

Stakeholder Rights and Corporate Governance:
A Cross-National Study of Hostile Takeovers

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Administrative Science Quarterly
Forthcoming

Abstract

We examine the role of three types of stakeholders in the uneven adoption of an organizational practice in different countries, arguing that organizational practices achieve widespread use only when they are consistent with the interests of the most powerful social actors as enshrined in legal rights. Building on a “stakeholder-power” approach to corporate governance, we examine whether the interests of shareholders, workers, and banks are consistent with the practice of hostile takeovers. Regressions using data on as many as 37 countries between 1988 and 1998 lend support to predictions that hostile takeovers increase in frequency with the extent to which shareholder rights are protected and decrease with the degree to which workers’ and banks’ rights are protected. We discuss the implications for the analysis of comparative institutions and for organizational theory. •

The modern business corporation is a contested entity. There is little agreement as to who should be involved in its governance or how the risks and rewards associated with its activities ought to be allocated. According to one point of view, the firm is merely a bundle of assets whose true value is to be assessed by the cash flows that it provides to shareholders, the “principals” for whose sole benefit the firm should be managed. Accordingly, transfers in corporate control are deemed to be both justifiable and economically advantageous, provided that such actions remove underperforming or self-serving managers and increase shareholder wealth. From an opposing perspective, the firm is an integral component of the social fabric and is characterized by the intersecting interests of various stakeholders, including not only shareholders and managers but also employees, banks, and the surrounding community. More than a mere commercial endeavor, the firm is a public institution with its own social obligations and responsibilities. Following this second extreme view, the benefits to shareholders that might arise from changes in management and control need to be weighed against any costs that would be imposed on other constituents (for reviews, see Fligstein, 1990; Guillén, 2000a; O’Sullivan, 2000; Driver and Thompson, 2002; Aguilera and Jackson, 2003).

This debate is evident in the uneven adoption of the hostile takeover, a highly contested organizational practice that is intimately linked to corporate governance and to the role of the corporation in society (Hirsch, 1986; Davis and Stout, 1992; Allen, Jacobs, and Strine, 2002). A hostile takeover is a corporate acquisition that is actively opposed by the target firm’s incumbent management or board of directors. Although the prevailing economic view holds that firms are most vulnerable to a hostile takeover bid when they financially underperform (Manne, 1965; Jensen, 1988), this premise has received only mixed empirical support (see Palmer et al., 1995; Franks and Mayer, 1997; Agrawal and Jaffe, 2003). Thus hostile takeovers continue to be hailed by some as an effective way to discipline managers and maximize shareholder wealth but are bedeviled by others as one of the worst

manifestations of “predatory” capitalism (for reviews, see Hirsch, 1986; Jensen, 1989; O’Sullivan, 2000, 2003; Stiglitz, 2002). Given the intensity of this longstanding controversy, it is not surprising that the level of hostile takeover activity differs greatly across countries. Between 1988 and 2003, for example, 478 hostile takeover attempts were announced in the United States and 273 in Britain. By contrast, only 19 were announced in France, 18 in Norway, seven in Germany, three each in Japan and Malaysia, two in Thailand, and just one in Chile, to name but a few countries. Although takeover bids remain relatively rare in countries such as Germany, the acquisition of Mannesmann by U.K.-based Vodafone in 2000 has raised doubts about whether even prominent German companies are immune from such threats (Toth-Feher et al., 2002; Jackson, Höpner, and Kurdelbusch, 2004).

In this paper we seek to explain the differing levels of hostile takeover activity across countries by adopting a “stakeholder-power” perspective on corporate governance, and considering differences among stakeholders in their legally protected power to defend their interests against stakeholders with opposing interests. This stakeholder-power approach differs from the dominant trend in stakeholder research in that the major aim is explanatory and predictive rather than descriptive and prescriptive (Berman et al., 1999). While previous stakeholder theories have often applied specific conceptions of social justice and economic efficiency to endorse particular business practices (Donaldson and Preston, 1995; Driver and Thompson, 2002), we seek to examine and predict which types of practices prevail in a given institutional context as a result of power dynamics.

The idea that stakeholders shape organizational processes and outcomes is certainly not new. In his classic 1949 book on the Tennessee Valley Authority, Selznick (1984: 145) studied the impact of external “constituencies” on organizational goals. Thirty years later, Pfeffer and Salancik (1978: 84-89) proposed to analyze corporate governance by identifying interest groups both internal and external to the organization, defining their interests, and assessing their power. By demonstrating how a

country's political, legal, and social structures tend to elevate the rights of certain classes of stakeholders while demoting those of others, this paper builds on earlier work by providing a systematic justification for the choice of the most influential and relevant stakeholders and by offering a specific conceptual and empirical analysis of their interests and power.

A STAKEHOLDER-POWER PERSPECTIVE ON HOSTILE TAKEOVERS

Scholars emphasizing the normative aspect of corporate governance often note that, regardless of the economic efficiency implications, new organizational practices must often overcome considerable normative resistance before achieving widespread acceptance and frequent use, especially those that threaten to redistribute the financial and social fortunes of organizational stakeholders as much as hostile takeovers do. Hirsch (1986: 801) described how hostile takeovers were initially viewed in the U.S. as a socially dubious practice due to their "ominous implications" to the constituents of the target firm. Early media discourse on takeovers illustrates how owners, bidders, managers, workers, financiers, and other interested parties were all assigned roles in a highly ritualized story that was told repeatedly in the business press (Hirsch, 1986; Palmer and Barber, 2001). Takeovers were described alternatively as Wild West shootouts or medieval jousts, bidders became raiders and black knights, and members of the target firm were often portrayed as unfortunate and unwilling pawns (Hirsch, 1986; Schneider and Dunbar, 1992; Palmer and Barber, 2001). According to Hirsch (1986: 39), this vivid imagery and expressive language reflected the "instability, stress, or conflict over normative boundaries." As the hostile takeover grew from a practice pursued only by actors operating on the periphery of American business to one that was also adopted by more prominent and centrally located firms, the media discourse became more detached and less one-sided. Thus the change in rhetoric surrounding hostile takeovers was both a contributor to and a consequence of its growing diffusion and legitimacy.

Both Palmer et al. (1995: 470) and Stearns and Allan (1996) also argued that hostile takeovers followed the characteristic diffusion pattern of a deviant innovation by describing how they were originally “championed by upstart business elites who differ in social, religious, and geographic origins from their more established corporate adversaries.” Stearns and Allan (1996: 703) described these early corporate raiders as “challengers” and added that the diffusion of hostile takeovers was further aided when other firms sought to imitate the success of these erstwhile fringe players as a result of the “breakdown in the normative order.” Palmer and Barber (2001) found further support for the normative argument by showing that firms run by top managers with relatively low social status were most likely to complete diversifying acquisitions during the 1960s. The emphasis on normative boundaries clearly points to the destabilizing, or even subversive, effect of hostile takeovers on the established structure of corporate power.

The normative approach also suggests that whether an organizational practice is deemed acceptable depends on how social actors perceive the firm. Fligstein (1990, 1996: 658) referred to different views of the firm as “conceptions of control” that are “simultaneously a worldview that allows actors to interpret the actions of others and a reflection of how the market is structured.” In particular, the finance conception of control justifies the use of short-term financial measures to evaluate product lines, divisions, and even entire companies. “Firms are viewed as collections of assets earning different rates of return, not as producers of given goods” (Fligstein, 1990: 15). By essentially reducing firms to a collection of future cash flows, the financial conception promotes the use of the hostile takeover on the basis of the idea that shareholders’ interests and rights take priority over those of other stakeholders (Davis and Stout, 1992; Fligstein, 2001). The relationship between hostile takeover activity and the prevailing view of the firm in society has also been described by other researchers (Maiejer and Geens, 1990; Allen, Jacobs, and Strine 2002; Armour, Deakin, and Konzelmann, 2003). As Hirsch (1986:

829) stated, “the language of takeovers, in facilitating their legitimacy, indirectly reinforced the dominance of the financial perspective in contemporary business.” While the United States’ unique social and political history has been argued to contribute to an environment in which a financial view of the firm dominates (Fligstein, 1990; Davis and Stout, 1992), the extent to which this perspective applies to other countries has been less thoroughly explored (Fligstein and Freeland, 1995; Perrow, 2002).

Most important to understanding the adoption of an organizational practice like hostile takeovers are political or power-based arguments. For Schneider and Dunbar (1992: 538), the evocative media accounts that Hirsch (1986) described serve as a manifestation of the conflict of interests between the various classes of actors involved. Takeover contests are at the same time “interorganizational events that threaten organizational identity and integrity,” socially constructed “arenas in which concerns about esteem, honor, and dignity are being played out,” and a “social drama that reveals underlying social issues of conflict, power, and status.” As with the other two approaches, the political argument contends that efficiency-based principles cannot fully explain corporate governance outcomes. In a far-ranging paper, Roe (1991) challenged Berle and Means’ (1932) longstanding economic explanation for the pervasive separation of ownership and control in the U.S. corporate governance system by tracing it back to a set of legal and regulatory policies fueled by powerful populist sentiments rather than to efficiency-seeking. In the sociological literature, Davis and Thompson (1994) offered a “social movement” perspective of corporate control by demonstrating how activist shareholders mobilized as a powerful coalition with common interests to affect hostile takeover and executive compensation regulation during the early 1990s. Past sociological research on corporate governance has also suggested that power relations become institutionalized as normative outcomes. Hirsch (1986: 813) showed that hostile takeovers became an “acceptable form of intercorporate conflict” only in the wake of their adoption by larger and more powerful firms. Stearns and Allan (1996) described how political

developments, including the emergence of a legal and regulatory environment that favors shareholders and a “free market” economy, can lead to changes in the status quo, thus enabling a new group of challengers to take on the corporate elite by pursuing predatory acquisitions (see also Palmer and Barber, 2001). Other research has also considered both power-based and normative approaches to describe and explain hostile takeover activity (Davis, 1991; Davis and Stout, 1992; Palmer et al., 1995; Palmer, Barber, and Zhou, 1995; Fligstein, 1995, 2001; Davis and Greve, 1997).

