CENTRE FOR SOCIAL JUSTICE

Pension Funds, Unions, and Working Class Strategies

A Workshop of the Centre for Social Justice – FALL 2013

Overview

Since the mid-1990s, a primary element of the neoliberal squeeze on workers and the Canadian welfare state has been employer and government attacks on pension benefits and retirement. In the private sector, those employers that offered pension plans have been been withdrawing from more secure Defined Benefit type systems and replacing them with individualized investment schemes (RRSPs, defined contribution plans, etc.). Where trade unions operate, they have attempted to resist these attacks, but have been unable to turn the tide. In fact, recent strategies of the federal government and a growing range of public sector employers are following the pattern of losses already established in the private sector. Trade unions representing affected workers have been entirely on the defensive for more than a decade.

While these pressures emerged in the 1990s, the great financial crisis of 2007-2010 (and beyond) significantly reduced asset valuations in most Canadian defined benefit (DB) pension plans, which in turn produced large unfunded liabilities and magnified and given material weight to employer arguments that such plans are no longer "affordable". To some extent, those unions and pension plan members that still have DB plans have been left anxiously hoping that financial market earnings will return to the high flying 1990s and shore up their pension. But today, more and more DB pension plan members – those that were supposed to be "safe" from market volatility -- are experiencing the same kind of financial market-driven insecurity as those dependent on individualized investment schemes such as RRSPs. They are increasingly interested in seeing stock and securities markets return to boom times. In certain cases, the continuing survival of DB plans may depend on it.

As this pension landscape has shifted, the character and even the structure of the financial markets have been undergoing radical transformations of their own. In only the past thirty years, we have seen the rapid emergence of private equity ownership structures, hedge funds, commodities trading, so called "emerging markets", infrastructure (often via "public private partnerships"), and derivatives take over the lead from the previously dominant listed share and bond markets. Some observers suggest that these changes reflect a qualitative evolution in the character and structure of modern capitalism. Pension funds, including those that involve the direct participation of union representatives in governing structures, have been active participants in these shifts, and in certain cases proponents and even architects of the new forms. Yet, it is also clear that these developments are not merely coincident with but an integral aspect of deepening neoliberalism, and all of them – in different ways – are leading to a compression of real wages and, ironically, pensions and retirement security. Stripping pension and retirement assets (and claims) from workers has itself become a primary (profit-enhancing) goal of modern management, not just in Canada but everywhere that decent pension coverage continues to exist.

These dynamics raise important strategic questions for organized labour movements. As existing pooled pension funds continue to grow, and consolidate into larger and larger entities, trade unions appear less and less able to exert a meaningful influence that might break with or even alter the aggressive neoliberal logic of finance. In this context, it is notable that the Canada Pension Plan reserve fund, which for more than three decades was used to finance provincial infrastructure development at low cost, is now (since 1998) invested in the private financial securities markets and even in the privatization and ownership of public infrastructure. It is a paradox that at just the moment that the unstable and even system-threatening character of the global financial system is being debated, both public (CPP) and private workplace-based pension funds are being increasingly integrated within that unstable system.

In that light, what is the current agenda of Canada's labour movement for the crisis-riddled financial system, and in particular for the pension funds that are supposed to secure promised retirement benefits? Where trade unions have the right, or have gained some authority, to name trustees and other representatives to governing bodies overseeing pension investment decisions and policies, what is their expectation for these trustees? How are they trained and prepared to play these roles, and what are their ultimate goals? Do the great financial crisis and the intensifying austerity programmes that have come in their wake make any difference? What role is wanted for the state?

This workshop will explore these and related questions through a series of six organized discussions, guided by speakers and discussants who are both analysts and practitioners within this system. Each session will be held at the Centre for Social Justice, 720 Bathurst St. (south of Bloor), 3:30pm – 6:00pm. A short summary of the key themes for each session follows.

Session 1 – September 27th

From Pension Fund Socialism to Pension Fund Capitalism?

Peter Drucker's famous 1976 warning that the growth of workers' pension funds was leading to "socialism" in the United States has not aged well. This conception inspired many trade unionists and some on the left, and led to various experimental proposals for seizing "worker control" of finance and the economy via the pooled savings of workers, whether in pension funds or in individual savings. From Sweden's "Meidner Plan", to the FTQ's Solidarity Fund, to so-called "pension fund activism", many trade unions and social democratic political parties have placed great stock in these strategies as a means of transforming the operation of finance, and gaining a seat at the table of capitalist power. The thinking was to expand funded or “capitalized” pension benefits, and then use trade union (“worker”) control or influence over those funds to simultaneously expand labour's influence on the economy in general. This was conceived as a model for humanizing, and to some extent superseding, the exploitative and stratifying dynamic of capitalism.

