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## **Shareholder protection, income inequality and social health**

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# **Shareholder protection, income inequality and social health: a proposed research agenda**

## **Abstract**

This paper develops a proposed research agenda in order to highlight how corporate governance, accounting and company law are relevant to the consideration of income inequality and wider social health. To illustrate this proposed research agenda, this paper draws on corporate governance research in the law and finance tradition, as well as macro-level studies in accounting concerned with the wider corporate governance context, in order to consider the association between shareholder protection, income inequality and child mortality. Under 5 child mortality is an objective indication of a country's ability to nurture its children. In an influential body of work, La Porta et al. (1997a, 1997b, 1998, 2008) concluded that a common law legal system which protected the interests of shareholders gave rise to better economic and social outcomes. However, drawing on corporate governance and accounting literature we contend that such a conclusion is flawed. The findings of this paper suggest that common law countries (i.e. those with the greater legal protection for investors) have worse social outcomes in terms of under-5 child mortality.

## 1. Introduction

In the past 40 years, there has been a strong increase in income inequality within OECD countries – a trend which is much more striking in the Anglo-Saxon economies (Alvarez, forthcoming; Atkinson and Piketty, 2007; Dore, 2008; Dünhaupt, 2013; Lapavitsas, 2013; Stockhammer, 2013). For example, the OECD (2011) reports that the average income of the richest 10% of the population in the US is around 14 times more than that of the poorest 10%; the equivalent figure is 10 to 1 for the UK. In a somewhat more striking account of income inequality in the US, Stiglitz (2012, p.5) states:

“[B]y 2007 the average after-tax income of the top 1 percent had reached \$1.3 million, but that of the bottom 20 percent amounted to only \$17,800. The top 1 percent get in one week 40 percent more than the bottom fifth receive in a year; the top 0.1 percent received in a day and a half about what the bottom 90 percent received in a year; and the richest 20 percent of income earners earn in total after tax more than the bottom 80 percent combined” (see also, Piketty and Saez, 2003 and Atkinson and Piketty, 2007).

This scale of economic inequality has prompted concern across the disciplinary spectrum – with political philosophers highlighting worries about the corruption of the political process (Sandel, 2012; Scanlon, unpublished); economists noting an increase in unemployment as the result of decreased demand (Stiglitz, 2012); epidemiologists and public health researchers pointing to the link between inequality and poor health outcomes - including increased child mortality rates, reduced life expectancy, drug and alcohol addiction, depression and obesity (Kahn et al., 2000; Subramanian et al., 2002; Wilkinson, 2005; Wilkinson and Pickett, 2009). In the accounting domain scholars have noted that “everyday accounting practices are deeply implicated in the inequitable distribution of income and wealth” (Sikka, 2015, p.46; see also, Froud et al. 2012; Hopper et al, in Press; Palea, 2015). In recognition of the role of accounting

within the wider institutional context, a number of accounting studies have undertaken macro-level analyses to problematize the Anglo-American capitalist model (Collison et al., 2010; Froud et al., 2006) and neoliberalism (Guénin-Paracini et al., 2014). For instance, in Erturk et al.'s (2012) analysis of the post financial crash period, the authors highlight the failure of GDP as an indicator of success and call for accountants to join efforts to create “new measures and concepts of success” (p. 5).

The present paper makes an explicit link to the epidemiological literature concerned with the social determinants of health (Marmot et al., 2008), by considering how certain corporate governance mechanisms (in particular, the protection of shareholders in company law), may have a bearing on income inequality and health outcomes. In doing so, the paper makes a contribution to the accounting literature in two ways. Firstly, the paper specifically addresses Merino et al.'s (2010) call for accounting academics to “examine the socioeconomic impact of... the traditional [Anglo-Saxon] corporate governance model on the lives of ordinary people” (p775). In this respect, the paper contributes to extant macro-level studies in accounting that explore the wider institutional governance context and call for corporate governance and related accounting policies to “be judged against HDI [Human Development Index] goals” which are more adequately equipped “for the realms of civil society, ecology, politics, inequality, gender, health and education” (Hopper et al, in Press, p.13; see also, Collison et al., 2010; Collison et al., 2012; Erturk et al.'s, 2012; Froud et al., 2006; Guénin-Paracini et al., 2014; Morales et al., 2014).

Secondly, this study also contributes to the accounting literature on “silent/shadow” accounts (Collison et al., 2010; “counter accounts” (Gallhofer et al., 2006) and “macro” social accounts (Cooper et al., 2005). This literature provides examples of,

and a theoretical basis for, alternative accounts that offer new insights into various aspects of an entity's performance. As Collison et al., (2010) note, at a more 'macro' level, the 'entity' could be defined in a range of ways, including, for example, the level of the state. In this respect, an alternative social account may draw on social indicators (such as the HDI or sustainable development indicators )to problematize the performance of the state or governance regime”

It is generally agreed that a clear link exists between a person's socio-economic background and their health (Lynch, et al. 2004; Marmot, 2010). For example, Lynch et al. (2004, p. 9) note that “at the individual level, higher incomes – and other markers of socioeconomic circumstances – are associated with better health”, including life expectancy, infant mortality and mental well-being. As Rowlingson (2011, p.10) highlights, the link between income and health at the individual level (within societies) would suggest that there is also “a link between average income and average health at the societal level (that is, when comparing data between societies)”. However, in developed countries with an average income above a certain level – the epidemiological divide - variations in a population's health are “not as tightly linked to average income” (Lynch et al., 2001, p. 11; see also Rowlingson, 2011). It is this “unexplained variation” in average levels of health across richer countries which led to the suggestion that the distribution of income, or income inequality, could help explain why some countries have, in aggregate, poorer health outcomes than others (Lynch et al., 2001; Rowlingson, 2011; Wilkinson, 1992). Put simply, what has become known as the “income inequality hypothesis” argues that the more that the distribution of wealth is skewed in a society, the poorer the average health of individuals will be.

