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Criminogenic needs and the transformative risk subject

Hybridizations of risk/need in penalty

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Abstract

This article examines the discrepancies between theories of risk and penalty and emergent strategies of risk/need identification and management. Working back from the strategies themselves, I argue that the current generations of risk/need technologies are a significant departure from the pessimistic theoretical accounts of risk in criminal justice associated with the 'new penology' and 'actuarial justice'. I argue that risk knowledges are fluid and flexible and capable of supporting a range of penal strategies. The evolution and meanings of risk in correctional assessment and classification are examined to show how understandings of risk have shifted from static to dynamic categorizations. I show how the concept of need is fused with risk, how particular conceptions of 'need' and 'risk' are situated in local penal narratives, how need reconstructs risk and revives correctional treatment as an efficient risk minimization strategy. I argue that strategic alignment of risk with narrowly defined *intervenable needs* contributes to the production of a *transformative risk subject* who unlike the *'fixed or static risk subject'* is amenable to targeted therapeutic interventions. Newly formed risk/needs categorizations and subsequent management strategies give rise to a new politics of punishment, in which different risk/needs groupings compete for limited resources, discredit collective group claims to resources, redistribute responsibilities for risk/needs management and legitimate both inclusive and exclusionary penal strategies.

Key Words

classification • need • new penology • risk • theory

Contemporary scholars argue that we are moving towards a 'risk society', where many aspects of social life are governed through objective, actuarial predictions of risk, and where institutional and organizational structures are 'embracing risk' (Baker and Simon,

2002).¹ Much like other social problems, crime is viewed as a calculable, avoidable, governable risk. 'Criminals' are characterized as a risky population to be efficiently and prudently managed by the state, as well as by citizens and a host of non-state agencies (Simon, 1993; O'Malley, 1996, 1998, 1999, 2000; Rose, 1996, 1998, 2000, 2002; Ericson and Haggerty, 1997, 2002; Stenson and Sullivan, 2001; Ericson and Doyle, 2003). Various groups are profiled and regarded as 'at risk' (women, youth, and children). Offender populations routinely are subdivided, categorized, and classified according to levels of risk (i.e. high, medium, or low). Certain offender groups are perceived to be exceptionally risky, requiring special legislative control (i.e. sex offenders, mentally ill, recidivists, squeegee kids, and the homeless). Many argue that risk is a central recognizable feature of penal, legal, and administrative rationalities.

Current analyses of punishment claim that risk and connected actuarial strategies are displacing welfare strategies, which tailor interventions according to an individual's needs (Garland, 2001). For example, in their seminal article on the 'new penology', American scholars Feeley and Simon (1992), argued that modern penal policies have shifted away from individualized rehabilitative models, towards more strategic, administrative population management approaches that rely on actuarial techniques of quantifying and assessing the 'risk' of certain prisoners. The authors claimed that the 'new penology' does not seek to 'change' offenders through 'targeted interventions', rather policies are concerned with efficiently identifying and managing a person at risk of reoffending, while minimizing the potential risk to the community (Feeley and Simon, 1992; also see Simon, 1993). Likewise, Garland (2001), in *The Culture of Control*, argued that the welfare penal mode is muted in favour of a punitive, expressive, risk conscious penal mode. Accordingly, offenders are 'seen as risks that must be managed. Instead of emphasizing rehabilitative methods that meet the offender's needs, the system emphasizes effective controls that minimize costs and maximize security' (p. 175). Within this literature, welfarism and neoliberalism tend to be thought of in a linear and one-dimensional way, proclaiming that the arrival of neoliberalism and risk has displaced welfare.

Although the discursive shifts outlined by Garland (2001), Feeley and Simon (1992, 1994), and others are apparent in many international penal narratives and cultures, recent research suggests that the proliferation of risk-based actuarial models has not simply replaced welfare strategies (Simon, 1996; Kemshall et al., 1997; Kemshall, 1998, 2002; Lynch, 1998; Robinson, 1999, 2001, 2002; Hannah-Moffat and Shaw, 2001a; Kemshall and Maguire, 2001; Miller, 2001; Leacock and Sparks, 2002). Arguably, the welfare/risk binary is overstated. More convincing is O'Malley's (1999) recent analysis², which argues that we are observing 'mixed models of governance' or a 'hybrid formation' where risk is melded with other policy orientations, such as rehabilitation and restorative justice. What Garland and others fail to explore in sufficient detail is how risk strategies have evolved and how rehabilitation has been revived as a central feature of risk/need management and penal control.

Working back from the strategies themselves, I argue³ that the current generations of risk/need technologies reflect a significant departure from the pessimistic theoretical accounts of risk in criminal justice associated with the 'new penology' and 'actuarial justice'. I argue risk knowledges are fluid and flexible and capable of supporting a range of culturally contingent penal strategies. The evolution and meanings of risk in

correctional assessment and classification are examined to show how understandings of risk have shifted from static to dynamic categorizations. I show how the concept of need is fused with risk to create 'dynamic risk/criminogenic need', how particular conceptions of 'need' and 'risk' are situated in local penal narratives, how need reconstructs risk and revives correctional treatment as an efficient risk minimization strategy. I argue strategic alignment of risk with narrowly defined *intervenable needs* contributes to the production of a *transformative risk subject* who unlike the '*fixed or static risk subject*' is amenable to targeted therapeutic interventions. Newly formed risk/needs categorizations and subsequent management strategies give rise to a new politics of punishment, in which different risk/needs groupings compete for limited resources, discredit collective group claims to resources, redistribute responsibilities for risk/needs management and legitimate both inclusive and exclusionary penal strategies.

