Property and the collective in Chile's private health insurance

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Ever since Durkheim, social scientists have disputed the tension between in private and common interests in economy. This tension is particularly relevant to my case study of private health insurance in Chile (created as part of reforms introduced by Pinochet's economics team in the early eighties). As Francois Ewald (1991) pointed out, insurance always involves a collective, a pool, but the way this pool is understood changes between public and private insurance. In this sense, privatization is rather a new way of assembling the collective. The tension between private and common property is not just an academic controversy. It has been widely discussed in Chile, especially in the context of the latest health reform. For some the insurance was understood as private property; for others it involved the whole population, so the public and private system should have a common basis in a shared pool. Finally, and controversially, a common pool was declared to be against the constitution, but a solidarity fund within the private sector (covering different firms) was created. This discussion will be the main empirical source here. Conceptually, the work will connect two traditions of thinking, both in some sense connected with Durkheim: (a) the core question posed by Mauss for economic anthropology about how exchange entangles and disentangles collectives (Thomas 1991) and its further development to understand property; and (b) the discussion developed after Foucault's later work about how insurance systems and statistics produce contemporary solidarity (Ewald 1991, 2002; O'Malley 1996).

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Introduction

The private health insurance in Chile was created as part of the reforms introduced by Pinochet government's team of economists, known as the 'Chicago-boys', in the early eighties. This system was created after the development a private pension system which was at the same time allowed by the enactment the Political Constitution of 1980. The new Constitution established that the specific part of each worker salary destined to pension, was a private good, and each worker has the right to orientate this good to the private administrator of funds he prefers. The creation of the new pension system opened the gate for the health's reform. In a similar fashion (González Rossetti et al 2000), the commission that developed this reform defined that the percentage of each worker's salary destined to health was also a private right, and these resources would be more efficiently spent if they were orientated by a competitive choice. In other words, after this reform what was originally known as 'leyes sociales' [social laws], that is the part of the salary withheld to the pension system and accident and health insurance that used to be directly paid by the employers to the respective security institutions, was transferred to the workers' decision. However, this does not mean they could freely spend these resources, but the law defined that a compulsory percentage has to be spent in the provisional system. Currently, a 7% of the income of each worker is spent in each of these systems.

However, both (pension and health) reforms have important differences. The main one is than meanwhile, in the Pension case, the private system was made compulsory, in health user can choose between a public insurance (FONASA – National Health Fund), and private firms (ISAPRES – Health Previsions Institutions). Currently the great majority of the Chilean workers are covered by the Private Pension Fund, while just a 20% is part of the Private Health Insurance. This has not just to do with the existence of a public insurance in the health system, but with an important difference between both systems. To be covered by the private pension system it is just needed to deposit a monthly amount (7% of the salary), meanwhile to be considered by the private health insurance, the monthly amount had to be enough to cover a minimum premium. ISAPRES work as private insurers, pricing their policies considering the potential cost associated with each user medical risk (Aedo & Sapelli 1999). Currently, the users of the private system are predominantly concentrated within the richer part of the population, and mainly in those with less risk (as the system is more expensive to the elderly and women).

The common origin between both private pension and health insurance had produced some important controversies (Ossandón 2007). One of the main issues, and the one this paper will be focused on, is about the way property has been defined. As it has been mentioned, the creation of the system was based on the 'privatization' of the health withholding, or that each worker has the right to decide where their 7% can be orientated. But what is own? How can this property be understood? This is not just an academic issue; in fact it was probably the main controversy during the parliamentary discussion of the last important reform of the Chilean Health system. Specifically, one of the main points proposed in this context was the introduction of a Solidarity Compensation Fund, which would send to a common pool part of each person 7% in order to guarantee minimum health provision to the poorest and risky population. This initiative for the first time questioned the private character of the health withholding, generating an important debate. This discussion will be the main empirical source of the current paper[1].

At the same time, the tension between public and private in the economy had been a classical issue in the social sciences. Probably one of the most important sources is the famous non-contractual aspect of the contract highlighted by Durkheim in his 'Division of Labour' (Durkheim 1984). There are innumerable other books and articles where this controversy is discussed, generally as a contraposition between an utilitarian point of view (mainly economists), where society is understood as a collection of private (maximizing) individuals, and a 'social' perspective where individual interactions are seen as framed by social rules. Normally the later view is keener to those reforms that increase social cohesion through public 'solidarity' institutions and the former to those which incentive individual responsibility and market competition. The discussion presented here also represents these positions. In fact, some of the comments registered in the parliamentary act could had been said by social scientists like Mauss or Polanyi and other by Durkheim's enemy, Spencer, or also by more contemporary economists such as Milton Friedman. The current paper assumes it wouldn't add much to the discussion to write from one of these two perspectives. There are professional politicians doing that, and they don't need any kind of amateur backup. However, I will argue that starting from Durkheim's classical questions we can still find productive and creative ways to read this discussion, but in order to do that, his model needs some 'corrections'.

