

Champ pénal/Penal field

Vol. II | 2005 :

Varia

Articles

Use of Risk in the Government of Crime

New Prudentialism and New Penology

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This article is a translation of:

De l'usage du risque dans le gouvernement du crime

Index terms

Mots-clés : government, crime, prudentialism, penology

Full text

- What is known as the “governmentalist”¹ perspective provides a rich analytic framework for researchers whose interest in contemporary public policy on offending leads them, sooner or later, to grapple with the notion of “risk”². Indeed, one of the advantages of this perspective is to point to the great variety of fields in which risk is used as a category in crime control (in the prevention, prediction and management of crime, etc.), as well as to the varied normative uses to which the risk concept may be put.³ “Situational risk prevention” policies are not equivalent to a policy of reducing drug-related risks, just as “actuarial risk management” is not the same as the dynamic, personalized handling of the “risks” represented by a person in prison. This overall perspective is clearly distinguished, in that respect, from “risk society” theories, which depict risk as the acme of an excessively uniformizing macro-sociological analysis (see Beck, 2001). In the governmentalist perspective, the concept of risk tends rather to be an entrance point rather than an acme (or worse still, a paradigm), which entrance point opens onto a corridor serving the analysis of specific “regimes of government”. Its postulate is that although risk may serve as a basis for a singular form of knowledge, it is not meaningful in itself. It only makes real sense through its insertion in specific logics of action and specific *rationalities*, that constitute the true horizon for analysis.

2 Governmentality, in the sense in which it is used here, is coextensive with the semantic field of the concept of government (Senellart, 2004, 406-407), intended in the broader sense of the techniques and procedures aimed at directing the conduct of men and women (Foucault, 1980). It is a form of activity, the goal of which is to influence, orient or affect the behavior of one or several individuals (Gordon, 1991). The general project of research on governmentality, then, is to explore the different practices by which the authorities and various social, community and political bodies attempt to govern the actions of individuals and groups in the name of ethical ideas, political ends, economic necessity or social goals (Dean, 1999, 132-133). This broad project, a prolongation of Michel Foucault's work, implies that regimes of government may of course be embodied in state apparatuses, but also in the practices of a whole series of other actors, including families, private agencies, social movements, collectives of all sorts and social systems. The "success" of a regime of government thus depends on all sorts of alliances and compromises between various corpuses of expertise, and between various judgmental criteria and technical stakes (Rose, 2000, 323). In this framework, supporters of governmentality suggest original kinds of articulation between, on the one hand, government strategies—the governing of others—and on the other hand, forms of individual subjectivation—governing oneself. The idea, then, is to identify regimes of government by revealing how the way in which power is exerted depends on specific modes of thinking and acting and of governing people, but also of objectivating individuals and producing subjectivity.

3 As mentioned above, the social uses of risk in the criminal justice sphere are heterogeneous, and we have no intention to provide an exhaustive inventory of them. Rather, we will prefer a focused presentation, giving a perspective on two specific regimes of government, conceptualized as *new prudentialism* (see O'Malley, 1992) and *new penology* (see Feeley and Simon, 1992). The former deals with the *prevention* of crime, whereas the second is on the treatment level. We will open a debate on them, with a presentation in the form of ideal-types, illustrated by several concrete examples. This ideal-type presentation should not, we repeat, lead readers to underestimate the ideological frictions and splits within the criminal justice field itself, as well as the simultaneous coexistence, in speech as well as in acts, of various regimes of government.⁴ The ideal-type approach, which aims at describing the salient features of these emerging *strategies*, is interesting mostly in that it provides tools for subsequent thinking and empirical observations in a variety of national and socio-cultural contexts. Independently of any detailed discussion of heterogeneous national realities, we would simply point out, here, that while the new prudentialism and new penology are mostly evident in English-speaking countries such as the USA, Australia, Canada and England (Feeley, Simon, 1992; O'Malley, 1992; Crawford, 2001), some studies have uncovered their presence in a timid but nonetheless palpable and growing form in countries such as France and Belgium (Brion, 2001, 2003; Mary, 2001; Kaminski, 2002; Chantraine, 2004b).