THE EVOLUTION OF CRIMINOGENIC NEED/DYNAMIC RISK

No new form of knowledge is ever without a line of precursors and a hazy ancestry of analogous practices and objectives. (Garland, 1985: 76)

To illustrate how a 'mixed model of governance' operates in contemporary Canadian penal practices, I examine the genealogy of a specific type of risk, that is, dynamic risk (or criminogenic need). This is a construct that has become a central organizing feature of correctional assessment and classification in Canada and elsewhere. This discussion of criminogenic need/dynamic risk is used to destabilize the assumed risk/welfare binary and to show how narrow constructions of need are fused with risk, and how need and risk are reciprocally constituted.⁴ The emphasis on criminogenic need/dynamic risk offers a different way of knowing and governing prisoners and prisons than those models associated with either penal welfarism or static actuarial justice. To further understand the heterogeneity and evolution of risk and need in the context of assessment, the following maps the emergence of risk/need thinking as situated in a particular practitioner-driven knowledge. How particular constructions of risk are mediated, resisted, and re-configured by experts and practitioners is demonstrated. The following is not a critique of this form of knowledge or of its practical utility; such a debate is beyond the scope of this article. Here, the concern is with reciprocal conceptualizations of risk and need, and the production of risk/need knowledge. How does need assessment become a central aspect of risk prediction and management? Or, alternatively, how are risk technologies reshaped to fit with an ongoing normative 'post-welfare' commitment to therapeutic interventions?

Practitioner-driven correctional assessment, classification, and management literature (dominated by psychology) illustrates that correctional regimes have variously defined and combined the management of risk and need for over 20 years (Baird, Heinz, and Bemus, 1979; Megargee and Bohn, 1979; Bonta and Motiuk, 1985, 1987, 1992; Clements, 1986; Andrews and Bonta, 1998).⁵ The current phrase, 'risk/need', evolved out of this influential and now deeply embedded practitioner-driven research agenda that embraced the rehabilitative ideal and its post-Martinson revival, and out of a long-standing organizational commitment to correctional programs. This research rejects the popularized 'nothing works' claim, seeks to determine 'what works', and strategically

deploys 'effective, targeted correctional interventions'. Canadian correctional organizations have never solely or even primarily relied on actuarial models of risk for offender management; movements in that direction are not favoured. Alternatively, extensive literature on the benefits of assessing both risk and need exists. Such assessment practices are believed to enhance the accuracy of clinical decisions, and allow for targeted interventions, better classification, program evaluations, and resource allocations (Loza and Simourd, 1994; Andrews and Bonta, 1998). The renewal of need, through risk logics, evolves out of a critique of static actuarial models of risk prediction (exemplified by actuarial justice models), which are partly informed by post-welfare rehabilitative knowledge.

Assessment tools and more general classification practices that combine risk and need are euphemistically referred to as *third-generation risk assessments*.⁶ These third-generation tools which emerged in the early 1990s are believed by many practitioners to be better clinical assessment tools and predictive devices than earlier first- and second-generation risk assessments (Hannah-Moffat and Maurutto, 2004). The *first-generation risk assessment* (clinical prediction) relied primarily on the unstructured clinical judgment of skilled practitioners. This method was discredited because of its subjective, unempirical qualities and for its poor predictive accuracy. In the 1970s, new technologies of control that relied on statistical prediction were popularized. These *second-generation risk assessments* have garnered the most recent attention in the theoretical literature. As Simon (1993) notes, the proliferation of second generation risk assessments marked a significant shift in penalty from normalization to management. These tools use *static historic factors*, such as age, number and type of convictions, sexual offending, and relationship to victim to make statistical predictions about offenders. Examples of these tools include the Salient Factor Score (used in the United States), the Statistical Inventory on Recidivism (SIR) (used in Canada), and the Risk of Reconviction (used in the United Kingdom).⁷ While these tools were initially seen as more objective, empirically sound actuarially, and as having considerably better predictive accuracy than previous methods (Andrews and Bonta, 1998), they were later criticized for their rigidity and prohibitive reliance on static offence-based risk criteria.

The rigid knowledge of risk contained in second-generation risk tools produced a *fixed risk subject* who was designated to a particular risk category (high, medium, or low) based on accumulated historical factors that, for the most part, could not be changed. This conceptualization of the offending subject naturally limited practitioners and prescribed little by way of intervention, other than incapacitative measures; thus providing little guidance to correctional administrators and limiting the scope of correctional intervention. More abstractly, such understandings of risk were predicated on the implied failure of rehabilitative interventions and the tacit understanding of incapacitation as a preferable penal strategy. This logic contributed to what penal scholars have dubbed the post-welfare era of 'hyper' or 'mass incarceration'.⁸ While the popularity of these tools in many penal cultures is used as evidence of a decline in welfare and clinical approaches to offender management, this is only one facet of how penalty has changed. A host of concerns about the use of static risk models were raised by psy-professionals in the early 1980s in correctional literature on assessment and classification.⁹ This critique generated new ways of understanding risk and knowing the offender, and reasserted the premise that offenders can change if knowledge of offenders' needs was

integrated into assessment technologies. This shift in risk thinking is not captured in theoretical analyses of penal governance.

At the same time that static risk logic was being mobilized to legitimate and inform penal policies, practitioners and correctional researchers were engaged in forms of knowledge production that challenged this seemingly dominant understanding of risk and reasserted the importance of rehabilitative programming. For instance, the Canadian Don Andrews (1989), a leading proponent of the 'what works' movement and author of dominant assessment tools, indicates that 'past (second-generation) assessments of risk fail to prescribe interventions, and ignore the fact that, once in the correctional system, offenders are subject to events and experiences that may produce shifts in their chances of recidivism' (p. 5). That is, lower risk cases may remain low risk throughout their period of supervision, or they may move into higher risk categories. On the other hand, higher risk cases may remain high risk or they may move in the direction of lower risk. Andrews (pp. 5–6) argues that improvement in accuracy of prediction risk assessments is contingent upon a determination of the characteristics of offenders and their circumstances that are subject to change during the sentence, and establishing which of those changes actually indicate an increased or a reduced chance of recidivism. This knowledge, Andrews contends, requires researchers and practitioners to look beyond risk factors that cannot be changed, such as criminal history, to changeable dynamic factors, or 'criminogenic need' factors (pp. 5–6).

Using the insights of meta-analysis, correctional researchers argued that the absence of dynamic variables or 'needs', such as employment, marital/family relationships, associates, antisocial attitudes, personality traits, substance abuse, and other theoretically¹⁰ relevant items that were statistically shown to be correlated with criminal conduct, were a limitation of earlier tools (Andrews and Bonta, 1998: 224). This powerful critique of the '*first- and second-generation risk assessments*' led to the assimilation of need into traditional risk assessments that, in turn, increased practitioners' confidence in their ability to predict recidivism and design targeted interventions. Guided by the notion that 'prediction should provide utility' (p. 225), a third generation of risk assessment evolved. *The third-generation risk assessment* is distinctive because it purports to objectively and systematically measure static and dynamic risk or criminogenic need factors.

