



**Protecting labor rights in preferential trade agreements:  
The role of trade unions, left governments, and skilled labor†**

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Abstract:

This paper investigates variation in the design of labor provisions in preferential trade agreements (PTAs) by focusing on the power of labor unions, government partisanship, and the relative strength of skilled labor. We expect strong trade unions and left-leaning governments to be associated with more, and more far-reaching labor provisions in PTAs. We also expect the strength of skilled workers relative to the strength of unskilled workers to negatively correlate with the depth of labor provisions in PTAs. In addition, the effect of labor unions should be conditional on both the presence of left government and democracy. We test these hypotheses relying on an original dataset of labor provisions included in 484 PTAs signed between 1990 and 2015. This dataset covers 141 different labor provisions that relate to six overarching dimensions. The quantitative analysis finds support for the expectations concerning the influence of trade unions and the role of a country's skill profile.

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## 1. Introduction

Many of the preferential trade agreements (PTAs) signed over the past twenty years include labor provisions (LPs).<sup>1</sup> These LPs link the benefits of better market access to, for example, the enforcement of internationally recognized worker rights. But much variation remains across PTAs with respect to the scope and depth of these LPs (International Labour Organisation 2013, 2016). Some PTAs include very far-reaching and highly enforceable LPs, while others only make fleeting references to labor standards or even fully omit the topic. What explains variation in the extent to which labor standards are covered by PTAs?

As will be demonstrated below, in spite of the rapidly growing literature on the design of PTAs, the investigation of such questions in relation to LPs in PTAs has largely remained an uncharted territory. In order to fill this gap, our paper looks at the domestic factors that determine the inclusion of and variation in the design of LPs in PTAs. In particular, we argue that trade union power and government ideology affect the presence and stringency of such provisions in PTAs. We also argue that there is heterogeneity in the preferences of workers over labor clauses in PTAs.

Our analysis relies on a new database. As part of a larger project, we have systematically documented the design of LPs in PTAs (LABPTA database; Authors). The database contains 484 PTAs coming from the DESTA database (Dür *et al.* 2014), the most comprehensive in terms of the number of such agreements covered. Our coding scheme consists of 141 items and distinguishes between six overarching categories, namely *preambular provisions* on aspirational labor commitment, *substantive commitments* on LPs, *obligations* in relation to LPs, *enforceability* of the substantive LPs, *cooperation* over labor issues, and the *institutions* set up to implement the labor-related commitments. The coding

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<sup>1</sup> Preferential trade agreements are agreements liberalizing trade between two or more countries without extending this liberalization to all countries.

achieves a high level of granularity, thereby allowing a fine-grained analysis of the politics of the trade-labor linkage in PTAs.

We find that stronger labor unions are associated with more far-reaching LPs in PTAs. As the strength of skilled workers increases relative to the strength of non-skilled workers, however, the depth of LPs in PTAs declines. We do not find a direct effect of left governments on the depth of LPs in PTAs. However, we do find that the effect of the strength of labor unions is conditional on both the presence of left governments and regime type. Labor union strength and left governments reinforce each other in terms of deepening labor protection provisions in PTAs. The strength of labor unions also matters more for the design of LPs in PTAs if they try to influence a democratic government than if they need to convince a non-democratic government. Overall, these findings offer strong support for our argument about the impact of domestic factors on the design of LPs in PTAs.

## 2. Literature review

The significant increase in the number of PTAs and the variation in their content have attracted considerable scholarly attention over the past decades with the purpose of better understanding why countries sign PTAs, what explains variation in their design and how effective PTAs are in changing domestic laws and institutions (Dür and Elsig 2015). A considerable amount of literature exists on why PTAs form and expand and why states might elect to engage in PTAs.

Only in recent years have an increasing number of studies started to analyze the factors explaining variation in the content and design of PTAs (e.g. Kucik 2012; Smith 2000). A key contribution in this regard is the Design of Trade Agreements (DESTA) database collecting PTA design data over time (Dür *et al.* 2014). Benefiting from the dataset, Baccini *et al.* (2015) argue and empirically show that in designing new PTAs, countries tend to imitate

existing PTAs: they can choose among one of three PTA templates, namely a narrow and shallow agreement, an EU-type agreement, or a NAFTA-type agreement.

As to the human and social rights related provisions, scholars have primarily been interested in the effects of such agreements, focusing on environmental performance (Baghdadi *et al.* 2013) or human rights violations (Hafner-Burton 2005; Spilker and Böhmelt 2013). Alongside a number of qualitative studies (e.g. ILO 2013, 2016; Giumelli and Van Roozendaal 2017; Orbie and Van den Putte 2016), a recent but growing literature has begun to address the impact of LPs in PTAs (Kim 2012; Postnikov and Bastiaens 2014; Kamata 2016).

The causes and motivations that might explain the inclusion and variation of LPs in PTAs have so far generated much less attention. Early research suggested that labor standards in PTAs serve purely protectionist purposes (Bhagwati 1995; for an early rebuttal, see Elliott and Freeman 2003: ch. 4). Hafner-Burton (2009) emphasized the role of domestic pressures from citizen groups and labor unions that make governments include human rights provisions in PTAs when interests between civil society groups and policymakers are aligned. The majority of the existing literature, however, focuses on the broad differences between the trade-labor linkage under US and EU trade policy approaches. While Kerremans and Gistelink (2009) look at the aggregative role of political parties in the context of EU and US PTAs, Hafner-Burton (2009) focuses on veto players. Adriaensen and González-Garibay (2013) found that in the context of the EU's trade-labor linkage, the EU's decisions have also been shaped by the perceptions and market power of negotiating partners.

Most recently, scholars have started to explain the design of non-trade issues (NTIs) in PTAs using quantitative analyses. Focusing on the differences in the domestic characteristics of the trade partner countries, Lechner (2016) found that strong import pressure from the partner country and a large difference in wage levels are associated with more stringent social

and environmental provisions in PTAs, while a large difference in civil and political rights protection levels between signatory countries leads to more far-reaching human rights provisions in PTAs only where one member complies at a high level of protection. Using network analysis, Milewicz *et al.* (2016) examine the proliferation of PTAs with NTIs encompassing human rights, labor rights, environment, corruption, security and democracy related provisions. Testing rival arguments about mutual commitments (i.e. shared values), power relations, and various cost considerations (i.e. start-up, subsequent, and shared costs), the authors find that cost-based network effects are the principal factor explaining the spread of NTIs.