4 Over and beyond the need to analyze a category which is actually increasingly used by actors, our theoretical curiosity for this process has been considerably stirred by the fact that whereas the government of crime is often depicted as having a strong *moral, expressive and emotional* dimension, conversely, 'risk' as a category is frequently viewed as a pure *technical* tool. Does this mean there is a paradoxical relationship between government action and its tool? Or should we understand that the use of the risk category in the government of crime points to the technicization of the latter? Is the

legitimacy of the criminal justice system henceforth hinged on a dulling of its objectives —praiseworthy no less than uncertain (such as helping offenders)—which dulling would be tied to the *arousal* of such strictly endogenous objectives as internal productivity, efficiency and consumerism? (Kaminski, 2002) Or on the contrary, should we assume that the use of risk maintains, or even reinforces the moral/moralizing dimension of the regimes that govern crime, and if so, how? (Hunt, 2003, 165)

- 5 In our study of those two regimes of government we will show that the use of the risk category takes on what we will call a “two-sided” dimension, suggesting the existence of a process of *reshaping* and *displacement* of the moral issue around actors, practices, problems and contradictions emerging within the government of crime. On the one hand, indeed, reference to risk seems to disconnect the prevention and treatment of crime from “moral” issues, in that offending and its management are no longer conceived as “social” problems, but as simple problems of technocratic and statistical efficiency. On the other hand, we find a process of (re)moralization percolating down by increasingly placing responsibility in the hands of both offenders and potential victims. Once this two-sided dimension has been identified, we will explore the hypothesis according to which new prudentialism and new penology reflect much more than a simple *technicization* of the government of crime, contrary to what is occasionally hinted by some of the seminal conceptualizations. In short, the following dual process may be observed: for one, an ethic of moderation shifting toward procedural and organizational efficiency (an efficiency which *depicts itself* as neutral and bereft of any moral value); secondly, a co-production of shared norms and values about public space tending toward a cautious, moralizing retreat into the private sphere. As a preliminary to our exploration of this dual process, we must relativize it, with the reminder that although it is now appearing in a novel form, the existence of more *technical* and *managerial* dimensions as competitors for the *moral*, *emotional* and *moralizing* dimensions did not await the emergence of the “risk” category to exist and shape the government of crime.

Government of Crime, Between Moral Punishment and Technical Control

- 6 As we know, Durkheim endorsed the idea that in modern societies, like those before them, the notions of crime and punishment are viewed as a contribution to the vitality of the collective conscience, as well as a basis for the maintenance and reminder of a dominant moral order. Punishment, expiatory and actually mostly addressing “decent people”, would be aimed not so much at rehabilitating antisocial individuals or intimidating possible emulators as at retrieving lost solidarity.

Who Talked About a Collective Conscience and Solidarity?

- 7 We feel it is important to qualify the above postulate. In a powerful critique of punitive justice and a refutation of its social utility, Mead (1918) has shown

that the solidarity to which Durkheim (1984, [1893]) refers is above all an emotional, aggressive solidarity connected with the production of a warrior morality that hardly helps restore the cohesion of the society to which the offender belongs. Furthermore, Durkheim's concepts of collective conscience and moral order are easy targets for criticism, and particularly so in our highly complex and diversified societies. Although Durkheim did acknowledge that collective feelings may change over time and space (according to him, an act doesn't offend the collective conscience because it is a crime, it is a crime because it offends the collective conscience), and although he never explicitly suggested that modern societies show complete consensus, he did nonetheless hint that a State that was unable to uphold the collective feelings of the entire society would be pathological and could not persist. Now as D. Garland has shown, the contemporary world suggests a different interpretation: "Long-term group conflict—based upon class, race, sex, regional identity and ideology—is an inherent quality of most, if not all, modern societies, yet these same societies are able to function, persist through time, and reproduce themselves. It is therefore perfectly possible for a level of order to be maintained without there being any universal commitment to the morality of that order." (Garland, 1990, 50-51). By deconstructing the concept of deviance (and thus refusing to view it as intrinsic or natural), H. Becker recalls, similarly, that there are no (or very few) norms accepted by every member of a given society. What is prohibited in one social group may indeed be highly valued in another. This does not mean that there is no overall model, uniformly culturally imposed on society. But rather than talking about a collective conscience that unites the different social groups and at the same time transcends them, it would be more appropriate to assert "that the dominant ideology only operates as a cultural mechanism federating dominant groups and making them cohere, rather than as a mechanism producing conscience in the dominated" (Martucelli, 2004, 471). One would then have to admit "that there is not necessarily a 'naturalization of domination' or a 'spiritual' adherence of the dominated, but quite simply an agreement, at least apparent, between their practices and the existing social order: a practical compliance that would not prevent the expression of more or less hidden challenges" (Martucelli, 2004, 473, our translation).

