Employees' Capability for Voice as a Determinant of Wellbeing

An Evaluation of the Right-to-Disconnect Legislation in Europe

Cherise Regier

DPhil in Social Intervention and Policy Evaluation, University of Oxford

HDCA Work & Employment Thematic Group - December 12, 2023

OUTLINE

Part I: Theoretical Framework

- Why the capability approach?
- Framework for Labour Law Evaluation

Part II – Operationalisation

- Background: Right-to-Disconnect Legislation
- Empirical Strategy
- Results
- Discussion

PART I
THEORETICAL FRAMEWORK

MOTIVATION

- Three interconnected trends:
  (1) Declining labour power across high-income countries since the 1980's.
  (2) Widening economic, social and health inequalities.
  (3) Diminishing job quality and job satisfaction (increase in employment precarity).

- Key component of labour power is **employees' capability for voice**.

- Recent evidence points to a widening voice gap (desired voice – actual voice) among employees spanning occupations and industries.

- Pluralist industrial relations scholars argue that **labour law is necessary** (although not sufficient) for the protection and promotion of employees' capability for voice.

WHY THE CAPABILITY APPROACH?

- Labour law evaluation has traditionally relied upon neoclassical and new institutional economics.

- Employee wellbeing is often measured using income as a proxy, although important, this metric provides limited information about the quality of people's lives, especially when analyzed at a macro-level.

- The capability approach (CA) asks what are people able to do, be, and achieve?

- "It is an intellectual discipline that gives a central role to the evaluation of a person's achievements and freedoms in terms of his or her actually ability to do and be the things that have reason to value." (Sen, 2009, 16)

- The CA facilitates a more complete conceptual space for wellbeing evaluation by shifting our attention to objectives that employees value from work beyond income.

BACKGROUND LITERATURE

- **Jean-Michel Bonvin (2012)** introduced the "capability for voice" as a critical dimension of one's "capability to work."

- **Roger Fernandez-Urbano and Michael Orton (2021)** build upon Bonvin's work and empirically evaluate the impact of an active labour market policy according to its ability to promote job seekers' capability for voice and choice.

- In a special edition of the ***Journal of International Training and Development*** employee voice is presented as a critical capability for vocational training and development (Barry et al. 2020; Bryson & Zimmermann, 2020, Sigot & Vero, 2020).

- In the ***Capability Approach to Labour Law (2019)*** legal and capability scholars discuss how the CA can add value to labour law.

FRAMEWORK

(1)   Employee Voice →Capability

(2)   Labour Law → Social Conversion Factor

(3)   Achieved Employee Wellbeing → Functionings

EMPLOYEE VOICE – CAPABILITY

- Core features (Morrison, 2011):
    - (1)   Communication
    - (2)   Constructive intent
    - (3)   Discretion

- A pathway to wellbeing
    - Enhanced **opportunity freedoms**
    - Achievement of ***functionings***

- Fertile Advantage (Wolf & De Shalit, 2007)
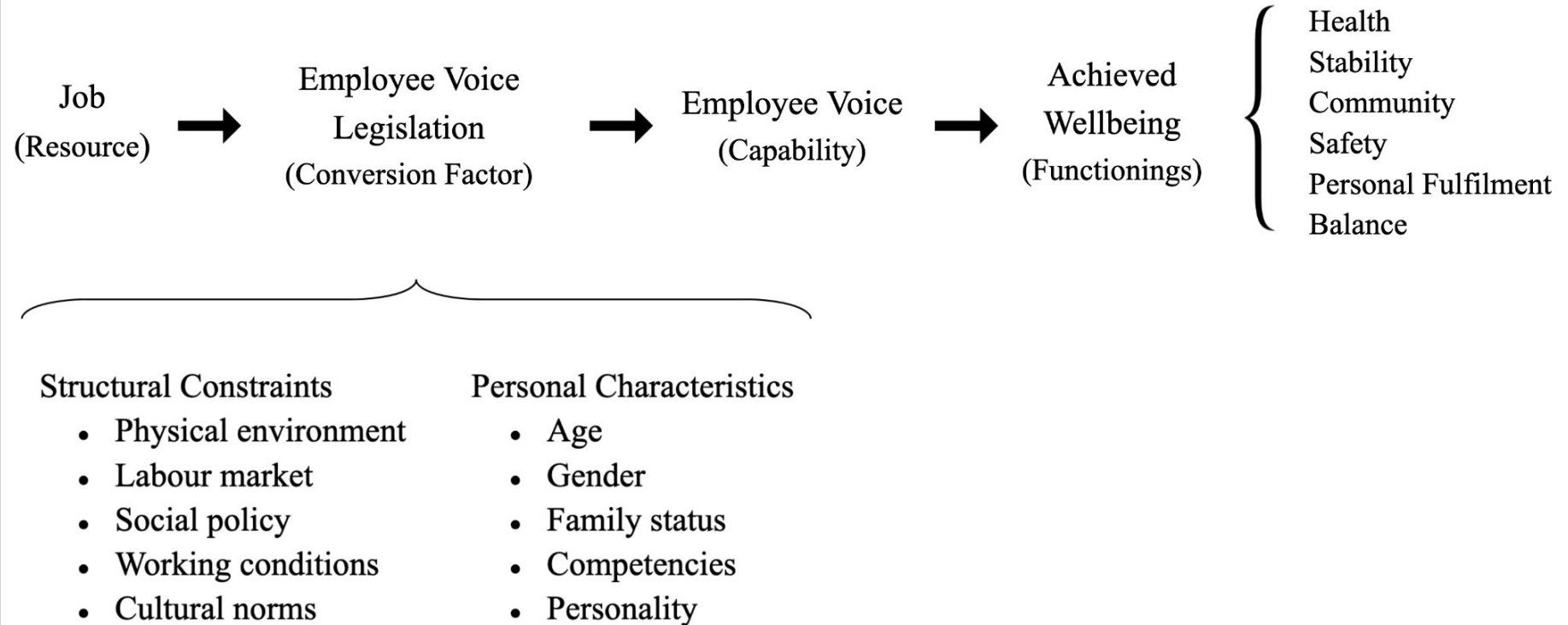
LABOUR LAW – SOCIAL CONVERSION FACTOR

Dimension of Employee Voice (Befort & Budd, 2009)