Looking back, many of these experiments and strategies have failed (such as Meidner's Wage Earner Funds) or at least have not produced the kind of changes that were envisioned. While workers' pension funds did continue to grow in relation to the rest of the economy, it is not at all clear that this resulted in any qualitative changes in the actual operations and decision-making within the financial system. In fact, certain Canadian pension funds have emerged as international leaders in some of the most troubling aspects of the “Rise of Finance” - especially their pioneering work in support of Public-Private Partnerships (P3s). While this has provoked some reactions within the labour movement (see Calvert), there has been surprisingly little debate and even less development of proposals for how unions might adapt their positioning in light of current challenges.

In early 2012, the Government of Ontario proposed a major asset consolidation for the pension funds of all existing single-employer pension funds financed through the public sector, including universities, hydro, WSIB, and some other smaller funds. The stated goal was to follow the claimed success of the very large multi-employer funds such as Ontario Teachers, OMERS, and HOOPP, in order to improve returns through economies of scale and gaining access to the new “alternative” asset classes that scale allows (including private equity, infrastructure, and real estate). The pooling of these funds was expected to form an asset base of $50 billion, which would make it similar in size to OMERS and HOOPP.

But, given the growing controversies surrounding the investment practices of these large funds, how should Ontario trade unions view this proposal for a massive asset consolidation? If the only function of the fund is to invest, and not to make benefit or funding decisions, should trade unions seek representation on its governing board? What are the ultimate goals and expectations for such trustees? How can union representatives effectively discourage what might be called the “neoliberal trends” in pension fund investment and management: privatization, outsourcing, union busting, two-tier compensation, etc.?

Invited guests
Chris Roberts (CLC)
Jo-Ann Hannah (CAW)
Fred Hahn (President, CUPE Ontario)

Suggested Readings:

Archer, Simon. “Pension Funds as Owners and Financial Intermediaries: A Review of Recent Canadian Experience.” *Available at SSRN 1884441* (2011).
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1884441

Blackburn, Robin. *Banking on Death, Or, Investing in Life: The History and Future of Pensions*. Verso, 2003. Chapter 8 ("Good pensions and responsible accumulation"): pp. 463-539.

Session 2 – October 11th

Trade union and 'progressive' strategies: The Responsible Investment, Capital Stewardship, and 'pension fund activism' movements

It is noteworthy that as finance has been on the "rise", some activists began to formalize anti-corporate and targeted activist campaign strategies through pension and personal investment funds. In Canada and the US, several faith organizations began to argue that anti-social corporate behaviour should be, in some sense, sanctioned by individual investors and ultimate owners, on the basis of social principle or humanitarian values.

These initiatives then crystallized and drew broader support with the rise of the sanctions and divestment movement directed against corporate and government support for apartheid South Africa in the 1980s. While the substantive role of such divestment has been subject to considerable debate, the eventual overthrow of apartheid by the anti-apartheid liberation movement led many to view the role of pension divestment campaigns as having been crucial to that historic success, and to argue that activists should move on to a broader range of social and political issues that might be challenged through further such investor "activism". Such initiatives have seen their labels evolving from "ethical investment", to "socially responsible investment" (SRI), to the most recent simplified term of "responsible investment".

While many trade unions, NGOs, and activists have embraced these efforts, others have not, and a substantial differentiation on the political left has emerged. Most recently, Queen's political economist Susanne Soederberg has produced a sharply critical analysis of these investor-activist efforts from a Marxist political economy framework. This critique follows previous analyses by CAW economists Sam Gindin and Jim Stanford, both of whom have raised serious questions about these strategies as projections of trade union or working class power. (Parallel critiques of Canada's labour-sponsored venture capital funds were developed by the same authors)

Other unions and labour organizations have embraced these strategies with enthusiasm, as is notable in the establishment of a "Committee on Workers Capital" at the international level.

What is the status of these debates in 2013? What has been the track record of those unions most committed to advancing pension based activist strategies? For those sympathetic to the critics perspective, what does an alternative strategy for gaining serious control over the financial sector, and restraining the worst predatory behaviours of corporations?

Guests:
Catherine Coumans (Miningwatch)
Susanne Soederberg (Queen's University)
Jim Stanford (CAW)

Suggested Readings:

Stanford, Jim. *Paper Boom: Why Real Prosperity Requires a New Approach to Canada's Economy.* Ottawa, Ont.; Toronto, Ont.: Canadian Centre for Policy Alternatives; James Lorimer & Co., 1999. Chapter 15.

