



International Labour Organization
Conditions of Work and Equality Department
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Trends and challenges in extending leave provisions: Law and practice from Latin America and the Caribbean

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www.ilo.org/maternityprotection



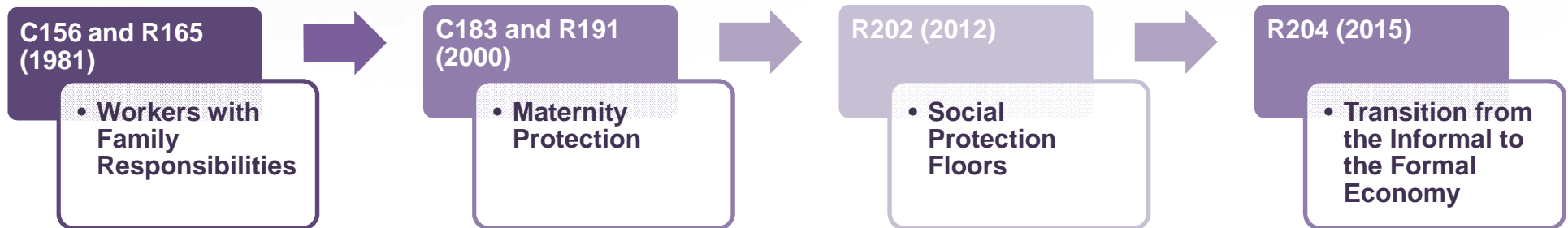
Overview

- ILO framework and universality of maternity protection
- Regional trends and challenges on maternity and paternity leave
- Opportunities from national experiences

ILO Framework on Work-Family Policies



ILO Conventions and Recommendations





Universality of maternity protection

- Maternity protection: ***all employed women***, including those in atypical forms of dependent work (art. 2, C183)
- Essential health care, including maternity care: ***all residents*** and children (par. 5.a, R202)
- Basic income security in case of maternity: ***all residents*** in active age who are unable to earn sufficient income (par. 5.c, R202)
- In law and practice extension of social security, including maternity protection: ***all workers in the informal economy*** (par. 18, R204)



