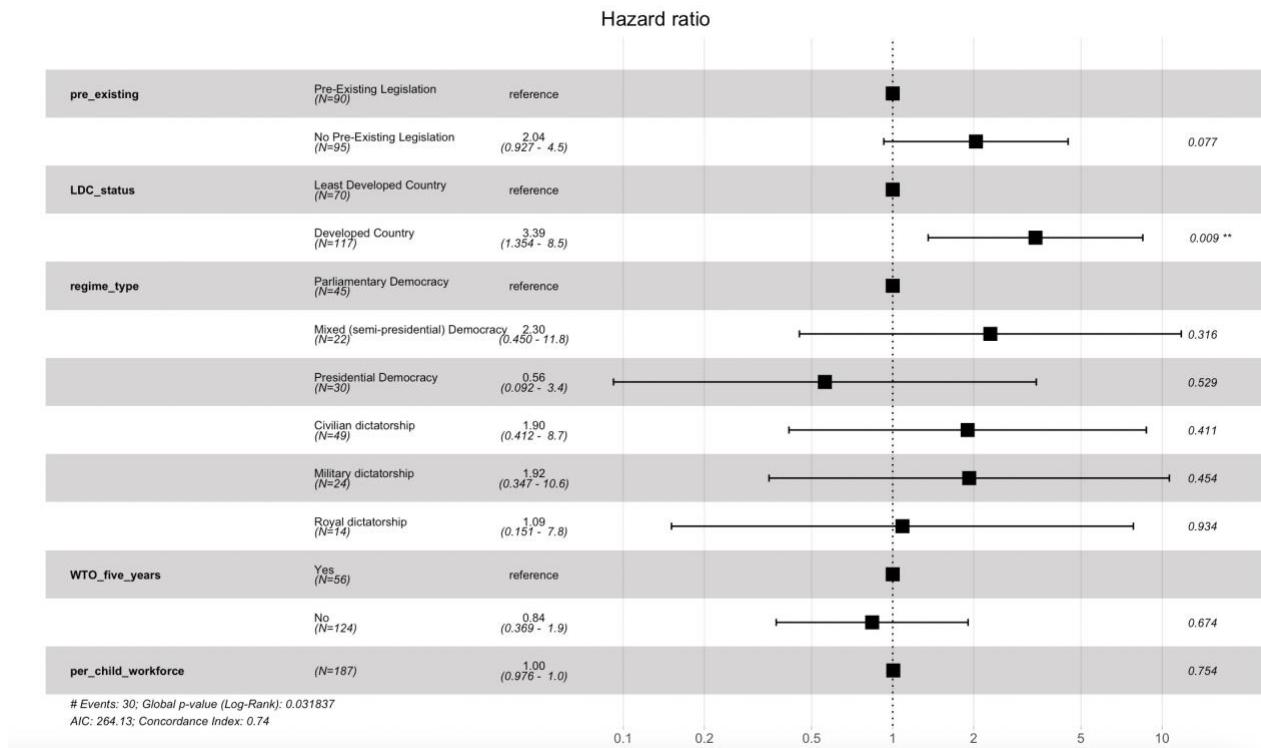
Call: `survfit(formula = Surv(time, over_compliance) ~ 1, data = ilo_ma_rch_7)`