Soederberg, Susanne. *Corporate Power and Ownership in Contemporary Capitalism: The Politics of Resistance and Domination*. 2010. Chapters 1,2 & 5.

Session 3 – October 25th

Fiduciary Duty – A legal shield for corporate capitalism?

A central feature of the debate about "pension fund activism" and so-called "Socially Responsible Investment" (SRI) involves the various understandings of the legal concept of "fiduciary duty" as it applies to the pension trustees charged with administering funds and setting investment policies. Traditional pension and investment industry practitioners advance the argument that the duty to administer trust property in the interest of the beneficial owners can only be respected by pursuing traditional investment policies geared to maximizing the (risk-adjusted) rate of return.

On the other hand, proponents of SRI, including some trade unionists and others advocating "labour-friendly" investment policies, take two different tacks. One is to argue that the traditional interpretation is simply wrong, and that the "interest" and concerns of beneficial owners can extend beyond narrow financial (rate of return) outcomes. In this view, it is not the case that the duty is to "maximize" returns.

The other approach, which appears to be more influential than the first, argues that respecting fiduciary duty requires trustees to take account of the longer-term consequences of their investment, including so-called "collateral" social or environmental impacts (both positive and negative). In this view, fully and properly considering the environmental, social, and corporate governance dimensions of their investment is a strategy for *more effectively* achieving the maximization of risk-adjusted returns – and will generate additional, socially positive, outcomes in the process.

What is the status of this debate about fiduciary duty, and what is now understood to be the constraints on pension fund fiduciaries (or corporate managers) in considering investment factors other than narrow and traditionally-defined rates of return?

How are trade unions and union trustees approaching and viewing this debate in 2013? If significant legal constraints on trustee options are recognized, what alternatives are available?

Invited guests:
Murray Gold, Susan Philpott (pension lawyers, Koskie Minsky)
Johanna Weststar (University of Western Ontario) & Anil Verma (U of T)

Suggested Readings:

Verma, Anil, and Johanna Weststar. "Token Presence or Substantive Participation? A Study of Labor Trustees on Pension Boards." *Journal of Labor Research* 32, no. 1 (March 1, 2011): 39–60.

Yaron, Gil. "Fiduciary Duties, Investment Screening and Economically Targeted Investing: A Flexible Approach for Changing Times" (2005).

Session 4 – November 15th

Pension funds and privatization: P3s and pension-financed privatization

Several Canadian pension funds have been playing a key role in advancing one of the key planks of neoliberalism – privatization. Since the late 1990s, plans such as OMERS and the Ontario Teachers Pension Plan have been investing directly in major infrastructure development projects that have been a part of the larger move from public ownership and control to private. John Loxley has highlighted the role of the OMERS subsidiary Borealis Funds Management in financing "public private partnerships" (P3s) which have saddled various governments with higher financing costs, higher risks, and lesser accountability and control. These projects have been so profitable (for their investors) that they have sparked an interest in bringing the P3 model to more and different kinds of infrastructure. Infrastructure now represents one of the three primary "alternative Investments" asset class, along with real estate and private equity.

The subject of pension fund financing for P3s has attracted surprisingly little debate or discussion, either within the labour movement or left scholarship. An exception is an article by former CUPE researcher John Calvert, whose 2005 "Cautionary Note to pension trustees" outlined a developed argument against pension investment in P3s. Calvert also articulates the view that trustees can justify this opposition on the basis of various kinds of risks associated with these projects. On the other hand, a more recent overview by geographer Matti Siemiatycki observes that, in spite of the stated opposition to P3s from most public sector trade unions, there is little evidence that this view has shifted pension investment policies significantly:

> To date no board of trustees have established screens to outlaw investments in PPPs or other privately provided infrastructure that could adversely impact on workers, and the union appointed trustees have not widely distinguished themselves from those appointed by management. (Siemiatycki, 2011)

More recently, Canada's federal government has begun promoting a new form of finance for social issue programming known as “Social Impact Bonds” (SIBs) or “social impact investing”. These schemes introduce a peculiar mixture of privatization and financial structures into the realm of social and public goods – and some advocates of socially responsible investment have embraced them as the latest convergence of financial market efficiencies with social goals (see Hebb). Some advocates explicitly identify the supposed 'alignment' of the social interest of pension funds with the supposedly progressive 'social impacts' of these investments. Yet, these schemes are being launched by conservative governments in the UK, Canada, and the US, and are integrated with and reflect their broader drive to austerity and public sector retrenchment.