A fourth generation of risk assessment is envisioned that will include the identification and measurement of key responsivity characteristics for treatment matching (p. 248; also see Motiuk, 1998, 1997a, 1997b). The most recent version of the *Youth Level of Service/Case Management Inventory (YSL/CMI)* and planned¹¹ revisions of *Level of Service Inventory – Revised (LSI-R)* integrate responsivity factors into the assessment of risk and need. Clearly, the new convention in risk assessment and classification is to use strategies and tools that 'systematically bring together information about an offender's history and needs to develop a treatment plan and assign levels of supervision' (Andrews and Bonta, 2002: 1).

Andrews and Bonta's (1989/1994) principles of risk, need, responsivity, and professional discretion illustrate this new risk-informed managerial logic of penal governance. The quadrangle of risk, need, responsivity, and professional discretion are identified as four principles of classification that have been adopted by the Correctional Service of Canada (CSC).¹² The *risk principle* is an endorsement of the premise that

criminal behaviour is predictable and that treatment services need to be matched to an offender's level of risk. Thus, offenders who present a high risk are those who are targeted for the greatest number of therapeutic interventions. The *needs principle* pertains to the importance of targeting criminogenic needs and providing treatment to reduce recidivism. Through such tools, need is explicitly linked to 'rehabilitation'; criminogenic needs/dynamic risk factors are rehabilitative targets. However, 'treatment' often means cognitive behavioural interventions that claim to teach and not 'treat', as previous rehabilitative connotations suggest.¹³ The *responsivity principle* expands this premise. Andrews and Bonta (1998: 245) suggest that '... treatment be delivered in a style and mode that is consistent with the ability and learning style of the offender. Offenders are human beings and the most powerful influence strategies [correctional interventions] available are behavioural/social/learning cognitive behavioural strategies' (p. 245). Finally, the principle of *professional discretion* strategically reasserts the importance of retaining professional judgment, provided that it is not used 'irresponsibly' and is systematically monitored. Here, the term of professional extends beyond the psych-professional or past references to 'clinical practitioners' to include a host of practitioners (or para-professionals¹⁴) with little to no professional training in risk assessment and, in the most extreme cases, correctional officers, or parole supervisors.

THE CENTRALITY OF NEED/RISK CONFIGURATIONS IN CORRECTIONAL PRACTICE

Practitioners' resistance to a particular construction of risk and the *fixed risk subject* facilitated the development of a hybrid construction of risk/need and a new risk knowledge, which allows for the transformation of the risky subject into a prudent and rational risk managing subject. The *transformative risk subject*, who is prominently featured in most practitioner-based correctional narratives, is more compatible with correctional projects that remain concerned about the reintegration of offenders and in cost-efficient delivery of treatment services. This model is also designed to reduce the likelihood of recidivism or lessen the risk posed by the offender, and not simply to contain and manage services as actuarial models postulate. Doing nothing is simply not an option, especially under a determinate sentencing regime. This 'fluidity requirement', combined with a compatible political and humanistic commitment on the part of many correctional jurisdictions to 'do something' that will facilitate reintegration and rehabilitation, carved a unique focus on offender needs within a broader context of penal governance.

The emphasis on risk/need has reshaped dominant strategies of offender management. The 'secure containment of risk' (Rose, 2002) now involves efficient, rational calculations of need. Of significance then is that correctional technologies of assessment and classification that evolve from practitioner-driven research do not outright reject 'rehabilitative technologies of change' and they are not exclusively determined by static conceptions of risk. Instead, such practices evoke understandings of risk that incorporate both ambiguous and explicit concerns about offender needs. Due to this logic, correctional interventions and assessments were reconstructed to acknowledge risk/need and build in programmes of action. Risk/need languages are now fully integrated into most youth and adult correctional narratives, including the National Parole Board and

the Correctional Service of Canada's policies and training manuals, which explicitly instruct practitioners on 'how to govern through risk'. The term risk, which is often present in legislation (CCRA), is implicitly understood as a deliberation of need. The following documents the centrality of criminogenic need/dynamic risk in Canada's federal¹⁵ correctional classification practices and in specific risk assessment tools, such as the LSI-R (Andrews and Bonta, 2002) and the YLS/CMI (Andrews and Hoge, 2002), which are used by correctional agents to facilitate case planning and to write court reports. Most of the assessment tools used by practitioners include the same criminogenic factors. Comparable developments exist in international correctional classification (i.e. OASyS in Britain – HM Prison Service (2003)). The tools discussed here are representative of assessment technologies used by probation, parole, and classification officers.

In 1994, the Correctional Service of Canada (CSC) formalized the use of structured risk/needs assessment¹⁶ with the introduction of the Offender Intake Assessment (OIA).¹⁷ The OIA was adopted to provide a standardized, efficient, and comprehensive method of evaluating all newly admitted federal prisoners.¹⁸ The OIA users' manual¹⁹ (CSC, 1994) describes this as a 'comprehensive and integrated assessment process wherein an offender's *risk* (factors which led the offender into criminal behaviour and the criminal record) and *needs* (areas in the offender's life/lifestyle, which, if changed, can reduce the risk of re-offending) are identified at the beginning of the sentence, so that programming and treatment are appropriately focused' (p. 6). The OIA has two central components: criminal risk assessment and needs identification (Case Needs Identification and Analysis).²⁰ Criminal risk assessment refers to a series of static factors, including previous youth/adult charges, sex offending history, sentence types, number and severity of convictions, victim characteristics, detention criteria, and the Statistical Inventory on Recidivism (SIR scale).²¹ The analysis of needs entails a detailed evaluation of the offender's background, personal characteristics, inter-personal relationships, situational determinants, and environmental conditions. Typically, the needs assessment targets seven 'domain areas': marital and family, employment, associates and social interaction, substance abuse, community functioning, attitude, and personal and emotional concerns. Needs are rated according to the perceived 'need for intervention' on a discretionary four-point scale that ranges from 'no need for intervention' to 'considerable need for intervention'.

