Moral agent or actuarial subject:
Risk and Canadian women’s imprisonment

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Abstract

Few have examined the moral and political aspects of categories of risk, or the differential impact of actuarial risk claims on different populations. This analysis is intended to complement the growing body of literature analysing the implementation of actuarial or risk-based assessments of behaviours and situations in a variety of contexts. It examines wider claims of risk theorists in light of recent developments in Canadian women’s imprisonment. Based on an analysis of a proposed model of risk assessment for Canadian women prisoners, I argue: that in practical instances of governing the concept of ‘risk’ is ambiguous, fractured and flexible; that actuarial techniques of assessing women prisoners’ risks tend to redefine needs as risk factors; and that subjective disciplinary techniques of governing co-exist and interrelate with actuarial techniques of risk management.

Key Words

Canada • governmentality • prison • risk • theory • women

Morality is embedded in risk technologies and in systems of risk management. (Ericson and Haggerty, 1997: 123)
Neo-liberal rationalities and technologies which profess to measure and precisely define risk are quite obviously present in western penalty. The manifestation of risk techniques is one of several characteristics of an increasingly technocratic and calculated system of governing. During the past five years a theoretical and practical debate about risk and risk management has surfaced in the governmentality and criminology literatures. The largely theoretical risk literature argues that a risk-based society is emerging and that the governance of individuals and populations increasingly relies on actuarial techniques of risk management (Simon, 1987, 1988; Castel, 1991; Defert, 1991; Ewald, 1991; Feeley and Simon, 1992, 1994; O’Malley, 1992; Simon and Feeley, 1995; Parton, 1996; Ericson and Haggerty, 1997; Pratt, 1997). The self described ‘new penology literature’ (Feeley and Simon, 1992, 1994; Simon and Feeley, 1995) addresses the specific issue of actuarial forms of power and risk-based technologies in correctional settings. The new penology framework of Feeley and Simon (1992, 1994) expands on the claims of earlier attempts by Bottoms (1983) and others (Peters, 1988; Tuck, 1991) to describe changes in the penal system by examining the growth of what Bottoms (1983) describes as ‘managerialism’ (Garland, 1995). These analyses argue that the evolution of a ‘risk society’ is reflected in penalty. Crime and its management are presented as a problem of actuarial management (Simon and Feeley, 1995: 147–8). The new task of penology is managerial, not disciplinary and transformative (Cohen, 1985).

While several theoretically focused risk scholars have studied the dynamics of risk-oriented institutions and new management techniques (Simon, 1987, 1988, 1993, 1994; Castel, 1991; Defert, 1991; Ewald, 1991; O’Malley, 1992; Ericson and Haggerty, 1997), few have examined the moral and political aspects of categories of risk, or the differential impact of actuarial risk claims on different populations. The discussion of the emergent risk society has offered some valuable insights, but there are four areas in which further research is required. We need to examine: the moral and/or political components of actuarial techniques; the claim that actuarial techniques are more efficient and objective; the somewhat unquestioned assumption that in most settings actuarial forms of power have displaced or replaced alternative regimes; and finally, the presumption that risk governance acts uniformly across whole populations rather than differently according to gender, race and other variables. In short, in the literature describing this transformation there is, at best, limited recognition and acknowledgement of the subjective, moralistic and disciplinary capacity of actuarial techniques. Although a few researchers (Ericson and Haggerty, 1997) are beginning to investigate these concerns, further empirical studies are needed.

This article examines these issues in light of recent developments in Canadian women’s imprisonment. Based on an analysis of a proposed model of risk assessment for Canadian women prisoners, it argues: that in practical instances of governing, the concept of ‘risk’ is gendered, ambig-
uous and flexible; that subjective disciplinary techniques of governing co-exist and interrelate with actuarial techniques of risk management; and that actuarial techniques of assessing women prisoners’ risks tend to redefine needs as risk factors.

The Canadian correctional context

Over the past eight years, Canadian correctional officials have restructured federal women’s imprisonment and created a new ‘woman-centred model of punishment’.¹ The origin of this reform initiative can be traced to the 1990 report of the Task Force on Federally Sentenced Women Creating Choices (TFFSW, 1990). The context of this reform document is shaped by a long history of struggle and survival. Tragic conditions and overt discrimination in the Prison for Women (P4W), Canada’s only federal institution for women serving a sentence of more than two years, has been a source of frustration for feminists, researchers, bureaucrats and advocates since P4W opened in 1934 (Berzins and Cooper, 1982; Adelberg and Currie, 1987, 1993; [Hannah-] Moffat, 1991; Shaw, 1991; Cooper, 1993). In March of 1989, the Government responded to these concerns by setting up a joint government and community (including advocates, academics, federally sentenced women, Aboriginal women’s organizations and others) task force. Despite numerous reservations (Shaw, 1993; Hannah-Moffat, 1995, 1997), the Government and the community worked together to design a prototype for a woman-centred model of corrections. The recommendations of the Task Force on Federally Sentenced Women led to the opening of five new regional prisons for women across Canada² reportedly committed to the development and implementation of the woman-centred philosophy outlined in their report Creating Choices.