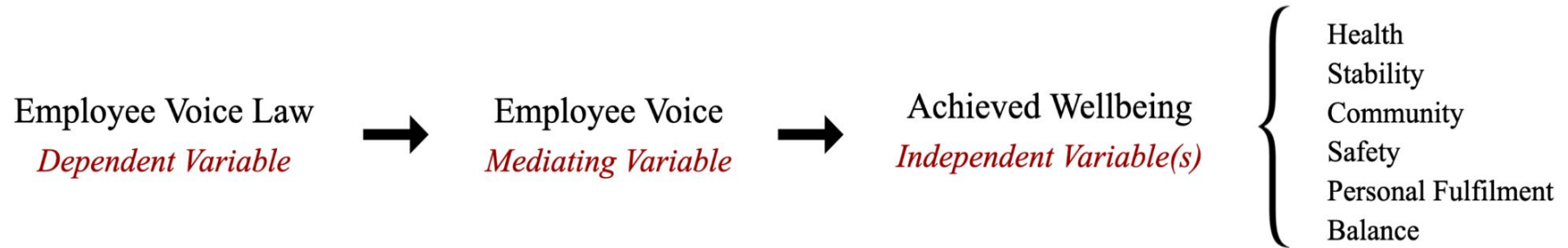| *Individual (Direct)*	*Collective (Representative)*
Employee Free Speech	**Consultation, Codetermination, & Social Dialogue**
The right to freely express opinions and views in the workplace (also includes expressive conduct). - ex. Protection of free speech and expression in the workplace	A range of information exchanges between management and employees that promote industrial democracy. - ex. Right to form a works council
Self-Determination	**Countervailing Collective Voice**
The degree of autonomy (substantial freedom, independence, discretion) an employee has in their job. - ex. Right-to-Disconnect	Independent labour unions with sufficient power to balance corporate power. - ex. Penalties for employer violations

ACHIEVED EMPLOYEE WELLBEING – FUNCTIONINGS

Functioning	Description
Health	Physical and mental health
Stability	Pay, benefits, and job security
Community	Social relations, support, and engagement
Safety	Physical and psychosocial work environment
Personal Fulfilment	Meaning, purpose, job satisfaction, and life satisfaction
Balance	Work-life integration

Visualisation of Evaluative Framework for Employee Voice Legislation

Job
(Resource)
→
Employee Voice
Legislation
(Conversion Factor)
→
Employee Voice
(Capability)
→
Achieved
Wellbeing
(Functionings)

- Health
- Stability
- Community
- Safety
- Personal Fulfilment
- Balance

Structural Constraints
- Physical environment
- Labour market
- Social policy
- Working conditions
- Cultural norms

Personal Characteristics
- Age
- Gender
- Family status
- Competencies
- Personality

PRODUCTION FUNCTION

Employee Voice Law
Dependent Variable

→

Employee Voice
Mediating Variable

→

Achieved Wellbeing
Independent Variable(s)

{
Health
Stability
Community
Safety
Personal Fulfilment
Balance
}

# PART II
OPERATIONALISATION

TELEWORK

- **Definition:** An arrangement that enables employees to perform work away from a designated work site through the use of information and communication technologies (ICTs) such as smartphones, tablets, laptops, computers (Eurofund, 2022).

- Percentage of EU labour force engaged in some degree of teleworking doubled from **11% in 2019 to 22% in 2020** (41.7 million employees).

- Strong preference among employees for telework to meet personal demands.

TELEWORK & WORK INTENSIFICATION

- Telework is associated with longer, irregular, and more intense working hours regardless of how much one engages in it, but employees in hybrid arrangements appear to be most at risk.

    - **46% of teleworkers** reported **working more hours** than contractually required compared to 30% of those working solely from a designated worksite.

    - Teleworkers are **3.5 times more likely** to work in their free time.

- Instead of working wherever and whenever, employees work everywhere and all the time in fear of being penalized for disconnecting.

- This always available, highly responsive state not only erodes the quality of employees' leisure time, but increases their risk of stress and fatigue that when prolonged, can lead to exhaustion, burnout, injury, and illness.
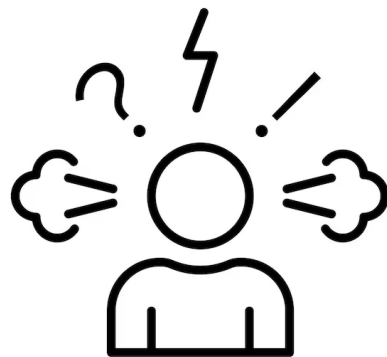
THE RIGHT-TO-DISCONNECT (R2D) LEGISLATION

- R2D aims to address cases of work intensification from digital overconnectivity by recognizing employees' right to ignore digital work-related communications outside of working hours.

- Self-Determination → Employees with the capability to disconnect without fear of retribution enjoy greater freedom to shape their schedule in a way that is more conducive to their needs and preferences, as well as protect themselves from exploitation.

- It serves a higher purpose that is inherently linked to one's agency and choice at work and in broader life (Budd, 2019).

- In this regard, the R2D legislation has the potential to improve employee wellbeing.

R2D LEGISLATION

Country	Date of enforcement	Operationalization	
		≥ 50 employees	< 50 employees
France	January 2017	Firms must negotiate R2D terms with a trade union or employee representative but are not obligated to reach an agreement. If a legally binding agreement (ex. collective agreement) is not made, a unilateral workplace charter must be drawn up.	Firms are encouraged to negotiate R2D terms with a trade union or employee representative. Employees can exercise their right on an individual basis but may require legal counsel or trade union support.
Spain	April 2018	Firms must negotiate R2D terms with a trade union or employee representative but are not obligated to reach an agreement.	Firms are encouraged to negotiate R2D terms with a trade union or employee representative.
Belgium	December 2018	Firms must implement a R2D policy. Negotiations with a trade union or employee representative are encouraged but not mandatory.	

EMPIRICAL STRATEGY

DATA

European Social Survey
- Administered in over 30 EU countries (including UK) every two years.
- Cross-sectional, probability samples representative of all persons aged 15 and over.
- Data collection: face-to-face interviews.

'Intent-to-treat' Group:
- 2008 to 2020 (7 waves)
- Major groups 1-4 of ISCO-08
- Working hours > full-time
- n = 31,045

OUTCOME MEASURES

Life Satisfaction

- 10-point scale
- Subjective
- Evaluative wellbeing

Happiness

- 10-point scale
- Subjective
- Hedonic wellbeing

Health

- 5-point scale
- Subjective
- Dimension of wellbeing

EMPIRICAL MODEL

Difference-in-difference

Callaway and Sant'anna Doubly Robust Estimator where Y represents life satisfaction, happiness, or health, $t = 1,...,T$ represents the time period, and g represents the 'group' that each unit belongs to according to the time period in which they first become treated.

$$ATT(g,t) = E\left[Y_t(g) - Y_t(0)|G_g = 1\right]$$

Treated groups:

(1)   2017 Group → France
(2)   2019 Group → Spain and Belgium

Control group:

13 countries (Estonia, Finland, Germany, Hungary, Ireland, Netherlands, Norway, Poland, Portugal, Slovenia, Sweden, Switzerland, and the United Kingdom)
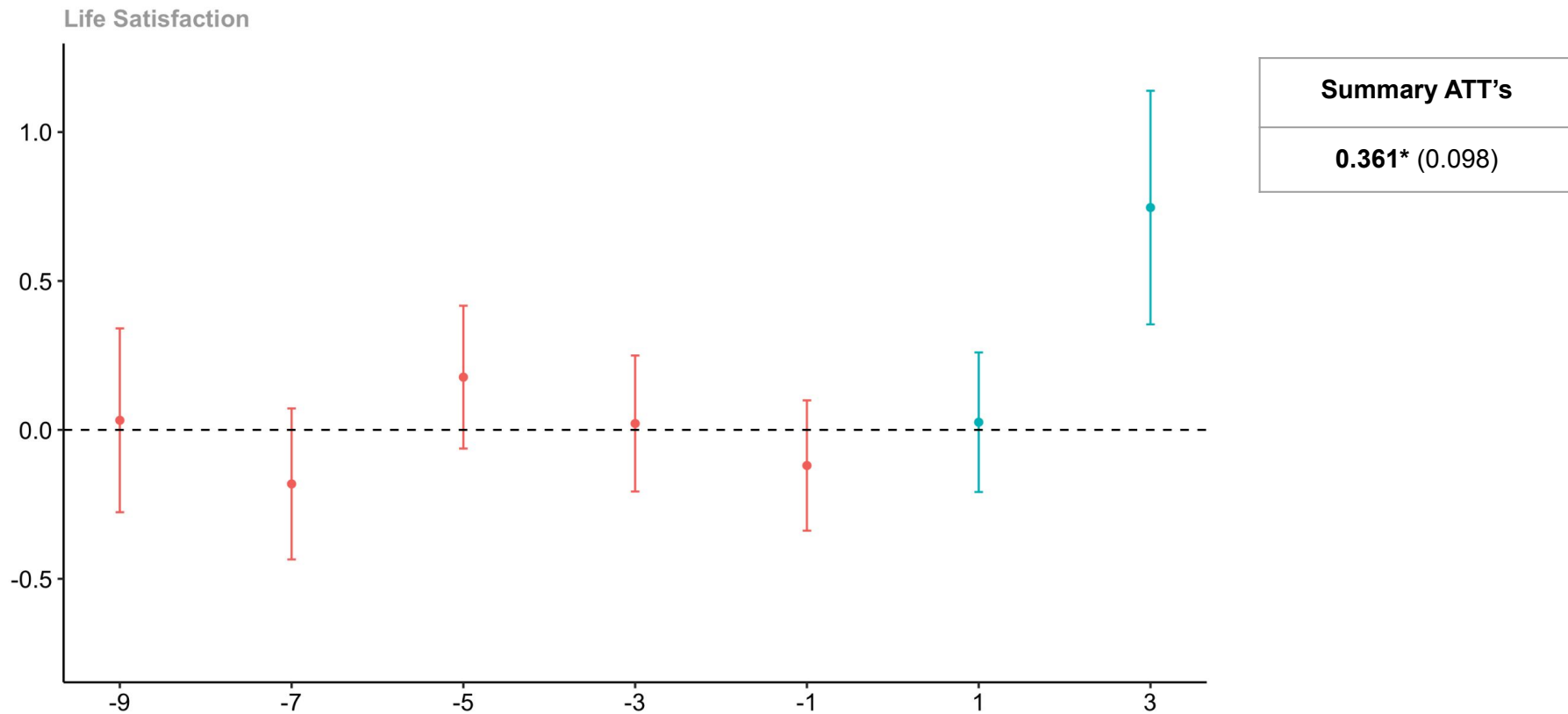
RESULTS

Average Total Treatment Effects

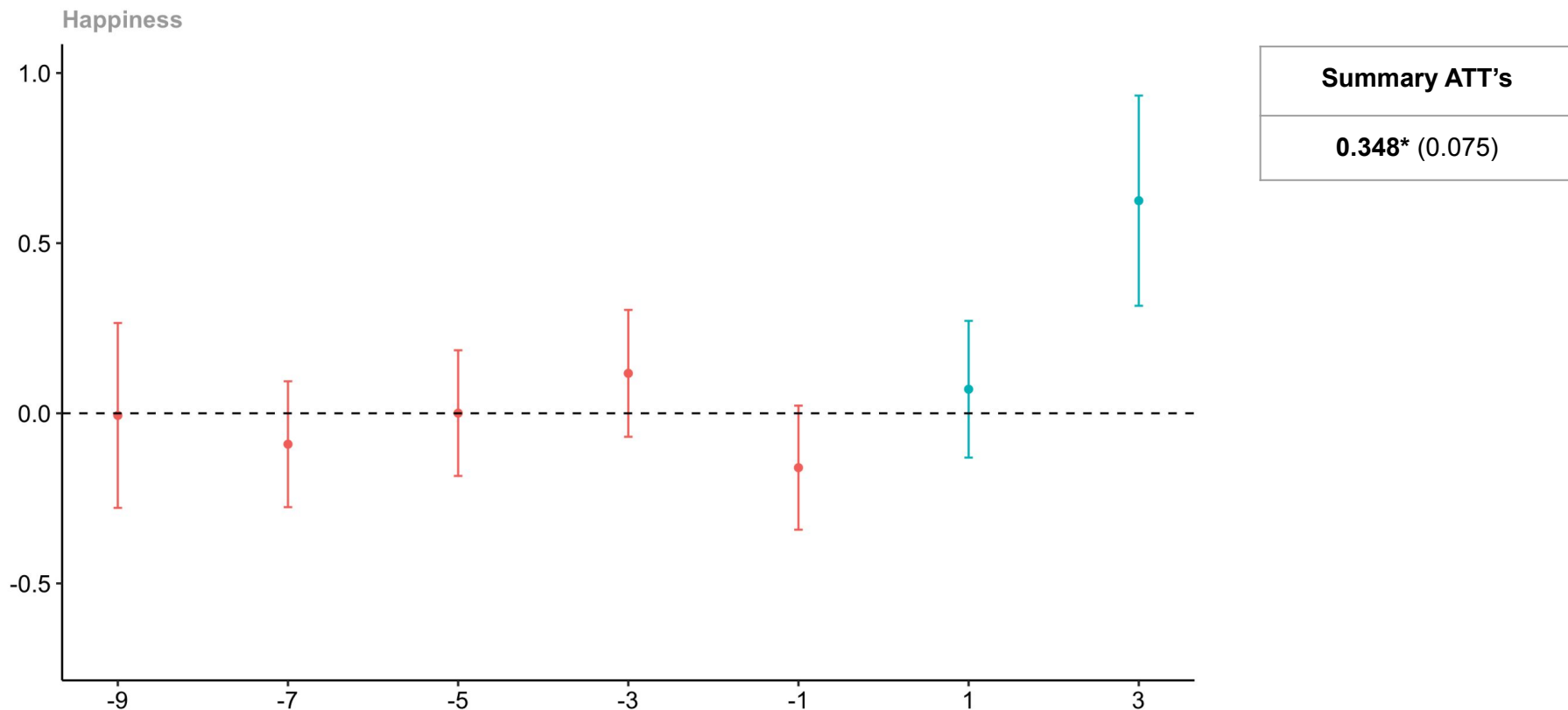Table 3: Total treatment effects and Group-time average treatment effects for France, Spain, and Belgium