The paper is composed by three sections. In the first the parliamentary discussion concerning the Solidarity Fund developed in 2004 will be presented. In the second some conceptual elements will be suggested. It will starts from Durkheim and the current critique to this kind of social science developed by Latour, and complemented by later works which had developed in creative ways Durkheim's questions. Specifically: some elements of the economic anthropology discussion concerning exchange and property, and research on insurance as *dispositif* developed after Foucault's later work. Finally, the third section will briefly discuss how the concepts introduced help to understand in a different way the analysed controversy.

I. The Controversy

Chile's private health insurance was born in 1981, as consequences of the provisional reforms developed after the new political constitution enacted in 1980. Specifically, in one of the decree that creates the new pension systems, it is mentioned that people will be allowed to orientate their compulsory health withholding to private administrators. As an interviewee who actively participated in this process mentioned:

> "I would say that the main axe of this reform, is that the health withholding [part of the salary compulsorily orientated to health insurance] is workers' property, and then, each worker has the right to derive this to the direction he prefers, that is, to the public sector or to the private one. The specification that the health withholding is a property of each worker justified the beginning of the system" (xx)

Since the system was created several reforms had been approved, and some of then changing importantly the system (see Gonzalez-Rossetti, et al 2000;

[1] Specifically, the information presented is based on the discussion developed in the high chamber of the Chilean parliament, edited in (Senado 2004); Newspapers that covered this discussion; and interviews with people involved in this process developed between December 2005 and April 2006.

Ossandón 2007), however the private character of each worker's withholding was not properly contested until the reform proposed by Lagos's government in the early 2000s, and finally approved in 2004. The main aim of this initiative was the creation of a system 'Regimen of Health Explicit Guarantees' [Regimen de Garantias Explicitas de Salud, - AUGE]. AUGE's main aim was to guarantee to all the population a coverage with a standard treatment and pre-defined co-payment of a list of the most important (51) medical events. In other words, besides the specific insurance that cover each individual, people would know in advance the potential cost and treatment for the included events. At the same time, the system would guarantee a free treatment to those unable to afford the prices established.

In this context, one of the main issues was to define how this reform would be financed. As it has been said, Chilean health system has a dual nature. Each worker compulsorily spends 7% of their salary to cover their health insurance, and in case this amount is enough to cover the premiums of the private system she could choose between both systems, and between different private insurers. In case it is insufficient she will covered by the public system. The private system is fully funded by the premiums paid by its users. The pubic insurance is also financed by its user's withholdings, but also by indirect taxes, which are mainly orientated to cover those users that don't have salaries and cannot pay the co-payments charges to the rest of the population for each medical provision. Before the reforms, the system was for free for the poorest population, but the medical provision guaranteed depended on the available resources. The proposed reform aimed an important improvement in terms of the health guaranteed to the whole population, especially to those unable to pay for health provision. However, this implied an important increment in the public health budget. Therefore, one of the main issues to be discussed was to define the source of these new resources.

In this context one of the main ideas suggested by the social democrat government was the creation of a 'Solidarity Compensation Fund', that redirect part of the compulsory withholding to a common pool, which would compensate two main source of inequality: medical risk and resources. In other words, those with lower risk and higher salaries would give proportionally more to this common pool than the rest. Originally, The President Ricardo Lagos announced that the 43% of each person withholding (7%) would be orientated to fund this pool. This initiative would have radically changed the whole health system, however it was quickly abandoned. This because in order to be approved it needed the majority in both chambers of the parliament ('diputados' and 'senadores'), and this initiative was not just opposed by the right wing members of the parliament, but also by an important part of supporters of the government that were convinced of the relevance of maintaining a strong private health system (Boeninger 2005). Then the government decided to consider a double source of funding, increasing VAT (from 18% to 19%) and creating a smaller solidarity fund (El Mercurio DATE). The first point was accepted quickly, and the second was accepted by the lower chamber, that approved the creation of a Compensation Fund, whose main aim will be:

> "to solidarize health risks within the beneficiaries of the Health National Fund [FONASA] and those covered by the Health Insurers [ISAPRES], concerning the guaranteed medical previsions[2]" (Senado 2004: 61)

But the second was hugely controversial, especially in the high chamber [Senadores] where the support of some of the right wing members was needed.