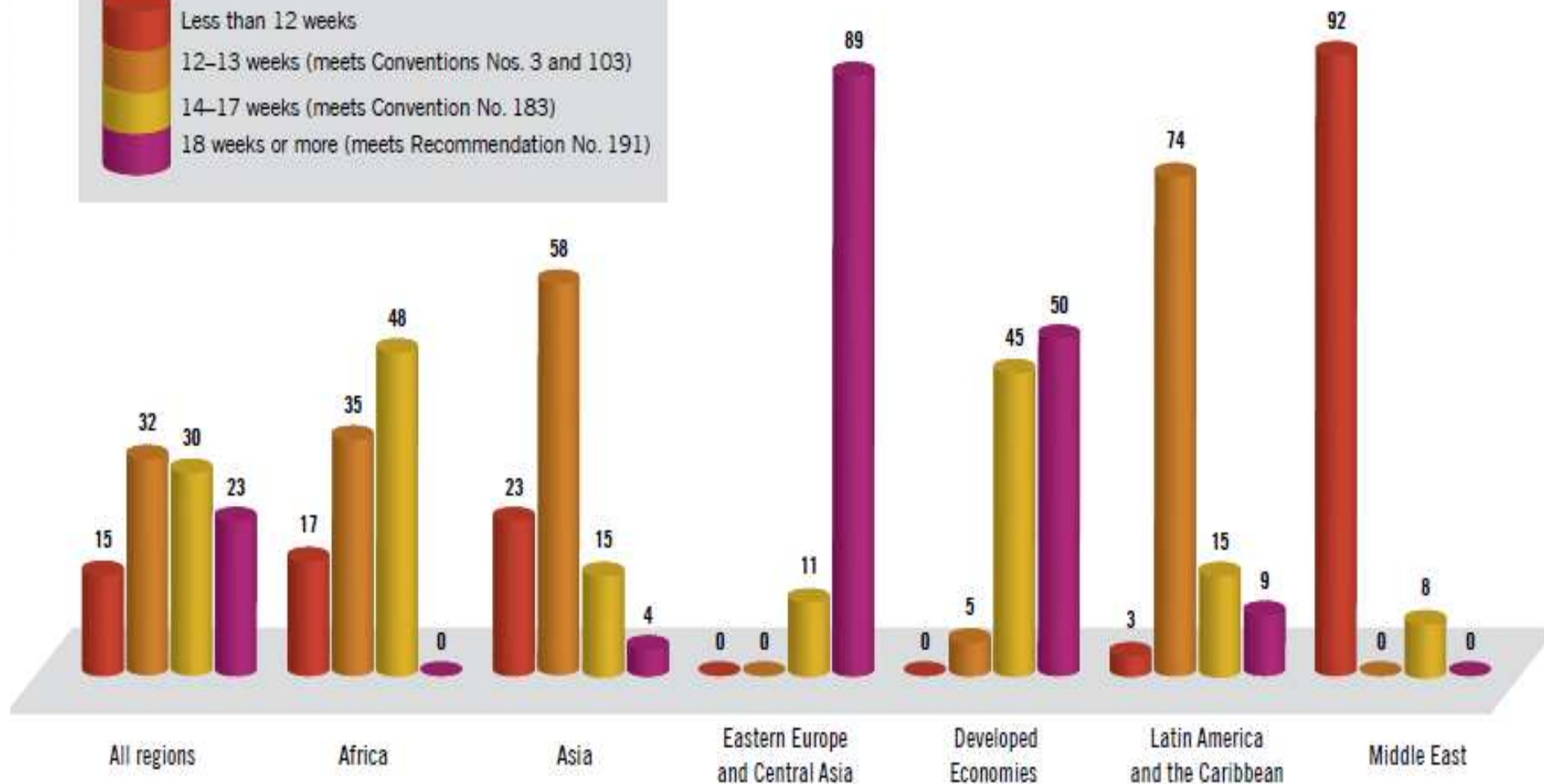
Regional Trends Maternity Leave



Maternity Leave

- Not less than 14 weeks (18 weeks in R191)
- Maternity leave can be taken as combinations of pre- and post-natal leave
- Compulsory postnatal leave of 6 weeks
- Additional leave in case of illness, complications or risk of complications

Duration of maternity leave, 2013 (185 countries)



Source: Working Conditions Laws Database - Maternity Protection (International Labour Office, 2013):

Duration of maternity leave in LAC and trends 1994-2014



- All but Puerto Rico (8 weeks) provide at least 12 weeks
- Last two years: Ecuador, El Salvador (16 weeks); Paraguay (18 weeks); Trinidad y Tobago and Uruguay (14 weeks)
- Chile increased postnatal parental leave from 18 to 30 weeks (2011)
- Venezuela increased maternity leave from 18 to 26 weeks (2013)

Source: ILO (2014) Maternity and paternity at work: law and practice across the world