*Creating Choices* stressed the need for reform strategies that recognize the differences between male and female offenders, reflect the social realities of women and respond to the individual needs of each woman. Correctional policy documents extended this principle of woman-centredness beyond programming to characterize the general approach to institutional planning for female offenders. Corrections Canada has (in theory) replaced the traditional male, static security-based approach to correctional programming and management with a more individualized, dynamic model of punishment that responds to the needs and risks represented by women (TFFSW, 1990: 91). However, the implementation of this model has been marred by exclusion, and by redefinitions of the meaning of woman-centred corrections and of the experiences and realities of the female offender (as outlined in *Creating Choices* and by feminist researchers and advocates). Some of the most significant of these changes include the definition, assessment and management of women’s risk and needs in the new regional prisons.
Gendering risk: the female prisoner

The following analysis explores the claims made by risk theorists in light of proposed woman-centred methods of identifying and managing risk in Canadian women’s prisons. As Simon (1987, 1988, 1994) acknowledges, our definitions and interpretations of what constitutes risk are contingent upon specific cultural, political and moral evaluations of behaviours and events. Criminology, and feminist criminology in particular, fails to examine the shifts in the governance of women prisoners from 20th-century welfare-based models of punishment and treatment to neo-liberal risk-based technologies. While risk theorists have quite accurately observed a wider shift in rationalities and technologies of government, in particular the emergence of actuarialism, they have not yet examined the micro-politics of government. Like Feeley and Simon (1992), I argue that actuarial, risk-based technologies are pervasive in contemporary penal discourses. What is less certain, however, is how this new focus on risk has influenced the patterns of penal governance in specific situations and how seemingly neutral actuarial categories like risk are shaped by wide factors like gender.

I argue that risk is gendered. When feminist criminologists discuss the issue of ‘risk’ in relation to the female offender they tend either to use ‘anti-risk’ language or to locate the source of risk exclusively in male behaviour. In the first instance, feminists argue that women prisoners are generally convicted of relatively minor, non-violent offences, and that when women are perpetrators of violence their victims are often abusive partners. Reformers and state officials have actually lobbied for improved prison conditions and additional community programming on the basis that women in prison do not represent a substantial risk to the safety of the public. In the second instance, feminist researchers and Task Force members argued that rather than presenting a risk to society in the traditional sense, women in prison are at risk of being victimized by men or of harming themselves through self-mutilation or self-abusive behaviours. Women in prison are portrayed as very similar to women in the community: it is argued that women in general often find themselves in ‘risky situations’ with few structural supports. Unlike the male prisoner, the woman prisoner is rarely constructed as a risk to the community: but like women in the community, she is often portrayed as being at risk of being victimized by men. Feminist criminologists and advocates emphasize the common links between the struggle for penal change and societal change without questioning the concept of risk. These themes are clearly outlined in the 1990 report of the Task Force Creating Choices (TFFSW, 1990).

When risk is discussed in women’s corrections by feminist researchers, it is in the context of a critique of traditional gender neutral classification systems and methods of risk management which usually assumes that women prisoners are risky by virtue of their ‘offender’ status. In this instance, feminist researchers are mainly concerned about the use of
classification criteria originally based on male correctional populations with female prisoners. Canadian women offenders, because of their small numbers and administrative convenience, have generally been managed with the same technologies used to govern incarcerated male populations. Apart from a concern with the construction of women prisoners as a risk to the community, and a criticism of male-based classification systems as overstating the risk to the public presented by women prisoners, feminists have not yet analysed the concept of risk as it applies to women’s penal regimes; nor have they provided a detailed critique of existing techniques for measuring risk, except to suggest that these measures do not adequately reflect the context of women’s experiences and behaviours. Feminist critiques of the inadequacies of these measures for women offenders mean that claims about more efficient government need to be qualified. Past practices of governing women prisoners have not strictly relied on actuarial techniques of risk assessment and risk management and sophisticated risk calculations are not used with women prisoners. In fact, the assessment and management of women prisoners’ risk is quite subjective and fluid. For example one feminist researcher states:

risk classification is generally a very simple undertaking for female offenders: you can generally tell as soon as you get to know the inmate, and therefore [it] does not require a highly sophisticated classification system (which usually have poor predictive capacities in any case). (Axon, 1989: 72)

However, in keeping with the trends identified by Feeley and Simon (1992, 1994) in the new penology literature, Canadian correctional administrators are trying to create a more sophisticated woman-centred model of risk classification. Correctional researchers are engaged in the technocratic managerial practice of testing the reliability and validity of risk criteria for female offenders (see Hann and Harman, 1989; Coulson, 1993; Loucks and Zamble, 1994; Blanchette and Motiuk, 1995; Bonta et al., 1995; FSWP, 1995; Blanchette, 1996).

**Woman-centred classification and the new federally sentenced women’s facilities**

On a practical level, there is a qualified acknowledgement of the gendered aspect of risk assessment and risk management. Over the past 10 years, the Correctional Service of Canada (CSC) has made several innovative changes in the management of federally sentenced women that have received a great deal of favourable international attention. These reforms, suggested in the report of the Task Force on Federally Sentenced Women (TFFSW, 1990), have attempted to restructure women’s corrections by integrating a feminist analysis of the experiences and needs of federally sentenced women, while fulfilling the legal requirements of custodial facilities. One of the primary objectives of this initiative was to identify and respond to the gender-
specific causes of women’s crime. The technique of risk assessment plays a critical role in defining the correctional needs and experiences of federally sentenced women, and actuarial techniques have penetrated the managerial and operational realities of corrections. Canadian correctional researchers are still attempting to test traditional classification criteria and techniques for their validity on women prisoners (Hoffman, 1982; Coulson, 1993; Bonta et al., 1995). Reformers continue to favour the development of ‘gender sensitive’ assessment tools which they believe more adequately reflect the experiences of women and, in particular, violence in women’s lives.