Our paper makes three main contributions to this existing literature. First, it is the first study that systematically investigates the causes of the variation in the design of LPs in PTAs. Previous studies have either used qualitative methods, preventing generalization across time and space, or focused on NTIs in general. It is not clear a priori, however, that the determinants of labor and, for instance, environmental provisions are identical. There is much to gain analytically in disaggregating NTIs. Second, to our knowledge, our LABPTA dataset (Authors) is the most comprehensive coding of LPs in PTAs, thereby allowing for most fine-grained analysis of the variation in the design of LPs in PTAs. Our outcome variable reflects our detailed and nuanced coding. Finally, our paper is the first to directly test the role of trade unions and of their ally in government in the politics of the trade-labor linkage.

### 3. The argument

In spite of the decline of organized labor and the weakening of the relationship between trade unions and left parties (Western 1997; Howell 2001), trade unions do remain the most relevant societal actors when it comes to the promotion and protection of workers' rights and conditions at work. With the advent of industrial capitalism, workers organized in

trade unions sought to loosen their status as pure commodity. By aggregating the interests of workers and increasing their bargaining power relative to employers, trade unions have successfully entered into collective bargaining at various levels to improve workers' living standards and employment conditions. They have also sought the (public) provision of social welfare programs such as unemployment insurance and employment protection legislation to protect workers against the vagaries of the market. The power of trade unions, however, crucially depends on their ability to exert a monopoly over the labor supply. When push comes to shove, powerful trade unions are capable to withdraw labor supply by way of industrial action, thereby disrupting the economy and threatening the viability of hostile regulation by right- and left-leaning governments alike. Encompassing labor unions, characterized by high trade union membership, have a greater monopoly over labor supply and thus tend to be associated with more political influence.

Economic globalization, fueled inter alia by government decisions to sign PTAs, generates winners and losers and economic insecurities for all (Rodrik 1997; Scheve and Slaughter 2004). In advanced industrial countries vulnerable workers championed by labor unions have demanded and obtained domestic compensatory policies to offset greater exposure to external risks (Cameron 1978; Katzenstein 1985). For instance, they have been the staunchest advocates of the protection of domestic labor standards in the face of adversarial political and economic forces, and have demanded the expansion of welfare programs that address the needs of globalization losers such as trade-adjustment assistance (Burgoon and Hiscox 2000).

With the deepening of globalization, trade unions in advanced economies have also increasingly sought to protect labor standards at regional and international levels. In Europe, they have pushed for the establishment of European Works Councils, while at the global level they have sought international framework agreements concluded between global unions and

multinational enterprises. While the campaign for a social clause at the multilateral level ultimately failed in the 1990s, not least due to the opposition of trade unions in developing countries such as India,<sup>2</sup> trade unions in the US, Canada and in Europe have since lobbied their governments to include LPs in their bilateral or regional PTAs.

Although skepticism about trade agreements and LPs included in those continues to run deep among the labor movements in developing countries, a slow shift can nevertheless be detected in how such provisions are seen by them. As recent scholarship has shown, trade unions in the Global South may exert influence on the functioning of international organizations. Regarding lending decisions by the International Monetary Fund, countries with stronger domestic labor receive less intrusive labor-related conditions in loan agreements (Caraway *et al.* 2012). Cognizant of their potential power in influencing international decisions, trade unions in developing countries have gradually become less opposed and in some instances even supportive of social clauses (Park 2014) as a possible means in the fight for the protection of basic labor rights and better labor conditions.

Besides, the rise of labor transnationalism in recent decades has the potential to build up labor strength in developing countries and to ratchet up labor standards globally, as well as to socialize developing country trade unions to the norms of internationally recognized labor standards and the desirability of social clauses. On the one hand, labor groups in the context of a closed domestic political opportunity structure face incentives to “go transnational.” As formulated in the well-known “boomerang effect” by Keck and Sikkink (1998), local groups that cannot achieve their objectives in the domestic political arena link up with actors beyond borders to promote change at home. Where the prospect for labor improvements is blocked, trade unions may find it particularly attractive to team up with national and international

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<sup>2</sup> As Van Roozendaal (2002) shows, the opposition was based on economic, sovereignty and effectiveness claims.

unions elsewhere in search for international regulation that increases the incentives and/or pressures on the state to protect and promote labor standards. Enforceable labor standards in PTAs can constitute one such tool. However, a pre-condition for labor transnationalism may well be a modicum of initial organizational and financial resources. Also, the presence of progressive, left-leaning trade unions increases the likelihood that transnational collaboration will form (Anner 2011; Kay 2011).

On the other hand, trade unions in the North play an increasingly active role in helping workers in the Global South to attain safe and healthy workplaces and greater equity at work. For instance, the American Federation of Labor and Congress of Industrial Organizations, one of the strongest proponents of enforceable labor standards in PTAs have, in partnership with the Solidarity Center and the global labor movement been monitoring how effectively trade partners ensure respect of labor rights in their respective countries. The Solidarity Center is a US-based international worker rights organization that works with trade unions, worker associations and community groups across the globe to promote collective labor rights. As such it is plausible to argue that the Center acts as a transmission belt in developing countries, helping to socialize reluctant trade unions into the idea of formal trade-labor linkage.

In short, to counteract the increasing insecurities and inequalities generated by globalization, trade unions take on a pivotal role to defend workers' protections, including increasingly at the international level. Hence our first hypothesis:

*Hypothesis 1 (Labor power): The stronger trade unions are in at least one member country of a PTA, the more likely it is that we see far-reaching labor provisions in that PTA.*

A second proposition regarding the power and preferences of domestic actors concerns the role of left-wing parties. As documented by a vast literature in political science, left and right parties have different electoral constituencies. Representing wage earners, left parties politically advance the interests of the working class. As workers derive their income from

salaried employment and face a number of labor market risks related to health, old age, unemployment, etc, they have a preference for strong social protection. Accordingly, the prediction is that left-leaning governments are associated with more extensive labor market regulation and welfare protection than right-leaning governments. By extension, this reasoning also leads us to believe that left-wing governments should be more responsive than their right-wing counterparts to worker concerns about economic insecurities emanating from the international economy and to demands for a fair “level playing field” and, thus, more inclined to include LPs in PTAs.