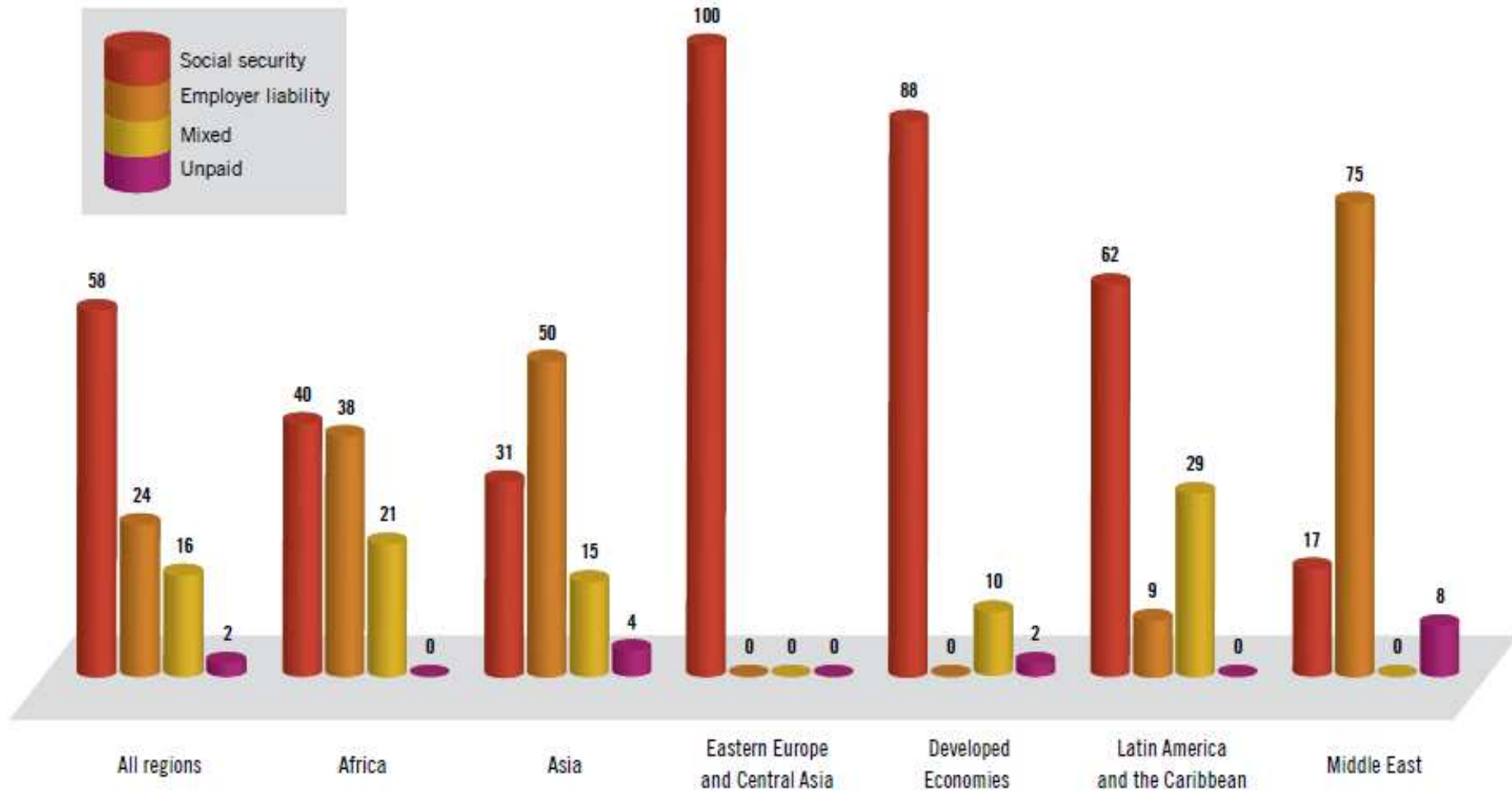


Cash benefits

- **Not less than 2/3 of previous earnings (100% in R191)**
- **Payment by compulsory social security or public funds**
 - Employers shall not be individually liable for the cost of the benefits payable to women employed by them
- **Qualifying conditions shall be met by a large majority of employed women**
- **Payment by social assistance**
 - Where a woman does not meet the qualifying conditions, subject to a means test

Convention No. 183, Article 6

Source of funding of maternity cash benefits 2013 (185 countries)