	$ATT(group, time)$			
	$ATT(2017, 2018)$	$ATT(2017, 2020)$	$ATT(2019, 2020)$	Total
Life satisfaction	0.2178	0.7465 *	− 0.1310	0.3861 *
	(0.1505)	(0.1502)	(0.1072)	(0.0978)
Happiness	0.1956	0.6249 *	− 0.0312	0.3478 *
	(0.1143)	(0.1189)	(0.0950)	(0.0746)
Health	− 0.0284	0.1627	0.0977	0.1019 *
	(0.0636)	(0.0661)	(0.0505)	(0.0413)
Observations	27720	27720	28331	31045

Notes: Total treatment effects are estimated using the dynamic aggregation of ATT(group, time) which computes an average treatment effect by length of exposure to the R2D legislation. Standard errors are reported in parentheses clustered at the country-level. Difference-in-difference model is conditioned on the following set of pre-treatment covariates: education, household total net income, employment contract, establishment size, autonomy, and employee voice. *, **, *** indicate significance at the 10%, 5%, and 1% levels, respectively.
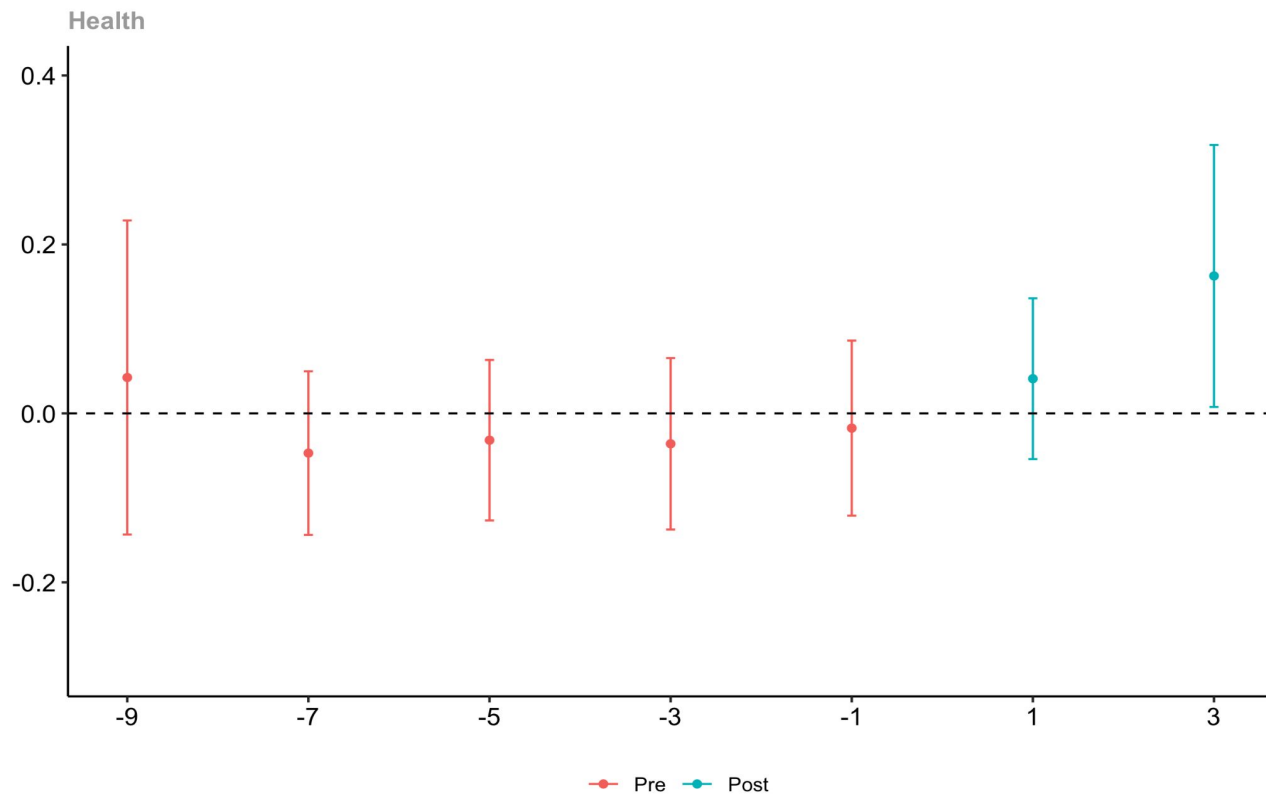
Average Total Treatment Effect: Life Satisfaction

Life Satisfaction

Summary ATT's
0.361* (0.098)

Average Total Treatment Effect: **Happiness**

Happiness

Summary ATT's
0.348* (0.075)

Average Total Treatment Effect: **Health**

Health

Summary ATT's
0.102* (0.041)

Pre   Post

Group-Time Average Treatment Effects

Table 3: Total treatment effects and Group-time average treatment effects for France, Spain, and Belgium

	$ATT(group, time)$			
	$ATT(2017, 2018)$	$ATT(2017, 2020)$	$ATT(2019, 2020)$	Total
Life satisfaction	0.2178	0.7465 *	− 0.1310	0.3861 *
	(0.1505)	(0.1502)	(0.1072)	(0.0978)
Happiness	0.1956	0.6249 *	− 0.0312	0.3478 *
	(0.1143)	(0.1189)	(0.0950)	(0.0746)
Health	− 0.0284	0.1627	0.0977	0.1019 *
	(0.0636)	(0.0661)	(0.0505)	(0.0413)
Observations	27720	27720	28331	31045

Notes: Total treatment effects are estimated using the dynamic aggregation of ATT(group, time) which computes an average treatment effect by length of exposure to the R2D legislation. Standard errors are reported in parentheses clustered at the country-level. Difference-in-difference model is conditioned on the following set of pre-treatment covariates: education, household total net income, employment contract, establishment size, autonomy, and employee voice. *, **, *** indicate significance at the 10%, 5%, and 1% levels, respectively.