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[2] "Solidarizar riesgos de salud entre los beneficiaries del Fondo Nacional de Salud y de las Instituciones de Salud Previsional, respecto de las prestaciones explícitamente garantizadas" (61)

The proposed compensation fund was based in the distinction of a 'universal premium' (total expected expenses / number of beneficiaries) and a 'risk premium' (expected expenses depending of factors that affect the probability of suffering a medical event, mainly sex and age[3]). In this context, those insurers who receive an extra amount (in other words: when the difference between the universal premium paid to them and the risk premium they should receive is higher than 0); should give this back to a common pool.

The discussion in the higher chamber was concentrated in two main points. The first was named as the issue of bi-directionality, and it starts after the lower chamber decided that in case of a net difference in favour of the private system, it would not be paid, because in that case the public system would be subsiding private firms. This was strongly opposed by the right wing members of the parliament, arguing that in that case, the private system would be more expensive, making those users that can scarcely afford the private premium to leave the system. After this discussion, the government announced that the bi-directionality was going to be allowed, but that the essence of the reform proposed ('risk compensation') would not be changed, due that the net circulation of resources anyway were going to be much higher from the private to the public, than the other way around (Senado 2004: 73). In fact, studies presented by the ISAPRES Association in the parliament expected that an 84% of their users would pay more than the amount associated with their risk, meaning that more than $15.000 millions (£15 millions) would circulate from the private to the public system in case the fund is approved. In this context, the members of the parliament from the opposition suggested they will support this reform in case it were based in a portable subside. In other words, in a similar way than reforms introduced in other sectors such as education, that the difference would be giving directly to those users that need it, and that then they could choose between public or private insurers. This was not supported by the government and the members of the parliament that supported it.

The second main issue, and the most relevant at the end, was that based on a legal research developed by one the main right wing think-tanks, members of the opposition suggested in case the compensation fund were approved they would appeal to the Constitutional Tribunal. That is the instance which had to decide in case a new norm violates the basic rights given by the political constitution. As the act of the higher chamber, summarizing explaining the intervention by one of the member of the health commission, says:

> "he mentioned that their claim will be funded in the fact that the fund is financed by the health withholdings, which are each user's property. To orientate part of them to the Compensation Fund implies creating a concealed tax, affected to a specific aim, and it constitutes a flagrant violation of each user property right concerning their own health withholding[4]" (Senado 2004: 74)

In other words, the 7% of health withholding is private property, and the Compensation Fund would imply an illegitimate expropriation. This argumentation was confronted in three different ways. First it was said, that this property right would clash with another constitutional guarantee, the equalitarian access to health.

[3] There was also a secondary discussion about the inclusion of other variables (such as epidemiology, socio-demographics, and so on) that could affect the health risk.

[4] "hizo presente que fundarán su reclamación en el hecho de que el fondo se financia con las cotizaciones de salud, las que pertenecen al respective afiliado. Destinar una parte de las mismas a integrar el Fondo de Compensación Solidario implica el establecimiento de un impuesto encubierto, afecto a un fin específico, y constituye una flagrante violación del derecho de propiedad de cada afiliado respecto de sus propias cotizaciones de salud" (74)

> "Constitution guarantee to all the people a equalitarian access to health, and in order to fulfil that end, compulsory withholding can be imposed, and guarantying the access through mechanism such as the Solidary Compensation Fund, which allows retribution by compensating the inherently higher risk associated with sex and age[5]" (Senado 2004: 74)

Second, it was suggested that health withholding is not an individual account, due to both: there is not accumulation and the amount spent is not correlative with the amount withdrawn. Finally, a third line of argumentation was that this discussion was associated with a basic misconception, that is, the introduction of market logic in a field that should be orientated by other principles:

> "health constitutes an area that should escape of the application of the same principles applied to the rest of the economy, and he regretted that the current model is not reconciled with a solidary health system inspired by sanitarian criterion and values[6]" (Senado 2004: 75)

Finally, the members of the commission estimated this discussion involves deep value differences, and it would not be able to be solved there, and should be defined by the Constitutional Tribunal. However, before going to this instance the government, in order to approve quickly the rest of the reform, decided to abandon the Compensation Fund (El Mercurio 13/5 2004). The needed difference to support those users whose resources are not enough to cover the universal premium, and just in case they are covered by the public system, would be given by public funds. After the Government abandons the Fund, the reform is approved with the support of the opposition, whose members argued that now the Constitution was being respected (El Mercurio 20/5/2004).