Source of funding of maternity cash benefits and trends 1994-2014

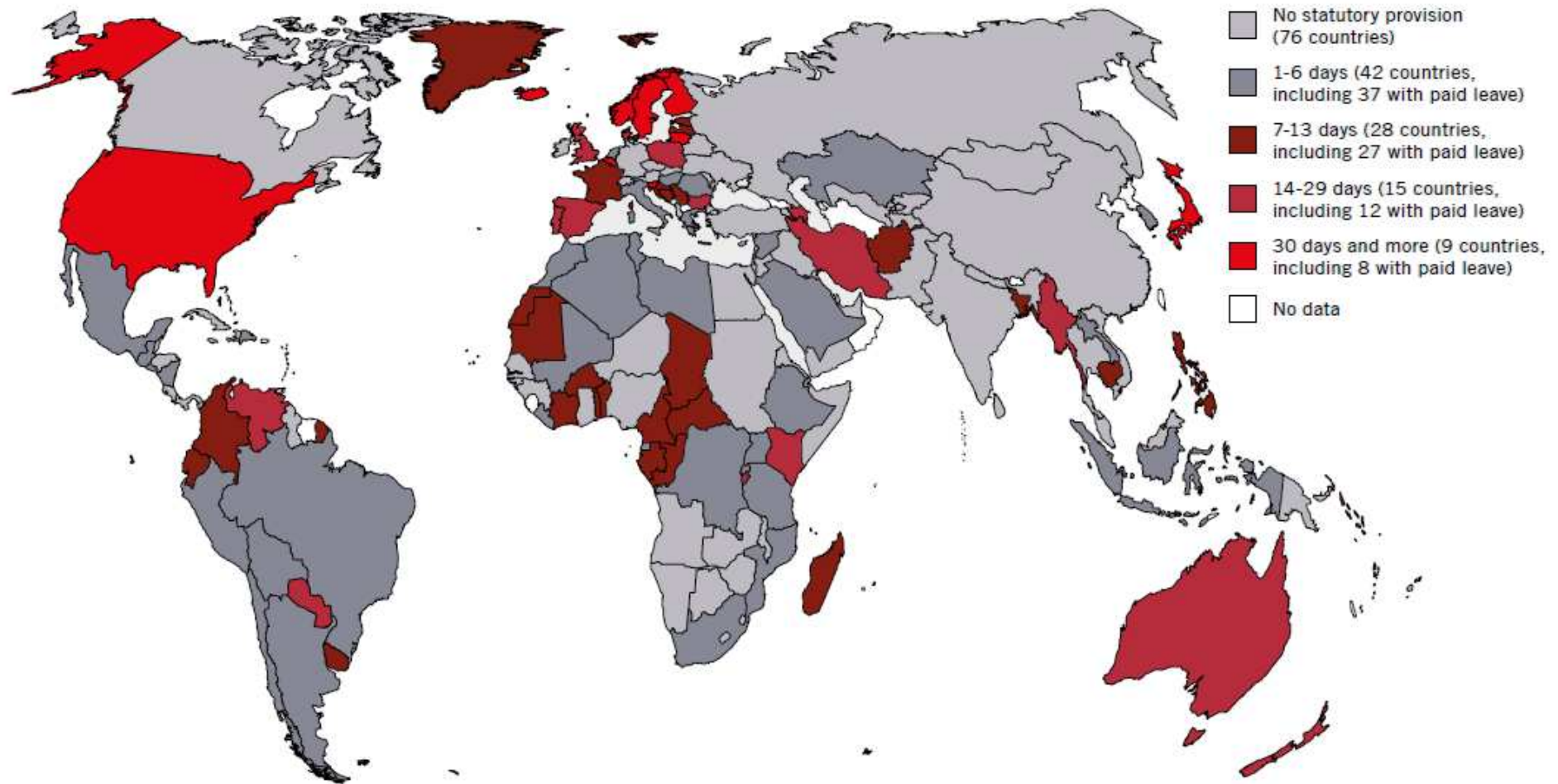


- Regional patterns of funding have remained stable, with Nicaragua going from SS to M and Dominica setting SS
- Employer liability systems are less common in LAC, but mixed systems are still prominent (29%)
- Employer liability place the financial burden on employers and create a possible source of discrimination against women



Regional Trends Paternity leave

Duration of leave entitlements to fathers for the birth of a child, 170 countries, 2015





Trends in paternity leave provisions, 1994-2015

- The third region with the largest increases after Eastern Europe and Central Asia and the Developed Economies
- Around 65% of the countries provide leave to fathers
 - 2012: Mexico (5 days) and Bolivia (3 days)
 - 2013: Uruguay from 3 to 10 days
 - 2014: Nicaragua (5 days)
 - 2015: Paraguay 3 to 15 days (Venezuela, 14 days)
- Leave duration remains short: average 6.25 days
- Employer liability except in Chile, Colombia, Uruguay, Venezuela