As Coburn (2004, p.41) points out, while there is a burgeoning literature on the consequences of income distributions for health, there tends to be less concern within the epidemiology literature on the “production of inequalities”; this difference in concern is somewhat puzzling, given that “the extent of unequal distribution comes from somewhere” (Lynch, 2000, p.1001). In attempting to identify the “somewhere”, Coburn (2004, p.41) presents a class-based model, indicating that “neo-liberalism is associated with greater poverty and income inequalities, and greater health inequalities within nations”. In his analysis, Coburn (2004, p.51) suggests that “many other material factors... rather than simply income inequality, are central determinants of health inequalities”. Our study complements Coburn's (2004) analysis, by considering the association between legal origin (which is associated with specific approaches to corporate governance) and income inequality, and one specific measure of social health - child mortality.

We believe there is good reason to postulate that legal origin and the legal protection of shareholders has a bearing on both income and health inequalities. As Burris et al. (2002, p.510) note:

“law is implicated both as a shaper of society as it exists and as a means of reforming it... law operates through norms, attitudes, and beliefs to shape social relations, expectations, and behaviour”.

In this respect, it is conceivable that “law contributes to the creation, maintenance, and reproduction of social status” and this implies that the legal system (and more specifically, its origin) has a bearing on health at a “structural” level (Burris et al., 2002, p.515). Further, corporate law and the assemblage of corporate governance rules, regulations and procedures is variously concerned with establishing the purpose

of companies, whose interests they should serve, and the duties and rights of various stakeholders (Tricker, 2000; Sjoberg, 2009). How such issues are resolved has arguably a tremendous impact upon such things as income distribution, participation and voice within the firm, as well as wider social welfare issues. Therefore, it is our contention that the growing convergence towards a very particular model of corporate governance, one which promotes stronger legal protection to shareholders, is of particular concern – and ought to be explored in a way which gives consideration to both distributional and wider social issues.

To this end, we develop a proposed research agenda in order to highlight the relevance of taking issues of corporate governance and company law into account when considering income inequality and social health. By way of illustration, this paper undertakes an exploratory analysis of the link between shareholder protection, income inequality and child mortality. Findings from this exploratory analysis suggest that common law countries (i.e. those with the greater legal protection for investors) exhibit greater levels of income inequality and have worse social outcomes in terms of under 5 child mortality.

The remainder of this paper is structured as follows. The following section (section 2) provides an overview of the corporate governance literature in the “law and finance” tradition, outlining how this influential body of work has shaped and influenced corporate governance policy at an international level. This is followed by section 3, which considers some of the extant criticism of the “law and finance” literature; in particular, studies which highlight a link between shareholder models of corporate governance and income inequality. The data and method are then delineated in section

4, followed by a discussion of the findings from this exploratory study in section 5. The final section offers some discussion and tentative conclusions.

## **2. Corporate Governance in the “Law and Finance” Tradition**

In a hugely influential body of work, La Porta et al (1996, 1997a, 1997b, 1998, 1999a, 1999b, 2008) investigated the relationship between legal traditions and corporate governance systems. A key aspect of their analysis focused on the consequences of various levels of investor protection in different corporate governance regimes<sup>1</sup>. One of their key propositions was that stock market size and concomitant economic development were promoted by a legal system which protected the interests of shareholders against the appropriation of wealth by managers or those with a concentrated shareholding (La Porta et al. 1997a, 1998). On this basis, their work is largely synonymous with the view widely held in the law and finance literature that a common law legal tradition leads to better economic outcomes, as compared to those based on civil law (Braendle, 2006).

Collison et al. (2012) argue that the work of La Porta et al. (1996, 1997, 1998, 2000, 2002, 2006 and 2008) has “contributed to the marginalisation of a stakeholder orientated approach to corporate governance which tends to be associated with practice in civil law countries” (p. 394). They draw on the work of Dignam and Galanis (2008) which suggests that the publication of these papers by La Porta et al. was a “significant turning point in the stakeholder/shareholder debate within the governance literature” (p. 394). Specifically, Dignam and Galanis (2008) highlighted

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<sup>1</sup> In fact, La Porta et al. (1996) studied differences in a number of variables between common and civil law countries (see Table 1).



how La Porta et al.'s publications were used to support claims in the literature about the "superiority" of the shareholder approach to corporate governance – especially in the US and the UK. For example, the authors cite Hansmann and Kraakman's (2001) analysis which argues that a range of factors, including La Porta et al.'s work, meant that the "triumph of the shareholder-orientated model of the corporation over its principal competitors [was] now assured" (p. 468). As a result, Collison et al. (2012) were in no doubt that the work by La Porta et al. "played a significant part in the development of a conventional wisdom that the 'Anglo-American' shareholder-value orientated form of corporate governance is the model to which other jurisdictions should conform" (p. 394). They suggested that La Porta et al.'s work has supported "an approach to corporate governance based on a narrow agency-theory perspective" which is "consistent with the Anglo-American, shareholder value-based model of capitalism as opposed to a stakeholder or social market-based approach" (p. 395) and "has contributed to the marginalisation of a stakeholder orientated approach to corporate governance which tends to be associated with practice in civil law countries" (Collison et al., 2012, p394).

A number of accounting scholars have highlighted how the predominance of a shareholder model of corporate governance has heavily influenced accounting practice. For example, Palea (2015) acknowledges that:

"Financial reporting is not a neutral, mechanical and objective process that simply measures the economic facts pertaining to a firm. It is rather a powerful calculative practice that is embedded in an institutional context and shapes social and economic processes".

As a central process in the institutional setting of corporate governance, accounting practices have increasingly reflected a shareholder-orientated model of governance,

whereby “concepts and measurement of accounting income [are] solely from the shareholder perspective” (Sikka, 2015; see also Collison et al. 2014; Froud et al. 2014). Palea’s (2015, p.4) recent study of the emergence of fair value accounting in the European Union provides an example of how accounting technologies are embedded in a shareholder model of governance – she states:

“[the EU’s adoption of International Financial Reporting Standards (IFRS)] is very much focused on capital markets, as is the IASB, the body that issues IFRS. The IASB considers investors to be those most in need of information from financial reports... Moreover, it assumes that... financial statements that meet their needs also meet most of the needs of other users... Fair value reporting must be considered from this perspective. Fair value accounting is supposed to provide investors with better information to predict the capacity of firms to generate cash flow from the existing resource base, which should improve the decision usefulness of financial information”

Similarly, Sikka (2008) agrees with the view that the Anglo-American corporate governance model privileges “the rights of shareholders ... [by paying] attention to the relationships between shareholders and executive directors, auditors, chairmen, chief executives ... and the informational needs of capital markets” (p. 955). Further, he highlights that US and UK corporate governance processes largely ignore obligations to other stakeholders and that “[a]ccounting technologies aid such processes” because they regard payments to other stakeholders as a “cost” or a “burden” which must be reduced or even eliminated while “payments to capital (e.g. dividends) are considered to be a reward” (p. 396; see also Sikka, 2015). In this regard, it could be argued that “poverty, social inequality and inequitable distribution of wealth is legitimised not only by ... corporate governance structures ... but also by the highly visible hand of contemporary accounting practices” (Sikka et al., 1999, p. 5).