Taking into consideration the limitations of traditional risk classification systems and consistent with the emergent rhetoric of managerialism, the new regional facilities for federally sentenced women have developed a unique security management model. The risk classification system relied upon in the new prisons is based on the system used at Shakopee Woman’s facility in Minnesota, the only purportedly woman-centred risk classification in operation. The Shakopee classification system is a behaviour-based system which outlines clearly articulated performance expectations and consequences. The system was designed to assign a security/risk classification (medium, minimum or maximum) to federally sentenced women (CSC, 1995: 3). This model differs from the established security classification levels which currently exist in federal institutions. Unlike the new women-centred security management model, past practices of classification did not incorporate a gender-specific understanding of women’s risks and needs, and how their risks and needs are different from men’s. The security management system uses a numeric management level in conjunction with conventional security levels. The prisoner is given a number between one (minimum) and five (maximum) which corresponds with a certain set of privileges and level of supervision. In the new security management model, levels four and five are maximum security, level three is medium security and levels one and two are minimum security. When a new prisoner arrives at the prison unclassified she is given an ‘admission level status’ which does not correspond to any particular security/risk classification (FSWP, 1995: 7). The initial process for designating a prisoner’s management level occurs after ‘all relevant information received upon the admission date is summarized and analysed by the team leader, the case management officer and the primary (correctional) worker’ (p. 6). The reports and documents relied on include the results of the case management interview with the federally sentenced women, the security classification assessment, the observation reports on daily life in the housing unit, scholastic equivalency results and other information including any disciplinary reports (p. 6).

The security classification process is quite significant because it is ‘used to record the analysis of all information leading to the recommendation for security classification and management level assignment’ (FSWP, 1995: 9). The primary criteria used in the classification process are institutional adjustment, escape risk and public safety (figure 16).
The factors used to rate institutional adjustment include violent incidents, disciplinary convictions, continuation of criminal activity, administrative interventions, behaviour and programme participation. The category ‘violent incidents’ is operationalized according to the following criteria: degree of violence, personal life situation, victimization, role as a follower or a leader in incidents, the harm caused and the use of a weapon. The ‘disciplinary conviction’ is relatively straightforward: it refers to the pattern, nature and circumstances surrounding convictions for violations of institutional rules. The determination of continued criminal activity while in custody is dependent upon preventative security information which relies on the use of institutional informants, surveillance of mail, telephone calls and visits, as well as police information suggesting that the prisoner continues to be involved in criminal activity. ‘Administrative intervention’ refers to previous transfers, incompatibilities with other prisoners which may lead to a need for protection and patterns of disruptive behaviour. The institutional adjustment criteria refer to behaviour and programme participation. This section addresses:

- the ability [of the offender] to adapt to open living situations; effect on the good order of the institution; level of cooperation in addressing the criminogenic factors addressed in her correctional plan; consider positive results of current or previous programming; ability to deal with anger; level of participation in institutional work or personal development programs; consider mental health concerns, are they causing adjustment problems (e.g. non-compliance with medication etc.); physical health concerns causing adjustment problems; cultural identity indicating a requirement for special intervention on an ongoing basis; and any other special needs that should be considered (such as protection, suicidal tendencies, self-mutilation etc.).

(p. 11)

Research has repeatedly indicated that many of the ‘risk factors commonly used in classification can not be validated for female offenders because of the limited amount of cases which prevent sound statistical study’ (p. 16). Nonetheless, the Correctional Service of Canada continues to use measures such as offence history, and escape risk in the ‘woman sensitive’ model of security management (FSWP, 1995).

The second set of criteria used to evaluate a woman prisoner’s security classification is escape risk. Escape risk is measured through an evaluation of previous escapes or attempts to escape, sentence status and ‘other concerns’. The measure for escape or attempted escape is evidence of an actual escape or attempt or of other ‘breaches of trust’, such as failure to respect a curfew at a community correctional centre, failure or late return from an escorted temporary absence and failure to report to a parole officer or the police while on parole or statutory release. The sentence status is another variable believed to be indicative of escape risk: here the length of sentence, outstanding charges, possibility of deportation, pending appeals and time remaining prior to release are considered relevant to
whether or not a prisoner will attempt an escape. The final category ‘other concerns’ is a residual category which is used to classify:

any unusual circumstances having the potential to increase the FSW [federally sentenced woman’s] escape risk (e.g. is she involved in a custody battle, is she concerned about the placement of her children, outstanding problems with spouse, gambling or drug debts, ‘incompatibles’ within the facility and her ability to adjust to open security). (p. 13)

The vagueness of this category permits criteria such as woman’s concern for her children, which in most instances is a highly regarded and often encouraged maternal quality, to be construed as a potential escape risk factor. In some cases, a woman’s concern about these areas, if she were a free citizen, would make her a responsible parent or partner. However, in this instance a woman’s overt display of moral and parental responsibility can be used to her disadvantage.

The final criterion in the security classification schema is public safety, which is subdivided into four sections: violent incidents; programme participation; mental illness or disorder; and other public safety concerns. The first refers to the prisoner’s involvement in violent incidents in the community, triggers of these events, the use of a weapon, degree of violence and harm caused and the offender’s role. Second, programme participation considers the level and benefit derived from programme involvement, and the likelihood of the correctional plan having an effect on recidivism. Interestingly, these two criteria: violent incidents and programme participation, which are used as measures of institutional adjustment, reappear as measures of public safety. Even though the emphasis here is on the community context, there is a duplication, and consequently an over-emphasis on previous violence and/or non-compliance with institutional requirements. The section of the evaluation which considers mental illness or disorder considers all information relating to the therapeutic intervention, psychological and psychiatric assessments and compliance with therapeutic requirements, such as taking medication as required. The final residual category of ‘other’ incorporates the following information: third-party information about whether a prisoner will reoffend and the prisoner’s level of need in ‘primary need areas’ (such as employment, family, social integration, associates, substance abuse, community functioning, attitude or personal emotional stability, notoriety—likely to evoke a negative public image, victim or police reaction).