This prediction is consistent with the assumption that the support of political parties for social clauses is closely associated with their ideological orientation. In line with their preference for state intervention in the economy, left-leaning governments should be particularly inclined to introduce social regulatory standards in trade agreements. It also dovetails with one strand of the literature on the political economy of trade policy which emphasizes the role of political parties and partisan influences. Milner and Judkins (2004), for instance, argue that partisanship does matter with right parties consistently taking more free trade stances and left parties advocating for more protectionist policies.

In recent decades, it has been commonplace in the political economy literature to argue that the political space for partisan differences over economic policies has disappeared. In view of the consequences of an increasingly open and interdependent economy, some predicted the decline of social democracy and the cross-national convergence of socio-economic policies along neoliberal lines affecting left-wing parties more than right-wing parties (e.g. Mishra 1999). Although a second wave of globalization literature has questioned the predictions of the neoliberal convergence theory stressing conflicting arguments about the extent to which globalization affects socio-economic policies and political parties’ ideological

shifts (e.g. Adams *et al.* 2009), partisan differences appear to have narrowed in recent years (Milner and Judkins 2004).

Yet it is plausible to argue that this development is at best incomplete and too recent to fully wash away partisan effects. For that to happen one would expect the business community – the core constituency of right-leaning parties – as well to lessen opposition to trade-labor linkage. However, the Employers Group's challenge to the right to strike during the International Labour Conference in 2012 provides little hope for that to happen. As Novitz (2012: 21) points out, maybe “what the Employers’ group is actually seeking is a new political deal reflecting their enhanced power as a lobby group”, grasping on a moment ideal for them to “push an agenda of deregulating international labour law” (La Hovary 2013: 365). We have, hence, the basis for our second hypothesis:

*Hypothesis 2 (Left government): When a left-wing party controls government in at least one of the member states of a PTA, it is more likely that we see far-reaching labor provisions in the PTA.*

The two variables introduced so far may interact in shaping the design of PTAs. According to power resource theory, the ability of left governments to deliver progressive social legislation crucially depends on trade union strength and their ability to mobilize workers politically (e.g. Korpi 1983; Rueschemeyer *et al.* 1992). The political links between left-wing parties and trade unions have historically been strong. Trade unions campaigned for left-leaning parties by mobilizing voters, and unionized workers massively voted for these parties. In return, left governments established corporatist institutions and other union-friendly labor market institutions that promoted the interests of workers. In historical-comparative perspective, the extent to which left governments provide social protection depends on the relative power and political resources of organized labor (Korpi 1983; Esping-Andersen 1990).

When it comes to the extent of LPs in PTAs, we argue that it is when left governments are backed or pressured by strong labor unions that the parties to a trade agreement are the most likely to commit to comprehensive LPs. This is, on the one hand, because strong labor unions with high density rates can assert the necessary pressure and visibility needed for such provisions to be high on the agenda and can play an important role in shaping public opinion towards trade policies. On the other hand, as argued above, it is the left governments' propensity to provide greater protection for workers that will make them more perceptive to concerns about the inclusion of LPs in PTAs compared to right-leaning governments. To illustrate, the US labor movement opposed NAFTA and it is only after Bill Clinton defeated George Bush Sr. that labor unions gained enough influence to extract a concession in the form of a side agreement on labor (Manger 2009: 86). In short, the influence of trade unions and of left governments might reinforce each other. Hence our third hypothesis:

*Hypothesis 3 (Labor power and left government reinforcing each other): A PTA is more likely to include far-reaching labor provisions when trade unions are strong and left-wing parties control the government in at least one member country.*

The effect of trade union strength might also be moderated by regime type (Caraway *et al.* 2012). The influence of labor unions on policy ought to be stronger where governments are electorally accountable. Democratic regimes are characterized by electoral accountability. Incumbent politicians stand for re-election at regular intervals and they must gain the support of voters to stay in office. Because workers form a large swath of the electorate, governments in modern democracies are likely to be responsive to the grievances and demands of workers and of their representatives. By contrast, autocratic regimes lack political accountability. Autocrats are far less constrained by electoral concerns either because elections simply do not exist or because they are rigged. Leaders in autocracies are therefore less inclined to seek the

support of, and be responsive to, civil society groups, including labor unions, as their political survival does not depend on it. This reasoning forms the basis of our fourth hypothesis.

*Hypothesis 4 (Labor power conditional on regime type): A PTA is more likely to include far-reaching labor provisions, the stronger trade unions are in at least one member country if that country is democratic.*

Finally, there might be heterogeneity among workers as to the desirability of the inclusion of LPs in PTAs. We expect a cleavage pitting unskilled workers who tend to be supportive of labor clauses against skilled workers who tend to oppose them. According to the conventional trade theory model, in developed countries unskilled workers should support and skilled workers should oppose LPs, whereas in developing countries we would expect just the opposite. However, the new new trade theory (Melitz 2003) predicts trade openness to favor skilled over unskilled labor, independent of a country's level of development. This model starts with the empirical observation that very few firms are able to engage in exporting activities (Bernard *et al.* 2007). Exporters tend to be (larger and) more productive than non-exporters, enabling them to pay the high costs associated with entering and competing in foreign markets. Exporting firms also tend to be technological leaders as trade openness is thought to induce a quality upgrading of firms (Goldberg and Pavcnik 2007: 66). Empirical evidence from both developed and developing countries suggests that exporting firms are indeed relatively more skill-intensive than non-exporting firms (Bernard and Jensen 1997; Hanson and Harrison 1999). Trade thus leads to an increased demand for skilled workers in both developed and developing countries.