In an analysis of 49 countries, La Porta et al. (1996/1998 – hereafter 1998) investigated the origin of each country's legal system, the legal protection available to shareholders and creditors in each country, and the extent to which shareholders' and creditors' rights were enforced. From this investigation, they derived a classification of legal systems into two broad categories – one based on common law which originated in England (18 countries) with the other based on civil law drawing on Roman law traditions (31 countries) (La Porta et al. 1998). The countries within the civil law grouping were further classified into “three major families”: French (21 countries), German (six countries) and Scandinavian legal traditions (four countries).

Their analysis of legal regimes showed that common law countries generally offered stronger legal protection for shareholders compared to those in civil law countries; more specifically, La Porta et al. (1998) found that French civil law countries provided shareholders with the weakest legal protection, while the German and Scandinavian civil law countries were located somewhere in between. In addition, La Porta et al. (1998) also found that stronger investor protection was associated with less concentrated levels of share ownership. Consequently, they hypothesized that in common law countries, a larger proportion of shares will be held in the form of minority holdings by diversified shareholders.

The latter hypothesis is supported by La Porta et al's. (1997a) findings which highlight that countries with weaker investor protection have "smaller and narrower" capital markets for both equity and debt. They noted that the French civil law countries have "both the weakest investor protections and the least developed capital markets" (p. 1131) especially as compared with their common law counterparts.

In La Porta et al. (1998) the authors also seek to locate their findings in a broader socio-economic context and pose "the ultimate question" of "whether countries with poor investor protections ... actually do suffer" (p. 1152). They conclude that such countries do suffer since their evidence describes a link from legal origin to economic development. This evidence regarding the link between legal tradition and economic growth has been reassessed by La Porta et al. (2008); ten years after their original studies, they offer a strong defence of their initial thesis , stating:

“In sum, there is by now a great deal of evidence that legal origins influence legal rules and regulations, which in turn have substantial impact on important economic outcomes—from financial development, to unemployment, to investment and entry, to the size of unofficial economy, to international trade. Much of this evidence suggests that common law is associated with better economic outcomes than French civil law.

La Porta et al.’s statistical analysis has demonstrated that the origin of a country’s legal system is linked with the level of protection afforded to investors, and the degree to which its capital markets are developed. Their statistical results show that those countries with a common law legal tradition (such as the UK, the US and the other developed English-speaking economies) have greater levels of investor protection, larger capital markets with more dispersed company ownership structures, and a greater tendency for external equity funding of new enterprises. In La Porta et al. (1998) the authors also draw on other literature to show that such phenomena are associated with greater economic growth. In more recent work however, La Porta et al. (2008) noted, citing Glaeser et al. (2004), that “the evidence on the relationship between institutions and aggregate growth more generally, which seemed substantial a few years ago, has been crumbling” (p.302). Indeed, Ahlering and Deakin (2007) robustly state that there is “no sound basis for the argument that the common law is

more conducive to economic growth than the civil law” (p.868). Notwithstanding such observations, the main body of the La Porta et al. work is still regarded as robust by its authors: “our framework suggests that the common law approach to social control of economic life performs better than the civil law approach” (La Porta et al., 2008, p.327).

The significance of La Porta et al.’s work can hardly be overstated. This group are considered to be the four most influential authors throughout the world in the areas of economics and finance (Collison et al., 2012) and their work is among the most highly cited in finance according to a range of different metrics (Keloharju, 2008). As Aguilera and Williams (2009, p.1424) note, “they are, quite simply, academic rock stars”. Perhaps more importantly, for the purposes of our paper, La Porta et al.’s ideas have shaped the policy arena, and have “been adopted in international development initiatives by the World Bank as the basis for one set of its policy prescriptions for economic development in emerging markets” (Aguilera and Williams, 2009, p.1424; see also Cioffi and Smith, 2009). Further, “their ideas are indicative of and have supported, the virtually unrelenting pressure on European countries to adopt more market-dominated systems for organizing their economic life” (Aguilera and Williams, 2009, p.1424). The following section outlines some of the extant criticism relating to La Porta et al.’s emphasis on the protection of shareholders as a basis for policy prescription.

### **3. Legal protection of shareholders and income inequality**

As Subramanian, Belli and Kawachi (2002, p.289) argue, a narrow definition of economic development, comprising indicators such as GDP and per capita income,

“seriously truncates the choice of policies available to societies in their pursuit of population health improvement”. In this light, we would similarly take issue with the policy prescriptions arising out of La Porta et al.’s analysis – i.e. that corporate governance regimes which emphasise the protection of shareholders increase GDP and, by implication, improve social welfare. Indeed, Oto-Perlias & Romero-Avila (2014, p.615) refer to “[t]he pretended superiority of the common law... advocated by the extant legal-origins literature”, while Williams and Zumbansen (2011, p.6) argue that the premise that the shareholder model of corporate governance “enhances social welfare is... unsupported by the evidence”, which, to the contrary, shows that governance systems which prioritise the interests of shareholders are “correlated with increased economic insecurity and inequality” (see also Merino et al., 2010).