The outcome of the OIA process is a hierarchal rating of risk/needs areas and a series of corresponding recommendations about correctional intervention, which systematically incorporate professional judgment. The proscribed interventions generally require offenders to attend a series of core programs designed to address identified areas of need and risk. The reduction of need levels is paramount to the management of risk. The information generated through the OIA process is the foundation for *all* future decisions and recommendations pertaining to the offender. The information is the basis of the correctional plan, institutional supervision, and parole board decision-making and community supervision. An offender's progress is measured based on the individual's ability to adequately address identified risk/need areas. This brief overview of the national assessment and classification process, which is used for all federally sentenced prisoners, shows that at the level of daily operations, understandings of risk²² and need are inextricably bound and connected to program prescriptions.

The past 15 years has also witnessed the augmentation and refinement of a series of assessment tools that simultaneously assess risk and need, as well as the development of a series of separate tools designed to quantify, document, and prioritize offenders' needs.²³ The Level of Supervision Inventory – Revised (LSI-R) and the Youth Level of Service/Case Management Inventory (YLS/CMI), which is widely used in the United States, Canada, and the United Kingdom, are other examples of hybrid risk/need tools used to facilitate a wide range of decisions from sentencing to release. The LSI, developed by Canadians (Andrews, 1982) who critiqued second generation risk assessment tools, was one of the first attempts to formalize the assessment of criminogenic need (Serin and Mailloux, 2001). These tools have either imbedded the assessment of need into categorical *risk/needs factor* sections or contain separate sections devoted exclusively to needs assessment. The tools are designed for more efficient and effective identification of levels of risk, as well as areas of intervention, which *can* result in a reduction of risk.

These routine assessment practices and tools are examples of many emergent technologies that prioritize needs to systematically target intervention and explicitly integrate knowledge of needs into assessments of risk. Practitioners now commonly speak of risk/need assessment. Correctional researchers in some jurisdictions advocate the development of separate actuarial needs assessments to compliment traditional risk assessment (Aubrey and Hough, 1997; Serin and Mailloux, 2001). More specific efforts also are underway to determine which gendered and ethnocultural needs are relevant to determinations of recidivism (Howden-Windell and Clark, 1999; Dell and Boe, 2000). Accounts of the British Probation Service suggest that the concept of risk or combined notions of risk/need are equally salient in the UK (Aubrey and Hough, 1997; HM Prison Service, 2003). A recent Home Office study by Maung and Hammond (2000) indicates that a new national risk and need assessment will be piloted in all probation services and in the Prison Service in the near future. Similar trends are observable in the United States and in Australia (Winters and Hayes, 2001). Nearly all risk and need assessment tools I am aware of for youth and adults incorporate the same criteria but weigh it slightly differently.

RISK/NEED AND PROFESSIONAL JUDGMENTS

Theorists have argued that 'the attractiveness of risk as a "forensic resource" is at least partly attributable to the moral neutrality, the scientificity, of its language' and that 'the morally neutral scientific actuarial terminology of risk disguises the condemnatory pariahdom created by classifications' (Hudson, 2004: 66 citing Douglas, 1966). While considerably more structured than clinical judgment, these risk/need assessment tools are not a substitute for professional discretion,²⁴ nor are they 'objective' or 'apolitical', as penal theorists postulate. The exercise of professional judgment is incorporated into risk/need assessment through the use of subjective rating scales (high, medium, or low), interpretative categories and overrides. User manuals encourage the exercise of professional discretion and acknowledge that the completion of assessment forms requires 'subjective judgments on the part of the professional who completes them' (Andrews and Hoge, 2002: 5). Tools like the YLS/CMI contain separate sections (section IV) for practitioners to document their own assessment. Assessors are required

to check one of four boxes (low, moderate, high, very high), indicating their professional (not actuarial) assessment of the offender's risk. If this assessment differs from that which the tool ascribes, the assessor is required to document the reasons for the discrepancy. Allowances for professional discretion made these tools more appealing to practitioners because they accommodate for individual differences while simultaneously using statistically relevant, standardized risk/need measures.

The scientific claims of objective assessment mask the inherently moralistic /normative elements of this penal exercise. Contemporary risk/need assessments, which emphasize dynamic factors, are a mechanism of 'black boxing – that is to say they render invisible and hence uncontestable, the complex array of judgments and decisions that go into a scale and a number' (Rose, 1998: 187). The criminogenic needs or 'dynamic factors' that are targeted for intervention typically include employment, marital/family, associates, substance abuse, community functioning, personal/emotional, and attitude. The *risk/need* assessments and prescribed interventions are predicated on middle class normative assumptions that are highly gendered and racialized (Hannah-Moffat and Shaw, 2001b; Hannah-Moffat and Maurutto, 2003).

Questions guiding the assessment of dynamic risk/criminogenic need assume ideal types and construct risk and need based on moral assessments of values, lifestyles, and experiences. For example, the LSI-R interview guides (Andrews and Bonta, 2002: 4–6) relating to financial domain asks offenders:

- Does the household sometimes receive welfare or other forms of assistance?
- Are you worried about having sufficient money to pay debts?
- Has your spouse or have your parents complained about you spending too much on non-essentials?
- Do you have a bank account?
- Do you have credit?
- Do you have a personal budget?
- Do you follow your budget or have problems following your budget?
- Are you receiving general welfare assistance, family benefits allowance? [Workers' compensation, unemployment insurance, disability pension?]

These questions assume individuals have credit, are not financially over-extended or concerned about finances, and are capable financial planners who live within their means and follow budgets. The questionnaire asks offenders about social assistance and welfare twice: once for the household and once for the individual. On the marital/family domain, offenders are asked:

- Are you dissatisfied with your marital or equivalent situation?
- Do you have frequent arguments?
- Are you sexually dissatisfied?
- Have you experienced infidelity?
- Was there an unwanted pregnancy?
- Have you ever argued about child rearing, money, choice of companions or friends, leisure time, ex-partners?
- Have you ever contemplated divorce?