The implication is that we should expect the same cleavage over LPs in PTAs in developing and in developed countries. Skilled workers in the export-oriented industries oppose (comprehensive) LPs in PTAs. The export-oriented firms in which they are employed tend to be involved in global supply chains and, thus, are dependent on cheap imported

intermediate inputs. They also fear that labor issues might end up being a deal-breaker in trade negotiations and, as a result, prefer that such issues should not be regulated through trade agreements. Skilled workers in developing countries, moreover, are concerned that stringent labor standards might lead to a deterioration of comparative advantage and that enforceable labor standards might result in the withdrawal of preferential market access. Unskilled workers are mainly employed in import-competing sectors. For them, labor standards serve as barriers to trade. From their perspective, sustainability standards in PTAs help establish a level playing field by ensuring that firms in the partner countries play by the rules, that is, for instance, that they do not seek to encourage trade and investment by lowering existing levels of labor protection. Lechner (2016) has made a similar argument about the preferences of import-competing versus export-dependent industries with respect to NTIs in PTAs. Similarly in line with our expectation, using Eurobarometer survey data Burgoon (2009) finds that highly educated and high-income respondents are less likely to support EU fair trade protection (i.e. less likely to oppose imports from countries where working conditions are unacceptable). Hence our final hypothesis:

*Hypothesis 5 (Relative power of skilled labor): The stronger the relative strength of skilled to unskilled workers in at least one member country of a PTA, the less likely it is that we see far-reaching labor provisions in that PTA.*

#### 4. Data

Central to our analysis are the PTAs themselves. Our source for the PTAs is the DESTA database (Dür *et al.* 2014). DESTA is a recent dataset on the content of PTAs that comprises approximately 790 PTAs signed in the post World War II period, providing a larger dataset than the one maintained by the WTO. We focus on the period 1990-2015 for a total of

484 PTAs. The lower temporal boundary is determined by the fact that LPs in PTAs emerged in the early 1990s – NAFTA being the first trade agreement with comprehensive LPs.

To code the PTAs in terms of the content of LPs, we developed a template consisting of 141 items referring to the protection of labor rights and conditions of work (Authors).<sup>3</sup> The coding table is structured around six overarching categories: I. Preambular LPs; II. Substantive commitments; III. Obligations; VI. Enforcement; V. Cooperation; and VI. Institutions. Each overarching category has a detailed list of items against which the PTAs are coded with a binary coding (i.e. each criterion under which information is coded gets a score of 1 and criteria under which no provision is coded gets a 0).

Under preambular LPs we code aspirational statements in the preamble and objectives parts of the agreements. Under substantive commitments we list items related to relevant international instruments, fundamental rights at work, conditions of work (such as health and safety, working time and wages) and also domestic law related commitments such as non-derogation, effective enforcement and access to domestic courts. Under obligations, following a strict legal interpretation of the agreement texts, we code the extent of obligations undertaken by the signatory parties. Under enforcement we apply the distinction adopted by a WTO mapping (Chase *et al.* 2013) and distinguish between three types of dispute settlement mechanisms (Political, Quasi-Judicial and Judicial) and also code provisions with regard to remedies provided in relation to LPs. Our cooperation category does not only capture a list of issues that can be covered by such commitments, but also the means by which the cooperation activities are carried out. The sixth and last category depicts the attributes that can determine the role the institutional set up may have in the effective implementation of LPs. Such items

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<sup>3</sup> We coded separately references to “create employment opportunities” mostly found in the preamble of PTAs because, unlike all other items in our template, such references do not pertain to the family of provisions aiming at promoting and protecting labor rights. We use this provision in our main empirical analysis (see below).

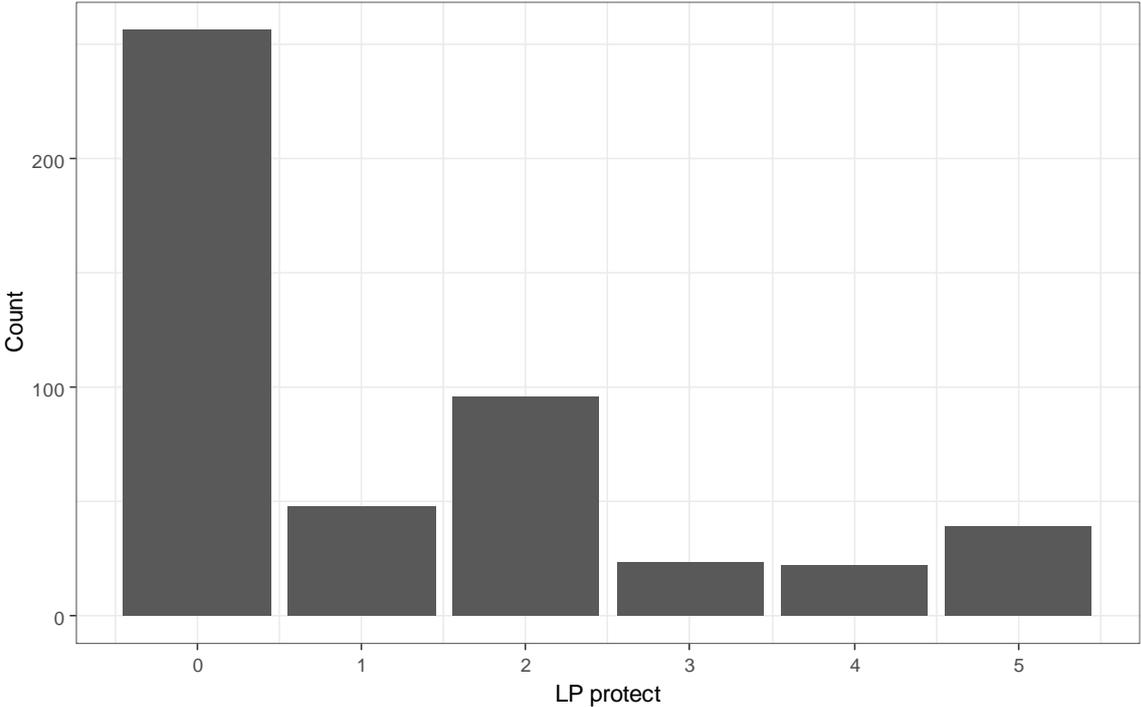
include the coding of the type of bodies responsible for the cooperation, their operation, the status of participants, and consultation with third parties.

### *Dependent variables*

Based on these data, we generate two different variables. For one, we distinguish between trade agreements with shallow and comprehensive LPs to establish a measure of the extent to which labor rights are protected in a PTA. Shallow LPs refer to references to “create employment opportunities”, “improve working conditions” and/or other labor rights found in the preamble and/or objectives parts of the agreement. Comprehensive LPs are those agreements where the protection of labor rights and conditions at work are set as a priority in the main body of the treaty text. Based on these distinctions, we generate the ordinal variable *LP protect* that ranges from 0 (no LPs) to 5 (most protecting LPs) as follows: 0= agreements with no LPs whatsoever; 1=agreements with an exclusive reference to “create employment opportunities” in the preamble and/or objectives; 2=exclusive references to “improve working conditions” and other labor rights in the preamble and/or objectives; 3= reference under substantive or cooperation-related LPs, without deep institutional framework or strong enforcement mechanism; 4= reference under substantive or cooperation-related LPs with deep institutional framework but without strong enforcement; 5= reference under substantive or cooperation-related LPs with strong enforcement mechanism. Deep institutional framework refers to cases where a separate body is established for the monitoring and implementation of LPs in PTAs *together with* the possible participation of third parties (such as social partners, ILO, NGOs, or others) therein. Strong enforcement refers to cases where LPs can be subject of quasi-judicial or judicial dispute settlement mechanism with the possible use of sanctions

(such as trade sanctions, monetary compensation, or other appropriate measures).<sup>4</sup> The resulting variable has a large number of zeros, as most PTAs in our dataset do not include any LPs (see Figure 1). Below, to analyze these data, we use an ordered logistic model.