Thus organizational sociologists have approached the study of hostile takeover activity using a combination of arguments related to norms, competing conceptions of the firm, and power, but this previous scholarship has generally sought to explain patterns over time in a single country, the United States. Our goal in this paper is to develop a cross-national theory of corporate governance highlighting the power-related, normative, and ideational arguments that enable different types of stakeholders to advance their interests in the corporation, resulting in uneven adoption of hostile takeovers.

Hostile Takeovers, National Corporate Governance Models, and Conceptions of the Firm

While the hostile takeover came to be considered a routine and acceptable corporate governance mechanism in the United States during the 1970s and ‘80s (Hirsch, 1986), it continues to be framed pejoratively in other countries as a socially ostracized practice, albeit to varying degrees (Bühner, Rosenstein, and Yoshikawa, 1998; Guillén, 2000a; O’Sullivan, 2003). Prior cross-national comparative research has neither proposed a theory about what factors may drive the institutionalization of the hostile takeover nor used a cross-national sample to test it.

Research comparing national corporate governance practices has most commonly yielded descriptive and qualitative results and has usually been based on observations and data from just a few countries

(see Roe, 1993; Charkham, 1995; Bühner, Rosenstein, and Yoshikawa, 1998; Gedajlovic and Shapiro, 1998). Typically, no more than five countries, and often just two, are compared along one or more theoretical dimensions and then systematically categorized. The prevalence of certain key corporate governance practices, such as hostile takeovers, serves as the most frequently used indicator of each theoretical dimension. Thus this line of scholarship has defined models of corporate governance *ex post facto*, after observing what practices are prevalent in a society. Political scientists (e.g., Soskice, 1998; Hall and Soskice, 2001) and sociologists (Whitley, 1992, 1999) have similarly sought to classify countries into different categories of economic and corporate governance, mostly with a view to showing the diversity of organizational arrangements that exists in the world.

Perhaps the most common classification scheme involves the extent to which various countries rely on either a shareholder-centered or a stakeholder-centered model of corporate governance (OECD, 1998; Roe, 2000; for a review, see Guillén, 2000a). The United States and, to a lesser extent, the United Kingdom adhere to the shareholder-centered model, with firms relying on liquid equity markets, dispersed ownership, and efficient product markets as “external” mechanisms for disciplining management (Jensen, 1997; Roe, 2000). Management’s ultimate contractual responsibility is described as being the maximization of shareholder value or wealth: “Public companies are not in the business to reward creditors, inspire devotion of their employees, win the favor of the communities in which they operate, or have the best products. These are all means to an end—making shareholders richer” (Seely, 1991: 35-36). Though the shareholder-centered model does not necessarily deny the rights of other groups, proponents of this approach argue that market mechanisms help achieve efficient outcomes (Wright et al., 2003).

In countries where the shareholder-centered model prevails, the hostile takeover tends to play a more frequent role in disciplining management (Roe, 1993; Gedajlovic and Shapiro, 1998). Moreover, in

such countries hostile takeovers are more likely to be framed as being consistent with economic efficiency and well-being (Hirsch, 1986; Roe, 2000). Samuelson (1970: 505), for example, articulated the shareholder-centered view by stating that “takeovers...represent one of Nature’s methods of eliminating deadwood in the struggle for survival. A more open and more efficiently responsive corporate society can result.”

Germany and Japan are often mentioned as exemplars of the stakeholder-centered conception of the firm, in which corporate control depends on the support of the various stakeholders (Guillén, 2000a). The stakeholder-centered view of the firm has been defined as the belief that “each group of stakeholders merits consideration for its own sake and not merely because of its ability to further the interests of some other group, such as shareowners” (Donaldson and Preston, 1995: 67). As with the shareholder-centered model, a strong stakeholder orientation has been related to a particular conception of the firm’s role in society and has been regarded as the product of an ongoing power contest (Roe, 2000, 2002). In the stakeholder-centered model, corporations are expected to avoid certain profit-maximizing risks and to use up capital rather than to rely on such destabilizing measures as downsizing when their capabilities become misaligned with markets (Roe, 2000). To discipline managers, corporations place greater emphasis on internal mechanisms such as boards of directors that exhibit broad stakeholder participation, including representation from labor, creditors, and regulatory agencies (Charkham, 1994; Prowse, 1995; Lazonick and O’Sullivan, 1996; Dore, 2000). Countries labeled as stakeholder-oriented are characterized by the rare occurrence of hostile takeovers (for reviews, see Guillén, 2000a; O’Sullivan, 2003).

The shareholder- and stakeholder-centered models of corporate governance exhibit several important similarities with theoretical frameworks developed in related fields. As previously suggested, the shareholder-centered model resembles Fligstein’s finance conception of control, because they both

advocate the use of share price as the most objective and, ultimately, the only meaningful measure of firm performance (Davis and Stout, 1992). Corporate law scholars have also identified the property and entity views as two competing conceptions of the corporation (Allen, 1992; Roe, 2001). According to the property view, the purpose of the corporation is defined by the owners' property rights. Thus management should be required to place its fiduciary duty to shareholders ahead of other interests. In contrast, the entity view proposes that the purpose of the corporation is to maximize the value that it creates in the long term, even if the gains are not captured by current shareholders. Research on the U.S case suggests that judicial decisions on hostile takeover activity often hinge on whether the property or entity view is upheld (Allen, Jacobs, and Strine, 2002). Cross-national legal scholarship has proposed that countries differ on whether they define the purpose of the firm and rights of its constituents in terms of property or entity arguments (Maiejer and Geens, 1990).

The shareholder-stakeholder dichotomy suffers from two key weaknesses. First, while it has served as an effective device for highlighting some of the differences in national systems of corporate governance and conceptions of the firm, such a simplified classification scheme can also obscure the amount of variation that actually exists across countries. Although the German and Japanese systems are often placed in the same category for their similar emphasis on stakeholders, internal constraints, and relation-based corporate governance, their differences are equally evident (see Charkham, 1994; Prowse, 1995; Driver and Thompson, 2002). In fact, some scholars argue that chinks exist in the traditional shareholder-stakeholder framework by proposing that certain countries, such as Canada, represent hybrid cases that do not fit conveniently into either category (Gedajlovic and Shapiro, 1998). Second, the cross-national literature on corporate governance contains little empirical work aimed at uncovering the causes for these cross-country variations. While recent theorizing by economists (e.g., La Porta et al., 1998) has sought to provide explanations for the observed differences, they have

narrowly focused on the conflict between shareholders and managers without paying attention to other important stakeholders, such as workers and banks.

We begin our analysis by noting that the publicly traded company is an organization beset by perennial conflicts as to who should participate in, and to what extent benefit from, its activities. Sociologists (Perrow, 1986; Fligstein, 1990, 2001; Guillén, 1994; Bendix, 2001) and organizational scholars (Pfeffer and Salancik, 1978; Mintzberg, 1983) have long characterized corporations in this way, but this assumption is also present in other strands of corporate governance scholarship. Agency theory and the property rights literature propose that the firm is a “nexus of contracts” between groups of stakeholders and that the architects of the corporate governance system must not only reconcile each group’s divergent interests with each other but also allocate resources in a manner that all parties deem acceptable (Jensen and Meckling, 1976; Fama, 1980; Jensen, 2000). The comparative corporate governance literature also emphasizes conflicts of interest (Roe, 1993, 1994; Pedersen and Thomsen, 1997; Bühner, Rosenstein, and Yoshikawa, 1998; Guillén, 2000a; O’Sullivan, 2003). Scholars in these separate and often contradictory research traditions agree that hostile takeovers offer a good illustration of the conflicts of interest that pervade the business corporation. To understand the occurrence of hostile takeovers, we must identify the most relevant stakeholders.

Classic approaches offer little guidance as to how one should go about identifying the relevant actors (e.g., Pfeffer and Salancik, 1978; Selznick, 1984). Although Freeman (1984: 46) suggested that any “group or individual who can affect or is affected by the achievement of the organization’s objectives” can be called a stakeholder, recent theorists have tended to narrow their attention to the most important sets of actors for a given context (Windsor, 1992; Mitchell, Agle, and Wood, 1997). A first operational criterion of selection was offered by Carroll (1989), who limited his definition of stakeholders to those actors who have either a legal or a moral claim over the actions of the firm. A second, better delineated

option was suggested by Blair (1995) and Aguilera and Jackson (2003), who argued that only stakeholders with a significant firm-specific investment should enjoy influence in discussions about corporate control. Though some scholars have studied the relevance of such stakeholders as managers, suppliers, customers, political parties, and the surrounding community (for a review, see Donaldson and Preston, 1995), we focus our analysis of hostile takeover activity on shareholders, workers, and financial institutions, especially banks, because of their relatively direct claim on the allocation of the company's resources and rewards and because they are the most frequently mentioned actors for their potential contributions to cross-national differences in corporate governance (e.g., Franks and Mayer, 1997; Aoi, 1997; Phan and Yoshikawa, 2000; Driver and Thompson, 2002; Aguilera and Jackson, 2003; Jackson, Höpner, and Kurdelbusch, 2004).