In terms of relationships, a *happy monogamous heterosexual norm* is assumed. Indicators of problematic situations include arguments in general and, specifically, about children, infidelity, sexual dissatisfaction, divorce or contemplations thereof, and victimization (physical, sexual, or psychological). These difficulties (or indicators of criminogenic need/dynamic risk) are not necessarily directly related to the offence committed, but rather are factors deemed relevant to offending based on meta analyses and factors that can be targeted in programs.

The tools used for youth include the added dimension of parental circumstances. For instance, the YLS/CMI includes a section on 'family circumstances and parenting' that evaluates the level of supervision, discipline, and relations with parents. A separate section at the end of the assessment explicitly evaluates needs and other considerations relevant to youth. This section assesses the home environment, 'cultural/ethnic issues', and the character of the parents (abusive, substance use, uncooperative, financial difficulties, mental illness, and criminality). Information generated from such tools informs the level of security, programs, and, in cases where they are used by probation officers, informs recommendations contained in pre-sentence reports. The categorical scientific definitions of risk/need represented on forms by itemized checklists promote an apolitical illusion of objectivity. Closer examinations of these scales and micro technologies reveal the continuance of normative and morally laden evaluations of conduct and character.²⁵

ASSESSING AND DEFINING 'NEED'

Whatever precise approach is taken to the assessment of need, it obviously makes sense to ensure that this is properly integrated with assessing risk. (Aubrey and Hough, 1997: 29)

Cultural approaches to the study of risk argue that what is a risk differs across time and space, not according to an objective scientific process, but rather according to the logic and influence of institutions (Baker and Simon, 2002: 19). Similar claims can be made regarding need (Fraser, 1989). The embracing of third-generation risk assessments has given rise to a new politics of need definition (Fraser, 1989; Hannah-Moffat, 1999). Policy makers and researchers are engaged in a definitional politics that seeks to construct not only an 'intervenable need' that is a legitimate correctional target, but by default, also categorizes some needs as illegitimate targets²⁶ or 'lacking in criminogenic potential'.

Recent correctional research from the British Home Office captures this dilemma. In defining the meaning of needs, Aubrey and Hough (1997) indicate that:

Needs and problems are different sides of the same coin . . . Needs, as distinct from wishes, entitlements or rights, are defined often only implicitly, by reference to function. Basic needs, for example, are those which have to be *met to stay alive* . . . In the case of probation work as currently organized, offenders' problems reflect *needs only if their resolution reduces the risk of reoffending*, or brings some related advantages to the community. (p. 3)

Consequently, needs are constructed within narrowly defined parameters. The definition of a need is not necessarily linked to an offender's perception of what the individual requires but rather in terms of risk reduction and 'intervenability'. This report

also poses the question: 'should a probation officer try to address an offender's poverty, for example, or poor housing if these are unrelated to the probationer's offending or other anti-social behaviour?' (p. 3). Like other correctional researchers, Andrews (1989) is strategic about which needs require intervention and those which are less promising targets. In his earlier work on the subject, Andrews explicitly states that certain areas of need are not appropriate for intervention. He argues that treatment interventions should not attempt 'to turn the client into a "better person", when the standards for being a "better person" do not link with recidivism' (p. 15). In a more refined description of the *needs principle*, Andrews and Bonta (1998: 243) extend the concern with empirical links to recidivism to include intervenability. Andrews and Bonta note that many offenders, especially high-risk offenders, have a variety of needs. They need places to live and work, and/or they need to stop taking drugs. Some have poor self-esteem, chronic headaches, or cavities in their teeth. These are all needs. The needs principle draws our attention to the distinction between criminogenic and non-criminogenic needs. Needs are dynamic attributes of an offender that, when changed, are associated with changes in the probability of recidivism. Non-criminogenic needs are also dynamic and changeable, but these changes are not necessarily associated with the probability of recidivism.

Variables that are significant but not related to recidivism, yet require intervention, are deemed non-criminogenic needs (i.e. poverty, health) and considered a low priority in terms of intervention, except for 'humane' consideration. An intervenable need is not an individual's self perceived need,²⁷ but rather it is a characteristic an individual shares with a population that has been shown to be statistically correlated with recidivism.²⁸ An intervenable need is defined not only through the availability of resources and structural arrangements that allow for intervention and possible amelioration, but through statistical knowledge of it as a variable that is predictive of an undesirable and preventable outcome: recidivism.

Technical correctional definitions of need are legitimated and authorized by science, not by individuals' lay assessment of their circumstances. Needs are derived from a statistical knowledge of variables in a population. These strategies make up needs, which correctional organizations can respond to in the name of 'good corrections'. By focusing on the linkage of need to recidivism, a narrow understanding of need can be effortlessly coupled with risk. While the notion of need can be considered distinct from that of risk, such distinctions are difficult to ascertain partly because needs are presented in correctional research policy and training manuals as 'dynamic risk factors', and combined with static risk factors under the umbrella term 'criminogenic factors'. The inclusion of needs in assessment further implies that if criminogenic needs are disregarded, an increase in the probability of recidivism is likely. This slippage is enabled by categorical, as opposed to individual, understandings of need. New policies and management practices are recasting what were formerly characteristics of an offender population (the tendency to be unemployed or marginally employed) or a need (for employment, (re)training services) into risks or the ubiquitous category of risk/need. The inclusion of *need* in risk assessment redirects intervention efforts and links risk management strategies to rehabilitative strategies informed by a particular psychological and normative theory of offending.²⁹

This transition reflects more than a slippage between the terms risk and need

(discussed elsewhere (Hannah-Moffat, 1999)), and suggests that institutions are organized around hybrid risk/need knowledges. Needs concerns are reformulating risk technologies and are being changed relative to risk, signifying a subtle but important shift in our understanding and responses to offenders. This individualized knowledge of risk/needs as dynamic is different from static, incapacitative risk models (generally referred to in theoretical discussions of risk), which often assume change is not possible and that rehabilitation does not work. This later incapacitative risk logic is based on a static understanding of risk that, in the minds of many practitioners, does not coalesce with the everyday demands of punishment. Wormith (1997) notes that this risk logic provides 'no instruction or direction for the type of management and treatment of an offender most likely to bring about positive change, therefore limiting the capacity to help staff lower an offender's degree of risk' (p. 1). 'Pure' actuarial risk models reject the possibility of changing the offender and thus threaten and de-legitimate correctional interventions.