This assertion is echoed in a number of other studies. According to McSweeney (2008, p.67) developed countries exhibit the greatest disparity of wealth “where the ideology of shareholder wealth is strongest”. In this sense, it could be argued that corporate governance systems which prioritise the interests of shareholders may “accelerate” inequality. Indeed, one would expect that the dominance of a corporate objective which explicitly prioritises returns to one particular constituency would result in increased distributions to that constituency. In fact, as Dore (2008, p.1108) points out, in the Japanese context, a “shift to investor dominance is steadily increasing the capital share and reducing the labour share in GDP”, while also noting that “the distribution of the labour share is increasingly skewed in favour of those who work in finance”. Similarly, Froud et al. (2006, p.87) note that in the UK, the largest 100 listed companies (by market value) exhibited upward shifts in distributions to shareholders via dividend pay-outs from 13-20 per cent in the 1980s to 20-35 per cent

in 1990s and early 2000s. For Sikka (2015), the inequality that emerges from a shareholder model of governance is facilitated through accounting mechanisms. He states:

“accounting is not just a technique, but a resource in the political struggles over allocation and appropriation of economic surpluses. As accounting is closely aligned with the interests of capital, anything that obstructs expansion of capital’s share of surpluses is called a ‘cost’ or a burden and is consigned to negative spaces” (Sikka, 2015, p.49).

However, while the above studies link growing income inequality with a shareholder model of governance on the grounds that the model increases distributions towards shareholders, Froud et al. (2006) urge some caution in relation to this interpretation. More specifically, they argue that distributions to shareholders do not conform to the “pro-capital, anti-labour expectation” one might expect and that distributions to shareholders in the US have remained relatively static over a comparative period (Froud et al., 2006, p.86). Thus, Froud et al. (2006, p.4) note that corporate governance regimes which protect the interests of shareholders do not “therefore, have one invariant set of consequences such as increased management distributions to shareholders”. However, Froud et al. (2006), among many others, have drawn attention to other ways in which the legal protection of shareholders might lead to increased income inequality.

In comparing two ‘ideal-typical’ models of corporate governance, the Anglo-American (equivalent to the common law in La Porta et al.’s classification) and the Continental European model (equivalent to Civil law in La Porta et al.’s classification), Sjoberg (2009) develops a number of explanations for comparatively

greater levels of income inequality in the Anglo-American model. As Sjoberg (2009, p.519) notes, corporate governance is “ultimately about how the returns from production are distributed among the parties with a stake in the firm”. It has been suggested that in a model which prioritizes the interests of shareholders, managers will ultimately attach more importance to short term financial returns for shareholders (Erturk et al., 2008; Froud et al., 2006; Goldstein, 2012; Krippner, 2005; Sjoberg, 2009). In doing so, Sjoberg (2009, p.524) argues that managers are more “inclined to break implicit contracts [which provide] job security and long-term career progression to employees”. While acknowledging that breaking implicit contracts does not necessarily lead to wage differentials, Sjoberg (2009) nevertheless argues that greater wage variability may follow. Related to the reduction of diminishing job security for workers, is the issue of ‘skill poaching’, whereby firms recruit employees who have been trained by other firms. Because of the short-term focus of managers in a shareholder-orientated governance system, there is a concomitant reluctance to make long-term investments in labour (for example, through training programmes). This leads to a scenario whereby “traditional compensation systems, such as promotion ladders, are weak [and] the most obvious way of stemming the poaching tide is to pay key employees to stay” (Sjoberg, 2009, p.524; see also Schroeder, 2013). This has the consequence of bidding up wages for trained and skilled staff and tends to “exacerbate wage differentials” (Sjoberg, 2009, p.524).

Given that the rationale for protecting the interests of shareholders within the legal framework is, arguably, to prevent managers from “feathering their own nests” (Ireland, 2001, 149), it is somewhat paradoxical that in common law countries this institutional arrangement appears to have had the effect of driving up returns to



managers (Dobbin and Zorn, 2005; Dore, 2008; Froud et al., 2006; Goldstein, 2012; McSweeney, 2008; Sjoberg, 2009). Sjoberg (2009, p.525) notes:

“[O]ne remedy for the principal-agent problem that is arguably more evident in the Anglo-American model of corporate governance is for investors and shareholders to use incentive-based pay systems to align managerial interests with their own. The alignment of executive pay with company performance, in the form of profit based payments and stock options, may produce very high rewards for those at the top of the firm, thus increasing executive/non-executive pay differentials.”

As Froud et al. (2006, p.58) point out, “the increases enjoyed by the CEO and other key senior managers are not shared by the majority of other employees in the giant firms”. For example, they note that the ratio between the earnings of ordinary workers and CEOs in the US grew from 50 times in 1980 to 281 times in 2002. While the disparity was more modest in the UK, there was still a fairly sizeable shift over the same period – from 10 times in 1980 to 50 times in 2002 (see also, Dore, 2008; McSweeney, 2008). Furthermore, although “less visible” than rises in CEOs’ remuneration, the “increased velocity of financial dealing” also leads to a greater number of highly paid intermediaries, such as hedge fund managers, investment bankers, lawyers and accountants (Erturk et al., 2008, p.21). As Goldstein (2012, p.276) highlights, there has been a “progressive shift in the sectoral composition of employment and compensation from manufacturing toward services and finance” adding that “financial industries tend to employ managers at a significantly higher rate, and pay higher salaries, than does the economy as a whole”. This observation has led Erturk et al. (2008, p.21) to proclaim that there now exists “a new stratum of working rich”. Dobbin and Zorn (2005) identify managers of firms engaging in hostile takeovers, institutional investors and security analysts as particularly noteworthy

beneficiaries from (and promoters of) the shareholder value approach. These groups, according to Dobbin and Zorn (2005, p.184) represent a new “business knowledge elite” who can manipulate large companies, “enriching themselves... by skimming profits from the pension reserves of workers and the investments of the lumpen bourgeoisie”.

In linking inequality to shareholder models of corporate governance, Dore (2008, p.1107) notes that “measures of income inequality are rising... faster in the most “financialised” Anglo-Saxon economies”, adding: “median incomes stagnate while the top percentile, and especially the top permille make spectacular gains”. Moreover, the top earners “are not traditional rentiers... with the highest incomes going to those in financial services at the expense of everyone else” (Dore, 2008, p.1107). One of the consequences of increasing inequality brought on by investor demands for greater returns is that employees bear increased risk due to employment volatility (Dore, 2008).

In a more damning indictment of shareholder capitalism, McSweeney (2008, p.66) highlights the link between inequality and “cardiovascular disease and cancer”, “infant mortality and life expectancy, height, mental breakdown, tooth decay and morbidity”. He states that, “policies which facilitate maximization of shareholder value inevitably lead to greater inequality and [the] undermining [of] the health of many in a nation” (McSweeney, 2008, p.66).