From a Rhetoric of Morality to a Rhetoric of Efficacy?

- 8 Does that mean that modern society should be viewed as a "morality-free" society, with no *collective* feelings? Certainly not, but whereas Elias (1975) talks about a modern society governing itself through a moral force, and more specifically through a system of institutions working together and completing each other to impose a more or less shared normative order, Bauman (2002, 62) went on to add another quality: that is, the modern tendency to repress, censure and delegitimize moral and ethical motivations for social action, all in the name of a sometimes devastating rationality. According to him, the modern civilizing process consists, among other things, in that the use of violence is divested of any moral value and every desire for rationality is ridden of the interference of any ethical norms or moral inhibitions (Bauman, 2002, 62). Bauman's thesis may explain how regimes of government slip gradually from a rhetoric of morality to a rhetoric of efficacy, in the course of which moral (and immoral) values are relegated to someplace outside of action construed not only as rational but as purely rational. *Social* action,

disenchanted then, would no longer hark back to right or wrong, fair or unfair decisions, but would refer only to actions measurable on the yardstick of technical and procedural values.

9 In the face of Bauman's thesis (inherited from the Frankfurt School, among others, as well as from such writers as Weber), we should not however underestimate the strength of Durkheim's analyses. Indeed, Durkheim enables us to see that regimes of government of crime involve something more than a simple crime control *industry*, as the now-fashionable reductionist interpretation would have it, especially through the notion of the "prison industrial complex".⁵ The moral, emotional and moralizing dimensions which definitely continue to mark regimes of government of crime do nonetheless seem to operate in their own particular spaces. Whereas in the courts, upper and lower, and the mass media, the justice system tends toward *expressiveness*, in the prevention, management and prediction of crime it is seen to be increasingly *technical*. The Court becomes the forum where "justice is rendered", whereas the downstream apparatuses (prisons, probation services, paroling services) are henceforth perceived and self-defined as technical apparatuses, more concerned with administrative management than with ethical-political governance and public rituals (Garland, 1990, 71-72).

10 The latter aspect is evident, for instance, in the way in which the criminal justice system reacted to criticism of its environment by redefining its goals, as well as its conceptions of "success" and "failure" (Kaminski, 2002). For example, the corrections department no longer necessarily makes an attempt to engage in rehabilitation or at any rate, if it maintains some hopes thereof, it makes sure not to use it as an indicator of performance (Chantraine, 2004a). Given this state of affairs, it is not rehabilitation and the reassertion of the value of the person liable to court action that ground the overall ideology of the criminal justice system (Garland, 1998). Criteria for legitimizing the system will increasingly be selected on the basis of their ability to evaluate achievements that are "evaluatable" by the system (Dupont, Ratcliffe, 2000, 229). In this sense, evaluations will deal more with the effectiveness of procedures than with any results they may produce (Dean, 1999). As Garland (1998, 60) explains:

"The new indicators of performance measure what the organization 'does' rather than, and for lack of anything better, what it "does successfully". Thus, the management's new objectives in terms of rationalization, cost-efficiency and relations with clients gradually come to replace the social objective of reducing crime, which was the initial goal of the system and of its power. Since the system fails to meet the goals it set for itself, it changes its objectives, in a sort of bureaucratic, organizational self-defense, and sets new objectives, which suit it better and are more achievable."

11 Does this mean that we can diagnose, or prophesize, radically, the growing presence of regimes of government of crime which set themselves (or will set themselves) outside of any moral questioning? Can we speak of courts as the last moral stronghold of this type of government, and hazard a referral to the present (or soon-to-come) transition from *moral* punishment to *technical* control? The following points lead us to answer these questions in the negative.

Risk and the Government of Crime

- 12 After defining the new prudentialism (O'Malley, 1992) and the new penology (Feeley, Simon, 1992) in their ideal-type forms, we will show that the respective territories of the moral and technical dimensions are not as mutually exclusive as it would seem.