Legal and Effective Coverage

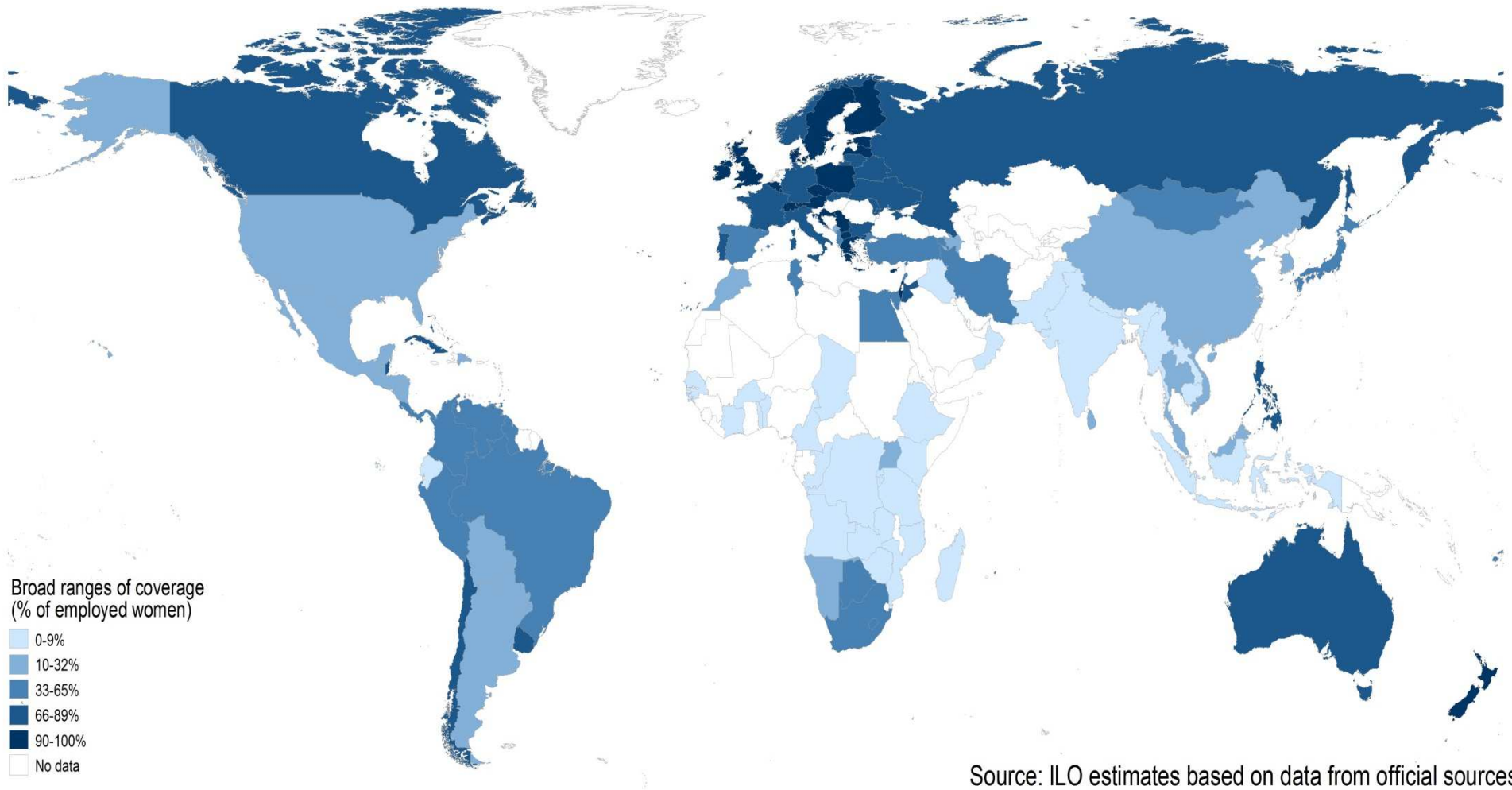


Who is protected in law and in practice

The vast majority of women in employment worldwide are still not protected (over 800 millions)