Collison et al. (2007) provide some empirical support for McSweeney’s (2008) assertions, reporting a very strong association between income inequality and under-

five child mortality and highlighting that “Anglo-American” countries, where maximisation of shareholder value is arguably more pronounced (Australia, Canada, Ireland, New Zealand, UK and US) had higher levels of child mortality than any of the other 18 (richest) OECD countries. In a more recent study, Collison et al. (2012), investigate relationships between corporate governance traditions and quality of life as measured by a number of widely reported indicators (inequality, child mortality, prison populations and percentage of women MPs). Again, results from this study highlight how countries from “Anglo-American” countries exhibit comparatively inferior performance in terms of these societal health indicators. In this respect, Collison et al. (2012) provide evidence that suggests that maximising the interests of investors is not necessarily congruent with the interests of wider society. This issue is further considered via an exploratory empirical investigation in the next section.

#### **4. Data and Method**

To examine the association between legal origin and (i) income inequality as well as (ii) social health, data on child mortality were obtained from a number of sources. Specifically, the grouping of countries according to their legal origin was taken from La Porta et al. (1997a). This article split a sample of 49 countries into two main groupings based upon the origin of each country’s legal system. Income inequality and social health data on child mortality were obtained from various UN publications; such information was not available for two of the 49 countries (Iceland and Luxembourg) in La Porta et al.’s work (1997a) reducing the sample in the current paper to 47. Of these 47 countries, the legal system of 17 was based on English common law; these were grouped into Legal Origin Common Law (Australia, Canada, India, Ireland, Israel, Kenya, Malaysia, New Zealand, Nigeria, Pakistan,

Singapore, South Africa, Sri Lanka, Thailand, UK, USA and Zimbabwe). The legal system of the remaining 30 countries was based on civil law and these were combined together into the Legal Origin Civil Law grouping (Argentina, Austria, Belgium, Brazil, Chile, Columbia, Denmark, Ecuador, Egypt, Finland, France, Germany, Greece, Indonesia, Italy, Japan, Jordan, Korea, Mexico, Netherlands, Norway, Peru, Philippines, Portugal, Sweden, Switzerland, Spain, Turkey, Uruguay and Venezuela)<sup>2</sup>.

La Porta et al. (1997a) showed that the first group of countries had larger stock markets, more companies listed per head of population, a larger number of initial public offerings per capita, greater protection of shareholder rights and stronger protection of creditor rights (see Table 2 Panel A).

Two measures of income inequality are employed in this investigation. First, the ratio of the income of the richest 10% to the poorest 10% of the population (R10/P10) is used. Second, a Gini co-efficient of income inequality based on the income levels for the entire population, is examined (Gini index). Both measures were obtained for each country from the UN Human Development Report 2007-2008 and have been widely used in the literature as measures of income inequality.

Finally, the mean under 5 child mortality rate for the years 2003-2006 (U5 03-06) was used as a measure of social health for each country (UNICEF, year). As noted above,

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<sup>2</sup> In fact, 21 of these countries' legal systems were based upon French Civil Law (Argentina, Belgium, Brazil, Chile, Columbia, Ecuador, Egypt, France, Greece, Indonesia, Italy, Jordan, Mexico, Netherlands, Peru, Philippines, Portugal, Spain, Turkey, Uruguay and Venezuela), five countries' legal systems were based on German Civil Law (Austria, Germany, Japan, Korea and Switzerland) while the remaining four countries' legal systems were based upon Scandinavian Civil Law (Denmark, Finland, Norway and Sweden). However, in the current analysis, all of these civil law countries are combined together into one group for a clearer comparison between the common and civil law traditions.

under 5 mortality rates were chosen in this study as an example of a social indicator which previous research has shown to be related to income inequality (see, for example, Lynch et al. 2001; Wilkinson and Pickett 2009). Clearly other measures of social health could have been studied but data on mortality rates for under 5s is available from the UN for all of the countries in the final sample and these statistics are comparable across countries (Collison et al., 2007).

The analysis in this article has a number of components. Initially, the income inequality and social health variables (R10/P10, Gini Index, U5 03-06) are examined for each of the two main legal-tradition categories which La Porta et al. employed. Specifically, the mean of each of the social indicators is calculated and the null hypothesis that the means are equal is tested<sup>3</sup>. The second part of the empirical analysis examines the relationships that exist between the various measures of investor protection employed by La Porta et al. when grouping countries according to their legal origin, and the income inequality as well as the social health indicators examined in the current investigation. Specifically, correlation analysis is used to study the sign and size of any relationships that may be present.

In the third part of the empirical analysis, the inequality and social health variables are regressed on a dummy variable representing countries with a civil law tradition (value = 1) or a common law tradition (value = 0). Thus, three similar regression equations

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<sup>3</sup> There are a range of different countries within both legal origin groupings drawn from different ends of the epidemiological divide and in different proportions. These differences will be masked by an analysis of mean values; an analysis of medians yielded similar results. Further, the Analysis of Variance (ANOVA) test comparing the means takes account of the volatility of values within a grouping. These tests are included for completeness but other tests allow for these differing proportions.

were estimated for the inequality and social health variables. These regression models took the form:

$$SI_{si} = \beta_{s0} + \beta_{s1}LO_i + \beta_{s2}DEV_i + \varepsilon_i \quad (1)$$

where  $SI_{si}$  is the social indicator  $s$  for country  $i$  ( $s = U5\ 03-06, R10/P10, \text{Gini index}$ ),  $LO$  is the Legal Origin dummy variable for civil (value = 1) and common (value = 0) law traditions.  $DEV$  is a dummy variable which took on the value of 1 if the country is developed and a value of 0 if developing<sup>4</sup>; this variable is included to take account of the “epidemiological divide” – i.e. that income inequality and social health typically differ significantly between these two types of countries (Collison et al., 2012). Finally,  $\varepsilon_i$  is a random error term.

## 5. Results

Initially, the analysis examined whether the three inequality and social health variables being considered varied across the two broad groupings of countries from La Porta et al. based on legal origin. The results from this analysis are shown in panel B of Table 2<sup>5</sup>. In this panel of the table, the mean value of each social indicator together with its standard deviation is provided for the whole sample and for each of the two legal traditions. An F-statistic and its p-value are then reported for a test of the null hypothesis that the means for the two sub-groups are equal. An analysis of the findings reveals that sizeable differences exist in the U5 03-06 social health measure

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<sup>4</sup> Specifically, we followed the strategy employed in Collison et al. (2007) who identified the 24 wealthiest OECD countries as “Developed”; all other countries were labelled as “Developing” in the current paper.