However, a couple of month later, the government suggested the creation of a Solidarity Fund within the private sector that guarantee that the premium associated with the new regimen of guarantee don't change depending the risk associated with each user (El Mercurio 31/08/3004). In this case, each private firm would fix their own universal premium, but the risk will be compensated between all the private insurers (and producing a circulation from those companies whose pool is less risky to the rest). This initiative was supported by opposition, in fact, one of the strong opponents of the first fund said:

> "we (opposition) are not against it [new fund] because the resource will stay within the ISAPRES, because if well we have all different risk levels, this is variable during our life and in some moment we will all benefit it[7]" (Diario Financiero 17/8/2004)

What happened? Why this second fund was accepted and not seen as a violation of private property? What was this discussion delimiting? Next section will discuss some conceptual antecedents that will allow to this see in a different way.

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[5] "Constitución asegura a todas las personas el acceso igualitario a la salud, y para este fin, se puede imponer cotizaciones obligatorias, asegurando la igualdad en el acceso con mecanismos tales como el Fondo de Compensación Solidario, que permite redistribuir al compensar los mayores riesgos inherentes al sexo y la edad" (74)

[6] "hizo presente que la salud constituye un area que, a su juicio, debe escaper de la aplicación de los mismos criterios que se utilizan en el resto de la economía y lamento que el modelo hasta ahora imperante no se avenga con un sistema de salud solidario e inspirado en criterios y valores sanitarios" (75)

[7] "nosotros (alianza) no nos oponemos a él porque los recursos quedan en las ISAPRES, ya que si bien todos tenemos distintos niveles de riesgo, éste es variable a lo largo de la vida y en algún momento todos podemos beneficiarnos de él" (Diario Financiero 17/8/2004)

II. Concepts

Since its early times social sciences had been worried about the social character of apparently private economic activities. Probably one of the most important authors, considering his huge influence, is Emile Durkheim. In fact, Durkheim's doctoral dissertation "The Division of Labour in Society" is explicitly written as a polemic with those authors who see society as a product of utilitarian private encounters (Durkheim 1984). Durkheim famously explains that behind private contract and exchange there are 'non contractual' norms (or what later authors such as Polanyi had understood as 'embeddedness').

In Durkheim's view what is understood as 'collective' or 'society' seems to have a dual meaning. On the one hand, he sees an evolution from segmentary communities, to highly differentiated societies. In the first one, exchange and other activities seem to include all the communities, meanwhile in the second, these are more specifically located. However, and this is probably the main claim of his early work, both states are equally social, in the sense that they are made possible by patterns of social integration, or what he calls 'solidarity'. So the transformation is not from collective communities to individual societies, but a change in the pattern of solidarity, from societies where integration is based in sameness to those where it is a product of differentiation. During his career, the way Durkheim understands social integration evolved. In the 'Division of Labour' is seems associated with patterns of socio-demographic organization, and it seems that he accepts that modern solidarity could be almost completely based on 'difference'. However, in the 'Suicide' he explicitly argued that an equilibrium between individual impulses and the attachment to collective meaning it is needed (Durkheim 1966). Then in his later works, there is a deeper notion, where integration is connected with an affective religious experience (Durkheim 1965).

In a foot note of his 'Elementary Forms' Durkheim mentions that there is still not available a research that study the religious origin of the economic life (Durkheim 1965: 466). Probably this is was one of the main aims of his nephew's book, Marcel Mauss' The Gift (1967)[8]. In the same sense that Durkheim explains in his 'Elementary Forms' that science has not always been the rational and differentiated phenomenon moderns knows and its origin could be traced to the religious ways of knowing and explaining the world, The Gift shows that exchange has not always been the dis-embedded and utilitarian activity modern economist sees, but was part of 'total prestations' that connect whole communities and moral obligations. In fact, in one of the most famous passages of his essay, Mauss says:

> "it is only our Western societies that quite recently turned man into an economic animal. But we are not yet all animal of the same species. In both lower and upper classes pure irrational expenditure is in current practice: it is still characteristic of some French nobler houses. *Homo economicous* is not behind us, but before, like the moral man. For along time man was something quite different: and it is not so long now since he became a machine – a calculating machine" (Mauss 1967: 74)

Both Durkheim and Mauss, were strongly critical of utilitarian social sciences, this in at least two complementary senses. In an empirical way, it is argued that apparently individual or private activities (such as suicide or exchange) are also socially produced. In other words, a social science based just on individual rationality would be empirically insufficient. Second, in political terms it is assumed that it is desirable to maintain some level of collective attachment, even