Relative to shareholders, workers and banks have received little attention for their influence on corporate governance, probably due their limited power in the U.S. (Blair, 1995), but there is strong evidence that workers and banks play a preeminent role in determining political and normative outcomes both within and outside the U.S. (see Stearns, 1986; Mizruchi, 1992, 1996; Davis and Mizruchi, 1999; Blair and Roe, 1999; Guillén, 2000b, 2001). Our focus on shareholders, workers, and banks is also consistent with the "conflict tradition" in sociology. Although following a different theoretical criterion, both Marx (ownership of the means of production) and Weber (position in a market) identified owners, workers, and financiers as the key classes in society (Collins, 1994: 62-64, 86-87). Given that we adopt the view of the firm as characterized by conflicts of interest, the Marxian and Weberian perspectives offer further justification for our choice of the three most relevant stakeholders. In this sense, our approach resonates with that of Palmer and Barber (2001), who studied corporate acquisitions in the U.S. as the result of struggles between ascendant and incumbent fractions within the dominant class of owners, although our paper is focused on interclass rather than within-class conflict among the interests of each of the three stakeholders.

Shareholders, workers, and banks make different types of claims on the business corporation. As owners, shareholders are interested in maximizing their wealth in terms of cash flows. A simplistic view of workers might indicate that they are also predominantly interested in maximizing cash flows, but in the form of wages paid to them by the firm. Much cross-national research indicates, however, that workers are also interested in working conditions, intrinsic rewards, and employment stability (Bendix, 2001), which may have the effect of decreasing cash-flows to shareholders. Financial institutions have a primary interest in obtaining commercial business from corporations (e.g., billing or payroll operations) and in lending them money for investment. Wherever permitted by law, they can also adopt the role of owner of the corporation if they feel that their commercial interests can be better protected in that way, often at the expense of shareholders or workers, or both. Stakeholder groups will be more likely to influence organizational practices when they are unified by a common interest (Davis and Thompson, 1994).

Stakeholders can realize their own interests against those of the other stakeholders only to the extent that they have power. As Pfeffer and Salancik (1978: 85) noted, after “determining who is relevant to the organization, the next step is to recognize that all may not be of equal importance. It becomes necessary to weigh the relative power of the various groups.” Following Lukes (1974: 54), we “use the vocabulary of power in the context of social relationships to speak of human agents, separately or together, in groups or organizations, through action or inaction, significantly affecting the thoughts or actions of others (specifically, in a manner contrary to their interests).” This comprehensive definition of power is the most appropriate for the study of hostile takeovers for two reasons. First, it suggests that power dynamics are inextricably linked to a conflict of interests among the parties involved. Second, it shows that power can operate overtly or remain latent. Stakeholders can exercise power not just by behaving in a specific way at a given point in time but also by not acting, provided that others

accept their definition of the situation. Powerful stakeholders can influence the frequency of future hostile takeover attempts by discouraging unwelcome bids from being attempted, by altering the likelihood that announced deals will be completed, and through their post-takeover relationships with acquirers. We therefore focus our empirical analysis on hostile takeover attempts. Because past research suggests that even unsuccessful bids can cause profound effects on firms and their constituents (Hirsch, 1986; Bhagat et al., 1990; Chatterjee, Harrison, and Bergh, 2003), excluding attempts that are announced but not completed would seriously bias and underestimate any assessment of the role that stakeholder power may play in deterring the launching of a bid in the first place.

Finally, cross-national differences in the power of the various stakeholders in the firm originate in the legal institutions in the society. As Weber (1978: 926) noted, “the structure of every legal order directly influences the distribution of power, economic or otherwise, within its respective community.” The legal order institutionalizes power, thus reproducing the power structure over time (Coleman, 1982; Pfeffer, 1981; Fligstein, 1996). At the cross-national level, differences in the legal order set countries on separate, path-dependent trajectories. Based on the work of legal scholars (e.g., Reynolds and Flores, 1989; Roe, 1993; Glendon, Gordon, and Osakwe, 1994), there has been an increasing realization among both economists (La Porta et al., 1998) and organizational sociologists (Guillén, 2000a; Aguilera and Jackson, 2003; see also Coleman, 1982: 51-72) that legal orders pertaining to corporate governance—as implemented in the form of corporate, labor, civil, contract, and banking legal statuses—have major implications for the power, and hence the behavior, of firms and their stakeholders. As Fligstein (2001: 36) recently observed, “a system of rules is also a system of power.”

Legal institutions, or the “regulative” institutional pillar (Scott, 2001: 50-54), not only constrain and regularize action, they also support and empower actors. That is, they contribute to constituting actors as such and to perpetuating their interests and power over time in specific ways within each society.

For instance, German corporate and labor laws empower workers and their organizations to participate in corporate governance by reserving for them half of the seats on boards of directors of companies above a certain size. Such an institutional support for worker rights perpetuates not only their power but also the constellation of interests that they seek to advance. How each stakeholder defines its interests and how much power each possesses under different legal frameworks is likely to shape the occurrence of hostile takeovers.

Shareholders. Shareholders have an interest in a hostile takeover of the company in which they own a portion of the equity insofar as they might be in a better position to maximize their wealth by selling to the highest bidder. Hostile takeovers are in effect a contest between the incumbent and the acquiring management teams, which have alternative views as to the best way to extract the greatest possible stream of cash flows from the firm's assets (Manne, 1965; Jensen and Ruback, 1983; Jensen 1988; Agrawal and Jaffe, 2003). It is in the best interest of an individual shareholder to contribute to the ousting of the incumbent management team if the acquirer offers an amount of money at the time of the takeover that is larger than the net present value of the future cash flows the firm would generate in the absence of the takeover. Shareholders of target companies can benefit just from the announcement itself, because bids are usually accompanied by a significant increase in share price (Jarrell, Brickley, and Netter, 1988). Unsuccessful attempts can also provide an "early warning signal" about failures in the target firm's internal corporate governance system, which might ultimately help bring about operational and structural improvements (Chatterjee, Harrison, and Bergh, 2003) Accordingly, past research has found that shareholders tend to favor market environments in which hostile takeovers are possible (see Davis and Thompson, 1994).

Though shareholders may favor an active takeover market, they must pursue and assert that interest against those of other actors. Comparative legal scholarship (Reynolds and Flores, 1989; Glendon,

Gordon, and Osakwe, 1994) and more recent economic analyses (La Porta et al., 1998, 1999) have documented that shareholders' interests receive different degrees of legal definition and protection, specifically against the decisions of the incumbent management team. Shareholders' rights are defined and protected in different ways and to different extents depending on the legal tradition that provides the foundation for corporate law: (1) English common law, (2) French, (3) German, (4) Scandinavian, and (5) formerly socialist law. The English common law tradition is shaped by the decisions of judges ruling on specific issues. By contrast, the French and German traditions emerged from Roman civil law, which "uses statutes and comprehensive codes as a primary means of ordering legal material" (La Porta et al., 1998: 1118). The French Commercial Code was issued by Napoleon in 1807, while the German Commercial Code was adopted in 1897 under Bismarck's influence. Scandinavian legal systems are in part based on civil law.

English, French, and German corporate law diffused widely throughout the world following patterns of imperial, military, economic, or cultural influence, which has resulted in varying degrees of shareholder-rights protection. Thus former British colonies—including the U.S., Canada, Australia, Ireland, and Singapore—adopted English common law. French law spread not only to the francophone colonies in the Near East, Africa, Indochina, Oceania, and the Caribbean but also to the Netherlands, Portugal, Spain, Italy, and their respective colonies. The German legal tradition shaped corporate laws in Austria, Switzerland, Greece, Hungary, Yugoslavia, Japan, Korea, Taiwan, and China, among other countries. Lastly, the former socialist countries constitute a separate category because their legal systems, though in many cases influenced by either French or German law, have been in flux since 1989 and have largely failed to provide a sound basis for effective corporate governance (Spicer, McDermott, and Kogut, 2000).

A comparative analysis of corporate legal traditions reveals that the best protection of shareholder rights is awarded by English common law, followed by Scandinavian and German law. Compared with these other common and civil law traditions, the French legal tradition provides the worst protection. Shareholders are better protected when certain standards are ensured by corporate law, including (1) proxy by mail, (2) non-blocking of shares before the shareholders' meeting, (3) cumulative voting or proportional representation for designating members of the board of directors, (4) oppressed minority protection, (5) preemptive right to new issues, and (6) a relatively low percentage of shareholders required to call an extraordinary meeting (see La Porta et al., 1998). In Belgium (French legal tradition), none of these six provisions are part of the law, while five are present in both Canada and the United States (English tradition). Tests of means across legal traditions as of 1996 confirm that the English tradition awards the best shareholder protection (mean of 4.0 provisions), followed by the Scandinavian (3.0), German (2.33), and French (2.33) traditions (La Porta et al., 1998, 1999).