Within each of these categories it is necessary to evaluate the seriousness, frequency and recency of each factor as well as any progress that the prisoner may have made to mitigate the concerns identified in each category. Once this evaluation has occurred a cumulative rating for each of the three areas is given: high, medium or low.

The proposed woman-centred security management system is organized around several guiding principles. The primary aim of this technology is ‘to enable FSW [federally sentenced women] to serve their sentence within the
least restrictive possible environment [which reflects] their needs and the risks they present, while preparing them for release at the time considered most appropriate’ (p. 4). In order to satisfy this requirement, the security management system ‘recognizes the ability of FSW to accept responsibility for their actions, make informed choices on the basis of their needs, and thus, assume all consequences thereof’ (p. 4). The principles outlined also suggest that the proposed technology is more than a process for the designation of a security classification. This new model is an essential component of a ‘holistic’ and personalized approach to women’s corrections. At the heart of this model is the belief that ‘participation in the programs aimed at meeting offenders’ needs significantly reduces the risk they present’, and that this technology be used to ‘encourage and reinforce appropriate behaviour, as well as regular participation in programs, on the part of FSW by increasing their privileges as they progress’ (p. 4). Another premise of the security management model is the expectation that staff will consistently and constantly revise the management level/security classification based on their perception of a prisoner’s progress (or lack thereof).

Besides pointing to the responsibility of the offender to be accountable for her actions and make choices, this model, not surprisingly, suggests that there will be consequences for a woman prisoner’s failure to meet institutional standards and take responsibility for minimizing her risk through the realization of her needs. Her progress is monitored and evaluated by correctional staff. Perhaps the most astonishing illusion is that the prisoner will accept her role in this regulatory process as ‘an informed and committed participant’ (p. 4).

In his 1994 article, Simon claims that one of the recent phenomena of modern forms of government is a shift in emphasis from ‘choice and the responsibility for choice’ to an emphasis ‘on creating the condition for responsible choices’. There is some validity to this later construction of choice within the realm of women’s corrections. Making choices, however, is as much a process of government as a practice of freedom. O’Malley claims that actuarial governing does not necessarily leave individuals free: it also includes strategies for the responsibilization of citizens. Risk management is, in many regards, the responsibility of the individual as well as of the authorities. O’Malley (1992: 261) labels this realignment of responsibility prudentialism, which he describes as ‘a construct of governance which removes the key conception of regulating individuals by collective risk management, and throws back upon the individual the responsibility for managing risk’. Under a prudential mode of governing an individual is governed through the expectation that he/she will engage in activities of self-governance and avoid situations, behaviours and populations deemed ‘risky’. Within this framework, prisoners are treated ‘as if’ they were free, rational and responsible individuals responsive to rewards and benefits (Garland, 1995).

The remainder of my analysis here uses the above risk assessment model to elaborate on some of the ambiguities of ‘actuarial penalty’.
Some ambiguities of risk technologies

Determinations of risk straddle the distinction between objective and value dimensions. Moral standards are not asserted openly but in quantitative, theoretical, and causal forms. (Parton, 1996: 103)

The persistence of discipline and the return of subjectivity

The actuarial language of risk gives the impression of being objective, calculable and scientific. Parton (1996: 105), drawing on Douglas (1986, 1992), argues that ‘as notions of risk have become more central to politics and public policy, its connection with technical calculations of probability has weakened’. Contrary to the myth of actuarial penalty, there does not appear to be a sophisticated calculation used to generate determinations of risk. The designation of a security/risk classification, which simply adds ratings in three distinct categories, presents an interesting management dilemma. Given that the implications for management are clearly different for an offender with a high risk of escape versus an offender who is unable to adjust to institutional living, the combination of these individual concerns into a singular classification raises questions about the usefulness of these ratings in the management of individual problems. While there is an attempt to adopt a ‘personalized and holistic approach’, the techniques used to achieve this goal do not appear to satisfy this objective. Within this new model there seems to be much confusion about the aim of the classification process. This risk classification scheme is unable to differentiate between different types of risks and the severity of risk. The cumulative risk score (management level) is based on the sum of several independent assessments. The all-important details of these assessments are obscured in this cumulative process. The management level assigned to an inmate is therefore meaningless and the generic management of risk is not particularly useful or efficient as an actuarial technique.

In addition to this confusion, concerns about the accuracy, validity and reliability of the categories and tools used to assess and predict risk remain. For example, despite popular beliefs, some researchers argue that there is little relationship between behaviour in prison and that outside (Shaw, 1991; Loucks, 1995). Margaret Shaw notes:

there would appear to be no direct relationship between offending background and risk of institutional disruption or violence. In fact, such disruption or violence may tell us more about the characteristics of the institution concerned than about the risk posed by the individuals involved in the disruption. (1991: 81)

Yet, risk classifications are generally contingent upon a prisoner’s offence, and her subsequent release is often predicated on her behaviour while incarcerated. This inconsistency is overlooked by woman-centred classification models. The assumption that these behaviours are linked often ob-
scures other significant issues such as the relationship of the prison environment to the production and provocation of ‘risky behaviours’.