<sup>5</sup> The findings from an analysis of median values for each of the social indicator variables were also calculated and revealed a similar pattern to the results for the means; although some descriptive statistics suggested that the variables might not be normally distributed this did not influence the overall picture to emerge from the data.

across the two groupings of countries based on La Porta et al.'s classification scheme. In particular, the mean level of under five child mortality in countries where the legal tradition is based on common law (mean = 46.99) is more than twice the comparable rate in civil law countries (mean = 16.03)<sup>6</sup> – although the standard deviation value for the common law countries is also much larger. A test of the null hypothesis that these means were equal using a one-way ANOVA was rejected at the 5 per cent level with an F-statistic of 7.86.

A less clear-cut picture emerges from the two inequality variables considered. Specifically, countries where the legal system is based on civil law tend to have a lower level of income inequality according to the Gini Index (38.41 v 40.57) but a higher level of income inequality according to the R10/P10 variable (18.30 v 14.82). However, in both instances, the F-test indicated that there was no difference in the mean values for countries with a civil law tradition and their common law counterparts.

A more detailed inspection of Table 2 reveals that there is some variability within the legal origin groupings for the social health and inequality variables being studied. In particular, some of the standard deviation figures were large. This seems to be especially the case for common law countries where the standard deviation values were highest for the under 5 child mortality figures being examined. With the two inequality measures, the standard deviation values were higher for the civil law countries. For example, the standard deviation value of the R10/P10 ratios for civil

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<sup>6</sup> In fact, countries with a Scandinavian civil law legal origin had the lowest under 5 mortality percentages, countries with a German civil law tradition were next while countries with a French civil law system were ranked third in terms of under 5 mortality figures. All three had means less than the common law countries.

law countries at 16.09 is over 2.5 times as large as the standard deviation number for the common law legal origin grouping. This finding is hardly surprising since the common and civil law groupings each contain a large number of countries at different stages of development.

The Spearman correlations<sup>7</sup> between the social indicator measures and the investor protection as well as legal origin variables are displayed in Table 3. Because of the results from Table 2, it is hardly surprising that the correlation findings confirm that a relationship exists between the legal origin of a country and its social indicators. However, this table goes further by examining whether a relationship exists between (i) the investor protection measures on which the legal origin grouping is based and (ii) the social indicator variables.

A visual inspection of Table 3 reveals that there is a strong negative association between the legal origin of the countries being studied and under-5 child mortality. In this case, the correlation measure of -0.304 is greater than its critical value allowing us to reject the null hypothesis that there is no association between the variables. In fact, the significant negative association suggests that as one moves from common law to civil law countries, under 5 mortality goes down and income inequality declines. While the correlation between the two income inequality measures and legal origin are also negative, the values are small indicating that the null hypothesis of no association cannot be rejected. When the investor protection variables are examined,

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<sup>7</sup> The non-parametric Spearman rank correlation analysis was selected because there was some evidence that the variables being examined were not normally distributed. In fact, descriptive statistics revealed that data for one of the social indicators and six of the investor protection variables were positively skewed. In addition, there was some evidence of kurtosis in the data series. However, an analysis of the parametric Pearson correlation coefficients revealed very little difference in the values calculated.



some 14 of the 30 correlations are statistically significant. In fact, six correlation values have p-values of less than 0.05 with U5 0306 (ExCapGNP, FirmsPop, IPOsPop, Debt/GNP, Log GNP and Rule of Law), three with R10/P10 (IPOsPop, Log GNP and Rule of Law) and five with the Gini Index (FirmsPop, Log GNP, Debt/GNP, Log GNP and Rule of Law). Thus, while the Rule of Law has a significant association with all three social indicators, four of the investor protection variables do not appear to be correlated with either under 5 mortality or income inequality. Finally, it is worth noting that the developed status of a country is also negatively associated with each of the three social indicator variables. To examine the relationship between legal origin and U5 0306, R10/P10 as well as the Gini Index while taking account of the developed status of a country, equation 1 is estimated and the results reported in Table 4.

Table 4 details the coefficients of the legal origin dummy variable (LO) and the development dummy variable with their corresponding p-values in a regression for each of the three social indicators studied. The adjusted R<sup>2</sup> values for the 3 regressions are also shown. An inspection of Table 4 confirms the findings from the correlation analysis by suggesting that a significant relationship exists between one of the social indicator measures and the legal origin variable. The strongest and most significant association is between under 5 child mortality and the legal origin variable. For example, the co-efficient for the legal origin variable is negative for the U5 03-06 equation (at -32.140) suggesting that under 5 child mortality is lower in countries which don't have a common law tradition; for this social indicator measure, the co-efficient is statistically significant at the 5 per cent level. A slightly different picture emerges for the R10/P10 and Gini index equations where the LO dummy variable has

a positive co-efficient of 3.117 and a negative co-efficient of -2.482 respectively; however, in both cases, the p-values are greater than the critical value of 0.05 not allowing us to reject the null that the co-efficients are different from zero at conventional significance levels.

For all three regressions, the co-efficient for the DEV dummy variable is statistically negative at the 5 per cent level; such a finding is hardly surprising since it simply indicates that under five mortality rates are higher and income inequalities are lower in less developed countries. What is surprising is that, once a country's development status is taken into account, its legal origin has a role to play in explaining its under-five mortality rate.

Finally, it is worth pointing out that two of the three regression equations have relatively high explanatory power. Specifically, for the U5 03-06 and Gini Index the equations, the  $R^2$  values are 39.6% and 34.0 per cent respectively. Between a quarter and a half of the variations in the social indicators can be explained by a simple model based on the legal origin of the country and its development status.