Having demonstrated the salience of risk/need and having mapped its evolution, I will now briefly outline some of the new patterns of governing, responsibilities, and dilemmas that surface. I will also summarize the development of targeted, responsible intervention, such as cognitive skill training, legitimization of correctional programs, de-politization, and individualization of structural concerns.

STRATIFYING AND TARGETING INTERVENTIONS

Attempts to colonize the future by bringing the future into the present and making it calculable (Hacking, 1990) is a common feature of risk thinking. Or, as Rose (1998) indicates, risk thinking 'disciplines uncertainty'. Attempts to devise actuarial risk/needs assessment and incumbent classification structures predicated on statistical understandings of need reconfigures some aspects of risk-based penalty. Rose notes that

once one has quantified the probability of a future event occurring, decisions can be made and justified about what to do in the present, informed by what now seems to be secure, if probabilistic, knowledge about the future. Indeed, once it seems that today's decisions *can* be informed by calculations about tomorrow, we can demand that calculations about tomorrow *should and must* inform decisions made today. (p. 181, emphasis in original)

Risk/need thinking produces new responsibilities and patterns of action, as well as new strategies for the definition, control, and neutralization of risk. The overlay of risk-based concerns onto existing correctional structures has produced new concerns about offender needs as promising targets for intervention.

The logic of targeted management is embedded in risk/need thinking. New rehabilitative models and 'psy'-expert claims about what works combine need-logics with risk-logics. This amalgamation has produced a hybrid form of risk/need governance, which has an unparalleled status and authority in many correctional regimes. The link to the 'what works' agenda is obvious: the identification of dynamic risk/need factors signifies an opportunity to change or transform the offender into a prudent responsible subject. Risk/need models legitimate newly defined targeted custom-made treatment models and garner managerial and fiscal support for a 'new rehabilitationism',³⁰ which operate to transform the risky subject. However, when needs are targeted in this way, additional

and or intensified interventions into the life or psyche of an individual are justified in the name of prevention or reformation.

Correctional researchers are quite clear that the purpose of assessing criminogenic needs is to develop more 'precise interventions strategies' (Serin and Mailloux, 2001). There is a new legitimization of treatment and a shift in how correctional treatment is delivered. In essence, correctional interventions are now *targeted*. Correctional program narratives speak of interventions that 'target criminogenic needs' and stratify service delivery. In another context, Rose (2003) and Valverde (2003) have theorized the notion of targeted governance in relation to 'smart drugs' and social services and others have used it in relation to anti-poverty programs (Luccisano, 2002). The proponents of risk/need assessment suggest that recidivism can be reduced, if risk/need are appropriately identified and *coupled with the appropriate treatment* (Robinson, Porporino and Beal, 1998: 38). Statistical understandings of needs, as indicators of recidivism that can be altered constructs needs as a justifiable target for intervention thereby facilitating the governance of offenders through needs.

To lessen the offender's level of risk or to develop targeted interventions designed to minimize risk, a fluid conceptualization of risk and the subject is necessary. Correctional treatment narratives claim to target those dynamic (changeable) attributes of an offender that are related to criminal behaviour: a criminogenic need. A fundamental goal of national correctional assessment classification is to identify needs that can be targeted for intervention to reduce risk of recidivism. Andrews (1989) argues that

The needs principle asserts that if correctional treatment services are to reduce recidivism, which is the established Canadian federal correctional logic, then the criminogenic needs of offenders must be targeted . . . Some promising targets of rehabilitative service include drug and alcohol use, relationships, choice of friends, and thinking patterns. (p. 9)

Offenders are placed in a variety of generic programs designed to target the need area, enhance their ability to self-govern, and prudently manage their risk of recidivism. The 'new targeted intervention' project then involves the creation of not only a particular type of disciplined normative subject but also the construction of a prudent risk/needs manager, who is responsible and able to identify risky settings, access resources, and avert situations that may result in criminal behaviour. A central aspect of the new rehabilitative programming is on the provision of core programs that target relevant need areas, which include cognitive skills, substance abuse, living skills, abuse and trauma, and employment and education programs.

The transformative claims of cognitive theorists provide a fundamental link between cognitively based programs and third-generation risk assessment as a mechanism by which areas are targeted for intervention. Not surprisingly, the same researchers³¹ who advocate the modification of risk assessment to include needs are also the foremost proponents of cognitive correctional interventions (i.e. cognitive skills training or living skills or, in the UK, Thinking Straight on Probation (see Robinson, 2001; Kendall, 2002)).

In the context of the risk/responsibility dualism, cognitive behavioural programs suggest that an offender can become a 'rationale decision maker' who makes prudent choices that avoid recidivism. This construction of the offender leaves intact the presumption that crime is the outcome of poor choices or decisions, and not the

outcome of structural inequalities or pathology. The offender's poor decisions were a consequence of an absence or of deficiencies in requisite skills, abilities, and attitudes necessary for proper informed decision-making; or more aptly stated: 'crime was the outcome of insufficiently or unevenly developed rational or cognitive capacities. Criminals did not know how!' (Duguid, 2000: 183). Techniques like cognitive therapy or other programs are vehicles through which offenders (transformative risk subjects) can learn how to manage their criminogenic needs and reduce their risk of recidivism by acquiring the requisite skills, abilities, and attitudes needed to lead a pro-social life. In 1991, this logic resulted in CSC designating 'cognitive skills' a compulsory core program for most prisoners.

Targeted, needs-focused treatment provide the skills necessary for managing needs (and risk) and help the offender gain insight into patterns of offending so 'pro-social choices' can be made. Correctional programs enjoy an elevated and renewed status, as vehicles for teaching risk/need management, by having offenders assume responsibility for their situations and take responsibility for changing their circumstances.³² This coupling of narrowly constructed needs with risk introduces a degree of fluidity into risk assessment practices, which carves out a novel space for therapeutic interventions, and new logics of control that transform and reshape the conduct. These new definitions of risk/need are legitimated through authoritative 'expert' discourses that delegitimize and exclude personal and structural understandings of criminal behaviour.