**Figure 1: Distribution of the dependent variable (LP protect)**



We check the robustness of our results using a simple dichotomous variable on whether a PTA includes any provisions on labor standards (*LP protect dichotomous*). No fewer than 256 agreements (53 percent) include no reference to labor standards whatsoever. Using this dichotomous variable as robustness check allows us to see whether our argument not only explains the depth of labor commitments, but also the simple decision on whether to mention the issue in the first place.

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<sup>4</sup> Initially we included a separate score for PTAs with references exclusively to obligations (together with the underlining reference to substantive commitment(s)). Given, however, that there is no such PTA in our sample, we decided not to include this category into our final measure.

## *Predictors*

We measure labor power relying on trade union density, the most basic and commonly used indicator of the strength of organized labor. It is defined as net union membership as a proportion of wage and salary earners in employment.<sup>5</sup> To increase country coverage, we combined the following data sources: the ICTWSS database (Visser 2015); from a joint project between Jelle Visser and the ILO to collect trade union density and collective bargaining coverage data in developing countries; the ILO's 2016 *IR Indicators: TU Membership Statistics*; the ILO's 2011 *Social Dialogue Indicators*; and the OECD. Despite our best efforts, the data remains spotty. For countries for which we had at least one data point, we therefore replaced missing observations with the mean across the non-missing observations. We chose this approach because the data are relatively time-invariant over the short time period considered in this paper. For this and all other variables introduced below, we calculated values for the EU and European Free Trade Association by using the mean (or the median for dichotomous variables) across all member countries. To arrive at a value for this variable at the PTA level, we use the maximum value across all PTA members (*Union density*). By taking the maximum, we assume that the countries that are most interested in having LPs included in PTAs (because labor power is high) get their way.

Our measure of government partisanship comes from the World Bank's Database of Political Institutions (Keefer 2012). We use the variable "EXECRLC" which measures the party orientation with respect to economic policy. Left government takes the value of 1 when the party orientation is left and 0 when it is right or center. Left parties are defined as communist, socialist, social democratic or left wing.<sup>6</sup> We recoded the communist governments of China, Cuba, Laos, and Vietnam as non-left governments because these are

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<sup>5</sup> Net union membership is total union membership minus union members outside the active, dependent and employed labor force (i.e. retired workers, independent workers, students, unemployed).

<sup>6</sup> The World Bank's DPI has missing values for Switzerland. We decided to code Switzerland as being governed by right-wing governments over the entire period under consideration.

one-party systems that fully control the union structure and are thus, paradoxically, inimical to Western-style collective labor rights. At the level of the PTA, this variable is coded 1 if at least one signing party has a left government (*Left government*).

We use Polity scores to capture the level of democracy of countries (Marshall *et al.* 2016). We rescale them so that they range from 0 to 1, as this facilitates using this variable in the interaction term introduced below. Again, we use the maximum across all member countries as the value for the PTA (*Democracy*).

Finally, we use potential labor power (*PLP*) as our measure of the relative strength of skilled workers to unskilled workers. This measure was introduced by Rudra (2002) and is calculated as follows:<sup>7</sup>

$$PLP = \frac{\text{Number of skilled workers}}{\text{Number of low – skilled workers}} * \frac{1}{\text{Surplus labor as \% of working – age population}}$$

Our use of this specific measure is based on the assumption that an increase in surplus labor weakens skilled workers. Just as low-skilled workers, surplus labor should support LPs in PTAs. Below we show that our results are robust to omitting surplus labor from this formula. Since Rudra’s dataset goes from 1972 to 1995, it does not cover much of the period we are interested in. Due to changes in industry classification that occurred in the intervening period, moreover, it was not possible to update her dataset. As a result we calculated new high skilled to low skilled ratios using employment data from UNIDO for the period 1990-2012.<sup>8</sup> We

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<sup>7</sup> Whereas for Rudra PLP is an indicator of labor power, for us it is, as per the equation, a measure of the relative power of skilled to unskilled labor.

<sup>8</sup> In the ISIC Rev. 3 industry classification, the low-skill industry codes are as follows: 17 Textiles; 18 Wearing apparel, fur; 19 Leather, leather products and footwear; 20 Wood products (excl. furniture); 21 Paper and paper products; 25 Rubber and plastics products; 26 Non-metallic mineral products; 27 Basic metals; 28 Fabricated metal products; 36 Furniture. High-skill categories are: 24 Chemicals and chemical products; 29 Machinery and equipment; 30 Office, accounting and computing machinery; 31 Electrical machinery and apparatus; 32 Radio,

could rely on surplus labor data up to 2012 calculated by Rudra. Again, we faced the problem of a large number of missing observations, so calculated country means and used those to replace missing observations before calculating the PLP measure. As before, we used the maximum across all member countries as value for the PTA (*PLP*).

### *Control variables*

In the multivariate models below, we include several control variables. First, we control for the overall level of ambition of a PTA. Some PTAs are more far-reaching than others. The more far-reaching a PTA is, the more LPs it should also include. We use the depth index provided by the DESTA project as measure of the ambitiousness of a PTA (Dür *et al.* 2014). This measure ranges from 0 to 7, with higher values indicating deeper agreements (*Trade depth*). Second, we control for the diffusion of LPs in PTAs over time. We do so by including the mean value on *LP protect* in the year prior to the signature of a PTA in our models (*Diffusion*). The value of this variable increases over time, but not monotonously. In the model with *LP protect dichotomous* we calculate this variable for the dichotomous version of the dependent variable (*Diffusion dichotomous*).

