The Singular Role of Public Pension Funds in Corporate Governance

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Discussion

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The Paper

- The question
  - Why do US public pension funds pursue public goods – aka ESG – like a government?
    - And their managers – like government bureaucrats?

- The line
  - Because they ARE the government – they do ESG like politicians.
  - In Legalese: PPFs are not fiduciaries; they are principals.
    - "Beneficiary primacy" of savers is misconceived; they are like bondholders.

- The story
  - PPFs are unlike other IIs – defined benefits; not defined contribution
    - Thus, they behave unlike other IIs re: G, ES, DEI, …

Assessment

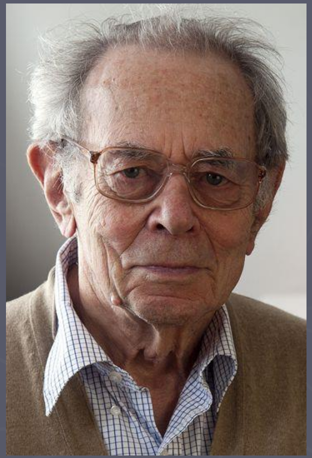
- Brilliant
  - An eye-opener – lucid presentation of a very complex setting
  - A sharp and penetrating analysis – uncovers weaknesses in existing accounts of PPFs, especially re: ESG
    - Well done!
- Bold
  - No mincing words – PPFs are political animals – “let boys be boys” – respectfully, no more Opus DEI, Opus ESG
  - PPFs take notice – one should minimize hopes
- But …
  - Issues in the corporate governance, economic analysis
  - Issues in the legal analysis

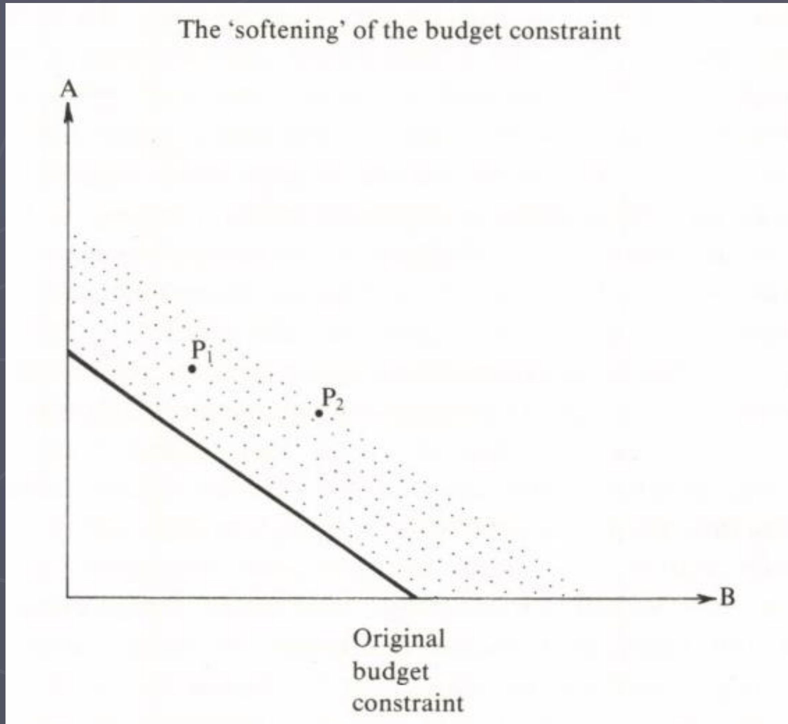
Issues

- Defined benefits → "bondholders" → no "beneficiary primacy"
  - Yes, but: THE Key observation: virtually all PPFs are underfunded.
    - State support, constant changes
  - Near-death by a thousand haircuts
  - Consequently, no fixed claims – beneficiaries are <u>residual</u> claimants.
  - Deserve primacy and fiduciary duties to protect financial value.
- PPFs are political creatures
  - Yes, but: if so, then PPFs ≈ SWFs; portfolio firms ≈ SOEs?
  - Too far-fetched? – GC implications to explore
- PPFs are agents, not trustees
  - Disagree – given the above, clearly trustees, stewards of the fund
- Misc. legal points
  - Fiduciary law concepts – beyond present scope

Retheorization twice over

- Soft Budget Constraints
  - Kornai (1980; 1986); Kornai, Maskin, Roland (2003)
  - BC Actor relies on assistance/rescue from S institution.
    - Fuzzy, probabilistic, yet highly likely
  - Socialist, post-socialist, but also capitalist economies
  - "*Different analogies come to mind: the State as a protective father and the firm as a child, the State as patron and the firm as client, ... The soft budget constraint syndrome is the manifestation of the paternalistic role of the modern State.*"
- Arg: PPFs exhibit the SBC syndrome, severely
  - Chronically bankrupt, yet virtually never collapse
  - Under gov't thumb → distorted incentives, considerations
  - Read, and you may want to rewrite





Conclusion

- Thumbs up!
  - A brilliant and bold piece of scholarship – illuminating
    - US PPFs are unique shareholders, especially re: ESG
    - Nice insights with significant policy implications
  - There's room for a broader, deeper theorizing
    - And a number of legal wrinkles to iron out