Contrary to the claims of risk theorists (e.g. Castel, 1991), and to Feeley and Simon’s (1992, 1994) new penology thesis, practical uses of risk technologies are not:

depersonalised or concerned primarily about independent, abstract statistical categories and populations. One of the practices that demonstrates the limits of the ‘new penology’ is the fact that when actuarial tools are used, correctional officials frequently use ‘overrides’ to adjust risk assessment scores to what they feel is most appropriate. The use of overrides means that exceptions can be made to the initial classification instrument when warranted, both to increase and decrease the security classification. (FSWP, 1994a: 11, emphasis added)

The use of overrides poses a serious threat to objective classification systems and signals an unwillingness of staff fully to embrace actuarial systems. In the case of women prisoners, overrides are commonly used to compensate for the perceived deficiencies of many traditional methods of classification. Clinicians using these tools for women from specific cultural groups (i.e. Aboriginal) frequently include disclaimers that indicate the results of risk assessments should be interpreted with caution because of the tool’s cultural limitations.

As Kim Pate, Executive Director of the Canadian Elizabeth Fry Societies, noted:

the systems that are set up to look as though they are objective tests of certain behaviours aren’t taking into account, in our opinion, the subjective opinion that staff have in terms of incredible leeway to interpret behaviour as certain things. So, for instance, someone singing or calling out which may be seen from one person’s perspective as objectively innocuous, may, from another person’s perspective be seen as threatening. (Arbour Commission, Public Hearings, 1995: 696)

Another example of the limits of actuarialism and the persistence of subjective judgements is that one of the components of a criminal risk assessment is the case manager’s ‘own judgement of criminal history risk based on a thorough review of the offender’s criminal record’ (Motiuk, 1996: 22). The items typically used for an assessment of ‘criminal history risk’ are: offence severity; sexual offence history; number of convictions; previous offences; length of sentence; placement in institutional segregation; institutional misconduct; and mild, moderate or serious ‘psychological harm’. But an offender’s criminal record, police reports, pre-sentence reports and sentences are not objective representations of an offender: they are often the outcome of a series of legal and normative processes which are arguably quite subjective (Ericson and Baranek, 1982). The previously discussed woman-centred classification scheme includes categories such as institutional adjustment and programme participation, which have similar
limitations. These practices do not appear to be closely aligned with the objective statistical technologies supposedly used in actuarial approaches to correctional management identified earlier by risk theorists.

Old-fashioned personal judgement by a correctional officer is by no means eliminated by actuarialism. We can also see that contrary to ‘the new penology’ thesis, moral regulation and disciplinary powers also persist. For example a correctional researcher claims that:

the higher stability of the inmate’s street life, the more likely she will abide by the prison rules and not escape. Thus, the inmate who has completed high school, held a fulltime job and been married is a better risk (Alexander, 1988 in FSWP, 1994a: 6).

This quotation illustrates the amalgamation of moral evaluations of behaviour and actuarial assessments of risk. The new regime at the Federally Sentenced Women’s Facilities (prisons) makes two pivotal assumptions which result in what I call a hybrid moral/actuarial penalty. First, implicit in the new holistic approach to women’s corrections is developing techniques to manage an individual's moral character. This holistic emphasis is contrary to an actuarial management technique which is inclined to be concerned not with the whole person but instead with a specific category of risky behaviour. Second, there is also a tacit assumption that prisoners, in particular women, require a therapeutic intervention, and that these interventions will ultimately reduce recidivism. The managerial techniques used to reinforce these assumptions include processes for the identification of women’s ‘criminogenic needs’ and risks, which involve the participation of the prisoner, but tend to rely on the opinions of correctional staff; the use of ongoing institutional monitoring and assessments of the prisoner’s emotional stability, behaviour, adjustment to the institution and progress in programmes; and an institutional requirement to participate in therapeutic programmes.

Disciplinary elements are also evident in the four core programme areas outlined for the new Federally Sentenced Women’s Facilities (prisons): abuse and trauma; substance abuse; parenting skills; and vocational and educational training. These programme areas are expected to address the needs of most women prisoners, thereby reducing their risk. Participation in these programmes and co-operation with therapeutic interventions can lower a person’s security classification/management level, while a refusal to co-operate with this regime could result in an increased or at best unaltered security classification/management level. For example, in the Program Strategy for federally sentenced women, the Correctional Service of Canada notes: ‘An offender’s progress towards addressing specific needs and in reducing the level of risk serves as a major factor in the decision-making process, and its assessment is central to the management of the offender throughout the sentence’ (CSC, 1996: 5). Programmes endeavour to teach the prisoner how to fit into categories associated with lower risk. Vocational and educational training in the Literacy and Continuous Learning
programme encourages women to acquire the skills deemed ‘essential to reintegrating FSW [federally sentenced women] as law-abiding citizens’ (FSWP, 1994a: 17). But a woman who chooses to support herself through prostitution, exotic dancing, shoplifting or selling drugs is not likely to be supported or regarded as having made meaningful or responsible career choices.

Overall, these programmes make a series of moral assumptions about women’s characters, responsibilities and abilities. For example leisure training assumes that women do not engage in socially legitimate activities during their leisure time and that they need to be taught about health, wellness and nutrition and to be apprised of recreational alternatives which do not include the use of alcohol, drugs or, in some cases, tobacco. Some programmes outline criteria and rules for participation that are quite regulatory. These programmes are making clear moral assessments of past, present and future conduct and choices. While all of these programmes serve an important material and moral purpose—to discourage future criminality and to offer women options—this does not eliminate their capacity to regulate prisoners morally for both therapeutic and risk management purposes.

The link between these forms of moral regulation and actuarialism occurs when programmes and moral categories are used as criteria and data in managerial risk assessment tools, such as the security management system described earlier, and through institutional discipline. Women prisoners are often penalized for lack of deference or resistance to an institutional regime which tries to produce ‘healed’, ‘productive’ and moral citizens who no longer engage in ‘criminal’, ‘deviant’, ‘immoral’ or ‘risky’ activities. Resistance often results in higher security classifications. In short, a designation of ‘high risk’, by this new managerial technology, is linked to a moral interpretation of a prisoner’s character and to arbitrary prediction of future risks.