Two Ideal-types: New Prudentialism and New Penology

- 13 The *new prudentialism*, conceptualized by O'Malley (1992), tends more to deal with crime prevention, and refers primarily to a construct of government in which the key element—the regulation of individuals through the management of collective risks—is eliminated and replaced by a conception in which isolated individuals are assigned the responsibility of managing their own risks. However, this assignment may fail, for lack of will or ability. Prudence then commands a “neutralization” of the recalcitrant and of other “incapable” individuals. But the new prudentialism concept also involves making situations and places safe, once they are identified as “criminogenic” in the sense that the calculation of risks shows a (high) probability that crimes will be committed there: this includes unguarded parking lots, parks, deserted crossroads, highways, outlying neighborhoods, soccer stadiums, bus stops and so on.
- 14 How does this regime of government differ from the *old prudentialism*? In the same way as economic liberalism differs from neo-liberalism (Wendy Brown, 2004):⁶ As opposed to classical economic liberalism, which maintained a distinction, and sometimes even a tension, between the criteria of individual and collective morality and economic action, neo-liberalism fashions individuals normatively as entrepreneurial actors and addresses them *as such* in every field of life (Wendy Brown, 2004, 88).⁷ In the new prudentialism, the moral sense (and especially the prudential attitude) is henceforth reduced to the business of rationally deliberating on the costs, benefits and consequences of such and such action. Moreover, adopting a prudential attitude no longer means subjecting oneself to the normative content of models imposed or proposed from outside as much as mobilizing one's own capacities so as to take responsibility for oneself as actor—while accepting an external control susceptible of ratifying the validity of the behavior undertaken.
- 15 The *new penology* deals more with the treatment of crime, and refers to a construct of government theorized by Feeley and Simon (1992), “which leads to the gradual relinquishment of the substantive social goals of penalty (normalization, punishment), and their replacement by managerial goals, thus encouraging a safeguarding continuum, which is to say a series of resources to be allocated according to the *degree of control* required by the risk profile of penalized individuals, but also in accordance with their *cost*” (Brion, 2001). In this relinquishment of social goals and their replacement by risk management we may include the dropping of such objectives as betterment, reform and rehabilitation but also, in some sense, of punishment. Castel, in his work on the medical-psychological field ten years earlier, had already made findings similar to those of Feeley and Simon. He showed how social psychiatry and psychoanalysis had gradually yielded to a new form of social management structured around a centralized pole of risk prevention and an interactive pole

of coping with fragilities.

16 On what basis do Feeley and Simon distinguish this new penology from what they themselves call an *old penology* ? Through the finding that the latter is based on the determination of the social causes of crime and the corrective treatment of offenders. It is therefore motivated by its social ends (that is, by ends that are always uncertain, especially with respect to the extent to which the criminal justice system can control them). Now, in the new penology, evaluations deal more with the effectiveness of the procedures set up than with the results they may produce (Dean, 1999).

17 Now that we have formulated the definitions and oppositions, we can describe the dual process underlying the shift and moral reframing of these two regimes of government, within which risk, as a tool, occupies a central position.

First Use of Risk in the Government of Crime: Giving the Imposition of a Moral Order the Appearance of a Simple Technical Arrangement

The new prudentialism. More a technical accessing code than a social competency

18 The atrophy of social ties correlated with an increasingly limitless range of institutional environments⁸ has led contemporary subjects to growing intolerance of any form of contact outside of those environments (Lianos, 2001). Although adherence to this institutional web requires competencies that are more technical than social, it nonetheless becomes a prerequisite for the individual's "social" participation. The deviant, then, is the person who tries to escape from these environments, who does not adhere "to the web's neutral, collaboration-based control, the potency of which is located in the programmed unfolding of processes that 'handle' individuals by inserting their choices in a context of coordination and of predetermined options which crushes them" (Lianos, 2001, 18). While to protect oneself from uncertainty one must adhere and conform to the procedures pre-established by the web, this also supposes the ability to be independent, that is, the ability to lead an existence more or less isolated but leaning on a faultless collaboration with the institutional environments "serving" the individual. We will return to this independence in discussing the second use of the risk category.

