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# Insurance: How it Matters as Psychological Fact and Political Metaphor

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# INSURANCE: HOW IT MATTERS AS PSYCHOLOGICAL FACT AND POLITICAL METAPHOR

*Thomas Morawetz\**

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### I. THE DRAMATIC PROMISE OF INSURANCE

Insurance, like accounting, seems irreparably undramatic. While it plays an inevitable part in our collective experience, the work of insurance and its practitioners seems gray and faceless. Insurance is rarely at the heart of a novel, play, or movie. By contrast, the work of doctors, lawyers, police, and even government officials readily inhabits our cultural fantasies. In imagination, these working lives seem defined by crises in which life is at stake and morality is at issue; personalities involved in such crises can seem larger than life.

When Professor Tom Baker,<sup>1</sup> in planning a conference on the changing concept of risk in insurance,<sup>2</sup> had the inspiration to show a movie about insurance, his pickings were slim. He chose Francis Ford Coppola's

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1. Connecticut Mutual Professor of Law and Director, Insurance Law Center, University of Connecticut School of Law.

2. University of Conn. Sch. of L., Symposium, *Insurance, Risk & Responsibility: Toward a New Paradigm?*, University of Connecticut School of Law (Apr. 11-12, 1999).

adaptation<sup>3</sup> of John Grisham's *The Rainmaker*.<sup>4</sup> Because the story presents an insurance company as villainous, it conveniently serves as a lightning rod for opinions regarding the insurance industry. Is the portrayal realistic? Do real insurance companies, like the company in the movie, deny claims with little concern for their contractual obligations or even for basic humanity? Baker asked me to lead a discussion of the movie to explore not merely insurance in fiction but attitudes toward insurance companies in fact. The discussion at the conference took flight with strong opinions, passionately expressed. It served as an occasion for me and others to reflect on the psychological underpinnings of our attitudes toward insurance and also to think of insurance as political metaphor.

A preliminary question arises from the fact that the passions evoked by difficult encounters with insurance are so rarely the stuff of drama. If many of us have had troubling experiences with insurance, why are these concerns usually not expressed in the stories of culture? Insurance is indeed the stuff of drama, when crimes are committed in its shadow or when catastrophes make it exigent. Otherwise it is, like accounting, a paradigm of a background aspect of modern life that frustrates the imagination. This is so, I think, because the very genius of insurance is to tame life's crises and minimize the unpredictable. A life and mind given over to insurance are seen as the antithesis of a life of fantasy and imagination, a life that thrives on contingency.

Accordingly, generations of critics have labored to explain those rare figures who have inhabited both the world of insurance and the world of imagination. In his double life as a poet with a genius for inventing new ways to see experience and, in his day job, a successful insurance executive, Wallace Stevens seems to have been a living oxymoron.<sup>5</sup> The case of Franz Kafka is arguably a rare instance in which insurance fueled imagination, albeit with nightmare visions of dislocation and alienation. His fictional allusions to Byzantine, inhuman, and barely comprehensible institutions,<sup>6</sup> are

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3. See *THE RAINMAKER* (American Zoetrope 1997).

4. See JOHN GRISHAM, *THE RAINMAKER* (1995).

5. See, e.g., THOMAS C. GREY, *THE WALLACE STEVENS CASE: LAW AND THE PRACTICE OF POETRY* (1991). This book is an intriguing and well-argued attempt to connect the various aspects of Stevens' life.

6. See, e.g., FRANZ KAFKA, *THE CASTLE* (Willa & Edwin Muir, trans., Knopf 1962) (1930) and *THE TRIAL* (Willa & Edwin Muir, trans., Knopf 1960) (1937) (the best known and most influential examples of his posthumously published novels). The movie *KAFKA* is an

plausibly grounded in his own life, in his grim employment in the lowest ranks of insurance workers in Prague.<sup>7</sup>

The limited and occasional role of insurance in cultural attitudes and cultural products merits more analysis. In Section II, I will glance at a few ways in which insurance has served as a plot device or literary metaphor. Sections III and IV will look more closely at its role, not merely in our culture narrowly construed – culture as “the arts” – but in our culture broadly conceived, namely our collective experience, our shared thoughts and feelings. These sections will consider briefly both the psychology of insurance (ways in which it is associated with unease, fear, and the quest for security) and its politics (ways in which it serves as an occasion for rethinking the relationship of the individual and society).

## II. TRUMAN BURBANK AND THE RAINMAKER

In *The Rainmaker*,<sup>8</sup> the perfidy of the insurance company is the perfidy of lawyers. Lawyers write the contracts, lawyers decide that valid claims are to be systematically denied, and lawyers defend those practices in court. Lawyers are familiar villains, and *The Rainmaker* trades shamelessly in such stereotypes. Perhaps we may infer insurance contracts may be benign until they become the tools of lawyers . . . but of course lawyers are *always* involved.