When needs become risks

Here, my concern is with one of the unobserved byproducts of actuarial technologies of government, and with the flexibility of the term ‘risk’. In struggling to understand the qualitative differences between men’s and women’s risk factors, the Correctional Service has focused on the ‘needs’ of women prisoners. What has emerged from this practice is an interesting slippage between the concepts of need and risk. It seems that where there is an unsatisfied need there is a potential risk factor. In some cases, these two categories are indistinguishable.

Historically, correctional systems have been denounced for their unresponsiveness to women’s needs (Hannah-Moffat, 1991, 1995, 1997; Shaw, 1991, 1993; Shaw et al., 1992; Kendall, 1993, 1994), and only recently have there been serious attempts to redress this neglect (TFFSW, 1990; FSWP, 1994b). While discussions about women prisoners’ needs and
the lack of response to these needs have traditionally operated as a critique of existing institutions of government and, more specifically, women’s corrections, it is now an accepted technique through which women can be governed. Recent bureaucratic interpretations of women prisoners’ needs were heavily influenced by feminist (and therapeutic) analyses of the experiences of criminal women and of women more generally. The emphasis on needs in the new security management system (FSWP, 1995) arises out of two assumptions in women’s corrections literature: first, because the woman prisoner is not a risk to society, her correctional management should not stress risk; second, the woman prisoner has a multiplicity of needs which must be addressed holistically during her incarceration (TFFSW, 1990: 89–90). These two assumptions resulted in members of the Task Force on Federally Sentenced Women (TFFSW, 1990) posing the following question: what are the security needs of women?

The term security needs presents an interesting paradox. It combines two quite different elements: traditional security concerns, which are generally associated with danger and the prevention of harm to others, and a more recent emphasis on needs, which by contrast implies being without something and entitled to resources.

While the members of the Task Force initially supported the concept of ‘woman-based criteria for classification’, they ultimately concluded that ‘assessments to gain better understanding of a woman’s needs and experiences are more appropriate than classification’ (p. 92). This conclusion relies on the perception that classification is based on security risks, whereas needs assessment ‘looks at the whole spectrum of women’s needs from a holistic perspective, including the needs relating to programming, spirituality, mental and physical health, family, culture and release plans’ (p. 92). It is argued that this type of assessment allows staff to respond to ‘the constellation of needs by appropriate support and intervention strategies which also consider the protection of society and the reduction of risk’ (p. 92). However, an unintentional byproduct emerging in the correctional logic of the new women’s prisons is that the concept of ‘need’ shifts from a vindication of a claim for resources (the feminist view) to a calculation of criminal potential (or risk of recidivism). Thus, correctional strategies and programmes now ‘govern at a distance’ by regulating women through their needs. Unlike past feminist narratives on women’s needs that stress women’s entitlement, the Correctional Service uses a language of needs to facilitate responsibilization. The prisoner is expected to ‘cure’ herself and manage her own risk by satisfying her criminogenic needs.

The legislation (Corrections and Conditional Release Act and Regulations) and policy guidelines (TFFSW, 1990; FSWP, 1994b; CSC, 1996) governing the management of federally sentenced women and principles of woman-centred corrections emphasize a specific legal and moral requirement to address the needs of federally sentenced women. Corrections Canada has acknowledged that women offenders have a ‘different range and types of problems that contribute to their criminal behaviour than do
men’, that ‘environmental, situational, political, cultural and social factors experienced by women offenders, as well as physiological and psychological factors, are not the same as those experienced by men’, that ‘women’s criminal behaviour is largely associated with their backgrounds and life circumstances’, and that ‘a holistic approach to correctional programming for women should be adopted’ (FSWP, 1994a: 5).

Several interrelated problems and characteristics have been identified as criminogenic female needs. According to Blanchette (1997a: 40) ‘criminogenic needs reflect risk factors of the offender that are changeable and, when modified, reflect changes in the likelihood of recidivism’. Some of these criminogenic needs include: dependency; low self-esteem; poor educational and vocational achievement; parental death at an early age; foster care placement; constant changes in the location of foster care; residential placement; living on the streets; prostitution; suicide attempts; self-injury; substance abuse; and parental responsibilities (FSWP, 1994a: 5). Besides these characteristics, awareness and acknowledgement of women prisoners’ survival of abuse and trauma play a key role in the management of their sentence and programme planning. While some policy literature suggests that survival of abuse or trauma does not constitute a criminogenic factor because ‘there has been no statistical link between surviving violence/abuse/trauma and criminal behaviour’ (p. 5), correctional researchers are linking an adult history of abuse to violent recidivism (Bonta et al., 1995). Furthermore, while feminist researchers (e.g. Heney, 1990) have clearly argued that women’s self-injury is often a ‘coping mechanism’ and that it should be treated as a mental health concern and not a security issue, correctional researchers are correlating self-injury with violent recidivism and arguing that a history of self-injury is a risk factor (Bonta et al., 1995; Blanchette, 1997a, 1997b).