When the types of rights named above are protected, shareholders will be better positioned to pressure boards of directors into considering unwelcome bids. Greater shareholder influence might also encourage boards of directors to weigh shareholders' interests even more heavily when evaluating proposals about antitakeover provisions (Davis, 1991; Davis and Thompson, 1994; Davis and Greve, 1997). Previous studies have also identified the link between shareholder rights and hostile takeover activity. Franks and Mayer (1997), for example, suggested that Italian raider Pirelli's 1990 attempt to acquire the German tire manufacturer Continental Gummiwerke was unsuccessful largely due to a rule in the target firm's charter that imposed a 5-percent limit on the voting rights that could be exercised by any one shareholder. After Pirelli and several other allied firms lobbied investors, Continental's shareholders passed a motion to remove this restriction, but the change was never implemented due to a series of courtroom challenges. In 1990, the frequent hostile raider T. Boone Pickens was unable to secure a position on the board of directors of the Japanese Koito Manufacturing Company (and

potentially initiate an unwelcome corporate reorganization), despite a 26.3 percent equity stake. Many observers attributed Pickens' failure to gain board representation to the relatively low sense of fiduciary duty that exists between Japanese boards and their shareholders and to the fact that Japanese managers tend to be evaluated more for their ability to sustain long-term relationships with groups such as shareholders, workers, suppliers, and creditors than for maximizing shareholder returns (Phan and Yoshikawa, 2000). In contrast, Sciulli (2001) contended that hostile takeover activity has continued to persist in the United States partially due to powerful institutional shareholders, and despite public opinion polls often indicating that the majority of voters regard hostile takeovers as being detrimental to society (see also Davis and Thompson, 1994; Roe, 1994). The variety of ways in which countries define and regulate shareholder rights provides an opportunity for making a theoretical prediction as to the frequency of hostile takeovers, which offer shareholders the opportunity to relinquish ownership and transfer managerial control to the highest bidder.

As the Organization for Economic Cooperation and Development (OECD, 1999) described, the ability to convey and transfer ownership of shares is perhaps the shareholders' most fundamental prerogative. Hence, we expect more frequent hostile takeovers to the extent that owners' rights are protected from the incumbent management's discretion because shareholders will be in a stronger position to fulfill their interests:

Hypothesis 1 (H1): Hostile takeover activity increases with the extent to which the rights of shareholders are defined and protected from the discretion of the incumbent management team.

Workers. The ability of workers to influence organizational arrangements, strategic decisionmaking and performance outcomes at the national, industry, and firm levels of analysis is one of the earliest and best documented findings of cross-national comparative research on organizations (Cole, 1985;

Guillén, 1994; Bendix, 2001). The bulk of this research tradition suggests that workers generally oppose corporate reorganizations and their often disruptive effects. Consistent with this prior research, workers should view most hostile takeover activity unfavorably because of its negative consequences on jobs, working conditions, and pay. As a group, workers tend to emphasize job security and solidarity over efficiency and profitability. Compared with those of shareholders, workers' interests are antithetical to the depiction of the firm as a bundle of resources intended solely for the maximization of profits. As a method of corporate reorganization, the hostile takeover may perhaps help achieve efficiency and profitability, but frequently at the cost of reducing job security (Hirsch, 1986; Aguilera and Jackson, 2003). This argument is accepted by both sociologists and economists. According to Shleifer and Summers (1988), for instance, a hostile takeover affords the incoming management team with a special opportunity to violate the implicit long-term contract between the target firm's incumbent management and its workers. This breach of contract often takes the form of layoffs and an increase in demands on the remaining workers. Moreover, hostile takeovers tend to affect not only the workers in the target firm but also those in the acquiring firm.

The available empirical evidence demonstrates that hostile takeovers, more so than friendly ones, tend to result in job cuts (Canyon et al., 2001, 2002). Such employee reductions often accompany unsuccessful hostile takeover bids as well (Bhagat et al., 1990). Case-study research has shown that workers tend to oppose hostile takeovers, and several of these studies have invoked the German unions' track record as an illustration (e.g., Baums, 1993; Franks and Mayer, 1997; Roe, 2002). This research highlights that workers have a better chance of preempting or resisting a takeover when they have institutionalized legal mechanisms at their disposal. For instance, workers at both Feldmühle Nobel and Hoesch sought to discourage the hostile takeover attempts of their respective firms thanks to their statutory representation on supervisory boards and works councils (Franks and Mayer, 1997; Sebenius, 1998). The rare exceptions to labor's resistance are also revealing. In the ultimately

successful Vodafone hostile takeover of Mannesmann, for example, labor's stance was uncharacteristically ambivalent as employee representatives tried to pressure the target company's management into restructuring (Jackson, Höpner, and Kurdelbusch, 2004). Similarly, employee representatives on Continental Gummiwerke's supervisory board proved willing to consider merger possibilities despite management's continued objections. While Pirelli's efforts failed, this event led to the dismissal of the management board's chairman in favor of a replacement who was more sympathetic to employees' preferences (Franks and Mayer, 1997).

When confronted by powerful labor organizations, hostile raiders can be discouraged from pursuing future deals, even when prior attempts were completed. After taking over Perrier in 1992, for instance, Nestlé faced continued battles with French union leaders and government officials and was unable to pursue all of its labor reduction and other cost-cutting plans. As of 2004, Perrier remains the least profitable of Nestlé's drinking-water subsidiaries, and the firm has announced that it is considering selling off the brand.

Like shareholder rights, legal scholarship documents that there are profound cross-national differences in the extent to which workers' rights are protected (Glendon, Gordon, and Osakwe, 1994). We expect that a better protection of workers' rights will make this stakeholder more powerful in the firm and militate against practices that have the potential of eroding their well-being by disrupting employment arrangements. Potential bidders will also see less value in acquiring a firm when their ability to streamline operations is constrained by regulations aimed at protecting labor. Thus, we propose:

Hypothesis 2 (H2): Hostile takeover activity decreases with the degree to which workers' rights are defined and protected.

Banks. Banks are the third important stakeholder in the firm highlighted by the cross-national corporate governance literature as often making significant firm-specific investments (Aguilera and Jackson, 2003). The role that commercial banks perform in the economy and in corporate governance differs substantially across countries (Prowse, 1995; Glaeser and Shleifer, 2002). In the United States, for instance, banks largely serve as lenders and face severe restrictions in their ability to own shares in non-financial corporations and to engage in such stock market activities as underwriting, brokering, and dealing. While the limited role for American commercial banks became solidified in part as a result of growing populist sentiments during the Great Depression, both Roe (1991, 1994) and Davis and Thompson (1994) described the power contest between managers and banks that contributed to this long-term outcome. In other countries, banks fulfill a more central and powerful role in the economy and corporate governance not only by providing loans but also by acting as prominent stock market intermediaries and equity holders. Moreover, in many countries, banks exercise a monitoring function on behalf of customers of theirs who own small amounts of equity in firms through proxy representation and voting at the annual shareholders' meeting. It is not uncommon in certain countries for a bank to exercise more than half of a company's voting rights even though the bank may only own 10 or 15 percent of its stock (Roe, 1993). Thus banks are more powerful actors in countries in which legislation defines and protects their right to own stakes in non-financial firms.

Banks that directly control large blocks of stock in non-financial companies could be seen as benefiting from a hostile takeover in the same way that other shareholders would. In reality, however, the literature points out that banks owning stock in non-financial companies generally prefer stable systems of corporate control over the potentially destabilizing effects of hostile takeovers. Deutsche Bank director Ellen Schneider-Lenné (1993: 22) offered an illustrative example of this perspective by denouncing the "excesses of takeover battles such as those witnessed in America and Britain," the "resultant high indebtedness of companies involved," and "the practices of corporate raiders who, after

taking over a company, strip its assets to make a quick profit.” Even within the United States, Dobbin and Dowd (2000) chronicled how banks and other financiers withheld capital during the late nineteenth and early twentieth centuries to fight a business model based on predatory acquisition and to promote a more cooperative and stable alternative.

There are three main reasons why banks are likely to oppose a takeover attempt of a company in which they hold equity or exercise representation and voting rights. First, banks with large shareholdings and voting privileges are insiders to the firm and operate from a position of strength that typically enables them to dispatch directors to the board and to appoint the chief executive officer. Thus they have little need to mount a hostile bid in order to exercise influence and control (see Davis and Stout, 1992; O’Sullivan, 2000, 2003). Schneider-Lenne (1993), for example, documented how banking syndicates have historically responded to the poor performance of a German firm by acquiring a large percentage of shares, thus increasing their presence on the supervisory board (the German version of the board of directors). Other scholars have noted how the bank-centered Japanese keiretsu system has helped foster a social and political environment that finds little merit in either external board representation or an active market for corporate control (Anderson, 1984; Phan and Yoshikawa, 2000). Some researchers have even argued that the bank equity ownership system first emerged in Japan so that powerful banking families could operate as “command centers” over industrial firms while simultaneously preventing hostile takeovers by foreign bidders (Sheard, 1989; Morck and Nakamura, 1999; Morck, Nakamura, and Shivdasani, 2000: 541).

Second, in many countries banks become large owners of non-financial companies to ensure an exclusive access to lucrative commercial transactions. Electrical utilities or telecommunications operators serve as salient examples because they need a “house bank” to handle their banking needs, including financing infrastructure projects and managing their extensive commercial payments and

receipts operations. Thus, while the shareholding bank obtains income in the form of dividends, these revenues tend to pale by comparison with those obtained from the commercial relationship between the bank and the firm in which it owns stock. For the bank, an unsolicited outside bid for the company would disrupt this profitable commercial relationship (Roe, 1993; Bühner, Rosenstein, and Yoshikawa, 1998). In fact, comparative research indicates that in countries in which banks are important stock owners, non-financial companies have twice as many bank loans on their balance sheets and two to three times greater debt-to-equity ratios (Steinherr and Huveneers, 1994; Guillén, 2000a).