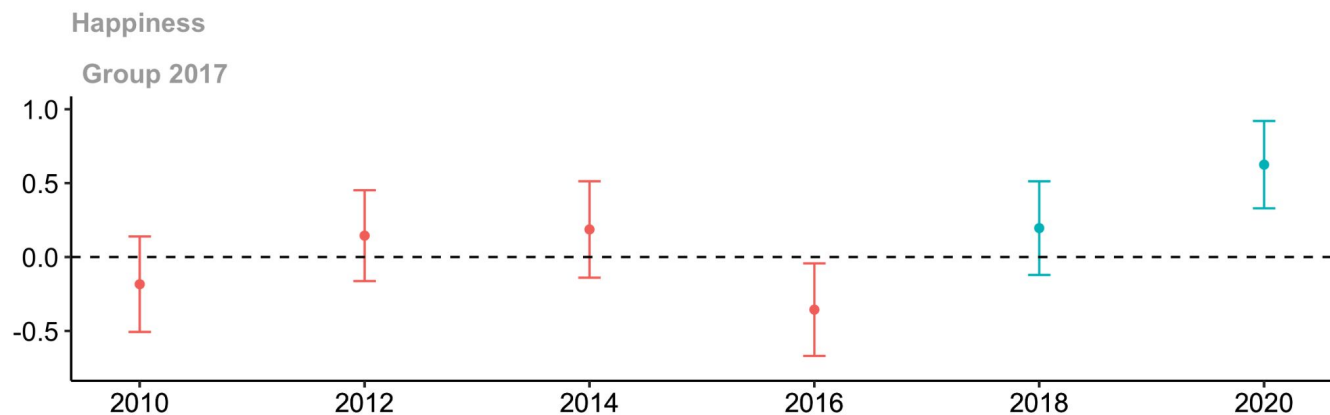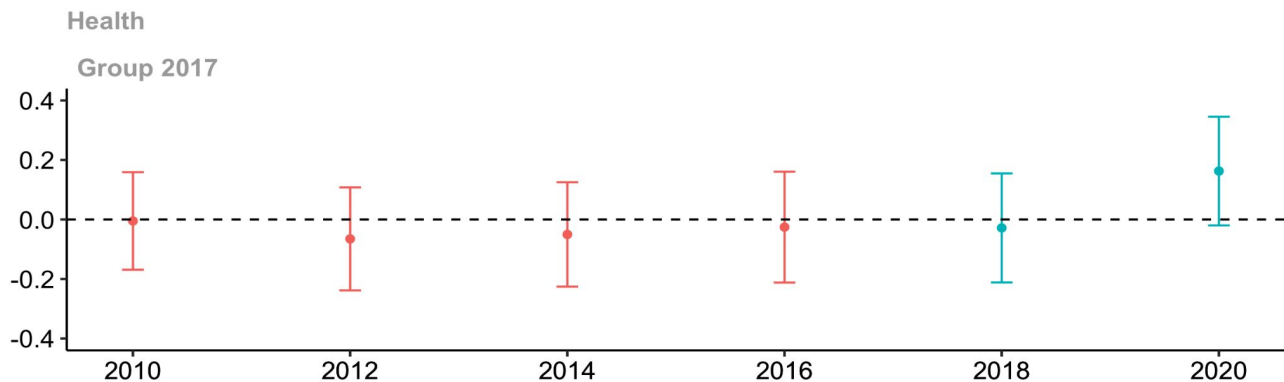# Total Average Treatment Effects: France, Life Satisfaction

Life Satisfaction

Group 2017
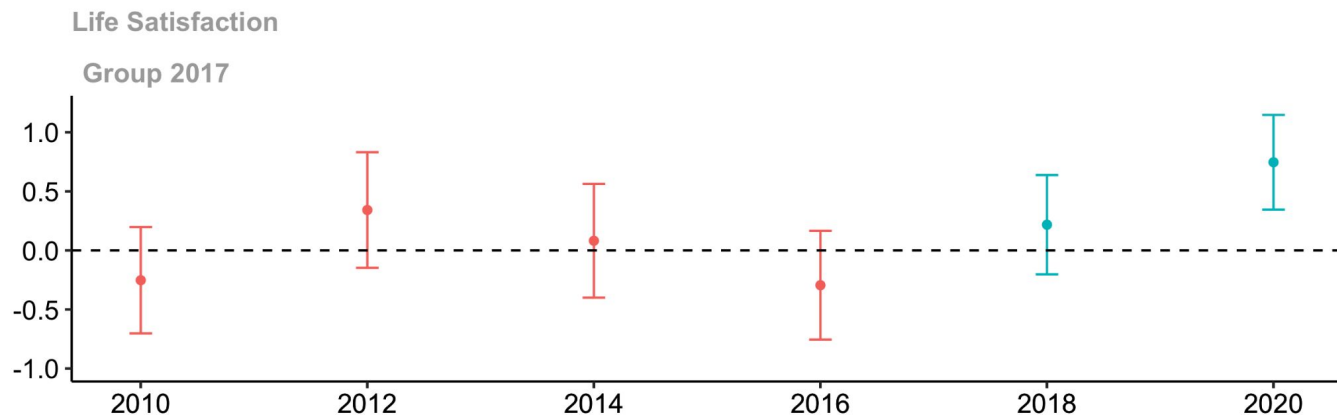
Summary ATT	
2017 Group	0.747* (0.1502)

Total Average Treatment Effects: **France, Happiness**

Happiness

Group 2017

Summary ATT's	
2017 Group	0.625* (0.119)

Group-Time Average Treatment Effects: **Health**

Health

Group 2017

Summary ATT's	
2017 Group	0.163 (0.066)

Heterogeneous Treatment Effects Over Time

- The increasing positive treatment effect in France over time which is likely due to an **increase** in the **number of firms with R2D policies alongside employee coverage**.

- The French Ministry of Labour, Employment and Economic Inclusion's annual assessment of collective bargaining reported an 86 percent increase in the number of agreements with R2D terms from **932 in 2017** to **1,737 in 2019**.

- These findings reveal a relatively **slow adoption rate among firms** in the first year following the law's introduction, which is likely driven in part by longer or delayed negotiation periods.

- There is also evidence of a continued increase in R2D terms beyond our study period as the 2021 assessment reports that **4,070 of the 6,070 new agreements (67%) relate to teleworking conditions more broadly,** almost double to the year prior.

Heterogeneous Treatment Effects: 2019 Group

Table 5: Heterogeneous treatment effects across countries within 2019 Group

	ATT(group, time)		
	Spain	Belgium	Total
Life satisfaction	− 0.5828	0.2690	− 0.1310
	(0.2224)	(0.1072)	(0.1072)
Happiness	− 0.4841	0.3763 *	− 0.0312
	(0.1996)	(0.1067)	(0.0950)
Health	0.1786	0.1035	0.0977
	(0.0876)	(0.0596)	(0.0505)
Observations	26191	27146	28331

