



Pensions and Corporate Restructuring in American Industry: A Crisis in Regulation

Professor Gordon L. Clark

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This book evaluates the US Employee Retirement Income Security Act (ERISA) of 1974. The author argues that the law has failed to protect workers' pension rights in situations where it was expected to be most effective: when corporations restructure in the face of enhanced market competition and technological change. Clark examines recent trends in corporate behaviour and government policymaking in the US, and finds that the moral and ethical foundations of regulation are under attack. As a result of competitive pressures, Clark argues, some of America's major corporations have begun to flout government regulations designed to protect workers, and to treat the attendant lawsuits merely as another cost of doing business. He finds evidence that some have even used restructuring as the means to avoid statutory obligations to workers. In a series of case studies - including the bankruptcy of the LTV Corporation, restructuring International Harvester Corporation into Navistar, and the sale and restructuring of Continental Can Corporation - Clark evaluates the effectiveness of current regulations and the role of government agencies such as the Internal Revenue Service and the Pension Benefit Guaranty Corporation. His analysis shows that many of the problems of enforcing ERISA can be traced to the Act itself, the product of compromises among overlapping and competing interests which fatally limited its effectiveness. Clark concludes that any new regulatory framework must clarify the connections between restructuring and the welfare of workers, connections generally ignored in the litigation that dominates US corporate life today.

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