Third, we control for economic growth, using the average GDP growth rate across the member countries of a PTA (*GDP growth*). As the EU and the United States are particularly powerful players in terms of shaping the design of PTAs (see, for example, Baccini *et al.* 2015), we include dummies that are coded 1 for PTAs that involve at least one of these two entities (*EU, US*). We also control for the level of development of the countries signing a PTA by including two dummies, one for North-North agreements and one for South-South agreements (*North North* and *South South*). The coefficients for these two dummies need to be interpreted relative to the base category, namely North-South agreements. Finally, we

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television and communication equipment; 33 Medical, precision and optical instruments; 34 Motor vehicles, trailers, semi-trailers; 35 Other transport equipment.

include two time period dummies (*Period 2000s* and *Period 2010s*) to control for time trends. Table A1 in the Online Appendix provides summary statistics for all the variables.

## 5. Empirical analysis

We start the empirical analysis with a model with *LP protect* as dependent variable that includes the various predictors and control variables introduced above, but no interaction terms (Model 1 in Table 1). The three predictors that we emphasize in the argument are *Union density*, *Left government*, and *PLP*. The three coefficients for these variables have the expected sign and two are statistically significant. PTAs signed by countries with high union density are more likely to include comprehensive LPs than other PTAs, as expected in Hypothesis 1. Moreover, PTAs signed by countries with a high skilled to unskilled labor ratio are less likely to protect labor rights than PTAs concluded by countries where the relative power of skilled to unskilled workers is low. This finding is in line with Hypothesis 5. The coefficient for left government is positive but statistically insignificant. We thus do not find support for Hypothesis 2. The statistically significant controls are *Trade depth*, *EU*, *US*, and *South South*.

**Table 1: Main results**

	<i>Dependent variable:</i>		
	LP protect		
	(1)	(2)	(3)
Union density	0.023*** (0.006)	0.017** (0.007)	0.008 (0.010)
Left government	0.264 (0.232)	-0.295 (0.358)	0.244 (0.234)
PLP	-0.338*** (0.085)	-0.323*** (0.087)	-0.334*** (0.087)
Democracy	1.101 (1.154)	1.149 (1.289)	-0.050 (1.251)

Trade depth	0.610*** (0.081)	0.601*** (0.081)	0.631*** (0.082)
Diffusion	0.333 (0.276)	0.296 (0.278)	0.257 (0.281)
EU	0.703* (0.392)	0.709* (0.392)	0.687* (0.393)
US	3.668*** (1.129)	3.651*** (1.128)	3.857*** (1.134)
North North	-0.098 (0.621)	-0.146 (0.624)	-0.145 (0.634)
South South	-1.284*** (0.337)	-1.206*** (0.341)	-1.084*** (0.350)
Period 2000s	-0.216 (0.250)	-0.167 (0.256)	-0.056 (0.260)
Period 2010s	-0.123 (0.492)	0.085 (0.503)	0.166 (0.508)
Union density*Left gov.		0.017* (0.009)	
Union density*Democracy			0.028** (0.013)
Observations	381	369	381
Log Likelihood	-414.79	-405.52	-412.13

Note: \* p<0.1; \*\* p<0.05; \*\*\* p<0.01

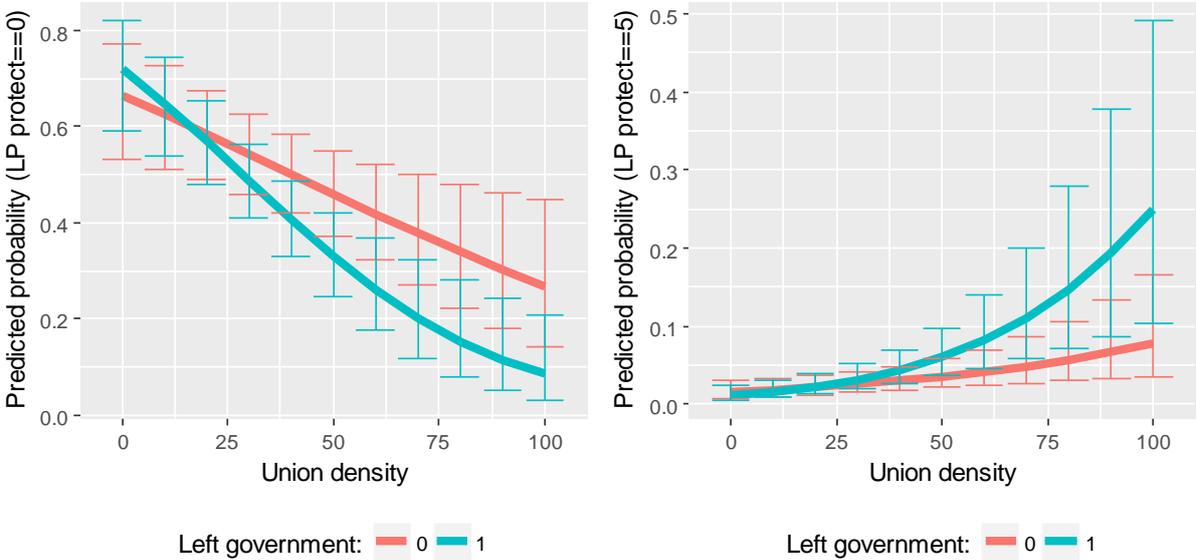
Note: results from ordinal logistic regression models. The models also included intercepts, but they are omitted from this table. \* p<0.1; \*\* p<0.05; \*\*\* p<0.01.

In Model 2, we include an interaction term between *Left government* and *Union density* to test Hypothesis 3. The coefficient for *Union density* remains similar to the one presented in Model 1. In the presence of the interaction term, this means that when a non-left party controls the government, PTAs signed by countries with high union density include more LPs than PTAs signed by countries with low labor power. The coefficient for *Left government* now is negative but remains statistically insignificant. Importantly, the coefficient for the interaction term is positive and statistically significant at the 90% level (p=0.054). This

means that left government and trade union strength do indeed reinforce each other, as expected in Hypothesis 3.

In Figure 2, we show this interaction graphically. In the left panel, we show the predicted probability that *LP protect* takes the value of 0 (the minimum) for left and non-left governments as a function of *Union density*. As expected, this probability decreases strongly for left governments as the power of labor unions increases. While the difference to non-left governments does not become statistically significant at the 95% level, the decline is sharper for left governments than non-left governments. In the panel to the right, we show the same probability for *LP protect* taking the value of 5. As expected, *Union density* is associated with a sharp increase in this probability for left governments, but less so for non-left governments.