[8] For the connections between Durkheim and Mauss see Hart (2007).

in highly differentiated modern societies. The last parts of The Gift are very explicit stressing this:

> "hence we should return to the old and elemental. Once again we shall discover the motives of action still remembered by many societies and classes: the joy of giving in public, the delight in generous artistic expenditure, the pleasure of hospitality in the public and private feasts. Social insurance, solicitude in mutuality or co-operation, in the professional group and those moral persons called Friendly Societies, are better than the mere personal security guaranteed by the noble man to his tenant, better than the mean life afforded by the daily wage handed out by managements, and better even than the uncertainty of capitalist savings" (Mauss 1967: 67)

Assuming the anti-utilitarian position defended by Durkheim and Mauss is a difficult point of departure for our research, at least in two levels: practical and conceptual. In practical terms, even before starting our analysis it could be easily guessed the position that a scholar influenced by Mauss would assume. In fact, instead of a discussion between left and right wing politician, the parliamentary controversy presented in the last section could also be seen as the discussion between a between utilitarian social scientists (who defend the individual right to opt as socially better) and those who think institutions like the health insurance should also be orientated from a logic of solidarity and cooperation.

> "French legislation on social insurance, and accomplished state socialism, are inspired by the principle that the worker gives his life and labour partly to the community and partly to his bosses if the worker has to collaborate in the business of insurance then those who benefit from his service are not square with simply by paying him a wage. The state, representing the community, owes him and his management and fellows workers a certain security in his life against unemployment, sickness, old age and death" (Mauss 1967: 65)

Without denying all the important elements associated with this point of view, it is not clear what would add starting today an academic research about the tension between private and collective in the Chilean Health Insurance from this perspective. In fact there is a high risk of that it finishes being an amateur defence of professional politicians.

Secondly, and in a conceptual level, the kind of social sciences started by Durkheim had been under strong critics in the last years. Probably one of the most important referent in this context is French philosopher and anthropologists Bruno Latour. In his 'Reassembling the Social' Latour confronts what he calls 'sociology of the social' with a 'sociology of associations' (Latour 2005). In the first, different phenomenon such as 'scientific knowledge', 'religions', 'economy, are tried to be explained from their social nature. In other words, here what social scientist study are the 'social' elements that help explaining the production of different fields. Latour associates the 'sociology of the social' with Durkheim and assumes the critics to this point of view developed by Durkheim's contemporary, Gabriel Tarde. In Latour's words:

> "Tarde always complained that Durkheim had abandoned the task of explaining society by confusing cause and effect, replacing the understanding of the social link with a political project aimed at social engineering […] we don't need to accept all of Tardes' idiosyncrasies and there many – but in the gallery of portraits of eminent predecessors he is one of the very few, along with Harold Garfinkel, who believed sociology could be a science of accounting how society is held together, instead of using society to explain something else or to help to solve one of the political question of their time" (Latour 2005: 13)

On the other hand, a 'sociology of associations' instead of looking for the way 'the social' explains other dimensions, it tries to undertand the way collectives are assembled. So the social is not the cause, but is what have to be explained. To say it clear, Latour is not claiming to come back into an utilitarian social science, but to try to understand not just the way a particular activity (such as the economy) are produced, but also the way in which collectives are assembled while these activities are produced. In other words, society is not previous but *performed.*

Now, the practical and conceptual problems just mentioned do not mean to leave the question posed by Durkheim and Mauss behind. But they would need some corrections. In fact, as I expect to show in the next two sections, there are tro different traditions interested in Durkheim's question, but not developed from a point of view of the 'sociology of the social'. Specifically, in the first section I will explain some of the economic anthropology discussion about exchange and property and, in the second section, authors who had analysed the history of statistic and insurance following Foucault's later work.

1. Anthropological properties

It is very difficult to say something new or relatively interesting about such an important and studied piece such as Mauss' Gift. The essay has opened numerous research agenda within the economic anthropology or widely what is currently named as the "The Other Economy" (Hart 2008). In his survey about the economic anthropology discussion about the gift, N. Thomas distinguished three main lines of research (Thomas 1991): the use of the difference between commodity and gift as a key to interpret different exchange and societies (C. Gregory); the question about the inalienability of some kind of objects within particular exchanges (Weiner); and Appadurai's focus on the way object circulates between commodity and non-commodity spheres. In a more sociological context, Durkheim's nephew had obviously influenced to those authors interested in studying non-utilitarian action in modern exchange (Caillé, M.A.U.S.S).