Unlike *The Rainmaker*, Peter Weir’s recent movie, *The Truman Show*,<sup>9</sup> uses insurance as a complex and revelatory metaphor. Truman Burbank, the movie’s protagonist, sells insurance. Understandably, he touts it as a means to find a bit of security in an insecure world of ordinary contingencies. But Truman Burbank’s world is not in fact that kind of world. His world is planned, scripted, dramatized, and broadcast on national television; he, alone among his peers, is duped into thinking that his managed, artificial world is

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attempt to capture, in largely fictional form, the substance and ambiance of Kafka’s experiences as an insurance examiner in Prague in the 1920s. See KAFKA (Miramax 1991).

7. See MAX BROD, FRANZ KAFKA: A BIOGRAPHY (G. Humphreys Roberts, trans., Schocken Books 1970) (1947). Brod quotes Kafka as writing that “insurance is like the religion of primitive peoples who believe they can ward off evil by all kinds of manipulations.” *Id.* at 74.

8. See THE RAINMAKER, *supra* note 3.

9. See THE TRUMAN SHOW (Paramount 1998).

real. Contingency, the main reason why insurance is needed, has apparently been squeezed out of his world. Paradoxically, he sells the one commodity that has no possible use for himself or those around him.

The opposite is also true. Truman's world is radically contingent. The movie shows us how the most careful choreography and scripting of Truman's life *cannot* in fact eliminate contingency. The contingency here is the possibility of Truman discovering that his world is artificial, manipulated. The facade is fragile, and its creators are fallible. Thus, Truman is radically at the mercy of contingent events, radically naive and unprepared in the face of the unplanned and unpredictable. Both realistically and metaphorically, he lacks insurance against whatever he meets in the unscripted world as it really is – the world that surrounds his artificial world.

Does Truman have free will? On one hand, it seems he cannot have free will when every choice is anticipated and guided by a master director/manipulator. He is a puppet. On the other hand, he seems the only resident of the fictional village of Seahaven who *does* have free will. He alone is not reading lines, not acting a part scripted by others. The efforts of the director are constantly given over to anticipating how Truman will use his will, and to keep him from using it to discover the true nature of his existence. This very struggle, between Truman's free choices and the need to control their consequences, gives the Truman television show – the show within the movie – its dramatic tension.

Thus, *The Truman Show* entertains two antithetical notions of freedom, and it suggests two attitudes toward insurance as well. On one view Truman is altogether unfree; in a world that is perfectly ordered, controlled, and determined, insurance has no meaning. On a second and contrasting view, Truman is the only free person in his domain. Since he can ultimately realize that freedom, his world cannot be ordered perfectly. Truman's world can and does come apart at the seams. Contingency will out – and insurance will always be needed.

*The Truman Show* is a rare, perhaps unique, exploration of insurance as a metaphor. More commonly, insurance serves as a straightforward plot element. Frequently and understandably it can motivate crime. *Double Indemnity*<sup>10</sup> is perhaps the best known of many movies, novels, and television episodes in which insurance offers a motive for homicide. Life, in this sense, imitates art. Real police investigators keep insurance in mind not only as a

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10. See *DOUBLE INDEMNITY* (Paramount 1944).

reason to kill, but also as a motive behind arson for profit, staged accidents, false reports of theft, and so on.

The role of insurance as a trigger for crime has been apparent to crime novelists. Most mystery series tend to have the police, private investigators, or lawyers as their protagonists because no one else is likely to face puzzles of criminality with the requisite frequency.<sup>11</sup> At the same time, insurance investigations offer mystery writers an alternative kind of hero. One of the most graceful and compelling recent series is Joseph Hansen's little-known corpus of crime novels about David Brandstetter,<sup>12</sup> who runs his own insurance firm in southern California and is thus led to various underworlds in which insurance motivates deception and fraud and corrupts human relationships.

In general then, the literary portrayal of insurance is hardly one-sided – and hard to discuss in generalities. For every corrupt and maligned insurance company, as in *The Rainmaker*, there are others – in fiction as in life – that more or less meet clients' expectations. The overriding fact is that, these various examples notwithstanding, insurance is not a major theme of literature or popular culture. It is, as we have seen, a condition which most of us take for granted while attending to other things.

But, as the response to the movie *The Rainmaker* demonstrated at the risk conference, there is more to our spontaneous attitudes toward insurance than disinterest or passive acceptance. Anger and frustration colored the remarks of *The Rainmaker*'s audience. These responses were triggered by the company represented in the film, but they were emphatically directed at insurance companies in actual experience. We shall see in the next two sections that these feelings have provocative psychological and political explanations.