**Figure 2: Interaction Left government times Union density**



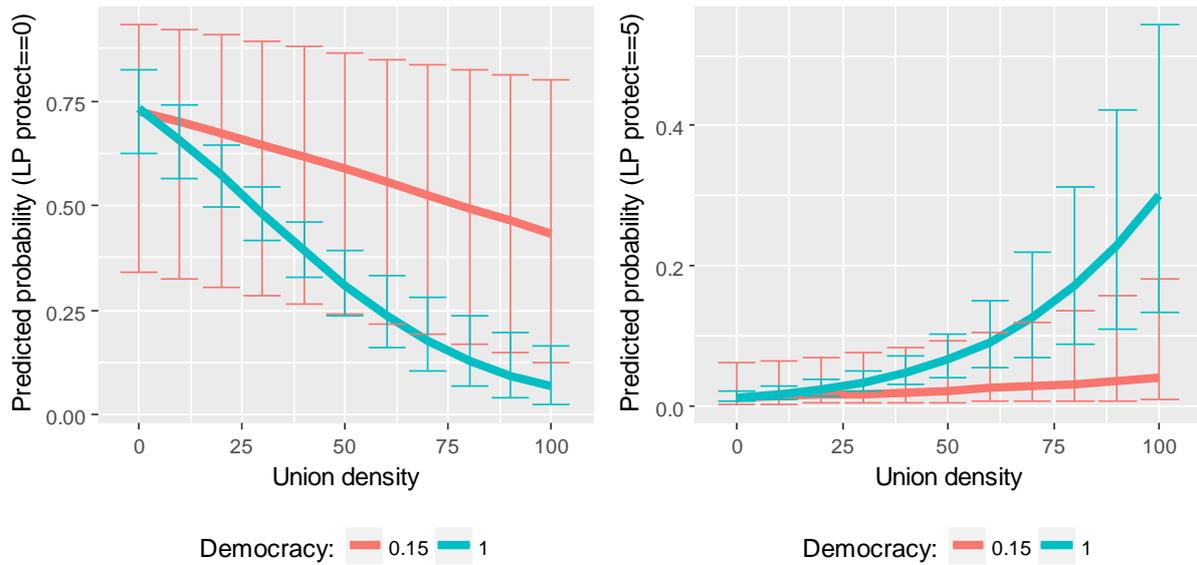
Note: the figure shows predicted probabilities of the dependent variable taking the values of 0 (left-hand side) and 5 (right-hand side). These probabilities are calculated while keeping all other variables at their means. The error bars indicate the 90% confidence intervals.

In Model 3 we interact *Union density* with *Democracy* to test Hypothesis 4. The coefficient for *Union density* remains positive but it is no longer statistically significant. This means that in the presence of autocratic regimes, PTAs are not more likely to include far-reaching LPs when trade unions are strong than when they are not. The coefficient for the interaction term is positive and statistically significant at the 95 percent level. As interpreting this coefficient from the results in Table 1 alone is difficult, we show the effect graphically (see Figure 3). In line with our expectation, for regimes with a low score on *Democracy* (in this case, we used the value of 0.15, which is equivalent to a Polity 2 score of -7) the probability that *LP protect* takes on the value of 0 does not depend on *Union density* (left-hand side).<sup>9</sup> For a full democracy (Polity 2 score of 10), the probability of *LP protect* taking on the value of 0 strongly declines as *Union density* goes up. By contrast, the probability of labor rights being protected strongly in a PTA (*LP protect* taking the value of 4) increases much more strongly for democracies than for non-democracies as union density increases (right-hand side of Figure 3). This evidence thus provides support for Hypothesis 4.

**Figure 3: Interaction *Democracy* times *Union density***

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<sup>9</sup> The confidence intervals for this estimation are very large, as we have few observations in the dataset for any specific value on *Democracy* that is smaller than 1. A dichotomous version of *Democracy* would resolve this issue, but leads to considerable loss of information.



Note: see Figure 2.

## 6. Robustness checks

We ran several checks to see how robust our results are to specific decisions made in terms of operationalization. For one, we re-ran all our results with *LP protect dichotomous* as dependent variable (Table 2). The results corroborate all our substantive findings. The conditional effects now are even stronger than in the baseline models. Figure 4, for example, shows the sharp increase in the probability of a PTA including LPs as union density increases, if at least one member country is highly democratic. This probability increases from 0.31 (when *Union density* equals 0) to 0.97 (when *Union density* equals 100). As before, the standard errors for the autocratic governments are very large, as this is an interaction between two continuous variables, and there are very few countries in the dataset with any specific value on *Democracy* lower than 1.

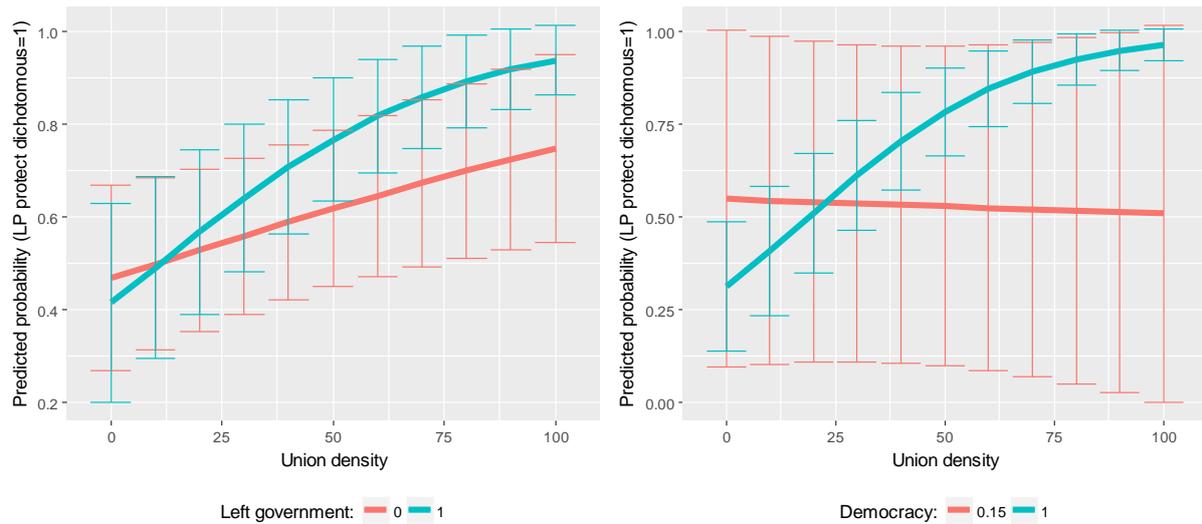
**Table 2: Robustness checks**

	<i>Dependent variable:</i>		
	LP protect dichotomous		
	(4)	(5)	(6)
Union density	0.019***	0.012	-0.002