How are trade unions responding to these evolutions in both financial markets and in neoliberal social policy? Are there non-neoliberal alternatives available? How can union pension trustees resist or re-shape these policy directions – or can they?

Invited guests:
John Loxley (University of Manitoba)
Brian O'Keefe (CUPE Trustee, OMERS)

Suggested Readings:

Calvert, John. “Pensions and Public-private Partnerships: A Cautionary Note for Trustees.” *Just Labour* 5 (2005): 1–13.

Loxley, John. “Public-Private Partnerships After the Global Financial Crisis: Ideology Trumping Economic Reality.” *Studies in Political Economy* 89 (August 28, 2012).

Session 5 – December 6th

The Rise of Finance – What role for trade unions & pension funds?

One of the emerging features of the neoliberal landscape has been what many have come to label “financialization”. This terminology is widely used but contested. In broad terms, it is used by political economists and others to underline the very specific and powerful forms that finance has taken in recent years, and especially in the development of increasingly arcane, sophisticated, and risky techniques of so called “financial engineering”. It is also used to underline the fact that financial sector agents have taken up even more powerful roles in reshaping (both limiting and expanding) the role and actions of the state. To some extent, it is also argued that other sectors of the economy – including manufacturing, trade, and even social policy – have been increasingly integrated in new ways with financial market disciplines and norms.

Some of these changes have significant implications for progressive thinking about influencing (or constraining) corporate behaviour through traditional investment structures, proxy voting, etc. In a world where a growing proportion of corporations are held on a private equity basis, old style proxy voting and shareholder resolutions at company AGMs become less relevant – or unavailable. Conversely, larger pension funds have themselves shifted from being passive, dividend-and-interest collecting rentiers into direct owners and managers of entire corporations. In certain cases, corporations that are partly or fully owned by pension funds have pursued the same kinds of union-busting and low-wage strategies to achieve profitability that we see from traditional corporate employers. (See the cases of Cari-All, Revera, and Porter Airlines)

Further, the arrival and rapid expansion of derivative and leverage based investment strategies, not only for defensively 'hedging' risks but also for positive investment returns, goes far beyond the technical scope of anything that most trade unions imagined their pension funds pursuing – or their trustees having to understand and contend with.

What do the “rise of finance” and financialization mean for trade unions, and especially those that name trustees to represent them on governing boards? Are there alternatives to sending union representatives and trustees to the usual business schools for “training” in how to navigate this new world?

Invited guests:
Michael Rafferty (University of Sydney)
John Peters (Laurentian University)

Suggested Readings

Bryan, Dick, and Michael Rafferty. “Deriving Capital’s (and Labour’s) Future.” *Socialist Register* 47, no. 47 (2011).

Peters, John. “The Rise of Finance and the Decline of Organised Labour in the Advanced Capitalist Countries.” *New Political Economy* 16, no. 1 (2011): 73–99.

Session 6 – December 13th

Trade unions, pensions, corporations, and the state

Since the late 1960s, a certain number of progressives and trade unionists have dreamed that the powerful corporations that dominate capitalist economies (and politics), exploit workers, and destroy the physical environment might be taken over – or at least restrained – through the organized exercise of “shareholder power” through pension and other investment funds holding assets belonging to workers.

To some extent, this hopeful view – represented by such notable Left political economists as Robin Blackburn – has been challenged by others on the Left, including Doug Henwood. Ten years ago, in response to Blackburn's proposals for extending and universalizing capitalized (or “pre-funded”) pensions for all, and using the “power” that such funds would have as “activists”, Henwood offered the following:

> Activism sounds nice; Blackburn uses it in his book modified by the word "shareholder" as if shareholder activists had something in common with environmental activists or peace activists, but in reality shareholder activists were behind the relentless downsizing and cost controls of the 1990s. When I interviewed Calpers' former chief counsel, Richard Koppes, I asked him to comment on the propriety of public worker money being used to pursue an anti-worker agenda. He told me they didn't care about the details, they just wanted results. Which is sometimes the flaw of many kinds of activists, but it's really not something we can get behind, is it? (Henwood, 2004)

Broadly speaking, Canadian trade unions that have expressed views on the matter have followed the train of Blackburn's optimistic thinking, and sought greater control over the governance of pension plans and their funds. Such “control” is thought to be exercised by union-named trustees and fiduciaries who retain professional investment managers and set out investment policies and practices. Yet, there has been little substantive debate about these roles, particularly when contradictions emerge between the goal of trustees to achieve financial returns for plan members and the goal of using “worker control” of investment to actively counter neoliberal capitalism's “anti-worker” or environmentally destructive norms.