Present policy discussions about the ‘needs’ of women prisoners are dominated by correctional researchers and technicians, who tend to emphasize the criminogenic characteristics of women’s needs. In this instance, ‘criminogenic’ refers to characteristics or factors that are thought to be linked to an individual’s involvement in criminal activities. The recent redefinition of needs as risks in the correctional sphere emerges from a desire to improve predictive capacities for both male and female prisoners. Researchers argue that there are two critical elements to classification and assessment. The first is distinguishing between, on the one hand, the characteristics of offenders and their circumstances which are subject to change over the course of an offender’s sentence and, on the other, the factors which will remain constant. The second is identifying which of these factors indicate an increased or reduced chance of recidivism (Andrews, 1989: 13). Accordingly, correctional researchers encourage practitioners to look beyond static risk factors such as criminal history, history of substance abuse and poor adjustment to prison life early in the prisoner’s sentence when doing risk management. Andrews suggests that in order to detect shifts in the chances of recidivism, ‘risk factors which are dynamic
must be assessed'; ‘these dynamic risk factors are often called criminogenic need factors’ (p. 13, emphasis in original). According to Andrews (p. 15), the needs principle asserts that ‘if correctional treatment services are to reduce criminal recidivism, the criminogenic needs of offenders must be targeted’. This interpretation of needs as criminogenic neatly locates them within a realm of correctional managerialism and justifies normative interventions aimed at reducing the effect of criminogenic needs/risks.

Andrews’ (1989) research is based primarily on the larger male correctional population, but, it illustrates the slippage between risk and need that is replicated in current research and policy on the federal female offender. Andrews’ suggestion to ‘look beyond static risk factors’ (p. 13) has prompted several comparative studies of the characteristics and needs of different types of women offenders (Loucks and Zamle, 1994; Blanchette and Motiuk, 1995, 1997; Bonta et al., 1995; Blanchette, 1996, 1997a, 1997b, 1997c; Dickie and Ward, 1997; Lavinge et al., 1997). Much of the recent policy literature on the female offender uses the hybrid term ‘risk/need’, and correctional research tends to identify certain offender characteristics as both risk and needs. Characteristics of the female offender that were previously considered needs (i.e. history of abuse, history of self-injury, single motherhood, mental health concerns and dependency on financial aid/welfare) are now also defined as ‘criminogenic factors’ or risk factors that can predict recidivism. The danger here is that as hybrid risk/need factors, characteristics like self-injury, history of abuse and incidences of mental health problems can be used by correctional officials to justify various interventions, increase security and to hold the offender accountable for her actions and life circumstances.

In current correctional policy, risk minimization and needs satisfaction are often linked to therapeutic intervention. Unsatisfied needs are seen as both risk factors and as a mental health concern. For example a 1995 report on the mental health of federally sentenced women that recommended the development of an ‘intensive healing programme’ for high-need women notes that some women have ‘special needs which make them a management problem’ (Whitehall, 1995; Laishes and Lyth, 1996). It is also argued that ‘needy women’ require more intensive supervision and that a woman prisoner’s resistance to therapeutic intervention is a risk factor. To accommodate these high-need women the Correctional Service proposed the development of an ‘intensive healing programme’, which is to occur in an ‘enhanced unit’. The enhanced unit is to be used for both high-need and high-risk women.

The enhanced unit is contained within the main building; it is a closed unit and has its own enclosed exercise yard. The unit consists of four cells and program areas, with two levels of supervision (Segregation—23 hour restriction; or Maximum with access to program participation). The unit has 24 hour supervision by staff. It provides housing for inmates who: exhibit
violent behaviour and/or have special needs, and/or serve disciplinary sentences. (Whitehall, 1995: 22, emphasis added)

From this description, there is no difference between the management of women who are considered ‘high risk’ due to violence and women who are ‘high need’ because of ‘mental health’ problems. Similarly, the classification of maximum security does not appear to differentiate between the management of a woman designated ‘high need and low risk’ and a woman who is ‘high risk and low need’.

There is now great distance between certain feminist interpretations of women’s needs as they are identified and outlined by researchers and in the report of the Task Force on Federally Sentenced Women (Creating Choices) as opposed to recent operational interpretations of needs within a broader context of actuarial penalty. Unlike the present tendency to speak of risks and needs as if they were indistinguishable, the Task Force clearly outlined what it perceived to be a set of distinct cultural and gender-specific needs shared by most female offenders. The Task Force was critical of available methods of assessing and managing women’s needs of the traditional models of security classification and risk management used in women’s prisons. The Task Force, like many feminist researchers, argued that traditional techniques of classification tend to overclassify female offenders and fail to contextualize their offences, especially violent offences (Axon, 1989; TFFSW, 1990; Shaw and Dubois, 1995). Many reformers and researchers continue to believe that the category ‘risk’ is not highly relevant in the case of female offenders (TFFSW, 1990; Arbour Commission, Public Hearings, 1995).

Nancy Fraser (1989: 159) argues that ‘needs-talk functions as a medium for making and contesting political claims’, that it is an ‘idiom in which political conflict is played out and through which inequalities are symbolically elaborated and challenged’, and finally that ‘in welfare state societies, needs-talk has been institutionalized as a major vocabulary of political discourse’. Rather than adopting a more conventional approach to the analysis of needs that would examine and identify the needs of a given population, and assessing the ability of certain organizational structures to satisfy these needs, Fraser (1989) focuses her inquiry on discourses about needs and the politics of needs interpretation. This approach is a useful method of illustrating ‘the contextual and contested character of needs claims’ (p. 160). Most criminological needs analyses have concentrated on the necessary tasks of identifying prisoners’ needs, and the more controversial project of determining whether or not predefined needs have been met. Less common are critical discussions about the ways in which these needs are interpreted, who interprets prisoners’ needs, from what perspective and in light of what interests. In correctional settings, there are indeed multiple discourses of need. There are therapeutic, administrative, feminist and actuarial vocabularies for the discussion of women prisoners’
needs. These vocabularies are interwoven into a complex needs-talk which is mobilized to accommodate a variety of contradictory political ends.