Notes: Treatment effects are estimated using the dynamic aggregation of ATT(g,t) which computes an average treatment effect by length of exposure to the R2D legislation. Standard errors are reported in parentheses clustered at the country-level. Difference-in-difference model is conditioned on the following set of pre-treatment covariates: education, household total net income, employment contract, establishment size, autonomy, and employee voice. *, **, *** indicate significance at the 10%, 5%, and 1% levels, respectively.
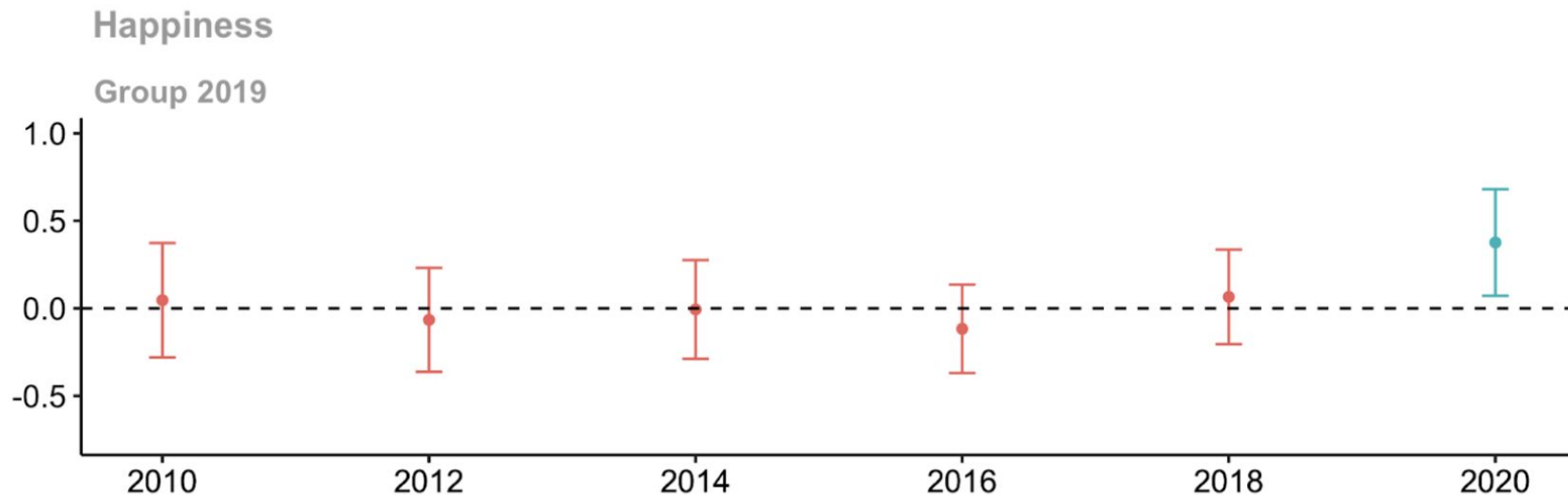
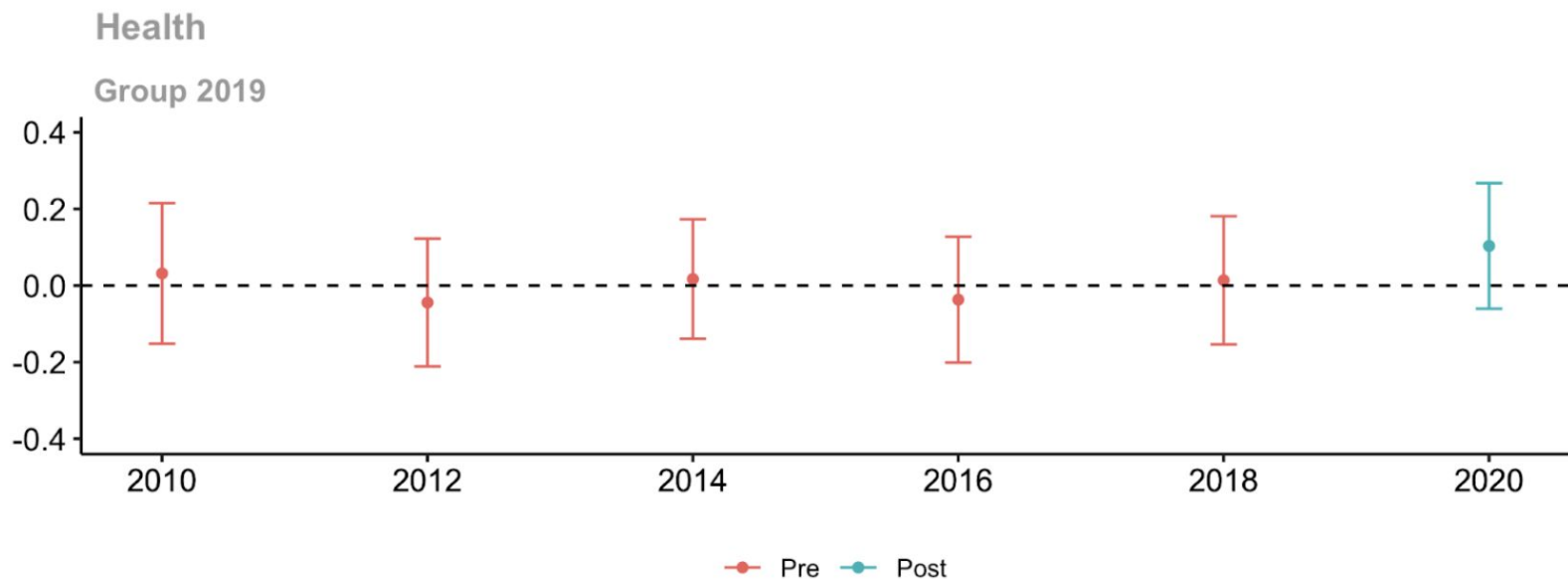# Total Average Treatment Effect: **Belgium, Life Satisfaction**
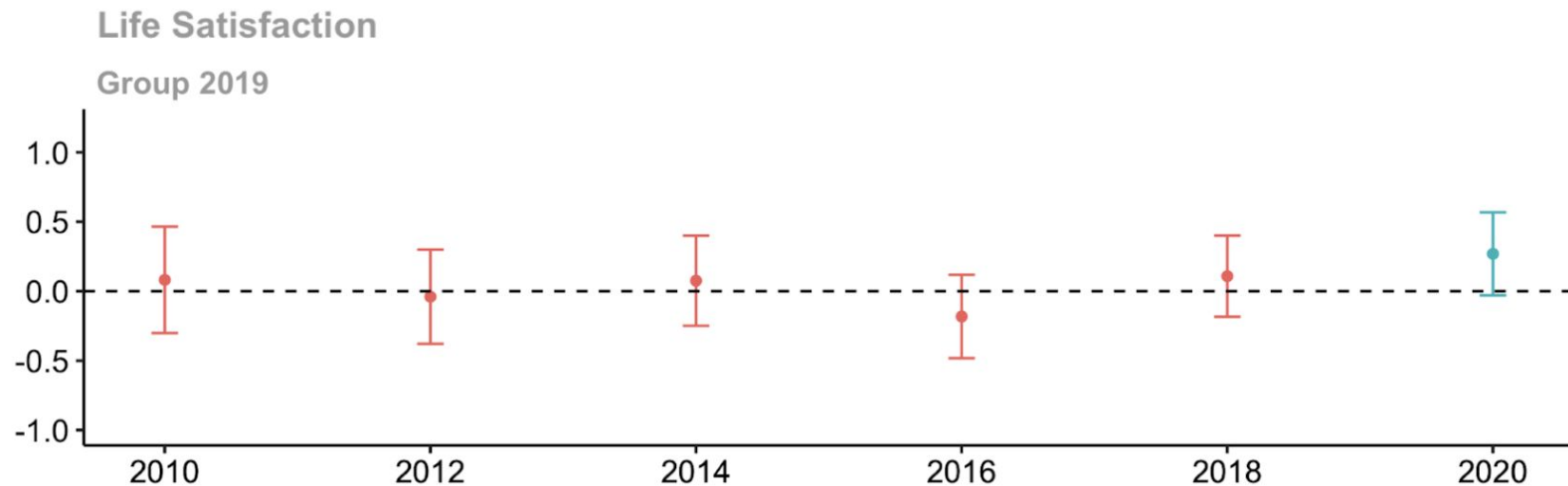
Summary ATT's
0.2690 (0.1072)