The following four findings summarise this analysis. First, the mean level of under 5 child mortality in countries with a common law tradition is more than twice the comparable rate in civil law countries. Second, we provide significant statistical evidence that as one moves from common law to civil law countries, the under 5 child mortality social indicator steeply declines and the comparatively more subjective measures of income inequality also lessen, but less starkly. Third, we find statistically significant associations between our social indicators, the developed status of the

country and La Porta et al.'s variable 'Rule of law' which indicates their assessment of the law and order tradition in the country. In this sense under 5 child mortality, the comparison of income between the richest and poorest 10% of a country's population (R10/P10), and income equality across the full population (the Gini index) are all significantly associated with the Rule of Law variable; however four of the investor protection variables do not appear to be correlated with either income inequality or under 5 child mortality. In addition we show that the developed status of the country is negatively associated with each of the three social indicators, an arguably counter-intuitive finding. Finally, a statistically significant finding emerged that under 5 child mortality is lower in countries with a civil law tradition. Up to half the variation in either income inequality or under 5 child mortality can be explained by simple regression equations which examine legal origin and development status. Indeed, even once a country passes the epidemiological divide in terms of development status, we still see evidence that its legal origin contributes to explaining its under 5 child mortality.

## **6. Discussion and Conclusions**

The aim of this study was to develop a proposed research agenda in order to highlight how corporate governance, accounting and company law are relevant to the consideration of income inequality and wider social health. The paper illustrates this proposed research agenda by drawing on corporate governance research in the law and finance tradition, as well as macro-level studies in accounting concerned with the wider corporate governance context, in order to consider the association between shareholder protection, income inequality and child mortality. In particular, the paper sought to challenge a core assumption associated with corporate governance research

in the law and finance tradition –i.e. that a shareholder protection framework is a superior approach to the “social control of economic life” and leads to better social outcomes (La Porta et al. 2008, p.327).

As noted at the start of this paper, this body of research (and especially the work of La Porta et al. 1997a, 1998) has been exceptionally influential in shaping development policy at an international level, through supranational organisations such as the World Bank. Despite this influence, a number of recent studies have provided good cause to question the efficacy of the claims made in the law and finance literature. In particular, it has been suggested that corporate governance systems that prioritise the interests of shareholders are associated with much greater relative disparities of wealth (Dore, 2008; Froud et al. 2006; Sjoberg, 2009; Williams and Zumbansen, 2011).

Motivated by a recognition of the growing inequality under shareholder orientated governance regimes, and a concern with the promulgation of development policy that is underpinned by narrow definitions of economic development (Subramanian et al., 2002), this paper undertook an exploratory analysis of the link between shareholder protection, income inequality and child mortality.

Findings from this study suggest that child mortality does vary according to the legal origin of the country; mortality levels are higher in common law countries where the stock market is a prominent source of funding and the protection of shareholder interests is emphasized. This difference persists even when the developed status of a country’s economy is taken into account. Surprisingly, the findings for inequality are not as strong; the two inequality measures considered in this paper were not

significantly different between civil and common law countries. In fact a wide range of inequality levels seemed to be present in the cross-section of countries for both legal origin regimes.

Further work is required to build on our exploratory analysis; we suggest a number of potential avenues for further research below.

In a series of papers by Deakin and his colleagues at the University of Cambridge (Ahlering and Deakin, 2007; Armour et al, 2009, 2010; Deakin, 2009; Deakin et al., 2007), they develop a fairly robust critique of the legal origins work of La Porta et al. (1997a, 1998). Their work is motivated by a number of concerns – including (i) that the data that underpins La Porta et al’s work includes coding errors and inconsistency in the values attributed to certain legal rules and, (ii) that their work largely consists of cross-sectional datasets, which provide evidence on the state of the law only at limited points in time (Armour et al., 2009). In addressing these concerns, Deakin and his colleagues have constructed a longitudinal dataset, using a greater number of variables that enables them to “capture the dynamics of legal change over time”. The datasets from this work are available in the public domain<sup>8</sup>, and could be usefully employed to undertake time-series analyses to test for correlations between a range of corporate governance variables (on shareholder protection, creditor protection and labour laws) with other social indicators, including measures of inequality.

One specific avenue for research that the Cambridge dataset would permit - would be the further exploration of the link between “financialisation” and income inequality. The term “financialisation” refers to “the ascendancy of finance capital over industrial

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<sup>8</sup> <http://www.cbr.cam.ac.uk/research/research-projects/completed-projects/law-finance-development/>

capital, and... profitability based on financial returns from credit markets and speculation” (Arnold, 2009, p.58). As Krippner (2005, p.181) points out, “in a world where accumulation occurs predominantly through financial activities, one would expect systems of corporate governance to reflect the imperatives of financial markets”.

By tracking changes to the legal protection of shareholders over time and in different jurisdictions, the Cambridge dataset would allow researchers to more robustly assess the extent of financialisation and the extent to which it is linked to growing income inequality. This potential avenue of research is alluded to by Aguilera and Williams (2010), in their critique of La Porta et al. They note:

If, as it seems, the legal origins measure of stock market capitalization to GDP does not relate to or predict aggregate growth but perhaps does measure financialization... this outcome measure may, in more market economies, be inversely related to better economic outcomes. While this is frank speculation, it is based on the view that the underlying strengths and stabilities of European social democracies perhaps ameliorated the worst excesses and instabilities of financialization (p.1431)

We would suggest that a range of variables in the Cambridge dataset might provide an indication of financialisation (i.e. not only the outcome measure of stock market capitalization to GDP). Time series analysis would permit a more nuanced analysis of the relationship between financialisation and income inequality. For example, if we accept Aguilera and Williams’ assertion that institutional features of European social democracies might curb the excesses and instabilities of financialisation (in particular, in limiting the extent of income inequality), one could explore the extent to which labour laws act as a countervailing force to financialisation and the general trend towards increased shareholder protection (Deakin, 2009).



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**Table 1 Panel A**

## Description of the social indicators

U5 03-06	Mean under five child mortality rate for the years 2001-2004 Source UNICEF's State of the World's Children Reports 2003 - 2006
R10/P10	The ratio of the income or expenditure share of the richest 10% of a population to that of the poorest 10%. Source UN Human Development Report (HDR) 2007-08
Gini Index	Gini coefficient of income inequality Source UN HDR 2007-08. This measure, unlike the R10/P10 ratio is based on income levels for an entire population.