One very recent positive development has been the Canadian Labour Congress campaign (since 2009) in support of the expansion of one part of Canada's social security system -- the Canada Pension Plan. While this signifies an appetite at the peak of the Canadian labour movement for a broad-based expansion of the public system, even this positive proposal leaves existing workplace based and privately invested pension funds (for a shrinking minority of workers) in place.

Moreover, this proposal raises further questions. Insofar as an expanded CPP would produce a proportionate expansion of the privately invested CPP reserve fund (now holding some $183 billion in assets), what is the labour movement's perspective with regard to the CPP itself being invested in P3s, and in the new forms of hyper-aggressive private equity controlled corporations? Given the labour movement's opposition to privatization and positive support for significant public infrastructure renewal, how can labour movement pension activists and trustees support an agenda that actually shrinks the power of private finance in shaping such investments and expands the role of public and democratically accountable institutions to play this role instead?

Invited guests:
Doug Henwood*
Sam Gindin

Suggested Readings

Henwood, Doug. *Wall Street: How It Works and for Whom*. London; New York: Verso, 1998.

Blackburn R. The new collectivism: Pension reform, grey capitalism and complex socialism. *New Left Review*. 1999:3-65.

Additional Background Readings

Archer, Simon. "Pension Funds as Owners and Financial Intermediaries: A Review of Recent Canadian Experience." *Available at SSRN 1884441* (2011). http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1884441.

Blackburn, Robin. *Banking on Death, Or, Investing in Life: The History and Future of Pensions*. Verso, 2003.

Bryan, Dick, and Michael Rafferty. "Deriving Capital's (and Labour's) Future." *Socialist Register* 47, no. 47 (2011). http://socialistregister.com/index.php/srv/article/view/14336.

Calvert, John. "Pensions and Public-private Partnerships: A Cautionary Note for Trustees." *Just Labour* 5 (2005): 1–13.

Clark, Gordon L., and Tessa Hebb. "Pension Fund Corporate Engagement." *Relations Industrielles* 59, no. 1 (2004)

Coumans, Catherine. "Mining, Human Rights and the Socially Responsible Investment Industry: Considering Community Opposition to Shareholder Resolutions and Implications of Collaboration." *Journal of Sustainable Finance & Investment* 2, no. 1 (2012): 44–63.

FTQ. http://www.newswire.ca/fr/story/364227/demonstration-in-front-of-caisse-de-depot-et-placement-cdp-building-need-to-develop-employment-within-quebec

Gindin, Sam. “The End of Retirement?”, The Bullet #248 http://www.socialistproject.ca/bullet/248.php

Hebb, Tessa. “Introduction – The Next Generation of Responsible Investing.” In *The Next Generation of Responsible Investing*, edited by Tessa Hebb, 1–8. Advances in Business Ethics Research 1. Springer Netherlands, 2012.
Herman, Edward S. *Corporate Control, Corporate Power*. Cambridge; New York: Cambridge University Press, 1981.

Loxley, John. “Public-Private Partnerships After the Global Financial Crisis: Ideology Trumping Economic Reality.” *Studies in Political Economy* 89 (August 28, 2012).

Minns, Richard. “The Social Ownership of Capital.” *New Left Review* 219 (October 1996).

O’SULLIVAN, Mary. “Le Socialisme Des Fonds de Pension, Ou «plus ca Change…»: Financement Des Retraites et Corporate Governance Aux États-Unis.” *L’Année de La Régulation* 4 (2000): 47–88.

Revell, Jack, and Richard Minns. “Pension Funds and British Capitalism.” *The Economic Journal* 91, no. 363 (September 1981)

Romano, Roberta. “Public Pension Fund Activism in Corporate Governance Reconsidered.” *Columbia Law Review* 93, no. 4 (May 1993)

Siematycki, Matt. “Public-Private Partnerships and the Union Movement: An Uncomfortable Coexistence?” (unpublished manuscript -- http://www.cbern.ca/UserFiles/Servers/Server_625664/Image/CBERN Events/PRI2012/Papers/Siemiatycki.pdf

UNISON video: http://www.unison.org.uk/capitalstewards/ (See online video on homepage called “It's Our Money!”)

Verma, Anil, and Johanna Westar. “Token Presence or Substantive Participation? A Study of Labor Trustees on Pension Boards.” *Journal of Labor Research* 32, no. 1 (March 1, 2011): 39–60.