	(0.007)	(0.008)	(0.011)
Left government	0.388	-0.216	0.294
	(0.266)	(0.398)	(0.273)
PLP	-0.357***	-0.342***	-0.361***
	(0.096)	(0.099)	(0.099)
Democracy	0.358	0.337	-1.158
	(1.189)	(1.306)	(1.301)
Trade depth	0.647***	0.633***	0.679***
	(0.101)	(0.101)	(0.104)
Diffusion	0.408	0.335	0.170
	(0.786)	(0.790)	(0.801)
EU	-0.378	-0.317	-0.420
	(0.481)	(0.481)	(0.484)
US	0.280	0.348	0.588
	(1.142)	(1.143)	(1.149)
NorthNorth	0.217	0.136	0.224
	(0.771)	(0.774)	(0.804)
SouthSouth	-1.151***	-1.021**	-0.819*
	(0.403)	(0.408)	(0.418)
Period 2000s	-0.243	-0.207	0.020
	(0.274)	(0.281)	(0.290)
Period 2010s	0.517	0.711	0.970
	(0.654)	(0.666)	(0.673)
Union density		0.019**	
*Left gov.		(0.009)	
Union density			0.043***
*Democracy			(0.014)
Constant	-1.595	-1.361	-0.978
	(1.323)	(1.444)	(1.357)
Observations	381	369	381
Log Likelihood	-204.164	-197.963	-198.953
Akaike Inf. Crit.	434.328	423.926	425.906

Note: results from logistic regression models. \* p<0.1; \*\* p<0.05; \*\*\* p<0.01.

**Figure 4: Interactions *Union density* times *Left government* and *Union density* times *Democracy* (robustness analysis)**



Second, to see whether our results for the strength of skilled labor are sensitive to the inclusion of labor surplus in the calculation of PLP, we re-ran the analysis substituting the high- to low-skill ratio (without labor surplus) for PLP. The results are broadly in line with what we get for PLP, but the coefficient for the interaction term in Model 2 just barely misses the threshold for statistical significance at the 90 percent level.

Third, as we lose a considerable number of observations because of missing values on our predictors,<sup>10</sup> we re-ran the models relying on multiple imputation.<sup>11</sup> These models largely confirm the findings presented above. In the additive model, the coefficient for *Union density* is positive and the coefficient for *PLP* is negative. Both are statistically significant at the 99% level. The coefficient for the interaction *Union density* times *Left government* is positive, but no longer statistically significant. The coefficient for the interaction *Union density* times *Democracy* is also positive and statistically significant at the 90% level. Overall, therefore, the results presented before are largely robust to changes in operationalization and multiple imputation.

<sup>10</sup> This is particularly true for our government partisanship variable. When we drop this variable from the analysis, the number of missing observations drops from 107 to 69. However, all substantive results discussed before remain the same even without this variable.

<sup>11</sup> We used the R package *amelia* for these models (Honaker *et al.* 2015).

## 7. Conclusion

To our knowledge, this is the first paper that systematically and directly investigates the effect of trade unions and government partisanship on the inclusion of LPs in PTAs. We expected trade union power and left governments to affect the depth of LPs in PTAs, and a greater skilled to unskilled labor ratio to be negatively associated with far-reaching LPs. We also expected the effect of labor unions to be reinforced by the presence of left governments, on the one hand, and to be conditional on regime type, on the other. Using the novel LABPTA dataset consisting of 484 PTAs signed between 1990 and 2015, our quantitative analysis finds strong support for these expectations, in particular those concerning the role of trade unions and a country's skill profile.

Specifically, we find that stronger labor unions are associated with more far-reaching LPs in PTAs, whereas a higher skilled to unskilled labor ratio is associated with less stringent LPs. We do not find a direct effect of left governments on the depth of LPs in PTAs. However, we find that labor union power and left governments reinforce each other in terms of deepening labor protection provisions in PTAs. Trade union strength also matters more for the design of LPs in PTAs in democracies. In other words, the strength of labor unions matters more if they try to influence a democratic government than if they need to convince a non-democratic government. Overall, these findings offer strong support for our argument about the impact of domestic factors on the design of LPs in PTAs.

Some scholars have suggested that fundamental labor rights have developed considerable normative power claiming that LPs in trade agreements, particularly in the EU context, achieved the status of an 'unobjectionable norm' and hence have become more of an issue of human rights championing (Drezer 2001; Van den Putte and Orbie 2015). Our results do suggest otherwise. Indeed, unless a class-struggle labor movement actively champions the

trade-labor linkage, LPs are unlikely to feature (prominently) in PTAs. Looking ahead, the dwindling support for labor unions around the world does not bode well for the inclusion of more far-reaching and highly enforceable LPs in PTAs. Neither does up-skilling related to technological change and globalization.

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## Online Appendix

### Protecting labor rights in preferential trade agreements: The role of trade unions, left governments, and skilled labor

Table A1: Summary statistics

Statistic	N	Mean	St. Dev.	Min	Median	Max
LP protect	484	1.223	1.604	0	0	5
LP protect dichotomous	484	0.471	0.500	0	0	1
Union density	456	35.916	19.707	2.300	32.133	95.600
Left government	422	0.585	0.493	0	1	1
Democracy	475	0.885	0.195	0.150	0.950	1.000
PLP	457	2.358	1.765	0.000	1.969	9.132
Trade depth	474	2.848	2.025	0	2	7
GDP growth	477	5.764	5.142	-17.300	5.620	62.200
Diffusion	484	1.125	0.617	0.000	1.062	3.200
Diffusion dichotomous	484	0.437	0.201	0.000	0.438	1.000
EU	484	0.093	0.291	0	0	1
US	484	0.031	0.173	0	0	1
NorthNorth	484	0.031	0.173	0	0	1
SouthSouth	484	0.678	0.468	0	1	1
Period 2000s	484	0.434	0.496	0	0	1
Period 2010s	484	0.114	0.318	0	0	1