Third, the highly visible and central position that banks with shareholdings in other companies enjoy in some economies suggests that they are often placed under intense scrutiny by other stakeholder groups. Consequently, banks might often find that the reputation costs associated with negative public opinion could easily outweigh any tangible financial gains from a hostile takeover (Baums, 1993). Although a bank owning a sizable share of a company's stock may be powerful enough to impose its will on other stakeholders, Weberian sociology reminds us that social domination and the exercise of power under conditions of social conflict are more effective if they are perceived to be legitimate, that is, when there is voluntary compliance (Weber, 1978: 33-38, 212-215; Bendix, 2001). An illustration is offered by Bühner, Rosenstein, and Yoshikawa (1998), who described the attempt by Deutsche Bank, Germany's largest bank and one of the most powerful actors in the country and in Europe, to finance steel manufacturer Krupp's hostile takeover of its competitor, Thyssen. After announcing its intentions, Deutsche Bank faced a public relations crisis when steel workers began picketing the bank's Frankfurt headquarters, and the unions and workers threatened to withdraw money from their accounts at Deutsche. In response to the media outcry, the bank ceased to support the takeover, which only took place after the two companies agreed to a friendly merger one year later. This chain of events exemplifies that banks, just like any other powerful actor, must seek legitimacy for their actions in the face of opposition from other stakeholders, such as workers. For these three reasons, we expect that

hostile takeovers will be less likely to the extent that the banks' right to own stakes in non-financial firms, and hence their power, is protected by legislation:

Hypothesis 3 (H3): Hostile takeover activity decreases with the extent to which banks' rights to own stock in non-financial firms are defined and protected.

DATA AND METHODS

Sample and Dependent Variables

The unit of analysis in our empirical study is the country-year. We collected data on 37 countries for the eleven years between 1988 and 1998. Hostile takeover data for 1987 were also collected to calculate the lagged value of the dependent variable for the initial year of our study. Information on takeover activity was taken from the Securities Data Company's SDC Platinum database of worldwide mergers and acquisitions. This source seeks to include data on "all corporate transactions involving at least 5 percent of the ownership of a company where the transaction was valued at \$1 million or more (after 1992, deals of any value are covered) or where the value of the transaction was undisclosed" (SDC, 1999: 27). The SDC database includes both public and private transactions. International coverage begins in 1985, but the data during the initial two years is not comprehensive. Our findings did not change when the records from these early years were included in the analyses.

SDC classifies a takeover as "hostile" when the target firm's board of directors officially rejects an offer but the acquirer persists with the takeover. In a comparison of four operational definitions of hostile takeovers based on a sample of 2,346 takeover contests occurring between 1975 and 1996,

Schwert (2000) found SDC's designation to be the most highly and positively correlated with the one used by the Wall Street Journal/Dow Jones News Retrieval Service (WSJ/DJNR). SDC Platinum's categorization can be regarded as a relatively conservative definition of hostile takeovers in that it produced higher counts of hostile takeovers than WSJ/DJNR but significantly lower counts than classifications based on non-negotiated bids or an evaluation of pre-bid events. For the purposes of this study, the SDC holds the obvious advantage of being the data source with the best worldwide coverage. The SDC draws on over 200 English and foreign-language news sources, SEC filings and their international counterparts, trade publications, wires and proprietary sources of investment banks, law firms, and other advisors. While such important issues as variations in reporting standards and data availability should always raise concerns about the validity of cross-national tests, the SDC is often regarded as the best resource for drawing inferences on global takeover activity (Prowse, 1995).

For the majority of our regression analyses, we used the count of announced hostile takeover bids as our dependent variable. To construct this measure, we first downloaded the SDC's complete listing of corporate takeover bid announcements for the years under investigation. Next, we classified these records by year, by the attitude of the corporate transaction (hostile or otherwise), and by the home country of the target firm. Over 218,000 of the SDC's records for the countries and years in the study were successfully classified, with less than 1 percent of the total number of entries being omitted due to missing information in one or more of these three categorizations. This classification process yielded aggregate count data for hostile and non-hostile takeover announcements in each country and year. Because the question of whether any hostile takeover attempts occurred in a country during a given year is theoretically and empirically important, we also constructed a binary measure that was set equal to one if there were one or more attempts for each country-year, and zero otherwise. This binary measure was used as the dependent variable for all other models.

To gain a better understanding of the actual corporate events that constitute our study, we used SDC, Bloomberg, COMPUSTAT, and other financial and archival news databases to gather deal-level information for each of the 952 hostile takeover attempts in our sample. Even in U.S. takeover battles, many of the deals involved target companies that were listed on secondary or minor exchanges. Therefore, we were able to uncover only minimal information for many of these deals. Despite this difficulty, we found several news media reports and academic case studies that highlighted the roles played by powerful stakeholders in hostile takeover bids in different countries.

As previously described, we focused on hostile takeover bids rather than consummated deals largely for theoretical reasons. This approach is consistent with other research that has identified hostile takeover attempts as an important economic and organizational governance practice (e.g., Davis and Stout, 1992; Chatterjee, Harrison, and Bergh, 2003). Many financial economists and corporate governance scholars also emphasize how it is the threat of a takeover that provides the broader and more enduring impact on managerial behavior (Jensen, 1986; Davis, 1991; Driver and Thompson, 2002). In countries with little hostile takeover activity, just a few announced bids can lead to speculation among managers, directors, policymakers, scholars, and the press about a growing market for corporate control (Blass, Yafeh, and Yosha, 1998; Toth-Feher et al., 2002; Neff, 2000; Scott, 2004). From an empirical standpoint, the determination of whether a completed deal was ultimately hostile or friendly can also sometimes prove problematic. For example, the management and board of the target might eventually accept the revised terms for an amicable merger, but only after a prolonged period of initial resistance. Alternatively, the target might agree to be acquired by a third-party “white knight” who would not have come into play had the original hostile takeover attempt not been launched (Hirsch, 1986).

Overall, we found that about 35 percent, or 336 out of 952 attempts, were eventually completed (see the note to Table 1 for a breakdown of the data by country). This percentage may represent an underestimate, however, since we found some cases for which the SDC had not updated the status of the takeover bid when that attempt was completed in a calendar year different from the one of its announcement. We attempted to account for these omissions whenever possible using other data sources. Based on the 329 completed deals for which information was available, we calculated the average time between announcement and completion to be 140 days. While the ending date for unsuccessful bids is often more difficult to determine, unconsummated contests appear to have an even longer average duration. Narrative accounts provided by the SDC and other sources of the major events relating to each hostile takeover deal indicate that, even for unsuccessful bids, both target and prospective acquirers committed substantial resources in battling for corporate control.

Independent Variables

We measured the extent to which shareholder rights are protected with the “antidirector rights index” developed by La Porta et al. (1998). This index ranges from zero to six and is calculated by adding one point for the presence of a provision protecting six representative shareholder rights in the country’s commercial code or company law. The provisions are (1) allowing shareholders to mail their proxy vote at a shareholders’ general meeting; (2) not requiring shareholders to deposit their shares before attending the general shareholders’ meeting; (3) the presence of a legal mechanism enabling minority shareholders to challenge the decisions of management or assembly; (4) the ability to vote cumulatively on appointments to the board of directors (or to be guaranteed proportional representation); (5) preemptive rights for new share issues for all current shareholders; and (6) a minimum percentage of shareholder capital of 10 percent or less in order to call a special shareholders’ meeting.

Building on La Porta et al.'s (1998) cross-sectional index for 1996, we constructed a time-varying measure for each country in our sample during the 1988-1998 period by referring to a number of sources. As our primary reference, we used the Commercial Laws of the World series (Ormond Beach, FL: Foreign Tax Law, 1976-2002), which provides full-text, English-language translations of the corporate legislative codes for a large number of countries. Based on the date of the original law and the dates of any subsequent revisions or addendums, we were able to create annual scores. In cases in which this main reference did not provide the documents for a particular country, when addendum dates were not documented, or when information was out of date, we used a number of additional sources, including Commercial Laws of Europe (London: European Law Centre, 1999) and Capital Formation and Investment Incentives around the World (Diamond and Diamond, 1999). In some cases, we examined the national corporate or commercial laws in the original language. To ensure consistency in our coding and interpretation of legal provisions across countries, we developed coding rules that were consistent with La Porta et al.'s (1998: 1122-1123) description of each variable. When a particular legislative code was regarded as ambiguous, the relevant portion was reviewed by each coauthor separately. This precaution yielded no disagreements in the coding of shareholder rights between the two coauthors. Thus we achieved perfect inter-coder reliability.

We measured labor rights based on each country's ratification of International Labour Organization (ILO) labor standards, as reported in the ILOLEX database. The ILO refers to its standards, or conventions, as "the only universally accepted benchmark ...by which the rights and conditions of human beings at work have been measured" (ILO, 2002). The 2000 UNESCO World Culture Report also suggests that ILO ratification records could be used to quantify country-level differences in worker rights. While the ILO's system of labor standards naturally encompasses many different types of rights, each convention is intended to prevent "injustice, hardship and privation" in the workplace

(ILO: 2002). Most ILO conventions can be classified as relating to (1) industrial relations, (2) employment and social policies, (3) labor administration, (4) conditions of work, or (5) social security. The industrial relations category, for example, involves provisions for freedom of association and collective bargaining. Employment policies include rights to security of employment and vocational training. Standards dealing with conditions of work include guarantees for the receipt and level of wages, occupational health and safety, paid leave, and hours of work and rest. Some standards apply to more than one of the above-mentioned categories. As of December 2003, the ILO had 128 conventions in effect, but we only considered the 109 conventions that were in place throughout the study period. Since many ILO standards pertain only to a narrowly defined special group such as agricultural or government employees, we also limited our attention just to the conventions that apply to all employees of publicly traded corporations. To create our labor rights variable, we counted the number of the remaining 45 standards that each country had ratified and were still in force for each year. Countries are permitted to denounce previously ratified conventions. Results were similar when the standards relating to special groups were added back into our measures.