To understand the dynamics of women’s penal governance, it is important to acknowledge the plurality of vocabularies about needs/risks. These vocabularies are linked to feminist, psychiatric and actuarial modes of governing. And there is even a hybrid, ‘feminist-psychiatric-actuarial governance’, a normative strategy with very real disciplinary implications. The blurring of needs with risks has an important consequence for risk theory. Typically, risk theorists have suggested that in the shift towards a society governed through technologies of risk there has been less emphasis on earlier individualized and therapeutic technologies (Castel, 1991; Feeley and Simon, 1992). By collapsing need and risk categories, hybrid management techniques emerge. The emergent needs-talk which informs women’s correctional management does not rely on feminist interpretations of women’s needs or their claims to entitlement; rather, it depends on correctional interpretations of women’s needs as potential or modified risk factors that are central to the efficient management of incarcerated women. The Correctional Service of Canada’s adoption of the premise that federally sentenced women are generally ‘high need’ and not ‘high risk’, their claims that these prisoners do not require the same level and type of security measures as are required for male offenders (TFFSW, 1990) and the subsequent development of a unique security management model to address these qualities illustrates an organizational commitment to serving women’s needs as they define them. Thus far, this tactic has co-opted and distorted the feminist critique of correctional risk assessment and risk management practices. The fact that women are now constructed as ‘high need’ as opposed to ‘high risk’, makes little substantive difference in their correctional management. Increasingly, needs are being treated in the same manner as risks in terms of defining carceral responses to women. Women prisoners are responsible for the management of their own risk and needs.

Conclusion

This article has outlined some of the main arguments of risk theory and the new penology thesis. It has also highlighted some of the limitations of these theories through an empirical evaluation of a new system of risk management in women’s prisons. My analysis demonstrates that correctional research and policy models developed to describe and analyse women’s risk (in particular risk in corrections) need to be modified. I have argued that risk technologies are part of a wider programme of neo-liberal governance that seeks to discipline and responsibilize the female offender. I have shown that risk is a normative concept able to mobilize culturally specific constructions of gender, and that its use in women’s corrections is not representative of more efficient and objective actuarial technologies of
governing; that the moral agent has not been replaced by an actuarial subject; and finally, that a language of risk is intimately linked to and dependent on a corresponding discussion of women's needs. Several strategies of government are mobilized by the process of being identified as 'a risk' or 'in need' and the development of managerial strategies to minimize them.

Risk is a fractured, fluid and flexible category that can be linked to a wide range of strategies and techniques aimed at governing offenders as well as the wider law-abiding population. The impact and meaning of risk is often contingent upon the objective of governing. Although 'risk technologies' exhibit this fluidity, they often appear stable. Within penalty, ideas of risk assessment and risk management are equated with seemingly objective, and neutral categories that often use actuarial or statistical data as a form of legitimation. While there are in fact complicated and sophisticated managerial strategies in place for risk assessment and risk management, these techniques are gendered, culturally specific and subjective. New forms of actuarial penalty have not displaced past disciplinary strategies of penal governance. Instead, they are bound to co-exist in a highly unstable and unpredictable network of penal powers. Assessments of risk and the application of technologies for the management of risk are integrally linked to, and enabled through, the exercise of non-actuarial forms of power.

I suggest that rather than using risk to understand changes in women’s corrections and penalty more generally, we can use these sites further to theorize the concept of risk and certain techniques of neo-liberal governance. In doing this, it is necessary to reflect on how actuarial techniques of governance are used with, and in some cases, dependent upon alternative and pre-existing conditions and technologies of governing. Recent new penology theories, which could be reframed as theories about actuarial penalty, are indeed applicable to women’s corrections to some extent. However, there are some important qualitative differences in the understanding of risk when applied to the respective governance of women and men. The types of offences committed by women, the context in which those offences occur and the past histories and experiences of female offenders differ from those of men. Our understanding, assessment and management of risk in women’s correctional settings should account for these differences. Further studies will likely demonstrate that these differences are not peculiar to gender, and that actuarial governing is affected by race, class and other variables depending on the social, political, cultural and historical conditions of governing. For example in Canada there have been similar challenges to the inadequacy and discriminatory nature of white classification systems which are being used to govern Aboriginal prisoners. Recently there have been similar attempts to modify our understanding of risk in order to reflect the reality of Aboriginal prisoners’ experiences.

To a large extent, we are left with the project of determining how the new actuarial knowledges and techniques of risk are used by practitioners
to govern correctional populations. Questions which remain unanswered for risk theorists include: to what extent, and how, are actuarial forms of power more efficient or less coercive than other forms of power? To what degree, and under what conditions, have old disciplinary technologies of power been replaced/displaced by a new actuarialism? Have these shifts remained at the level of discourse or have they affected material practices in particular settings? In the case of new forms of governing such as actuarialism, it is evident that different forms of power enable and reinforce other forms. We are often too quick to assume that one form of power (such as disciplinary powers in the prison) is omnipresent, and that all technologies are thereby ascribed a disciplinary significance. It is much more useful to think of social settings such as the prison as locations for the simultaneous exercise of several technologies that are often guided by quite divergent rationalities.

Notes

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2. The new regional prisons are located in Truro, Nova Scotia; Joliette, Quebec; Kitchener, Ontario; Edmonton, Alberta; Maple Creek Saskatchewan (Aboriginal Healing Lodge).
3. The feminist critique of women and classification has, for the most part, emphasized three general questions: are women overclassified or inadequately classified when processed through the same system as male offenders? Should practitioners use different criteria to assess the security risks and programme needs of women prisoners? Should needs be stressed more than security risks?
4. This article was written when a version of this security management was in use to evaluate the ‘risk level’ of federally sentenced women being transferred to the new regional facilities for women that opened in 1996.
5. Interview with prison psychologists, October 1995.

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