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11. Series in which chefs, hoteliers, or doctors are amateur investigators are fundamentally implausible. Their heroes seem to live in a world where one cannot go out for groceries without being implicated in murder and a couple of thefts.

12. See, e.g., JOSEPH HANSEN, *THE BOY WHO WAS BURIED THIS MORNING* (1990), *A COUNTRY OF OLD MEN* (1991), *DEATH CLAIM* (1973), *EARLY GRAVES* (1987), *FADEOUT* (1970), *GRAVEDIGGER* (1982), *THE LITTLE DOG LAUGHED* (1986), *THE MAN EVERYBODY WAS AFRIAD OF* (1978), *NIGHTWORK* (1984), *OBEDIENCE* (1988), *SKINFlick* (1979), *TROUBLEMAKER* (1975).

### III. THE PSYCHOLOGY OF FEAR AND DEPENDENCE

There are two moments when we have occasion to reflect on insurance and make choices accordingly: when we take out insurance and when we make claims. Taking out insurance is not always a matter of choice. Having auto insurance may be a legal condition of being a licensed driver. Health insurance coverage may be a condition of one's employment. But whether opting for insurance is voluntary or mandatory, we acquire it in anticipation of adversity and disaster. We are forced to contemplate our physical and economic vulnerability, even our death. We are forced to imagine ourselves as victims of accidents and predators.

Assessing such risks is only marginally a rational process. Of course, we have access to relevant actuarial and other data. We can find out the incidence of violent crime in our community, in the various places where we live, work, travel, and play. We know our family histories and the kinds of illnesses and breakdowns to which we are most susceptible. We can assess the effects of our various precautions and indiscretions accordingly. In the end, we spend more and more time seeking information that is ever less useful.

All the statistics we can possibly find, all we can possibly know about our own personal histories and predispositions, can never make the future predictable. The errant cancer cell, the drunk driver in the oncoming lane, the cerebral aneurysm, and the attack by the mental patient who is dangerously off his medication can never be anticipated. The choices we make about insurance, and our attitudes toward such choices, will always be beyond rational prediction and determination.

The second and more important moment in which insurance plays a central role is the claim itself. In other words, the two difficult moments in which we think about insurance are first, the contemplation of suffering and adversity, and second, the actual experience of it. To be sure, in this second moment there is a positive role for insurance. Its very purpose is to ameliorate loss, compensate victims, and if possible, make them whole.

This ideal is often compromised, in our anticipation of it and in fact. For one thing, there is the fear – often a realistic one – that the satisfaction of expected claims will be delayed and denied. Even when we are ostensibly made whole promptly and fully, the precipitating events themselves are often lastingly traumatic. The notion of being “made whole” is a euphemism. Our lives are disrupted and torn by accidents, illness, crime, and death in ways

that no insurance settlement can undo. Both the anxieties and genuine losses in such circumstances leave their permanent marks.

Aware that insurance is associated with both the contemplation and experience of the worst events in life, insurance companies aim to project an image of personalized concern and care. The advertising campaigns of insurance companies obsessively stress that they are like wise, omniscient, and omnipotent care-givers, that we can trust and depend on them as young children trust their parents.<sup>13</sup> But, just as we know that children can be abused and betrayed, we know that insurance companies do not exist simply to undo adversity. They exist, like all businesses, to stay in business and succeed by the criteria of profit and growth. Selflessness, altruism, and generosity are, one inevitably suspects, the sheep's pelt that hides the wolf.

The underlying economic reality and business necessity is that claims are always scrutinized and always run the risk of being challenged and denied.

The charitable guardian, the surrogate all-powerful parent, becomes, in easily imaginable circumstances, the potential legal adversary. Thus, our psychological response is paradoxical: our final solace is most plausibly our impersonal betrayer, no more concerned with our well-being than the cancer cell or the mugger. Paradoxically, these feelings about the institution that exists to spread risk and insure that we are *not alone* in our plight are ones that underscores the extent to which we are *indeed* alone.

Thus, there are basic psychological reasons why we find it distressing to think about insurance. It is associated with the most dreaded eventualities of life and with fantasies (and realities) of need, dependence, and betrayal. Moreover, the way we think and feel about insurance has political as well as psychological dimensions, issues I explore in the next section.