STRUCTURAL LIMITS OF RISK/NEED: THINKING THROUGH THE DYNAMICS OF PENAL GOVERNANCE

The prominence of need evident in the practices and narratives described earlier are not a relic of welfarism or secondary to wider pursuits aimed at managing actuarially defined risks of recidivism. Need is reciprocally linked to understandings of risk. The mutually constitutive emergent logic of risk/need that organizes much correctional practice signifies a mixed hybrid model of penal government. This shift from static to fluid understanding of risk/need clearly 'responsibilizes'³³ offenders; however, this model of penal governance reconfigures the role and responsibility of not only the offender but also the 'state' and civil society. Consequently, a newly configured and implied normative duty of the state to care, intervene, and not simply warehouse, as suggested in some actuarial justice models, emerges. The interventions of the state, however, are clearly restructured in that the principle of universal access to programs gives way to targeted and streamlined interventions consistent with managerial claims of penal theorists. In theory, access to risk/need reducing services is stratified according to the risk/need principles that provide high-risk offenders the most options and low-risk offenders, the least.

While the state is responsible in this hybrid model for devising programs that are responsive to identified need areas, not all needs are to be managed. Rather, as Aubrey and Hough (1997: 4) note, needs are defined in reference to resources that are available to resolve them. According to folk wisdom, 'if there's no solution, there's no problem'. Such thinking implies, for example, that in areas where unemployment is endemic, the payoff in identifying employment training among offender's needs may be smaller than in an area with extensive employment opportunities. Where psychiatric

services diagnose an offender as having an untreatable personality disorder, the scope for probation intervention is limited. This tautological, but pragmatic reasoning is different from past welfare enterprises that favoured more global interventions.

Further, responsibilities of the state are different. Rather than technologies that create dependency, new technologies of need management rely on the *creation* of independent autonomous subjects. Broader structural relations are either ignored or constructed as individual inadequacies. The state is de-responsibilized for ongoing social problems and gaps in service. Offenders are encouraged to take responsibility for their offending; in other words, for their histories and current problems. Offenders are seen not as victims of circumstance but as individuals incapable of adequately managing needs in a way that averts the seemingly foreseeable risks of victimization, poverty, racism and unemployment. The difficulties that emerge for vulnerable and marginalized correctional populations are obvious.

Correctional interventions are prioritized according to what is pragmatic, rather than what may be meaningful to the offender but 'unachievable', because interventions hinge on broader social and structural inequalities, or gaps in services. Categorical definitions of risk/need discredit, exclude, and co-opt alternative interpretations of offender needs, and dissociate understandings of needs from broader social and political contexts. Individuals are positioned as potential recipients of predefined services, rather than as active agents involved in processes of self-identifying needs.

What is devalued and silenced in a risk/need logic are competing needs claims. More politicized entitlement claims to service are diminished and discredited by correctional organizations that can confidently claim that they *are* addressing the central needs of offenders. What I call an 'entitlement argument' is meant to capture an increasingly marginalized, but in some quarters persuasive and critical, discourse that argues particular groups of offenders are socially disadvantaged and that this disadvantaged position is linked to crime and incarceration. This logic is prevalent in much of the academic literature on marginal correctional populations (women, Aboriginal, and to a lesser extent youth and mentally ill). Feminist reformers and campaigners, for example have effectively used needs-based entitlement arguments to improve the material conditions of confinement (Hannah-Moffat, 2001). However, the current emphasis on criminogenic need may in fact disadvantage women. Recent evidence suggests that needs associated with female offenders, such as those related to children, past abuse, and trauma, are being reconfigured as criminogenic needs, which are meaningful therapeutic targets only when they are statistically linked to recidivism and can be addressed through available correctional programming (Hannah-Moffat, 2003).

In essence, this process is a reframing of social problems as individual problems. It silences alternative needs claims. Only 'manageable' problems are targeted for intervention. Manageable criminogenic problems are those that can be resolved through behavioural or lifestyle changes that are seen as achievable with a positive attitude and being amenable to normalizing interventions, programs, or therapists who provide tools for change and teach offenders to think rationally and logically. Structural barriers conveniently disappear. Systemic problems become individual problems or, more aptly, individuals' inadequacies.

CONCLUSION

The dynamic risk logic, initiated in the 1980s, has restructured correctional practices in Canada and elsewhere.³⁴ I have argued that newly formed criminogenic need/dynamic risk categorizations and subsequent management strategies have given rise to disparate and contradictory forms of risk-based penal governance. Perhaps the most successful elements of this development have been the legitimization of a 'new rehabilitationism' and the production of a 'transformative risk subject'. The tendency to generalize risk management as a common feature of modern societies overlooks the specificity of particular constructions, histories, and applications of the term risk in a given social context. The blending of risk and need criteria reflects a hybridized form of risk/need government that is separate from static risk-based incapacitative models of governing and former welfarist regimes. The focus on dynamic risk management infers the production of new knowledge and models for governing offenders and practitioners,³⁵ which is different from those associated post 'actuarial justice' models of risk.

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Notes

- 1 Simon and Baker (2002: 1) use the term 'embracing risk' to embody two cultural trends; the spreading of risk, including recasting social problems in terms of risk, and second, reactions against spreading risk that make individuals more accountable for risk (p. 1).
- 2 O'Malley (2000: 18) has challenged the negative association of risk with danger or harm and similarly argues research ought to move beyond monolithic notions of risk as the overarching characteristic of society.
- 3 While this article is conceptual, the ideas are grounded in three research projects which included interviews with 90 criminal justice practitioners and analysis of practitioner/ government research literatures, training manuals and policy and program documents. These findings are discussed in detail in Hannah-Moffat and Maurutto (forthcoming); Hannah-Moffat and Shaw (2001b); and Hannah-Moffat (2002, 2003).
- 4 The oscillation between and conflation of concepts of need and risk, while not new, are historically, culturally, and contextually specific.
- 5 Also see the debates located in the *Forum on Corrections Research* the main research publication of Corrections Canada (www.csc-scc.gc.ca).
- 6 Bonta (1996) offers a comprehensive review of the correctional classification literature, in which the evolution of risk assessment is categorized into three generations.
- 7 Andrews and Bonta (1998) provide a detailed description of these tools and their development.
- 8 For more detailed discussion of this era, see the special issue of *Punishment & Society* (3(1)) on mass imprisonment.
- 9 See Andrews and Bonta (1998) for a detailed description of the critique. For general-ogy of risk assessment and prediction see Simon (1993).