We measured banks' rights to participate in the ownership and governance of non-financial companies using the four-point scale created by Barth, Caprio, and Levine (2000: 11). Scores of 1 for "unrestricted" ownership ("bank may own 100% of the equity in any nonfinancial firm") or 2 for "permitted" ownership ("bank may own 100% of the equity in a nonfinancial firm, but ownership is limited based on a bank's equity capital") indicate a more central role for banks in the national economy and corporate governance. In contrast, scores of 3 for "restricted" ownership ("bank can only acquire less than 100% of the equity in a nonfinancial firm") and 4 for "prohibited" ownership ("bank may not acquire any equity investment in a nonfinancial firm") reflect a system in which banks have a more limited influence in corporate governance. We traced changes in legislation over time to construct a time-varying measure. Because higher scores indicate greater restrictions, we multiplied the

original variable by minus 1 so that it increases as the banks' rights to participate in the ownership and governance of non-financial companies increases.

Control Variables

We controlled for several other factors that might be related to the level of hostile takeover activity.

We used the World Bank's 2003 World Development Indicators database as the source unless otherwise noted. All controls are time-varying. The most common economic explanation for hostile takeovers is that they are brought about by financial underperformance (e.g., Manne, 1965; Jensen, 1988). We used data from the 2004 Global Financial Database, the Emerging Stock Markets Factbook (Washington, DC: International Financial Corporation, 1990, 1999), and Standard and Poor's Global Stock Market Factbook (New York: McGraw-Hill, 2003) to control for each country's inflation-adjusted total annual stock market return. Both financial economists and organizational scholars stress the importance of macroeconomic factors, especially the business cycle and macroeconomic uncertainty (Becketti, 1986; Haunschild, 1993; Dobbin and Dowd, 2000). Thus we included the gross domestic product growth rate, as a proxy for the business cycle, and Servén's (1998) measure of macroeconomic uncertainty.¹ We also controlled for economic development by including the log of GDP per capita.

Given that democratic regimes tend to offer better protection of individual freedoms and property rights, and therefore could potentially influence the frequency of hostile takeovers (Jensen and Meckling, 1983; Driver and Thompson, 2002), we controlled for the ten-point democracy score included in the Polity IV database, which takes into account three elements: institutions that enable the polity to express its political preferences, checks and balances on the executive's power, and "the

guarantee of civil liberties to all citizens in their daily lives and in acts of political participation” (Marshall and Jagers, 2002: 12).

To measure the overall level of economic and corporate activity in each country, we included the total number of people in the labor force and the number of listed companies. Some of our models would not converge when we included listed companies as either a single linear term or in its logarithmic transformation, so we included both linear and squared terms. The results for all hypothesized variables were materially the same when compared against the models with simpler transformations of this variable that did converge. Because it could be argued that the level of hostile takeover activity might largely represent a function of the overall mergers and acquisitions activity, we also controlled for the logged number of non-hostile takeovers.

Several empirical studies suggest that both predatory and non-predatory acquisitions occur in waves and that bandwagon processes among economic actors cause the number of acquisitions in one year to help determine the level in the next (Haunschild, 1993; Stearns and Allan, 1996; Dobbin and Dowd, 2000). To account for this possibility, we included a lagged measure of our dependent variable, which was either an integer or a binary value depending on the model. This technique has also been recommended as a means of addressing unobserved heterogeneity (Heckman and Borjas, 1980; Beck, 2001).²

Theories of diffusion suggest that a country’s hostile takeover activity might also be influenced by the prior use of this practice in other countries. If so, the frequency of hostile takeovers would probably be affected by the extent to which the focal country is exposed to corporate governance practices in other countries. We measured this influence by using SDC data to calculate the percentage of non-hostile takeovers in the focal country that involved acquiring firms from other countries. Next, we multiplied

this percentage by the number of hostile takeover attempts that occurred in each “acquiring” country during the prior year. Finally, we added the resulting values to create our estimate of the impact of foreign hostile takeover activity, which we included as a control in all analyses.

Prior research also points to some other important factors that might affect our dependent variable. In countries in which the ownership of firms tends to be concentrated in the hands of just one or two shareholders, for instance, hostile takeovers can be relatively rare (Franks and Mayer, 1997; Guillén, 2000a). Furthermore, variations in antitakeover provisions could also lead to differences in the ease with which transfers of corporate ownership can be accomplished. Unfortunately, reliable measures for these factors do not exist for a large number of countries and years. We have taken steps to control for these and other sources of unobserved heterogeneity. We included in all analyses a lagged measure of hostile takeover activity, as mentioned above, and we used country fixed-effects specifications. We also incorporated three variables to measure differences in industry composition by counting the percentage of non-hostile takeovers that involved target firms in agriculture and mining, services, and industry. Finally, we added annual dummies to guard against unobserved heterogeneity across time.

Estimation Method

The main dependent variable for our analysis (the number of hostile takeover bid announcements) has certain important characteristics: (1) it is non-negative; (2) it is integer-valued, denoting counts of hostile takeovers; (3) it exhibits overdispersion, with 85 percent of the values equaling zero or one; and (4) it is longitudinal, including observations per country and year. When the outcome variable is non-negative and integer-valued, Poisson regression is more appropriate than ordinary least squares. To adjust for overdispersion, we used the negative binomial model, a generalization of the Poisson model

in which the assumption of equal mean and variance is relaxed (Hausman, Hall, and Griliches, 1984; Cameron and Trivedi, 1998).

We accounted for the longitudinally clustered nature of the data in two separate ways: (1) using a generalized estimating equation (GEE) approach, and (2) specifying country fixed effects (FE). GEE and FE approaches provide different benefits and disadvantages (for a detailed comparison, see Hardin and Hilbe, 2003). The GEE algorithm accounts for correlation between records within the same cluster, thus providing improved standard error estimates (see Liang and Zeger, 1986; Zeger, Liang, and Albert, 1988; Allison, 2000; Zorn, 2001). The GEE approach is less computationally intensive than either FE or random effects, so it often proves less subject to instability and convergence problems. Because FE models are more widely used, their properties have been extensively studied and are more thoroughly understood. FE models are generally regarded as providing a better control for unobserved heterogeneity. Because FE methodologies cannot account for any clusters in which the dependent variable remains unchanged across the sample period (e.g., when in a given country there are no hostile takeovers during the entire period of study), GEE has been argued to be more widely applicable and to use more efficiently the information available to estimate regression coefficients (Hardin and Hilbe, 2003; see also Allison, 2000).

Because our cross-national sample included some countries in which hostile takeovers did not occur in any year, FE methods could not be used to evaluate these countries, and we had to rely on different sample sizes. Our full sample, which was tested using the GEE approach, includes all country-years in which we had complete data for the above variables ($n = 367$). Since, the United States and Great Britain constitute significant outliers in terms of hostile takeover activity, we conducted another GEE test after excluding these two countries ($n = 345$). Next, we used both GEE and FE in successive model runs on a reduced sample that excluded the nine countries that had zero hostile takeover attempts for all years ($n = 287$; see table 1). For all GEE models, we used an exchangeable correlation structure,

which assumes equal correlation between all records within the same country cluster. To further test for robustness, we estimated a GEE logit specification on the full sample in which the dependent variable was coded as a binary measure of whether at least one hostile takeover attempt occurred during the country-year or not. For the logit models, a FE specification would not be useful because the inclusion of country dummies would eliminate countries in which at least one hostile takeover attempt occurred in every year as well as those in which no hostile takeover was ever announced. Though we were sometimes unable to find all of the data necessary for each of the eleven annual records for each country, there was no reason to suspect that yearly information was made unavailable due to the (potentially unfavorable) nature of the data. Therefore, we estimated the models using an unbalanced panel.

[Insert table 1 about here]

Table 1 presents the sample correlations and descriptive statistics, including the decomposition of each variable's standard deviation into its within- and between-country elements (see StataCorp., 2003: 226). Many of the variables show substantially more variation between countries than across observations from the same country, which is a characteristic of data with high variability across groups but also high correlation within groups.³ These standard deviation statistics reinforce the importance of accounting for the limited longitudinal variation and lack of independence across records. As shown in the note to table 1, the sample used in the analysis contains a mix of developed and developing economies located on all five continents. Although our methodology has been updated to account for advances in statistical analysis, our overall approach is consistent with past studies in which the dependent variable is an acquisition count (e.g., Amihud and Lev, 1981; Haunschild, 1993).

RESULTS

Table 2 shows the regression results with levels of significance reported for two-tailed tests. Models 1 through 4 show results of negative binomial regressions using GEE as the estimation method, while model 5 is the negative binomial fixed-effects specification. Model 6 reports GEE logit results using a dichotomized dependent variable. Model 1 includes just the control variables, to provide a baseline. Models 1 and 2 include observations from all 37 countries for which complete information was available. Adding the three variables accounting for stakeholder rights in model 2 significantly increases the goodness of fit when compared with model 1.

[Insert table 2 about here]

Because the United States and the United Kingdom represent significant outliers in terms of hostile takeover activity, model 3 excludes all observations for these two countries. In model 4, we bring back the observations for the U.S. and the U.K. and omit observations for the nine countries with zero hostile takeovers across all years in the sample in order to compare the results with those in the fixed effects model 5. Model 6 shows the results using a binary (e.g., truncated) dependent variable. We find robust support for all three of our predictions. Models 2 through 6 all lend consistent support for the hypotheses that the greater the protection of shareholder rights, the higher the number of hostile takeovers (H1), the stronger the protection of labor rights, the lower the number of hostile takeovers (H2), and the greater the protection of banking rights, the lower the number of hostile takeovers (H3). Thus the empirical support for the three hypotheses is robust to the elimination of outliers, to changes in sample size, to estimation method, and to the coding of the dependent variable.