In the context of the current research, and considering the critics mentioned in the last section, two elements of the discussion on the gift are particularly relevant here. First, as Mauss explains, exchanges are not just done by individual persons, but they can be done by 'moral persons'. In this sense, if we don't assume these collectives as previous, we could say that exchange is not just reflect of previous moral obligations, but also about the way specific exchange produces collectives. And second, as Thomas had explained, the production of these collectives is not just a human enterprise but objects themselves are very relevant in creating these connections. In other words, instead of looking for the way exchange reproduced or is embedded in previous social rules, we can ask about the way exchange produce new individual and collective entities (or persons)[9].

> "In the systems of the past we do not find simple exchange of good, wealth and products through markets established among individuals. For it is groups, and not individuals, which carry on exchange, make contracts, and is bound by obligations; the persons represented in the contracts are moral persons – clans, tribes, and families; the groups, or the chiefs are intermediaries for the groups, confronts and oppose each other […] we are here confronted with total prestations

[9] For a history of the rise of 'collective persons' in contemporary capitalism and its political consequences see Hart (2006).

in the sense that the whole clan, through the intermediacy of its chiefs, makes contracts involving all its member and everything it possesses" (Mauss 1967: 3-4)

"hence the artefact is not simply a valuable object of exchange or even a gift that creates relations of one sort of another but also a crucial index of the extent to which those relations are sustained or disfigured" (Thomas 1991)

More specifically, there is a second body of economic anthropology that had explored this point in issues more connected with our discussion. In a recent review about anthropological discussion on property, Chris Hann (2007) (discussing Bend-Beckman et al) explains that property implies three main elements: social units (individual, groups lineages, corporations, states) that can hold property rights; the construction of valuables as property objects; and the different sets of rights and obligation such unites can with respect to such objects. In an earlier work Chris Hann refers to the work of the political theorist C.B.Macpherson (Hann 1998). Macpherson proposed at least two important points to consider here, that property is a right not a thing, and as a right it has to be justified and can be controversial.

"property is controversial, I have said, because it subverts some more general purpose of a whole society, the most general point is that the institution – any institution- of property is always though to need justification by some more basic human or social purpose" (Macpherson 1978: 3)

"to have a property is to have right in the sense of an enforceable right claim to some common resource or an individual right in some particular things. What distinguishes property form more momentary possession is that property is a claim, that will be enforced by society or the state, by custom or convention or law" (Macpherson 1978: 16)

In this context it is particularly important the work of a neo-maussian scholar (as defined by Graber 2001), who has redefined the way controversy, social units and rights are related: Marilyn Strathern. One of her relatively recent interests had been to understand current controversies about 'potential properties', ('cultural property', 'intelectual property', 'body', and 'professional commitments') (Strathern 1999). As she explains these controversies are useful to better understand property. Said in a very simplified way her argument can be organized in three main points. First, there is not previous social unit, but the unit itself is performed through the very definition of property.

"a thread running through of decontextualization and de-contextualization involved in the flow of knowledge. *Ownership* re-embed ideas and products in an organism (whether a corporation, culture or individual) […] ownership gathers things momentarily to a point by locating them in the owner, halting endless dissemination, effecting an identity. We might even say that emergent forms of property signify new possibilities for corporeality or bodily integration on lives that observers constantly tell themselves are dispersed" (Strathern 1999: 177)

In this context, and second, property is not about differentiating between individual and collective rights, but different kind of collectives. In other words, property is always a collective issue, but not because it is embedded in collective norms, but because collectives are produced by defining property. And third, Strathern suggests that compensation plays a very important role defining the relation and the collectives involved.

"compensation is part of the wider field of transactions of which social units are defined through exchange […] "transactions act as a source of both of social continuity (actors coming together for one purpose) and of social discontinuity (actors separated either as contributors towards or as recipients of payments) […] for it may be given or received by any order of social entity – an individual or a

> clan or a district. But that is really the wrong way round. Rather collectives differentiate, identify and, in short, *describe themselves by their role in compensation*" (Strathern 1999: 191)

Too summarize, social units (individual or moral persons) are assembled by defining property. In other words, a property controversy is not just a discussion about distribution but it is a controversy about the construction of valuables, the definition of rights and the construction of the entities that are able to claim some ownership. In this context, compensation is crucial, because it defines who, what, and in which sense is connected. In this sense it is possible to say that our case is about establishing who could use the 7% each person give to the Health System: those cover by the same insurer; those covered by the private system; those covered by the private system; all the beneficiaries of the Chilean health system. In other words, instead of being about creating a collective or a private system, it is about defining different kind of collectives, which does not mean the difference between public and privates is not relevant, but rather than being presupposed is being enacted.