Table 8.46: Kaplan Meier Output for ILO Convention No. 138

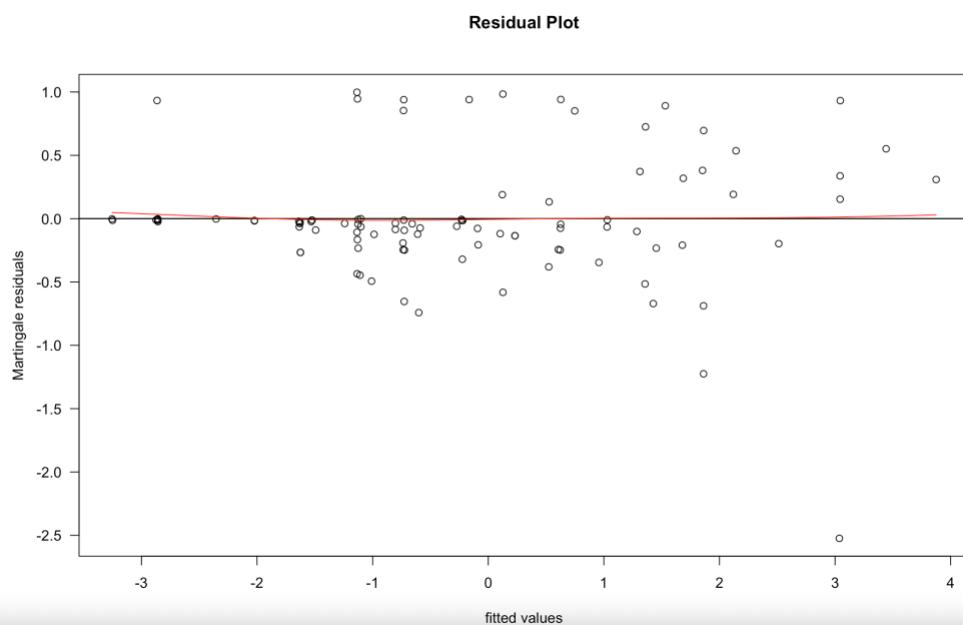
time	n.risk	n.event	P((s0))	P(1)
3	187	1	0.995	0.00535
5	186	1	0.989	0.01070
6	185	2	0.979	0.02139
7	183	4	0.957	0.04278
8	179	1	0.952	0.04813
11	178	1	0.947	0.05348
12	177	1	0.941	0.05882
18	176	1	0.936	0.06417
20	175	2	0.925	0.07487
21	173	1	0.920	0.08021
23	172	2	0.909	0.09091
24	170	1	0.904	0.09626
26	169	4	0.882	0.11765
27	165	4	0.861	0.13904
28	161	5	0.834	0.16578
29	156	3	0.818	0.18182
30	153	1	0.813	0.18717
31	152	3	0.797	0.20321
32	149	2	0.786	0.21390
33	147	2	0.775	0.22460
34	145	2	0.765	0.23529
36	143	1	0.759	0.24064
38	142	1	0.754	0.24599
39	141	2	0.743	0.25668
40	139	1	0.738	0.26203
44	138	1	0.733	0.26738
46	137	1	0.727	0.27273
48	136	3	0.711	0.28877

Annex XI: Diagnostic Plots for Cox Proportional Hazards Model for Chapter 6 on the ILO's Minimum Age Convention No. 138

Table 8.47: Hazard Ratio, Concordance, and Log Rank Test for Cox Proportional Hazard Model – ILO Convention No. 138



Graph 8.25: Residual Plot for Cox Proportional Hazards Model



Graph 8.26: Residual Plots for Influential Observations for Cox Proportional Hazards Model