The significant effects of stakeholder rights are not only significant but important in magnitude. Using the coefficient estimates from model 4 in table 2—a regression that does not include fixed effects—a country with one additional shareholder right protected in its corporate legislation witnesses on average 48 percent more hostile takeovers than an otherwise comparable country ($\{ \exp[0.394] - 1 \} \times 100$). A country coded with one additional point on the worker rights scale has on average 4 percent fewer hostile takeovers, while a country with one additional point on the banking-rights scale has on average 31 percent fewer hostile takeovers. The interpretation of the magnitude of the results obtained with fixed-effects regressions is different. Using the estimates from model 5 in table 2, a year-to-year change of one additional shareholder right results in a 747-percent increase in the number of hostile takeovers (e.g., from one to eight takeovers), while a one point year-to-year increase in the worker-rights measure yields a 21-percent decrease, and a one point year-to-year increase on the banking-rights scale results in a 92-percent reduction. Caution should be exercised in interpreting the fixed-effects coefficient of shareholder rights because only three countries (Australia, New Zealand, and Switzerland) changed the relevant legislation during the period under investigation, all in the direction of increasing shareholder rights. Thus in the fixed-effects model 5 the significant coefficient is capturing the increase in hostile takeovers in these three countries over the relevant time period. Besides the magnitude of the effect, what is important to underline is that the fixed-effects results are consistent in sign and statistical significance with the GEE results, thus providing further reassurance about the robustness of the impact of stakeholder rights on the level of hostile takeover activity.

Several of the control variables in the regressions reported in table 2 turned out to be significant and in the predictable direction, including the business cycle (GDP growth rate), macroeconomic uncertainty, democratic freedoms, foreign hostile takeover activity, and the total number of non-hostile takeovers. The lagged number of hostile takeovers, which corrects for unobserved time-varying differences across countries, did not always reach significance. Controls accounting for the level of economic

development (GDP per capita) and the number of listed companies were generally non-significant. In some models, size of the labor force exhibited a sign opposite to the expected one. These results cast further doubt on the premise that hostile takeover activity is simply an inevitable residual byproduct of large, industrialized market economies. Stock market performance only reached significance, and in the predicted direction, in the fixed-effects specification. In supplemental tests, we found that for the 602 hostile takeover attempts for which data were available, the price-to-book ratio for the target firm about one month prior to the announcement was significantly lower than the national stock market average ($p < .001$), but the price-to-earnings ratio was actually higher, though not significantly so ($p = .61$, $N = 621$).

We conducted two other types of supplemental analyses (not reported, but available upon request). First, we performed regressions using an alternate labor measure that included only the labor conventions that the ILO classified as having directly to do with industrial relations. The rationale for this test was that these provisions were the ones that are arguably most closely associated with labor's ability to participate directly in the governance of the firm. While most of the results were similar, this alternate labor variable reached significance only in models 3 and 6. We suspect that these weaker results can be attributed to the variety of ways in which labor power deters hostile takeovers. Rights related to social security, conditions of work, and protection of employment, for example, all serve to limit an acquirer's ability to reorganize a target firm during the post-acquisition period. Because any measure solely focused on labor's ability to influence governance at the firm level cannot adequately capture all post-acquisition dynamics, we believe that our broader measure is more appropriate for testing our hypothesis and theoretical model.⁴

Second, we performed supplemental tests using comparable model specifications to predict the frequency of completed hostile takeovers. All three stakeholder variables were significant and in the expected direction when using GEE. Unfortunately, fixed-effects estimations did not converge, perhaps because 17 countries were omitted due to zero values for completed deals in every year. As in the case of announced hostile takeovers, fixed-effects specifications have the disadvantage of not using the information about countries with zero entries in the dependent variable in all years. Overall, the GEE results using completed deals as the dependent variable are consistent with those using announced takeovers, further demonstrating that the stakeholder-power approach explains both the level of hostile takeover activity and the number of announced deals that are ultimately consummated. As previously described, however, focusing the analysis on announced hostile takeovers has the advantage of speaking directly to all aspects of stakeholder power. Completed deals refer only to a subset of the power dynamics, namely, those that an announced takeover has made overt and explicit. The latent and implicit power dynamics, though obviously relevant, are lost when the analysis is restricted to completed deals.

DISCUSSION AND CONCLUSION

This study demonstrated that the business firm is a contested entity in which different types of stakeholders seek to advance their interests. We further argued and established empirically that stakeholders pursue their interests within the structure of legally institutionalized power prevalent in their society. We used the hostile takeover as a practice whose occurrence (or non-occurrence) reflects the balance of power among stakeholders in a given context. Using a cross-national and longitudinal dataset, we found strong and robust support for the predictions that the legal protection of shareholder rights increases hostile takeovers, while the protection of worker and banking rights reduces their

occurrence. Thus our stakeholder power approach to corporate governance yields insights that help explain why practices are more prevalent in certain countries and periods of time than in others.

While there is no agreement as to whether hostile takeovers are “good” or “bad,” our analysis provides a deeper understanding of the drivers of this important phenomenon. The power of the various stakeholders characterizes countries in fundamental and momentous ways. Companies and their practices look so different from one country to another because countries themselves vary substantially in terms of legal provisions, political history, and stakeholder power and influence. Our point is that discussing the virtues of hostile takeovers is only one way of looking at the problem; examining the extent to which they are consistent with the structure of stakeholder power is another, perhaps complementary way that yields further insights.

This paper also speaks to the differing ways in which the public corporation is conceived across countries. Our results indicated that hostile takeovers are more prevalent when the institutional conditions in a country are more consistent with the view of the firm as a bundle of financial assets, i.e., when shareholder rights take precedence, than with the view of the firm as a social entity characterized by the intersection of the interests of various stakeholders. Thus our approach can be used to assess the conception of the firm that tends to predominate in different societies. While much research in organizational theory has emphasized the fact that the corporation is embedded in a wider social context on which it depends for critical resources (e.g., Pfeffer and Salancik, 1978; Mintzberg, 1983; Perrow, 1986), almost no evidence has been produced to show that there is a systematic pattern of institutional variables that accounts for the differences across countries. In spite of the emphasis on social structure, recent theoretical and empirical trends in organizational theory have failed to pay enough attention to interest and power. In particular, our evidence indicates that stakeholders, and the social classes underlying them, are relevant to understand organizational processes and outcomes. Hence, the paper shows the need to intensify our efforts to continue unveiling the role that conflict,

interests and power play in organizations. Stakeholders do more than just influence the goals and practices of individual firms. They often play a defining role in shaping the overall economic environment in which corporations find themselves.

Our empirical results also shed some light on the debate over the convergence in corporate governance practices across countries as a result of globalization and of the liberalization of capital flows (Guillén, 2000a). Our findings can be read in two opposing ways. On the one hand, if differences across countries can be traced back empirically to institutional and structural characteristics of countries, one cannot assume that corporate governance practices, no matter how desirable or efficient, will diffuse effortlessly. Widespread diffusion can only be expected if the relevant institutional features converge across countries. Previous research has pointed out that legal institutions, for instance, are unlikely to change in the foreseeable future (Roe, 1993; La Porta et al., 1998). Our empirical evidence suggests that hostile takeovers are consistent with certain distributions of power among stakeholders, but not others. Thus we expect differences across countries in the level of hostile takeover activity to persist into the future to the extent that legal institutions and the structure of stakeholder power remain unchanged. On the other hand, however, we found the measure of foreign influences on hostile takeover activity to be positive and significant. Thus, as more corporate interactions take place across borders, one would expect greater convergence across countries in spite of resilient structures of stakeholder power within countries.

Finally, the paper speaks to the comparative study of institutions. Our theoretical and empirical analysis confirms the usefulness of examining the power dynamics in which organizational structures, behaviors, and practices are embedded. Institutions provide the foundations for organizational life, the taken-for-granted regulative and normative pillars that enable and shape action. Our analysis shows that national institutions can be conceptualized and measured in a way that captures institutional

variations across a large number of countries, which then can be used to explain differences in an outcome variable of interest. This approach lends itself to examining dependent variables defined at many levels of analysis, including the organization, the industry, and the country.

Our theoretical and empirical analysis is limited in several respects. We envision several ways of refining and expanding the analysis of corporate governance practices reported in this paper. First, other corporate practices could be studied cross-nationally using a similar institutional framework of analysis, including board-of-director composition and employee stock options. Although our analysis on hostile takeovers focused on shareholders, workers, and banks, additional types of stakeholders may play more vital roles in shaping other practices. While managerial attitudes toward hostile takeovers are far from being resolute and unified (Davis, 1991), managers may exert much more influence as a collectivity on the adoption of such practices as performance-based pay (see Guillén, 2000a). Second, rather than aggregating the dependent variable at the country level of analysis, one could also test for firm-level explanations, although carefully matched representative samples of firms in each country should be designed and the relevant data collected. Finally, case studies of firms across many national settings could be useful in generating more nuanced hypotheses and in understanding the basic underlying causal processes. These research avenues will provide fertile ground for formulating and testing institutional propositions about corporate governance practices and about the role of the corporation in society that strike a balance between large-scale cross-national differences and micro-level processes.