Now, as a second steep, it is important to review some particularities of the insurance as economic contract. Specifically, the next section will be focused in a group of scholars that had tried to understand the way insurance assembles collectives producing modern solidarity.

2. Insurance and collectives

Generally, Michel Foucault is associated with Weber due to his known interest in the development of modern form of power-knowledge. However, there are also important resemblances with Durkheim and his followers. In fact it is possible to argue that during their respective careers they try to answer very similar questions, such as the development of modern categories ('Elementary Forms…' and 'The order of Things') or normality and anomie ('Suicide' and 'Discipline and Punish'). If well Foucault did not assume the existence of previous forms of moral integration, himself and some authors that had continued his line of research had spent a lot of time understanding the ways in which society (and modern solidarity) is produced. In this context, elements such as insurance and statistics are very relevant.

Foucault later research project started with his lectures' on the development of a new kind of power, security and govermentality (Foucault 2007, 1991). In this context, one of his main interests is to understand the historical development of a new form of power: security (Foucault 2007). This has to do with the identification of a new level of reality, 'the economy' based on the emergence of a new collective subject: the population. The population has to do with the identification of supra-individual regularities, made possible by the calculus of probabilities and a new use of statistics, which "now becomes the major factor of this new technology" (Foucault 1991: 99).

> "the word 'economy', which in the seventeenth century signified a form of government, comes in the eighteenth century to designate a level of reality, a field of intervention, through a series of complex processes that I regard as absolutely fundamental to our history" (Foucault 1991: 93)

Statistics plays a core role in the emergence of population, and then a particular institution (*dispositif* in Foucault's terms), becomes especially relevant: insurance. However, insurance is not just related with the creation of the 'economy', but as Francois Ewald explains, also with the creation of society (Ewald 1991). Insurance is based on a very real abstraction: risk (Ossandon 2006). Risk calculus made possible the transformation of individual accidents into group regularities, producing at the same time a new sense of responsibility. If the probability of an accident to happen can be measured, the factors that increase the odds of the event can be identified. Once the factors have been identified, risks can be prevented using a rational risk management.

> "strictly speaking there is no such thing as an individual risk; otherwise insurance would be no more than a wager. Risk only becomes something calculable when it is spread over a population. The work of the insurer is, precisely, to constitute that population by selecting and dividing risks. Insurance can only cover groups; it works by socializing risks. It makes each person a part of the whole. Risk itself only exists as an entity, a certainty, in the whole, so that each person insured represents only a fraction of it. Insurance's characteristics operation is the constitution of mutualities: conscious ones, in the case of the mutualist associations; unconscious ones, in the case of the premium companies" (Ewald 2001: 203)[10]

As Ewald says "Prevention (the vocabulary of which henceforth replaced that of providence) presupposes science, technical control, the idea of possible understanding, and objective measurement of risks. Thus the problem is no longer that of compensating for practically inescapable losses but of reducing the probability of their occurrence". (Ewald 2002: 282) At the same time if these events are a characteristic of population, a specific individual is not longer completely responsible of his (her) accidents. In this context, risks that cannot be prevented should be compensated. In other words, the age of statistical and prevention becomes the age of social insurance based on the solidarity and compensation.

As explained by Ewald, statistics and insurance are not just reflecting a previous change in the form of social solidarity, but by means of establishing new abstract relationships between individuals, they actually creates the modern solidarity. In fact, we could say that studies such as Durkheim's Suicide was not just observing social law, but by identifying statistic regularities was also creating a modern solidarity.

> "insurance creates a new grouping of human interests. Men are not longer juxtaposed alongside one another in society. Reciprocal penetration of souls and interests establishes a close solidarity among them. Insurance contributes substantially towards the solidarization of interests" (Ewald 1991 : 207, quoting Chauffon [1884])

A second important author within this tradition is Pat O'Malley. As he suggests, it is important to understand that statistic and actuarial techniques do not necessarily tend to the solidarity associated with social insurance. They would produce different kind of collective depending the political configuration in whish they are enmeshed. In fact, as he observes, the same similar statistics techniques are been used in the context of neoliberal governance, or what he names *prudentialism,* where instead of "regulating individual by collectivist risk management, and throws back upon the individual the responsibility for managing risk" (O'Malley 1996: 197). In this context there is a retraction of

[10] "the risk defines the whole, but each individual is distinguished by the probability of risk which falls to his or her share. Insurance individualizes, it defines each person as a risk, but the individuality it confers no longer correlates with an abstract, invariant norm such as that of the responsible juridical subject: it is an individuality relative to that of other members of the insured population, an average sociological individuality" (203) "insurance is the mechanism through which this sharing is operated. It modified the incidence of loss, diverting it from the individual to the community. It substitutes a relation of extension for a relation of intensity" (205)

'socialized' risk-based techniques and the expansion of those that are orientated to make individuals to embrace their own risk (Baker & Simons 2002).