Total Average Treatment Effect: **Belgium, Happiness**

Happiness

Group 2019

Summary ATT's
0.373* (0.1067)

Total Average Treatment Effect: **Belgium, Health**

Summary ATT's
0.1035 (0.059)

Total Average Treatment Effect: Spain, Life Satisfaction

Life Satisfaction

Group 2019
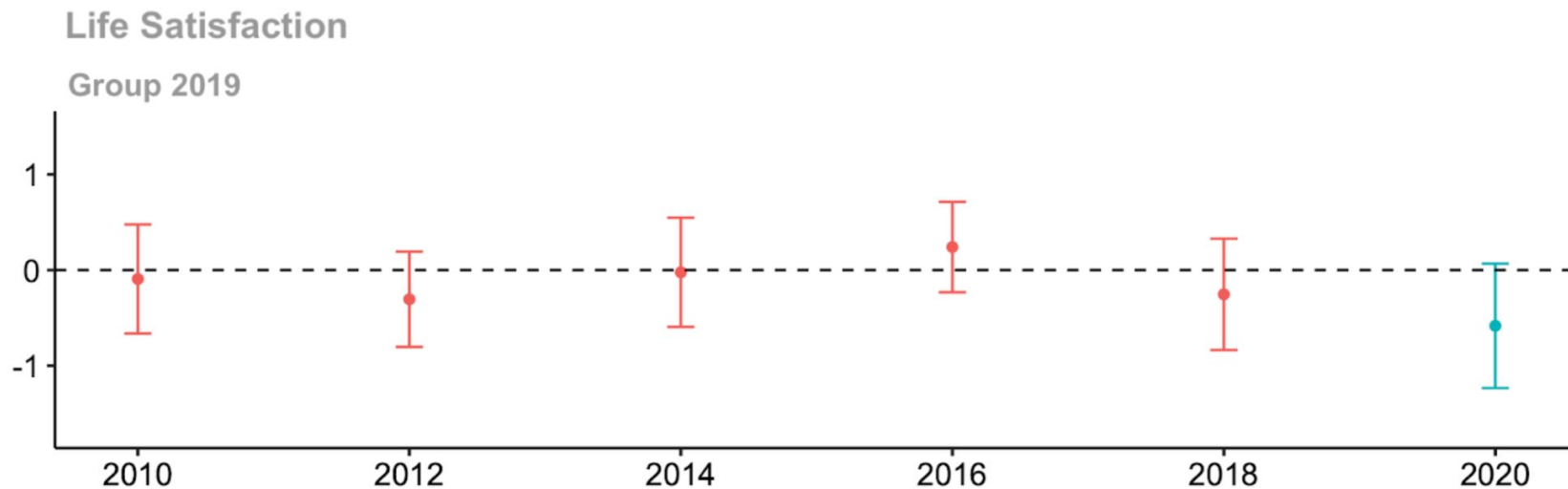
Summary ATT's
−0.583 (0.222)

Total Average Treatment Effect: **Spain, Happiness**

Happiness

Group 2019
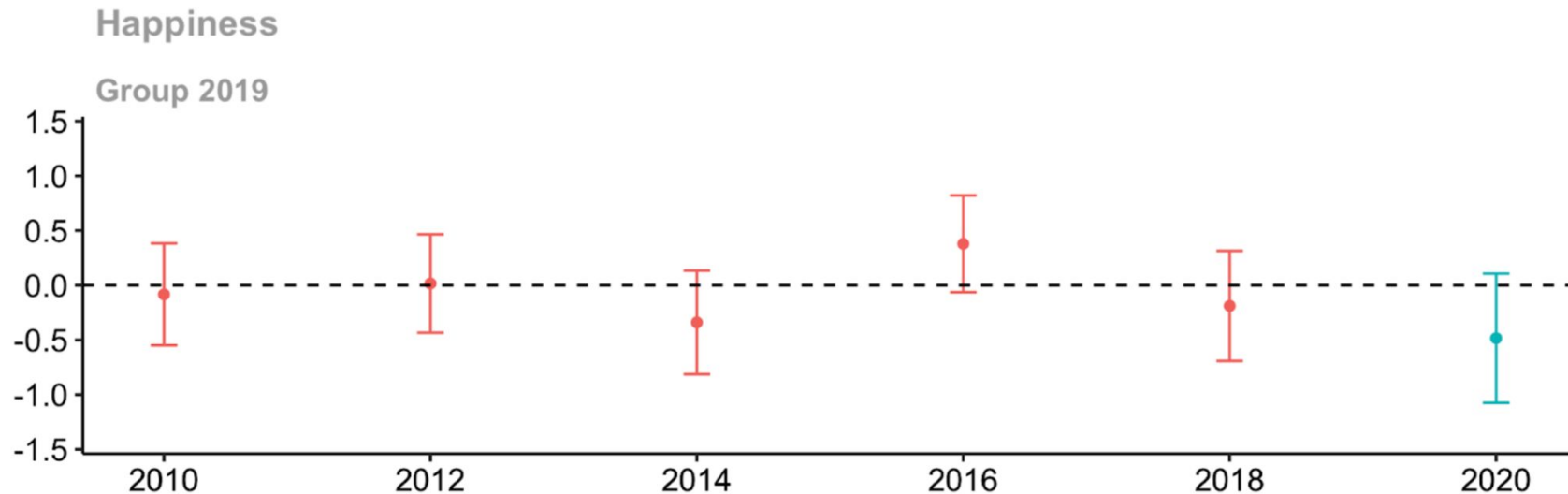
	Summary ATT's
	−0.484 (0.199)