19 Just as individuals must functionally ensure their admission to pre-regulated environments, the latter must, equally, develop their own mechanisms guaranteeing that the functionality of their users can be checked. Lianos (2003) shows, for instance, that an ATM machine needs not know whether the user of a banking card is a legitimate customer, any more than it needs to wonder whether it should trust him more than yesterday (honesty, like deviance, is no longer subject to social negotiation). The ATM is conceived only to make sure that the person has the right numbers. As long as the figures coincide, the transaction is authorized. Similarly, the presence of gates beyond the cash registers in supermarkets is only to make sure that customers pay for their purchases, not to determine whether they are in moral agreement with the fact of having to pay for their food. The risk managed has to do with fraud, not with the consumers' opinions about illicit behavior (Lianos, 2003, 441). Just as users are asked to rate socio-technical

competencies above socio-cultural and ethical values, institutional environments (highways, computer programs, supermarkets) are expected to prefer pre-established accessing codes to any form of negotiation, synonymous with potential disagreement and resistance. Behind the apparently purely technical precautions taken by such institutional environments, some people will unhesitatingly see a moral order more concerned with social justice, on the basis of the fact that the “science” of risk, at least when applied to the government of crime, may from time to time hint at its refusal to objectivate offending through the use of conventional sociological categories (class, gender, culture, age, religion, place of residency) and claim to be conducive to the creation of a non-stratified social environment. Now, while some facts do seem to confirm the fact that these socio-technical arrangements primarily reflect lofty political and moral positions, they actually seem more indicative of the existence of “egalitarian repression” (Lianos, 2003, 422):

“...seen from the outside, this combination of factors is oriented equally towards all users. . . . a new type of equality emerges; its credentials are unquestionable since it is not only applied but *guaranteed* by the very technological nature of the device. From this point of view, the machine makes possible for the first time a non-stratified ‘social environment’, even if this development is based on a single criterion, that is to say, trustworthiness regarding a specific normative priority. However, the make-up of this equality calls for discussion. What the device distributes equally is not the positive assessment of the users with regard to the norm, but with regard to breaching it; they all become suspects and most importantly, suspects that are no longer presumed innocent.”

- 20 Actually, it is dubious that *everyone* is equally suspect: to take the example of surveillance cameras, the chances are that through the choice of places to protect as well as of the places *actually monitored* by the screen, the technical apparatus as a whole simply reproduces older discriminatory dynamics.

The new penology. The primacy of systemic integration over social integration

- 21 In a context where probabilistic techniques are increasingly used to calculate and map the distribution of groups and at-risk behavior so as to minimize their impact (Rose, 2000), we may not be that far from a time when returning an offender to prison, formerly indicative of the failure of the system, will be a sign of “success” and of the efficiency of control apparatuses (Chantraine, 2004b, 12). Let us take an example. In an official Canadian document⁹ the *successes* and *failures* of prisoner release are now defined as follows: successful release means either release pursued to the end, with the offender remaining within the community, under surveillance, until his period of semi-liberty expires or until the end of his sentence or revocation for *breach of parole*. This latter type of revocation is defined as a *success* because it decreased the risk presented by the offender for the community. Conversely, failed release is defined as any revocation because a new offense was committed (recidivism) (1998, 8) (in the background there is the idea that without that timely revocation “things might have been much worse!”).

22 Nevertheless, it would be exaggerated to speak of a purely technical management of criminalized people, including for reputedly intractable at-risk groups. Even in the circuits of social exclusion, control processes are not limited to confinement. They also aim at regularly producing knowledge, based on static risks (number and type of offenses, age and so on) capable of evaluating who is or is not susceptible of returning to the circuits of social inclusion (Ericson, Haggerty, 1997, 41; Rose, 2000, 333).

A Second Use of Risk in the Government of Crime: Replacing Collective Moral Commitment by the Development of a Concern with Self-entrepreneurship

The new prudentialism. Transformation of the social world into a potential minefield

23 To understand the eminently moralizing dimension of the new prudentialism, we will take the example of one of the growing uses of crime mapping (Dupont, Ratcliffe, 2000, 240). This consists of the actuarial description or even prediction of the distribution of crime risks in a given territory. Now, aside from its use by police forces, this technique has gradually come into use in North America as a means of informing people on trends in crime in their neighborhood (especially of crimes involving sexual abusers). Internet users can now access their personal map of crime distribution based on their own specific, previously defined criteria. Acting as good *homo prudens*, they may then, theoretically, identify those neighborhoods, or even streets, to be avoided. Governmental guidance of such behavior (not walking around or moving to a given place) is *moralizing* in the sense that it is then “unjustifiable” to take a walk in a place for which complete information was available as to the inadvisability of going there.