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Table 1

Sample Descriptive Statistics and Correlations (N = 367 Country-years, 37 Countries, 1988-1998)*

Variable	Mean	Standard Deviation			1	2	3	4	5
		Overall	Between	Within					
1. Number of hostile takeovers	2.59	8.96	7.28	4.85					
2. Shareholder rights	3.16	1.28	1.30	.20	.27*				
3. Worker rights	16.75	8.11	7.84	1.57	-.18*	-.14*			
4. Bank rights	-2.13	.84	.84	.14	-.07	.01	.11		
5. Stock market performance	.12	.41	.11	.40	-.01	-.01	.02	.00	
6. GDP growth rate	3.54	3.44	2.06	2.82	-.03	.16*	-.33*	.02	.04
7. Macroeconomic uncertainty	-7.44	1.00	.95	.49	-.11	.24*	-.30*	-.19*	.04
8. GDP per capita (logged)	9.15	1.37	1.43	.09	.18*	-.19*	.43*	-.01	-.05
9. Democratic freedoms	8.33	2.72	2.84	.71	.17*	-.15*	.45*	.22*	-.03
10. Size of labor force (millions)	31.32	68.03	65.48	4.85	.16*	.36*	-.27*	-.08	.01
11. Number of listed companies	773.52	1460.82	1381.29	308.16	.66*	.42*	-.33*	-.13*	-.03
12. Number of listed companies ² (millions)	2.73	10.48	9.67	3.06	.66*	.34*	-.33*	-.16*	-.01
13 Foreign hostile takeover activity	6.76	7.11	3.38	6.53	-.09	-.04	.05	-.08	-.07
14. Lagged no. of hostile takeovers	2.77	9.91	8.17	5.16	.87*	.27*	-.19*	-.07	-.02
15. No. of non-hostile takeovers (logged)	4.86	1.68	1.51	.81	.52*	.09	.24*	-.05	-.08
16. Hostile takeovers = 1	.30	.46	.32	.33	.44*	.12	.07	-.02	.01
17. Lagged hostile takeovers = 1	.30	.36	.33	.32	.41*	.12	.06	-.04	-.01

Variable	6	7	8	9	10	11	12	13	14	15	16
7. Macroeconomic uncertainty	.16*										
8. GDP per capita (logged)	-.27*	-.35*									
9. Democratic freedoms	-.31*	-.38*	.61*								
10. Size of labor force (millions)	.09	.04	-.44*	-.01							
11. Number of listed companies	.02	-.10	-.03	.16*	.67*						
12. Number of listed companies ² (millions)	.03	-.09	.01	.12	.55*	.95*					
13 Foreign hostile takeover activity	.05	.03	-.06	-.03	-.00	-.09	-.11				
14. Lagged no. of hostile takeovers	-.03	-.11	.18*	.17*	.17*	.68*	.69*	-.09			
15. No. of non-hostile takeovers (logged)	-.23*	-.24*	.61*	.42*	-.00	.43*	.40*	-.13	.52*		
16. Hostile takeovers = 1	.03	-.21*	.33*	.31*	-.03	.28*	.24*	-.00	.39*	.50*	
17. Lagged hostile takeovers = 1	-.06	-.18*	.34*	.30*	-.06	.26*	.23*	.00	.43*	.51*	.49*

• $p < .01$.

* The reduced sample contains all countries that had hostile takeover attempts from 1988 to 1998. The 28 countries included in the reduced sample are Australia (67 of 110 attempts completed), Austria (0 of 2), Belgium (0 of 2), Canada (30 of 88), Chile (1 of 1), Denmark (0 of 1), Finland (0 of 1), France (8 of 20), Germany (1 of 5), India (0 of 1), Ireland (5 of 10), Israel (0 of 1), Italy (3 of 6), Japan (1 of 1), Malaysia (1 of 3), the Netherlands (1 of 4), New Zealand (3 of 8), Norway (6 of 10), Portugal (1 of 2), Singapore (1 of 1), Spain (3 of 5), Sri Lanka (0 of 1), Sweden (5 of 11), Switzerland (2 of 7), Thailand (1 of 2), Turkey (0 of 1), the United Kingdom (99 of 219), and the United States (97 of 429). The 37 countries in the full sample are those in the reduced sample plus the 9 countries that had no hostile takeover attempts. These additional countries are Argentina, Brazil, Egypt, Greece, Mexico, Nigeria, Pakistan, Peru, and Venezuela.

Table 2

Regression Results on the Number of Announced Hostile Takeovers*						
Variable	Controls only full sample Model 1	GEE full sample Model 2	GEE US & UK omitted Model 3	GEE reduced sample Model 4	Fixed effects reduced sample Model 5	GEE logit full sample Model 6
Shareholder rights		.368** (3.40)	.387*** (3.70)	.394*** (3.52)	2.136* (2.51)	.459* (2.32)
Worker rights		-.050** (-3.38)	-.061*** (-3.90)	-.044** (-2.73)	-.233* (-2.51)	-.088** (-3.04)
Bank rights		-.341** (-3.00)	-.438*** (-4.60)	-.371*** (-3.53)	-2.491* (-2.29)	-.587** (-3.32)
Stock market performance	.217 (.64)	.330 (.70)	.643 (1.36)	.252 (.53)	-2.781* (-1.99)	.897 (1.15)
GDP growth rate	.142*** (3.54)	.142** (3.32)	.132** (2.62)	.115** (2.65)	.384** (2.66)	.183* (2.03)
Macroeconomic uncertainty	-.093 (-0.58)	-.286 (-1.75)	-.447** (-3.01)	-.199 (-1.22)	-.320 (-.53)	-.610** (-2.64)
GDP per capita	-.148 (-0.55)	-.314 (-1.21)	-.442 (-1.60)	-.408 (-1.60)	.743 (.35)	-.682 (-1.96)
Democratic freedoms	.466*** (4.20)	.575*** (5.98)	.487*** (7.58)	.491*** (6.34)	1.415 (.82)	.642*** (4.91)
Size of labor force	-.007 (-0.85)	-.007 (-.58)	-.030* (-2.39)	-.006 (-1.18)	-.041 (-.39)	-.049** (-2.65)
Number of listed companies†	.551 (1.73)	-.166 (-.04)	-.923 (-1.94)	-.802 (-.20)	-5.011* (-1.99)	-11.372 (-1.61)
Number of listed companies ² †	-.000* (-2.33)	-.000 (-1.12)	.004** (3.09)	-.000 (-.80)	.003 (1.18)	.001** (3.18)
Foreign hostile takeover activity	.055*** (3.90)	.055*** (3.83)	.052** (2.86)	.072*** (4.76)	.109* (2.07)	.051 (1.44)
Lagged no. of hostile takeovers	.021 (1.67)	.019 (1.45)	.105*** (5.73)	.023 (1.69)	.134* (2.18)	.836* (2.42)
No. of non-hostile takeovers	.981*** (6.55)	1.227*** (7.18)	1.277*** (7.55)	1.184*** (6.41)	1.367 (1.87)	1.582*** (6.72)
Country fixed effects					Included	
Annual dummies	Included	Included	Included	Included	Included	Included
Industrial composition	Included	Included	Included	Included	Included	Included
Intercept	-8.451	-22.674	-25.516	-16.849	22.190	-18.166
N (country-years)	367	367	345	287	287	367
Number of countries	37	37	35	28	28	37
Wald chi-square	901.85	1144.90	6115.01	6103.02	44.84	236.79

* $p < .05$; ** $p < .01$; *** $p < .001$; two-tailed tests.

* z scores are shown in parentheses beneath regression coefficients.

† Coefficient is multiplied by 1,000.

• We gratefully acknowledge funding from the Wharton School's Center for Leadership and Management Change. The editor, Donald Palmer, and three anonymous reviewers provided excellent suggestions for improvement. We are also thankful to Witold Henisz, Harbir Singh, panel discussants at the 2004 American Sociological Association Meeting, and seminar participants at IESE, Harvard, Oviedo Pompeu Fabra, and Princeton Universities for valuable comments. Any errors and omissions remain our own.

¹ Servén (1998) proposed calculating the natural logarithm of the conditional variance of GDP growth in a given year fitted by using a generalized conditional heteroskedasticity (GARCH) specification, a model originally suggested by Bollerslev (1986).

² Several of our variables of interest exhibit limited longitudinal variation within countries. Although this does not violate the assumptions of our statistical models, the inclusion of a lagged dependent variable raises an important caveat. The coefficients for explanatory variables with little variation could be understated, because their impact on the hostile takeover activity might be captured by the lagged dependent variable. In auxiliary tests (available on request), we tested models with the lagged term omitted, and the results remained materially the same. We chose to leave this variable in our model because of the prominence placed on mimetic processes in past explanations of corporate acquisition activity, and because it provides a more rigorous and conservative test of our hypotheses. We thank the Editor, Donald Palmer, and an anonymous reviewer for their guidance on this issue.

³ The within-country standard deviation for shareholder rights is just .20, for example, because only three countries (Australia, New Zealand, and Switzerland) made relevant legal changes

during the time period. While changes to labor rights were more common (76 ILO conventions were ratified or denounced across 24 countries), they still accounted for much less variation than the amount across countries. In contrast, the variable for foreign hostile takeover activity shows substantially more within- than between-country variation. This can be attributed to the major changes in cross-country acquisition trends during the period. While the number of cross-border acquisitions tended to rise over time in most countries, the extent to which acquirers from the United States or other countries with large hostile takeover markets participated in these increases differed substantially from country to country.

⁴ We thank the editor, Donald Palmer, and an anonymous reviewer for helping us make this judgment.