- 10 The underlying paradigm is social learning theory.
- 11 Interview transcript.
- 12 For evidence of the assimilation of these ideas, one needs to look no further than the Correctional Service of Canada's website www.csc-scc.gc.ca, the publications produced by CSC's research Branch, and official training manuals. These claims were also verified in interviews with many key informant interviews.
- 13 Duguid (2000) notes: 'cognitive skills advocates were adamant in denying that their program could in any way be considered "treatment", the offender being considered a "person" who must be *taught* rather than *treated*' (p. 197, emphasis in original).
- 14 See Rose (2002) for a discussion of psy-professionals and para-professionals.
- 15 Federal offenders in Canada are those who are serving sentences of greater than two years. Correctional practices and procedures are standardized, thus the Offender Intake Assessment discussed applies to all federally sentenced prisoners.
- 16 Correctional Service of Canada parole officers have been using tools such as the Community Risk/Needs Management Scale since 1990 (Motiuk, 1997a). Ontario has considerable experience with the use of structured risk/needs assessment, beginning in the early 1980s with the Level of Supervision Inventory (LSI) (Wormith, 1997). Thus the idea of combined risk/need assessment is not new.
- 17 The OIA is described as a 'multi-disciplinary, multi-method, multi-source approach to assessment' because it includes a wide range of professional opinions (psychiatric, psychological, addictions specialists, educators and so on), uses a wide range of assessment and screening technologies, and collates information from official sources (police reports, court documents, previous institutional, and supervision history) and collateral contacts (family members, employers, community agencies, institutional staff observations and the offender) (NPB, 1995: 39).
- 18 See note 15.
- 19 This 1994 users' manual was provided to this researcher in 1999 and correctional officials indicated that while some aspects of the process have been updated and modified for user efficiency, the key principles and general process remain the same. Reviews of the policy literature indicate the same. Most descriptions of the OIA, such as that found in the other training manuals and corrections publications, restate (sometimes verbatim) the same information.
- 20 The needs assessment also includes an assessment of immediate and critical needs that refer to suicide, violence, and protection issues. These needs are different from the more intangible criminogenic need of interest in this article.
- 21 The SIR scale is not used for female and Aboriginal offenders.
- 22 A precise understanding of the risk practices is often difficult to unravel. In general, there is a lack of specificity about the kinds of risks being assessed and managed in many correctional narratives. Nevertheless, the risk as understood in practices analyzed in this article generally refers to the probability of recidivism.
- 23 In Canada the entire federal correctional system uses the Offender Intake Assessment, in many other Canadian, British and American jurisdictions versions of the Level of Supervision Inventory Revised (LSI-R). In Britain, ACE is used. See Maung and Hammond (2000) for a discussion of practitioners' assessment of the usefulness of several risk/needs assessment tools used in Britain.
- 24 Professional judgment is a key component of risk assessment (Andrews and Bonta,

- 1998). While scales are useful in structuring decision making and ensuring that practitioners are looking at all relevant risk and need factors, managerial decisions about particular offenders are still heavily influenced by personal judgment, particularly in terms of how practitioners define and rate intangible needs. Interviews with practitioners show considerable variability in how assessment criteria are interpreted.
- 25 These practices are gendered and racialized in ways that systemically disadvantage women and various ethnocultural groups. A more detailed discussion of risk/need assessment and gender and race can be located in Hannah-Moffat and Shaw (2001a; 2001b).
 - 26 I am not uncritically implying that all needs ought to be targets of correctional intervention or those with correctional interventions are unproblematic.
 - 27 However, efforts are underway to develop reliable self-report instruments for the assessment of criminogenic need (Serin and Mailloux, 2001).
 - 28 For detailed information on the statistical determination of variables as needs, see the *Forum on Corrections Research* September, 1998 volume 10, number 3 – special issue on dynamic factors.
 - 29 In Canada, Andrews and Bonta's (1989/1994) 'psychology of criminal conduct' dominates correctional narratives pertaining to criminogenic need. This conceptualization of criminogenic need has recently been critiqued in the psychological literature are narrow and prohibitive (see Ward and Stewart, 2003).
 - 30 The term *new rehabilitationism* is used by Hudson (1987).
 - 31 The research on cognitive skills and crime in Canada appears to originate with Ross and Fabiano (1988) and then later Gendreau and Ross (1979, 1987), Andrews et al. (1990), and Fabiano, Robinson and Porporino (1990). These are the same authors who advocate risk/need assessment.
 - 32 Advocates of cognitive training also argued that programs, such as anger management, life skills and critical thinking, could be administered by correctional staff (Duguid, 2000), thus deskilling treatment provision.
 - 33 See O'Malley (1996) for a more detailed discussion of the concept of responsibility.
 - 34 Andrews (1996: 5) argues that the ideas he put forward in 1989 regarding the risk, need, and responsibility principles have contributed to the reaffirmation of rehabilitation in correctional practices. To support his claim he offers as evidence of this shift new core training programs at the Correctional Service of Canada and the national Parole Board, U.S. Department of Justice 'what works' training and consultation efforts, International Community Corrections Association research consensus conferences (Harland, 1996), the American Probation and Parole Association's endorsement of an intensive treatment model (Fulton, Gendreau and Papanozzi, 1995), special offender treatment editions of mainstream academic journals, and the publication of several evidence-based books on offender assessment and treatment (Andrews and Bonta, 1994; Leis, Motiuk and Ogloff, 1995; Hollin and Howells, 1996; Mcguire 1995). There is considerable evidence of the penetration of this hybrid logic the Correctional Service, and the National Parole Board revised their core training as did other countries to include an emphasis on risk/need assessment and targeted interventions.

35 See Rose (1998) or Ericson and Haggerty (1997) for a discussion of how the role of practitioners is transformed by risk thinking.

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