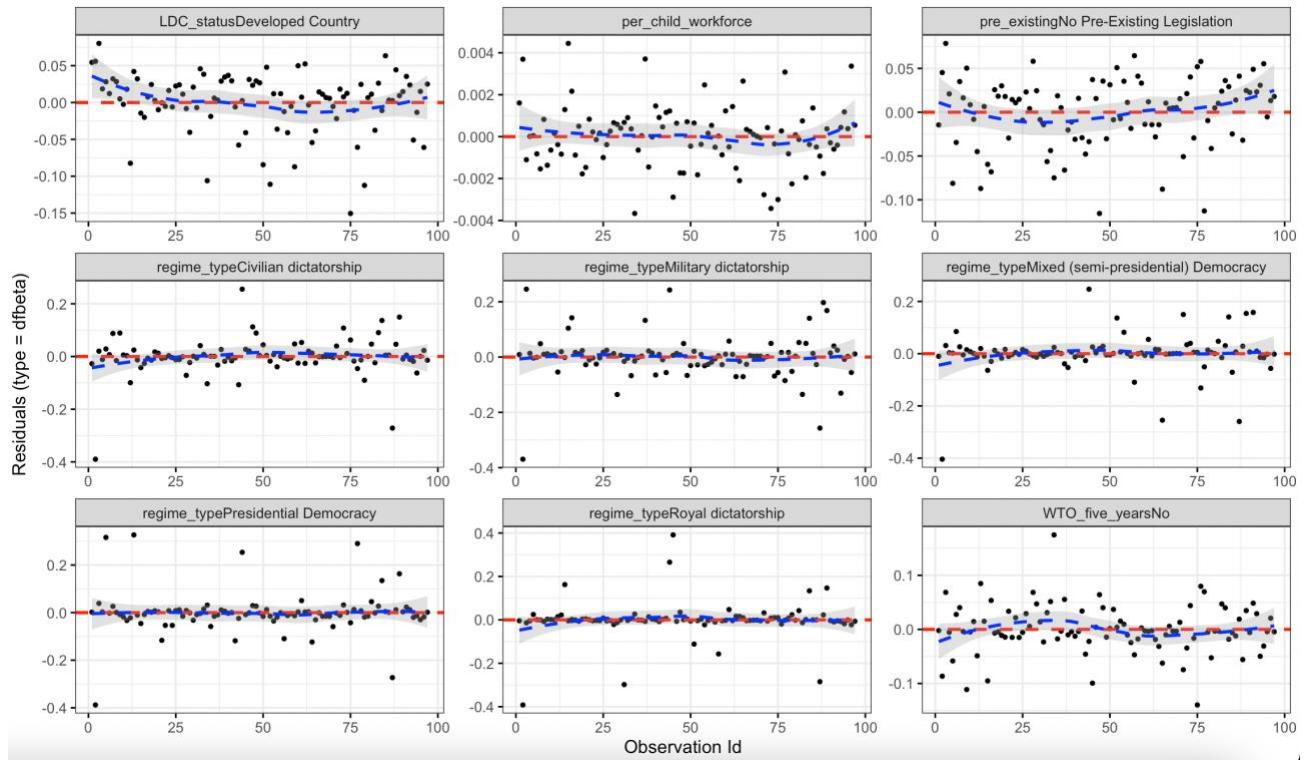
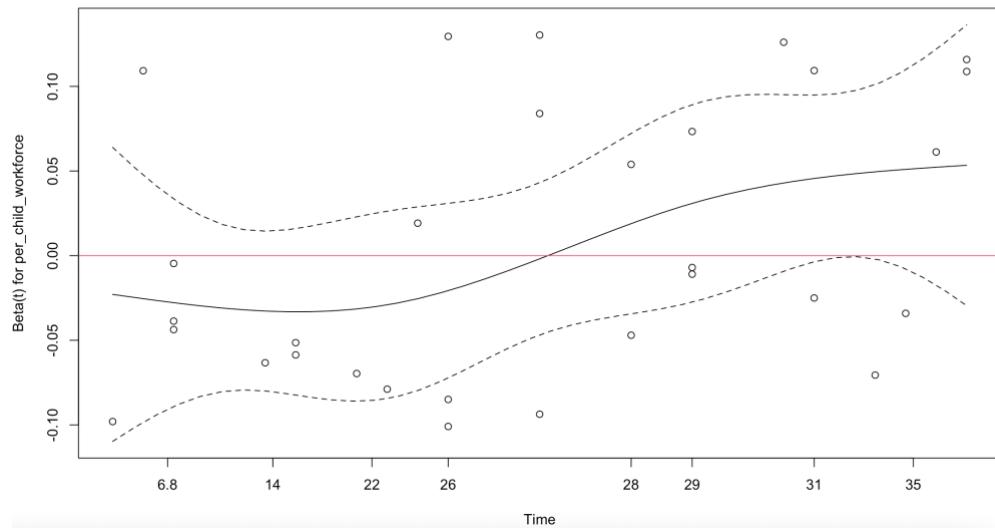


Table 8.48: Test for Proportional Hazards for Cox Proportional Hazards Model

Proportional Hazards

	chisq	df	p
pre_existing	1.21	1	0.271
LDC_status	2.03	1	0.155
regime_type	4.11	5	0.534
WTO_five_years	1.20	1	0.273
per_child_workforce	4.82	1	0.028
GLOBAL	13.96	9	0.124

Graph 8.27: Proportional Hazard Plot for per_child_workforce



Note: The proportional hazard assumption for the percentage of children in the labor force is significant and as such required further investigation. The coefficient for per_child_workforce changes slightly overtime, however, this change appears to be within the confidence bands (95%). As such, the indicator was kept in the model.

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