To summarize, insurance is a particular way of assembling collectives, it connects people through abstract risk (potential losses), producing a sharing pool. Especially during the first part of the XX Century, this kind of technique was associated with 'collective responsibility' and social insurance. However, similar actuarial techniques also are used in contemporary way of managing risk, such as private annuities and health insurance. But, this last point does not change the fact that insurance cannot be strictly individual, it needs population. In this sense, both public and private insurance, rather than individual and collective, are two different forms of assembling population through risk calculation. Or as Knights and Vurdubakis summarizes:

> "subjects are, therefore, represented actuarially as instances of a population only a population can provide the constancy within which the objectivity of a risk can manage itself […] the calculation of risk is then at once individual origin and the producer of a kind of collective order. A collective order in the sense that the security of any single individual is contingent on the premium contributions of all, but individualized in so far as individual premiums making demands upon the fund. The insurer's task is therefore to assign risk class memberships" (Knights & Vurdubakis 2005:06)

III. Final Discussion, assembling the private

The current paper had been focused on a particular controversy, the plan of the Socio-democrat government to introduce a 'Solidarity Compensation Fund' to finance the new Regimen of Health Guarantee that was being created. This Fund would make to circulate recourses from those with higher income and low health risk, to those with higher risk and lower income, and assuming the different characteristic of both systems' populations, it would have implied important monetary transferences from the private health insurers to the public system. This initiative produced a huge parliamentary discussion, because, for those who were against it, it would change the fundament of the health system created after the Political Constitution enacted in 1980: that is, the private character of each worker's health withholding. In fact, it was argued that in case of approved this reform would violate a Constitutional Right. On the other hand, those who defended the government's initiative argued in three different lines: (a) this right is clashing with the right to an equalitarian access to health; (b) that this withholding, due it is not accumulated and the amount withdrawn are not correlative with the expenses, cannot be privately owned; (c) and that there is an original misconception in assuming that health can organized by a market logic. Finally, in order to gain the support of the opposition the Government eliminated the 'Compensation Fund' from the reform. However, a couple of months later, the opposition did accept the creation of a 'Solidarity Fund' within the private system. So, users of the private system would eventually give a part of their premium to other users even if they are covered by other insurers in case they have a higher health risk.

In the conceptual review we start from the classics, specifically from the question posed by Durkheim and Mauss about the solidary character of the economy and the role played by 'moral persons' in exchange. However, we decided not to see the way 'moral rules' frame apparently individual exchanges, but how solidarity and collective social units are *performed*. In order to do that we referred to the economic anthropology discussion on property and some social studies of insurance. The first tradition shows that property is a right, not a thing, which has to be claimed that is usually controversial. This controversy does not just define the reach of the right, but also the valuables, and the individual and collective persons involves. In this sense, controversies about property are not just about compensation but are active producers of collectives. On the other hand, the insurance literature shows that these institutions are also a particular producer of collectives. Insurance is never individual, by calculating risk and defining a pool, these institutions connect people. However, this connectivity is not always associated with a 'collectivistic' logic; in fact, similar actuarial techniques had been used in both to produce the social insurance generally associated with strong welfare states, and current private way of managing risk, such as private annuities and health insurance.

In this sense, why the first Fund was so strongly contested and the second finally accepted? Both were 'solidarity fund' that made circular part of each person withholding to other users, and not just within the same insurance company (as always happens) but even to consumers that had opted for other firms. Despite the discussion was framed as an issue concerning private property, it seems that was about a different thing. Perhaps, and considering the discussion here presented, it was about compensation, and how to establish the limit of the potential claimers (those covered by the same insurers; those by the private sectors; those by the public; all). In other words, what was being discussed is the extent of the insurance, who is connected with who, how big is the collective that is being assembled, and not, whether there is or not a collective. This is all about public and private, but not from the point of view of more or less collective attachment, but about the way two different collectives – the public and the private – are limited. And, if we consider the other main elements discussed: bi-directionality and the possibility of portable vouchers; it is possible to see that it was not just about the limit between these two collectives, but also about delimiting in which way resources and people can circulate from one side to the other.

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