**Table 1 Panel B**

## Summarised description of the variables reported in Table 1 of La Porta et al. (1997a)

Legal Origin	Identifies the legal origin of the company law or commercial code of each country source. [Civil = 1; common = 0.]
ExCap/GNP	The ratio of the stock market capitalisation held by minorities to gross national product in 1994.
FirmsPop	Ratio of the number of domestic firms listed in a given country to its population (in millions) in 1994 source: emerging market fact book and world development report 1996
IPOsPop	Ratio of the number of initial public offerings of equity in a given country to its population (in millions) for the period July 1995 to June 1996.
AntiDir	An index aggregating shareholder rights.
Debt/GNP	Ratio of the sum of bank debt of the private sector and outstanding non-financial bonds to GNP in 1994, or last available.
GDP Growth	Average annual percent growth of per capita gross domestic product for the period 1970-1993.
Log GNP	Logarithm of Gross National Product in 1994
Rule of Law	Assessment of the law and order tradition in the country. Average of the months of April and October of the monthly index between 1982 and 1995. Scale from 0 to 10, with lower scores for less tradition for law and order.
Ishare1vote	Equals one if the Company Law or Commercial Code of the country requires that ordinary shares carry one vote per share, and 0 otherwise. Equivalently, this variable equals one when the law prohibits the existence of both multiple-voting and non-voting ordinary shares and does not allow firms to set a

	maximum number of votes per shareholder irrespective of the number of shares she owns, and 0 otherwise.
Creditor Rights	An index aggregating creditor rights. The index is formed by adding 1 when: (1) the country imposes restrictions, such as creditors' consent or minimum dividends, to file for reorganization; (2) secured creditors are able to gain possession of their security once the reorganization petition has been approved (no automatic stay); (3) the debtor does not retain the administration of its property pending the resolution of the reorganization; (4) secured creditors are ranked first in the distribution of the proceeds that result from the disposition of the assets of a bankrupt firm. The index ranges from 0 to 4.
[DEV	Dummy variable for epidemiological divide. Developed country = 1; developing country = 0.]

Note: This table provides definitions of each of the variables examined, based on La Porta et al. (1997a). The data reported in this table are not all from the same year as each other or as the data reported in the La Porta et al. (1997) study. The figures on child mortality have been taken from the Collison et al. (2007) paper for consistency with that set of data. (It should be noted that more recent child mortality figures based on the years 2005- 2007 have also been confirmed as showing comparable statistically significant correlations with income inequality (Collison et al., 2009). The differences in base year relative to the La Porta et al. (1997) study are arguably appropriate in principal since one could regard social indicators as being a lagging variable relative to economic indicators. However the broad structural differences in socio-economic variables between countries are arguably such that the ideal time differences for an examination such as this are moot. Furthermore we would not expect the figures and relationships under consideration to be very sensitive to such timing issues.

Table 2 An Analysis of the Social Indicator Variables According to a Country's Legal Origin

Variable	Total	Common Law Legal Origin	Civil Law Legal Origin	F-test
Panel A				
ExCapGNP	0.367 (0.352)	0.561 (0.458)	0.251 (0.204)	9.38*
FirmsPop	20.140 (24.160)	32.350 (34.600)	13.210 (11.340)	7.82*
IPOsPop	0.937 (1.437)	1.982 (1.846)	0.472 (0.920)	11.77*
Debt/GNP	0.587 (0.310)	0.676 (0.218)	0.541 (0.319)	1.79
GDP Growth	3.542 (1.872)	4.104 (1.897)	3.223 (1.811)	2.48
Log GNP	11.719 (1.619)	11.402 (1.806)	11.898 (1.506)	1.02
Rule of Law	6.696 (2.690)	6.361 (2.830)	6.886 (2.637)	0.41
AntiDir	2.404 (1.192)	3.353 (0.786)	1.867 (1.042)	26.09*
Ishare1vote	0.213 (0.414)	0.177 (0.393)	0.233 (0.430)	0.20
Creditor Rights	2.267 (1.372)	3.059 (1.249)	1.786 (1.228)	11.23*
Panel B				
U5 03-06	27.23 (38.99)	46.99 (58.100)	16.03 (13.800)	7.86*
R10/P10	17.05 (13.52)	14.82 (6.41)	18.30 (16.09)	0.71
Gini Index	39.20 (9.29)	40.57 (6.93)	38.41 (10.43)	0.58

Note: This table shows the mean (standard deviation) for the investor protection variables in La Porta et al. (1997a) as well as the social indicator variables in total (Total) and for each legal origin grouping (Common Law and Civil Law). The final column contains an F-ratio that tests the null hypothesis that the means are equal across the two legal origin categories. An \* indicates that the F-value is greater than its critical value and that the mean difference is statistically significant at the 5% level.



Table 3 Correlation Analysis

	U5 03-06	R10/P10	Gini Index
ExCapGNP	-0.183*	-0.046	-0.080
FirmsPop	-0.575*	-0.196	-0.318*
IPOsPop	-0.524*	-0.290*	-0.314*
Debt/GNP	-0.488*	-0.301	-0.370*
GDP Growth	0.365	0.027	0.143
Log GNP	-0.485*	-0.319*	-0.435*
Rule of Law	-0.755*	-0.439*	-0.597*
AntiDir	0.171	0.122	0.093
Ishare1vote	-0.073	0.109	0.128
Creditor Rights	0.216	-0.155	-0.054
Legal Origin	-0.304*	-0.140	-0.168
DEV	-0.770*	-0.455*	-0.607*

Note: This table shows the Spearman correlation coefficients for the variables included in the analysis. The top part of the table displays the correlation coefficients among the investor protection and social indicator variables while the bottom part of the table shows the correlation between the social indicators and the legal origin classifications from La Porta et al. as well as a dummy variable for the development status of the country. An \* indicates significance at the 5 per cent level for a one-tail test.

Table 4 Regression Results

Predictor	U5 03-06		R10/P10		Gini Index	
	$\beta$	p-value	$\beta$	p-value	$\beta$	p-value
Constant	68.363	0.000	21.289	0.000	46.353	0.000
LO	-32.140	0.001	3.117	0.403	-2.482	0.286
DEV	-40.308	0.000	-12.212	0.001	-10.923	0.000
$R^2$	39.6		18.9		34.0	

Note: This table displays the coefficients ( $\beta$ s) and their p-values for the three regressions undertaken. LO is a dummy variable where a value of 0 represents common law countries and a value 1 is given to civil law countries  $R^2$  refers to the adjusted  $R^2$  of the regression equation.