

Managing (?) Labor's (?) Pension (?) Capital (?)

– Revisiting Stanford

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Stanford – 1 (Revisited): Are Pension Funds Important?

Pension (= defined benefit plan) funds are less important than believed

- Pension funds hold a not insubstantial, but an absolutely modest fraction of corporate shares **BUT**
- Opportunities for collaborative action **THOUGH**
- **Though, challenges even among labor-influenced funds**

Pension funds are declining in importance

- Pension funds hold - relatively speaking – a declining fraction of shares held through retirement schemes
 - Defined contribution schemes
 - Individual account schemes: Individual Retirement Accounts, Registered Retirement Savings Plans, Tax Free Savings Accounts, (now?) Pooled Registered Pension Plans.
- Non-U.S. investors hold a not insubstantial and increasing fraction of corporate shares **BUT**
- Opportunities to engage and shape – not embrace – defined contribution plans...for those trapped in them? For activism?
- Opportunities to engage and shape – not embrace – IRAs, in part as follow-on to DC plans; RRSPs? TFSSs? PRPPs?
- Opportunities for cross-border collaboration?

The (mal-)distribution of wealth is strongly countervailing

- The distribution of wealth increasingly and starkly disparate
- A relatively few (U.S.) households directly or indirectly hold the vast majority of corporate shares **BUT**
- **Choose targeted strategies?**

Stanford – 2 (Revisited): Do Pension Funds Belong to Workers?

The legal and moral basis is unclear

- **Conventional law (U.S.):**
 - **Workers' claim is only to benefits**
 - **Claim on fund assets only to ensure payment of benefits**
 - **Claim on (some) enterprise assets to ensure payment of benefits**
 - **No workers' claim on the "surplus"**
 - **Note: back-up insurance (Pension Benefit Guaranty Corporation)**

Employers' bearing risk and "workers'" funds incompatible

- **The conventional legal rationale, linked to claims to surplus BUT**
- **Doesn't necessarily require employer claim on pension fund assets**
- **Workers also bear risks**

Pursuit of control at the extreme leads to individualization (= bad?)

- **The culture of finance and the pathologies of choice BUT**
- **"Choice" as justification for worker role in governance, standards for investment**
- **The practical benefits of individual "choice"**

Stanford – 3 (Revisited):
Can Workers Invest “Their” Monies in “Alternative Ways”?

Trust and fiduciary law stand in the way

- For a long time they have **BUT**
- **Long overdue for a change**
- **Less of an obstacle in DC and other “individual”-type schemes AND**
- **Look beyond “the law”?**

That law cabined or channeled by contrary literature, ideology, practice of finance

- For too long this has been the case **BUT**
- **Long overdue for a change AND**
- **Pressing for the right kind of change can have important positive spill-over effects related to “financialization”**
 - **At the institutional level**
 - **At the household level**

Stanford – 4 (Revisited): Workers Won't Want to Invest in “Alternative Ways”

Only modest support for screening

- Almost certainly true
- Desire for financial returns still by far predominant **INDEED, BUT**
- Screening as an approach out of favor
- Engagement as an approach in favor
 - A more convincing argument for workers? **AND**
- Worker awareness important for this and for other reasons

Greatest interest and mobilization on pension promises

- Legitimate and important concern; understandable reaction
- A real challenge **BUT VERY IMPORTANT:**
- Worker awareness of links between “pension”/“pension finance” and economy, practical challenges they face is important
- Indeed little study, knowledge of links

Stanford – 5 (Revisited):

Will “alternative” investment choices promote a “better economy”?

(I)

Passive choices ethical screening: impossible to change corporate behavior

- Indeed **BUT**
- **Active management and engagement: chosen means now for most active pension fund and other institutional investors**

Active management/engagement: some potential to influence management at the margin

- **Definitional issues: at whose margin?**
- **So far the “asks” or “demands” have been modest; and “success” even more modest**
- **THOUGH, relation of “success” to strength of non-investor constituencies**
- **BUT THEN...?**

Both accept dominant role of profit-seeking private management

- Indeed **BUT THEN?...MORE ON THAT SHORTLY**

Stanford – 5 (Revisited):

Will “alternative investment choices promote a “better economy”?
(II)

Alternative mobilizations: positive actions the profit-seeking private sector does not take

- Low-cost housing (Concert Properties)
- Non-profit banking and social insurance services
- Cooperative, 3rd-sector community services
- Public infrastructure (old Teacher’s fund)
- Interventions around business restructuring
- Unionization, other strategic moments
- Fonds de solidarité des travailleurs du Québec (F.T.Q.), Heartland
- National/regional economic development (QPP)
 - Caisse de dépôt et placement du Québec
- Political goals

But take into account why the private sector is not doing this!

