

2006

Pension Power: Unions, Pension Funds, and Social Investment in Canada

Jinyan Li

Osgoode Hall Law School of York University, jli@osgoode.yorku.ca

Source Publication:

Banking and Finance Law Rev.. Volume 21, No. 3, (2006), p. 553.

Follow this and additional works at: https://digitalcommons.osgoode.yorku.ca/scholarly_works



Part of the [Labor and Employment Law Commons](#)



This work is licensed under a [Creative Commons Attribution-NonCommercial-No Derivative Works 4.0 License](#).

Recommended Citation

Li, Jinyan. "Pension Power: Unions, Pension Funds, and Social Investment in Canada." *Banking and Finance Law Review*. 21.3 (2006): 553.

This Commentary is brought to you for free and open access by the Faculty Scholarship at Osgoode Digital Commons. It has been accepted for inclusion in Articles & Book Chapters by an authorized administrator of Osgoode Digital Commons.

Pension Power: Unions, Pension Funds, and Social Investment in Canada

Isla Carmichael
(Toronto: University of Toronto Press, 2005)
226 pp.

*Jinyan Li**

Pension Power: Unions, Pension Funds, and Social Investment in Canada is a controversial book and is intended to be so. The author not only advocates that unionists play a part in managing pension fund capital, but also demonstrates how that can be accomplished. She anticipates that the book will certainly not find favour with the financial industry and employers who currently control the pension funds. But perhaps even some parts of the Canadian trade union movement and the Left will not be sympathetic to her call for more confrontation with the employers and the financial industry.

At the beginning of her book, the author describes the massive amount of pension money that is in the nature of “deferred wages”: as of the fourth quarter of 2003, there were approximately \$624.2 billion in trustee pension funds. This is the largest pool of capital in Canada. Unlike actual wages, neither workers nor their unions have control over these “deferred wages” with respect to how the money is invested. Professional pension fund managers have almost total discretion over the investment of funds. Only in a minority of cases, workers and their unions have control over pension fund investment. One example is the union pension funds investing in Concert Properties Real Estate Corporation of British Columbia (“Concert”).

The author advances several reasons why more attention should be paid to union involvement in pension fund investment. First, in cases where the union is already involved in pension fund management, union

* Professor, Osgoode Hall Law School, York University.

trustees require urgent training from a union perspective. Second, the prevailing investment practices of pension funds are irrational and speculative as they invest heavily on the stock markets. More productive investment practices can take into account the interests of beneficiaries, workers, government and the broader community. Finally, there is a need for a greater level of accountability and transparency of pension fund investment.

The book has three parts, organized in 14 chapters. Chapters 1 to 7 make up Part 1. Chapter 1 describes the development of unions and workplace pension plans. Chapter 2 analyzes the “prudent man” principle that underlies pension investment policy and trusteeship of capital and concludes that this principle and the fiduciary responsibility have “enabled the corporate sector to maintain its control over pension funds, originally through individual employers and subsequently through the financial industry”, and “has blocked union trustees from alternative investment strategies on the grounds that these decisions would represent subjective or ideological viewpoints and that they would lower the rate of return” (p. 35). According to the author, the pursuit of maximal rate of return has discouraged social investment initiatives in Canada. Chapter 3 discusses the expansion of capital markets and market inefficiencies. The author argues that pension funds have substantial resources and experience to improve market efficiencies while at the same time bring a broader perspective to investment. The way for pension funds to effect change is through shareholder activism. Chapter 4 discusses shareholder activism as a corporate governance issue as well as a social investment issue. “Shareholder activism” is used to “describe a whole range of actions up to and including the pulling out of shares to force corporate accountability” (p. 49). The author notes the barriers posed by corporate law to shareholder activism, but argues that pension funds could decide to base their shareholder action on a broader view of corporate performance beyond governance issues, encompassing indicators of social economic performance. Pension funds could also take a more proactive approach to corporate governance by representing the pension fund on the board of directors of the company and, thereby, working with a company on a long-term basis.