#### IV. THE POLITICS OF CARE AND DEPENDENCE

Insurance is both a fact and a metaphor. As metaphor, it implicates the basic purposes for which government and the state exist. Thomas Hobbes famously contrasts a state of nature, in which each is at war with all others, with an organized state, a political entity in which persons give up some

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13. See Tom Baker, *Constructing the Insurance Relationship: Sales Stories, Claims Stories, and Insurance Contract Damages*, 72 TEX. L. REV. 1395, 1403-07 (1994) (discussing advertising efforts).

power to create a central authority to enforce general rules of security.<sup>14</sup> What Robert Nozick calls the “night-watchman state”<sup>15</sup> is one in which all persons, conscious of extremes of vulnerability and risk, trade freedom for risk-control. That is the principle behind all voluntary political structures, and it is essentially an insurance principle: one considers the worst that can happen, and its likelihood, and then draws upon present resources to control and ameliorate that possibility.

Attitudes toward insurance, toward the need for state intervention for risk management in general, will be colored by one’s disposition to optimism or pessimism. To the extent that rational persons may disagree about degrees of risk, the rational optimist will tend to discount the risk and be less likely to invest in precautionary arrangements. The pessimist will do the opposite.

If one dimension of politics is the *opportunity* to insure against the vulnerability and the risk of catastrophe, another dimension is *compulsion* to do so. Many of the ways in which the state “insures” us are non-optional. We cannot choose to live without the police or the armed forces and to withhold our tax investment in them. But we are accustomed to reserving the term “insurance” for non-compulsory arrangements. Traditionally, health, life, and property insurance are commodities that we can buy in the market. We assume, as good capitalists, that the market will work appropriately, that the choices we are offered will meet our needs and be fairly priced.

The line between insurance as a commodity, as an option, and insurance as a compulsory part of government regulation is always a moving target. There are reasons for this. The market for insurance inevitably exists in a context in which the scope of the market is determined politically through many considerations. Some are economic, such as efficiencies of scale; others, such as egalitarianism, may not be. Consumer protection and health care are only two of the most obvious areas in which the role of a free market in insurance and protection are politically controversial and significantly in flux.

The essential political question is whether a free market in insurance – insurance-as-a-commodity – produces a dangerous, even intolerable, misallocation of relevant resources. With regard to health insurance and delivery of health care, that question is affected by the demise of illusion of unlimited capacity. Until recently, we have entertained the expectation, the

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14. See THOMAS HOBBS, LEVIATHAN 63-74, 87-96 (Everyman’s Library ed. 1962).

15. ROBERT NOZICK, ANARCHY, STATE, AND UTOPIA 25-27 (1974).

myth, that medicine merely had technological and not economic limits. With technological progress we would get ever closer to a system that meets fully (whatever *that* might mean) the health needs of all. The present generation is the first to question this conviction and to explore the political implications of hard economic choices – indeed, of triage – in health care. Does a generous system of insurance (and health care distribution) for those who are well off, a system based on treating health care as a commodity, necessarily mean that those who are least well off will have their health opportunities diminished?<sup>16</sup>

Thus, insurance recapitulates politics. The health care debates show, perhaps better than other debates in our history, that we cannot address questions about insurance – what options should we have? – what arrangements should be compulsory? – without revisiting *all* of the main questions of politics: how much freedom should persons have? How much risk should they bear? How should responsibilities and rights be allocated between individuals and the state? How should the liberal ideal of autonomy be reconciled with egalitarian ideals and goals?

In these ways, insurance intersects with the political imagination more immediately than is reflected in culture in the narrow sense, the arts. The drama of *The Rainmaker* veils the harder issues that cannot be resolved by going after villains in court and by holding insurers to the terms of their contracts and the promises of their ads. The political lesson echoes the psychological one, that the promise of insurance – to defuse the risks inherent in our mortality and vulnerability – can only be satisfied incompletely and modestly. The jerry-built structures of the state and private insurance hardly allow us to leave behind the dangers that we first meet in Hobbes's state of nature.

## CONCLUSION

Insurance is a rich metaphor, notwithstanding the fact that it has rarely inspired novelists and dramatists. Conceptually, we can imagine insuring against anything that we fear, any aspect of vulnerability. But insurance is

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16. Note that in *A Theory of Justice*, a fundamental criterion of justice is that those who are worst off not be subjected to a scheme in which their position is made even worse. See JOHN RAWLS, *A THEORY OF JUSTICE* 60-75 (1971).

always inadequate armor. It cannot prevent, forestall, or even delay the things we fear. It can only begin to ameliorate their effects. Thus, while it expresses the hope of controlling what is uncontrollable in the human condition, it is also a constant reminder of that predicament.

*The Rainmaker* does not get to the heart of the metaphor of insurance. We can always imagine a benign rather than an evil insurance company. However, even the most caring and altruistic insurance scheme cannot prevent Truman Burbank, or the rest of us, from discovering the limits of our (or anyone's) control over our destiny, from knowing fear in a radically contingent world.