INDEED

- Time for a hard look at what has gone well....and what has not.
- Same issues in the U.S., e.g., AFL-CIO Housing Investment Trust, Building Investment Trust , ULLICO (Union Labor Life Insurance Company) Amalgamated Bank – Long View Fund
- Different approach in Australia, e.g.,
 - “Industry” superannuation fund owned
 - Industry funds Management

Stanford – 6 (Revisited):

Do not let pension fund activism undermine pension activism

Labor's resources are constrained YES, BUT

They do not necessarily have to be in tension. Pension fund activists can be pension activists SO

More reason to *be clear on the strategic vision and the role of pension fund activism in it*

Where the resources go should follow BUT ALSO

The link between pension fund activism and pension activism

• The financial “fate” of pension funds is directly bound up with the “fate” of pension fund investments

- **What is it appropriate, practicable to expect from – reward and risk– those investments?**
- **What are the consequences of funds (and others) having such expectations for enterprises or governments (and those who work for them) which are the objects of investment**
- **What does it mean for (plan) enterprises or government if expectations are not met?**
- **A curious form of “workers’ ownership”?**

The link between pension fund and pension activism and the role and impact of financial markets

Stanford – 7 (Revisited):

Explore options to use pension funds to mobilize real capital
in alternative ways

Do this

- within the context of a broader struggle to regulate finance: pension funds as one pillar within an alternative structure of financing real enterprise
- in a manner supportive of broader social change mobilization: need for training and motivating genuine alternative entrepreneurship **INDEED**

But namely, what....and how?

Stepping back: Pension fund activism...for what purpose....how...with what cost or consequences?

- **For example, corporate governance activism**
 - **Is better “governance” necessarily good for workers?**
 - **How much should we really care about “say on pay?”**
 - **Overarching goal(s): Is there an “end game” ... if so, what is it?**
 - **“Training ground” for other kinds of activism?**
- **For example, activism on private equity**
 - **Financially attractive “alternative” investments**
 - **Enormous pension investments in private equity BUT**
 - **Financial “locusts” that “destroy everything and move on”? [Franz Müntefering, chairman of Germany's ruling Social Democratic party, 2005]**
 - **Part of the 1% (?) who feed at the public (tax subsidy trough): carried interest and interest as a deduction [Bain... Romney... etc.]**
 - **BUT cutting deals for takeover, restructuring of particular companies that are “good” for labor**
- **For example, financial crisis and financial markets “reform”**
 - **The crisis: Where the pension funds: victims or perpetrators?**
 - **“Reform”: Tinkering at the margins?**
 - **Modest attention to, little capacity to address the issues**

Underlying Issues

- **At the level of the enterprise**
 - **“Ownership” or other claims (if any) against or in relation to the assets of the enterprise**
 - **Relationships of power, governance in relation to how the enterprise operates: distribution, allocation among**
 - Enterprise workers**
 - Other enterprises**
 - Government**
 - Others**
- **At the level of the society/economy/across enterprises**
 - **What enterprise is allowed to do, how it does it**
 - **Claims on the assets of enterprises, on the wealth they produce**
 - **Provision of resources to enterprises**
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Discourse of Pension Fund Activism: The Enterprise and “Capital”

- Pension funds exercise (some) power as “owners” of for-profit enterprises, that is, as shareowners
 - Role of pension funds as lenders?
- By definition accept that shareholders directly and as ostensibly represented by boards have sole power with regard to the disposition of enterprise assets
- As a practical matter accept the relationships which characterize “production,” i.e. the “employer-employee” relationship
 - NOTE: Are “non-profit” enterprises – as conventionally understood – any different in either respect? And if so, then?
- Why? Because
 - Prevailing institutional, legal, ideological limits cannot be changed?
 - No ambitions beyond those limits?
 - Ambitions beyond those limits but a lack of the wherewithal to pursue them
 - First things first?
- A frank and full conversation on this needed to determine the best role for pension fund activism