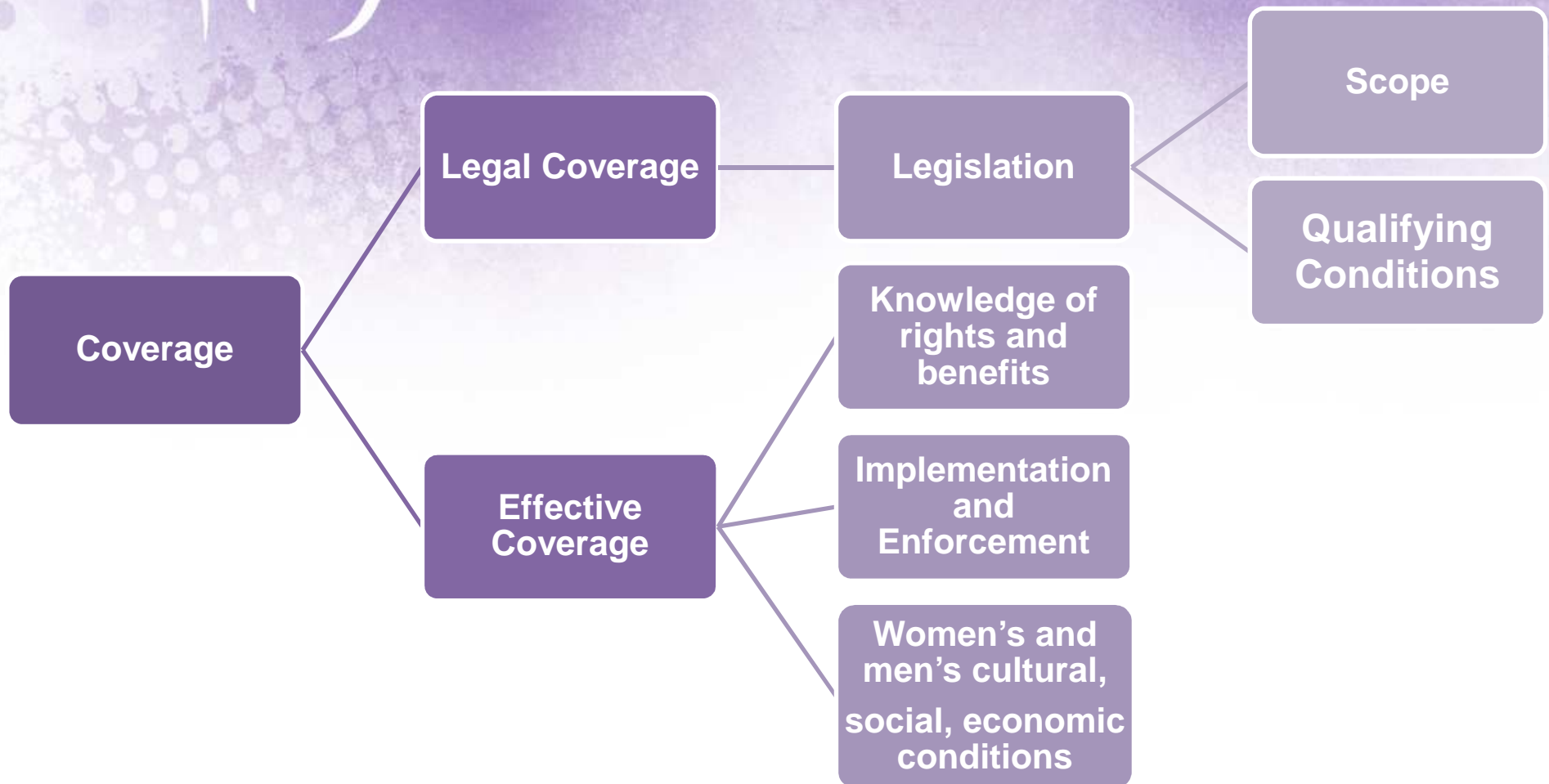
- **Legal coverage:** 40.6 % of employed women have a statutory right to maternity leave and 34.4% to cash benefits during maternity leave on a mandatory basis
- In LAC, about 70% of employed women have legal right to maternity leave cash benefits (75% when including voluntary coverage)
- Effective coverage for maternity cash benefits in LAC is only around 40% and is socially stratified (e.g. domestic, agriculture, self-employed, in informal economy, migrants, indigenous peoples)

Effective coverage gap: income security for maternity, 2010, 117 countries



Source: ILO estimates based on data from official sources

Challenges: Low Coverage





Opportunities: Country experiences

- **Extension of the scope of maternity coverage to categories of unprotected women**, through legal reforms, adapted administrative procedures, benefits and contributions, taking into account their contributory capacity, needs and circumstances
 - E.g. Australia, Brazil, Chile, Costa Rica, Jordan and South Africa
- **Introduction or extension of non-contributory maternity benefits to women workers in the informal economy or low-income women in general**
 - e.g. Argentina, Bangladesh, the PS of Bolivia, India and Indonesia
- **Strengthening complementary provisions** relating to assistance for mothers wishing to (1) return to work and those relating to (2) childcare facilities for parents
 - e.g. (1) Japan, Russian Federation; (2) Australia, Italy, Rep. Korea



Final considerations

- Short leave periods push women out of the labour force
- Very long leave, without job protection, may damage women's position in the labour force
- Men's take up rates are higher with:
 - earning-related leave of adequate duration
 - individual, non-transferable and compulsory entitlements
 - paid by compulsory social insurance or public funds
- Does equal share of family responsibilities call for equal leave entitlements between women and men?
- Do longer/equal leave entitlements for men undermine women's universal right to maternity protection in contexts with inadequate and ineffective provisions?



Thank you

For more information:
www.ilo.org/maternityprotection

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