Chapters 5 to 7 provide a theoretical and somewhat empirical explanation of social investment and social accounting. In Chapter 5, the

author examines the issues of social investment and uses models of social accounting for measuring corporate accountability. She defines “social investment” as “the inclusion of various social standards in investment decision-making to accompany financial standards” (p. 62). She argues that social investments are in the interests of both workers and communities and that recognizing the social and economic nature of investment enables better information on equity value, and thus a more efficient market. Chapter 5 also discusses corporate social responsibility, measures of social performance, social audits, and “ethical screens” (such as negative screens that prohibit fund investment in nuclear power corporations or tobacco and alcohol manufacturers, and positive screens that encourage investment in labour-friendly corporations). Do social investments have a negative impact on rate of return? Drawing from the studies on ethical funds, the author argues that there is no strong evidence that ethical investments hamper financial performance. Chapter 6 surveys the literature on “radical accounting” and assesses studies on the models of social accounting. In the absence of any specific method of social accounting, the author suggests a number of issues for consideration, one of which is that governments invest in pension funds in the form of tax subsidies. Chapter 7 discusses investment practices and describes two case studies: the Caisse de Depot et Placement du Quebec, and labour-sponsored investment funds.

Chapters 8 to 10 in Part 2 describe the findings of a case study on Concert and Mortgage Fund One, both funded by pension investments in British Columbia. Concert was totally funded and owned by pension funds, specializing in land acquisition and real estate development. Mortgage Fund One is a mortgage trust owned by pension funds and was developed primarily to provide debt financing to Concert. Investments in these two entities lead to financial and social benefits by securing substantial returns, providing higher-waged work for union members, and advocating a union presence in B.C. The author cautions the dangers of overexposure of pension investments to real estate, and the dangers of self-serving investments in job creation. She also examines the social implications of a particular project in a working class neighbourhood in Vancouver – the Collingwood housing project. She uses one social accounting model to calculate the direct effects of the job creation on the broader community and shows that a total labour

value of \$38 million can be attributed to Concert from its on-site labour component of almost \$57 million. Another social accounting model estimates the returns from the Collingwood project to stakeholders: shareholders made an average rate of return of 8.5% on their investment, with dividends from Concert unaccounted for; governments made a net loss of \$7.5 million, taking into account only revenues generated by on-site labour and property taxes. With respect to the overall impact of Concert on the broader community, the author finds that Concert doubled its direct, attributable hours of employment in the community, and its contribution to community productivity was more than double its total costs over a ten-year period. In addition, the author finds that all levels of government obtained total tax revenue of \$144.5 million, which far exceeded the amount of tax revenue forgone on pension funds.

Chapters 11 to 14 make up Part 3. Chapter 11 is perhaps the most noteworthy chapter. Here, the author asserts that shareholder activism and corporate governance, ethical screens, and economically targeted investment satisfy the definition of social investment as the “inclusion of various social standards in investment decision-making to accompany financial standards”. She also notes that “one factor common to all forms of social investment is the need for collective action by unions and pension funds” (p. 160). In terms of models of social accounting, the author claims that such accounting should – and can – be used as tools to assess the collateral benefits of investment (p. 164). The social accounting methods used in the study track two types of benefits: a) internal benefits to the stakeholders (workers through job creation, pension fund shareholders through increased contributions and dividends, and government through increased employee taxes); and b) broader community benefits (job creation, indirect and induced effects of job creation, total costs of the investment project, and indirect and induced effects on taxation of the project). A key source of social value appears to be jobs (including those “union only” jobs) created by the investment. Chapters 12 to 14 analyze the social accounting models presented in the book, suggest two models for union control of pension funds, and point out issues for further research.

The book contributes to literature on social investments by providing a first social accounting of an economically targeted investment by a pension fund in Canada (*i.e.*, the Concert project). The author correctly

includes the government as a stakeholder in accounting for pension fund investment because the government subsidizes workplace pensions by way of foregone tax revenue. She has some interesting ideas and strategies for increasing union control of pension funds. The author provides a generally sound review of the major opportunities and obstacles to socially responsible investment in the pension sector (for example, trust law and fiduciary obligations to maximize financial returns, and the modern portfolio investment philosophy to diversify investment). The study is very topical. The United Nations is expected to soon release the *Principles of Responsible Investment* – a new voluntary code for pension funds and some other big institutional investors, advocating greater transparency and shareholder activism.

Overall, however, if a reader is looking for enlightenment on how to put a dollar value on the social impact of investments, he/she might be disappointed as the book focuses on the value flowing from job creation (benefits to union workers, how their contributions to pension funds are counted as part of the return to the pension funds, and taxes to be collected on employment income). The author’s arguments for more union control of pension funds will likely find an audience in the public sector pension funds (*i.e.*, civil service pension funds and university pension funds) where unions tend to have more active participation in pension administration, but not likely in the private sector pension plans (such as the plans in Air Canada). The author also fails to adequately address the question of what can be done about the top ten money managers controlling almost 44 percent of pension fund assets in Canada. Will the book be as controversial as intended with the financial industry and the employers? It might be.