Prappas Ethics Essay
The Central States Pension Fund:
Why a Supermajority Should Determine its Future

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The case of the Central States Pension Fund presents a vexing ethical dilemma. Fund Executive Director Thomas Nyhan is faced with two unpleasant alternatives: violate a decades-old collective bargaining agreement to reduce pension benefits for current and retired employees by an average of 23 percent (Marte, 2016), or contend with the likelihood of the fund’s insolvency in a decade (Marte, 2016). This case is particularly intriguing in that the primary stakeholders affected by either option are the very same group, namely current and former employees and their families. The decision faced by Nyhan is not one of right versus wrong, but rather one of “right versus right” (Bodaracco, 2002); essentially, Nyhan was choosing the lesser of two evils, with neither choice clearly superior to the other from a moral standpoint. While either path presents many pitfalls, the best course of action is for Nyhan to honor the existing labor agreement vis-à-vis pensions. Only if a super-majority of workers and retirees affected by the decision vote to ratify a change, should the pension payment schedule be altered.

The issue at hand regarding the Central States Pension Fund is whether or not fund Executive Director Nyhan will honor existing contractually agreed pension payments to both current and former employees, or whether he will opt to reduce payments by an average of 23 percent. The problem arises due to the financial insolvency faced by the fund. At present rates of payments and contributions, the pension fund is expected to be depleted completely within a decade. By reducing the payments – if approved by the Treasury Department – the re-structured arrangement, “Would give the fund at least a 50 percent chance of lasting another 30 years,” (Marte, 2016). The ethical problem posed by these circumstances involves financial hardship to the fund’s recipients, regardless the option pursued. On the one hand, maintaining the status quo will likely result in an end to all pension benefits for 407,000 trucking company employees,
retirees, and their families (Marte, 2016). On the other hand, altering the existing payout structure would definitely decrease average pension benefits by 23 percent starting immediately, while providing a fifty-fifty chance of extending the fund’s life by 30 years. Nyhan’s ethical dilemma, in short, is to break a long-standing contract in the hope of saving the fund for a generation, or to almost certainly see the fund perish within a decade.

Aside from the aggregate numbers, other imperative facts must be considered in confronting this decision. First, while the reduction in benefits proposed would result in an average decline of monthly pension benefits of 23 percent, not everybody would be affected equally. Some retirees would see much more drastic cuts in their benefits, putting at risk their careful financial planning over the course of decades. The Jonenelle Marte’s Washington Post article, for example, cites the case of Ava Miller, 64, and Ed Northrup, 68, both retired trucking company employees, who could see their combined monthly pension checks reduced from nearly $7,000 to $3,000. A second crucial fact to consider are the likely widespread repercussions of violating the existing labor agreement. Says Karen Friedman of the Pension Rights Center, “It’s going to open the floodgates for other cuts,” (Marte, 2016), as the precedent for reneging on a decades-old labor contract would potentially lead many other pension fund managers to follow suit. Finally, and of critical importance to this issue, is the fact that the current and former employees involved with the Central States Pension Fund negotiated in good faith to procure the agreed-upon pension benefits, opting to favor a secure retirement over pay raises and other short-term considerations. They sacrificed for their future, fully expecting those sacrifices to be honored.

The primary stakeholders in this scenario, regardless the direction taken by Nyhan, are the 407,000 current workers, retirees, and their families. Otherwise, fund managers and the
employees and retirees whose pensions they oversee, are likely to be affected by the decision made in this case. Furthermore, the results of this decision could have wide-ranging ramifications for future contract negotiations nationwide. If employees do not expect their deals to be honored, they will be remiss to postpone gains at the expense of current income and benefits, as have the beneficiaries of the Central States Pension Fund. It is also important to note one group Nyhan includes as stakeholders in actuality will not be affected by the decision. The proposed solution is to be put to a vote by all 407,000 plan participants, “Including current workers and retirees who are exempt from the cuts because of their age or a disability,” (Marte, 2016). Those not impacted by the plan should not have a say in deciding the fate of those who are.

Based on Joseph L. Badaracco’s four ethical question framework, and given the important precedent-setting nature of this case, if I were Central States Pension Fund Executive Director Thomas Nyhan, I would not overrule a vote by the fund’s 407,000 beneficiaries to alter the pension agreement, even if the Treasury Department were to approve the reduction in payments. The first question to address a “right versus right” ethical dilemma in a “dirty hands” scenario is that of utilitarianism: “The essence of responsible behavior is doing whatever promotes the greatest happiness for the greatest number of people” (Badaracco, 2002). Altering the pension agreement will negatively impact almost all of the 407,000 beneficiaries and their families (all except those exempt due to age or disability). At the same time, doing so would not guarantee a more sunny future, with likely lifespan of 30 more years estimated at around 50 percent. Changing the plan definitely affects all participants, whereas maintaining it might or might not benefit them. Second, individual rights must be considered (Badaracco, 2002). Again, given good-faith negotiations by the current and former workers to arrive at the existing accord,
this criterion, setting aside the status quo arrangement, would violate the rights of all involved in
the prior negotiations. Third, Badaracco refers to the issue of the character of individuals and
organizations, with antecedents dating back to Aristotle and Confucius. Once more, the decades-
long contracts come into play: both sides agreed to a deal favoring retirement security at the
expense of short-term gains in salary and benefits, and good character dictates that these
settlements be honored. Finally, the Machiavellian question the message sent rounds out the
ethical criteria to be considered (Badaracco, 2002). Given the nature of the world in which the
fund’s future will be determined, what message would be sent to current, former, and even future
employees nationwide if labor agreements could be unilaterally discarded by one side? The
potential fallout from such a move could be devastating across the American economy, with
workers recalcitrant to enter into “good faith negotiations” with no confidence that the other side
were acting in equally good faith. In this current political and economic landscape, it is not only
ethically appropriate to put the fund’s future to a vote; it is politically expedient as well. Instead
of setting the dangerous precedent that long-fought and negotiated gains can be set aside by the
decision of a single individual, Nyhan has the opportunity to influence the outcomes of similarly
imperiled pension funds in a positive manner. Whatever the outcome of a vote by current and
future pensioners, all involved will see a transparent process which respects the rights of those
affected by the final decision. That transparency and democratic process will be far more
tolerable than a decision made by a single individual who is neither a contributor to nor a
beneficiary of the Central States Pension Fund.

Buoyed by Badaracco’s four-tiered ethical decision making model, as fund director
Nyhan I would not vacate the pension agreement of my own accord. I would put the measure to
a vote by all affected current and former employees, and would enact the change only if it passed
with a super-majority of at least 60 percent. Furthermore, I would strongly support legislation introduced by Bernie Sanders (D-Vermont) to repeal the bill allowing for such a unilateral change. I would likewise endorse reforms for the United States federal government to save endangered pension funds. The government bailed out many poorly managed companies during the recent economic recession, so it seems only fitting that the government should respond similarly when workers and retirees are at risk due to the dire financial straits of their retirement through no fault of their own due to the vagaries of the stock market. Such a measure would add an additional stakeholder to the equation: all U.S. taxpayers. However, the effect on them would be quite diffuse, whereas the benefit to endangered pensioners would be much more substantial.
References