Ambitions?: At the Level of the Enterprise

- **Maximize worker interests within prevailing institutional and legal arrangements**
 - Do not contest “management rights and prerogatives.”
 - Do not contest how enterprise assets are allocated or used
 - Leave shareowner power and board power intact
- **Extend worker power into areas of management rights and prerogatives.**
 - Blur the lines, e.g., discipline, work/production rules
 - Leave shareowner and board power intact
- **Gain information and consultation rights on matters that fall under management rights and prerogatives**
 - Works councils
 - Shareowner and board power left intact
- **Gain participation rights (“co-determination”)**
 - Largely within the conventional context of corporate authority or power structure
 - Worker role in decision-making nominally on a par with shareowners
 - No worker claims on enterprise assets on ongoing or liquidation basis
- **”Shared capitalism”**
 - Employee ownership; individual employee stock ownership; stock options profit-sharing; gain sharing
 - Leave shareowner and board power intact
- **“Full-blown” worker power**
 - No “employer-employee” relationship
 - For example, “democratic firm”
 - No shareowners/shareowner power
 - Worker-based governance (+ union?)
 - Workers as sole claimants on enterprise net value
- **Other**

Discourse of Pension Fund Activism: Across Enterprises, “Capital,” and Finance”

- **Pension funds – and other retirement schemes – one institutional form for ostensibly individual saving...for “finance”:** for retirement
 - **Associated with certain goals, timelines, expectations and interests of “savers”**
 - **Little thought about implications of these at the enterprise level**
 - **Little thought about implications of these at the cross-enterprise, societal levels**
- **Other, related forms of ostensibly individual saving...for “finance”:** Housing? Education? Health? (!) Enterprise? Other?
 - **Associated with different goals, timelines, expectations and interests of “savers”**
 - **Different Implications of these?**
- **Relation to, role of other forms of collective saving...for “finance,” e.g., by government, quasi-governmental entities?**
- **A frank and full conversation on this needed to determine the best role for, course of pension fund activism**

General Approaches

- **Spur worker-friendly changes in governance structures of pension and other retirement schemes**
 - **Prepare, select, train, and provide resources to worker representatives in the governance structures of those schemes**
 - **Create structures, systems, tools and other resources to closely coordinate retirement scheme-related and other aspects of strategies**
 - **Continue fight for DB plans but incorporate in strategies ways to protect workers forced to be in DC-type schemes, leverage assets in those schemes in worker friendly ways**
 - **Spur changes for a more worker-friendly legal understanding of the investment authority and responsibilities of those who govern pension and other retirement schemes**
 - **Require or spur retirement schemes to invest in more worker-friendly ways**
 - **DB-type schemes: through the specific investment decisions made on behalf of individuals**
 - **DC- or other individual-type schemes: through the specific investment choices available to individuals to make**
- **Require or spur the**
 - **creation/growth of companies engaged in certain economic spheres**
 - **creation/growth of companies with alternative structures of power, purposes, or commitments to certain ways of “doing business”**
 - **establishment of vehicles to finance the creation/growth of enterprises engaged in certain kinds of economic activities**
 - **establishment of vehicles to finance enterprises with alternative structures of power, purposes, commitments to certain ways of “doing business.”**

Particular Means and Methods

- **Conventional corporations**
 - **Screen out investments in those with problematic behaviors**
 - **Invest in them conditioned on behaviors meeting specified criteria**
 - **Press resolutions at shareholder meetings to spur or compel changed behaviors**
 - **Engage board members/senior executives to spur changed behaviors**
 - **Press for means to elect and spur election of directors more responsive to concerns about behaviors**
 - **Press for mandatory or voluntary disclosure about behaviors**
 - **Press for mandatory changes in behaviors**
- **Other than conventional corporations**
 - **Invest directly or through new, special-purpose vehicles to finance the creation/growth of conventional or other enterprises In certain economic spheres with**
 - **Alternative structures of power**
 - **Alternative purposes**
 - **Commitments to certain ways of “doing business”**
 - -