Total Average Treatment Effect: **Spain, Health**

Health

Group 2019

Pre ● Post
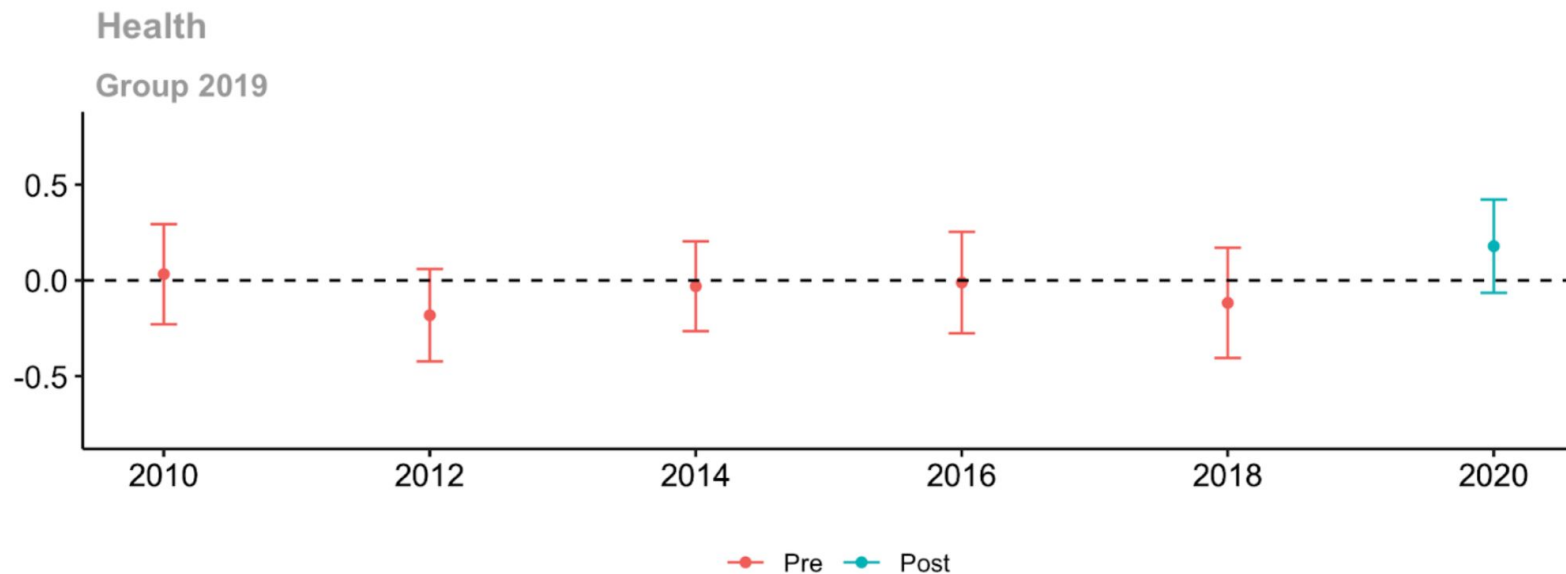
Summary ATT's
0.179 (0.088)

Heterogeneous Treatment Effects Across Countries

- Spain mandated firms to implement R2D terms but did not require them to negotiate, thereby granting **firms with greater control** over its implementation.

- In theory, all firms should have a R2D policy in place based on the law's requirements, however, trade union reports indicate that only **12% of all new collective agreements established in 2019 contain R2D terms**, the majority of which are firm-level agreements with limited employee coverage.

- **Employers' associations** claim that the R2D is not feasible for firms in most sectors because it would interfere with business activity and jeopardize performance.

- **Trade union representatives** argue that the R2D law is not having a significant impact due to an absence of concrete obligations on firms and a failure to introduce the law under health and safety legislation rather than data protection and digital rights

Mechanism: Employee Voice

Table 6: Heterogeneous treatment effects across levels of employee voice

	Self-reported level of employee voice		
	Low (0 − 3)	Moderate (4 − 7)	High (8 − 10)
Life satisfaction	0.2499	0.4264 *	0.465 *
	(0.2112)	(0.1404)	(0.1903)
Happiness	0.3585 *	0.3004 *	0.4627 *
	(0.1548)	(0.1024)	(0.1494)
Health	0.0328	0.1298 *	0.1617
	(0.0832)	(0.0562)	(0.097)
Observations	9037	12207	9801

Notes: Treatment effects are estimated using the dynamic aggregation of ATT(g,t) which computes an average treatment effect by length of exposure to the R2D legislation. Standard errors are reported in parentheses clustered at the country-level. Employee voice is measured using an 11-point scale with the ESS question code 'iorgact'. Difference-in-difference model is conditioned on the following set of pre-treatment covariates: education, household total net income, employment contract, establishment size, and autonomy. *, **, *** indicate significance at the 10%, 5%, and 1% levels, respectively.

Employees' Capability for Voice

- In all versions of the law, employees with **limited voice are at risk of weak to no R2D coverage** since their ability to bargain for optimal outcomes is compromised.

- Results display evidence of a **positive sloping gradient in employee wellbeing as levels of employee voice increase** which suggests that wellbeing effects of the law are somewhat dependent upon the industrial relations institutional backdrop within each country.

- According to the Eurofound industrial relations index, France and Belgium rank in the top 10 (above average) among all EU countries between 2013 and 2017 compared to Spain who performs the poorest of the three in all domains including industrial democracy, social justice, and quality of work and employment.

- Spain's industrial democracy has deteriorated over time due to a decentralization in collective bargaining that has shifted power away from trade unions towards firms.

THANK YOU

APPENDIX

FIRM-LEVEL RESPONSES

SOFT APPROACHES

- EXAMPLE: An automatic reply to emails sent outside of working hours outlining disconnection terms, thereby providing the recipient with discretion over their response.

HARD APPROACHES

- EXAMPLE: Company-wide server shut-down during disconnection hours making it impossible for employees to communicate through work-related channels.

POLICY DEBATE

ADVOCATES

- R2D will allow workers to disconnect without fear of retribution, thereby reducing accounts of work intensification and improving employee wellbeing.

CRITICS

1. May further intensify work by compressing the amount of time in which employees can complete their tasks.
2. May foster greater workplace tension or conflict.
3. May create inequalities that foster a sense of workplace injustice.
4. Reduce the non-pecuniary benefits that employees derive from work.

EMPIRICAL MODEL CONT'D

- Variation in treatment timing

- Specify control group as "never treated"

- Dynamic weighting methodology that avoids "forbidden comparisons"

- All comparisons are relative to pre-treatment period (g – 1)

- Partial aggregations to highlight different types of treatment effect heterogeneity arising from variance across:

  ➢ Group

  ➢ Time

  ➢ Length of treatment exposure

ASSUMPTIONS

1. Once a unit becomes treated, it remains treated

2. No anticipation in treatment effects (unless specified)

3. Independent and identically distributed random or 'as-if' random sampling

4. Conditional parallel trends based on 'never-treated group'