The new penology. Injunction to be responsible and deterioration of protection

24 A new responsibility-assigning process is also developed in the management—or rather, the self-management—of penal sanctions:

“Instead of assuming that all adult individuals are ‘naturally’ capable of responsible, self-directed action and moral agency, contemporary penal regimes treat this as a problem to be remedied by procedures that actively seek to ‘subjectify’ and to ‘responsibilize’ individuals. (...) There is a secular, basic-literacy version of the techniques of self-examination, diary keeping and spiritual exercise that have been used for centuries to help individuals ‘subject’ themselves. But whereas in the past, these ways of training one’s self were in the service of spiritual or moral

ends, the prison procedures are primarily concerned to teach prudent, self-interested decision making.” (Garland, 1997, 191).

25 Prisoners who show that they are 'responsible' are rewarded by a Sentence Planning Scheme which allows them to take part in the government of their own confinement. They are permitted “to choose their preferred options from within the available range of developmental activities, or prison employment, and even to choose the prisons in which they will serve different parts of their sentence.” (Garland, 1997, 191). Inmates learn to govern themselves and at the same time enable the institution to stress the importance of not infantilizing them, and of being somewhat respectful of them (Garland, 1997, 192). As Martucelli (2004, 487) puts it, this tendency to command participation, like much of modernity, has been ambivalent: these individuals have definitely been given more room to act, and also, they have been increasingly pressed to assert their independence (in the sense that they do not depend on anyone), but at the same time there has been a weakening of the protective measures, rights and various supportive mechanisms which would have enabled them to appreciate that room and to cope with that independence.

26 In other words, use of the risk category in the government of crime, be it in the new prudentialism or in the new penology, may lead to the reaffiliation of offenders to a moral community depicted as virtuous; the various conceptual frameworks are then reformulated in terms of problems with autonomy, responsibility for their own biographies, or ethical reconstruction (Rose, 2000). The process of increasing responsibility at work here is not based (primarily) on the notions of cause or of fault (Dodier, 1995), but rather on the “motivational” pole, one grounded in the individual psychological values of personal initiative, individual commitment, creativity and so on (Digneffe et al, 2002, 123). This process of making people feel responsible is constantly in progress since it is unending, it “produces uncertainty and accentuates anxiety (you never know whether you really acted responsibly). This makes its contours extremely fuzzy and its mechanisms extremely ambiguous.” (*Ibid.*)

27 In conclusion, we believe there is a great deal to be learned from the use of the risk category by these two regimes of government, as described here, on several counts. A great deal, because it shows the complex relations between formulations in terms of risk and injunctions to be responsible and to participate. This is not a simple technicization of the government of crime, then, through which risk would gradually replace such categories as responsibility and guilt. A great deal, too, because this specific use of risk may be seen as the symptom of more comprehensive changes touching on the functioning of the field of penalty, with the idea, in particular, that it is more defensible to protect potential victims than to try to rehabilitate offenders who, after all, are also... potential. A great deal, lastly, because formulations in terms of risk in the contemporary government of crime (it should be remembered that the regimes described here in ideal-type form are mostly visible in the English-speaking countries) is perhaps one of a number of indications of the recent amity between two rival brothers: neo-liberalism and neo-conservatism (O'Malley, 1999). While the study of interactions between them most definitely remains to be undertaken, it is clear that over and beyond their conflicts, with respect to their moral positions for instance, “It would also be interesting to think about how, given the high moral agenda and tone of the neo-cons, amoral neo-liberal rationality becomes part of the arsenal of tactics and strategy for advancing a neo-con agenda” (Brown,

2003). If this forceful hypothesis turns out to be grounded, this would lead to the moral reframing of criminal policies and more broadly, of the social policies developed in many Western countries. It should, then, lead to the conclusion that we are witnessing, at most, the replacement and growing complexity of the present processes of domination. However, the reference to what looks in some respects like the rise of a conservative moral order should not exempt us from the need to go on to identify any counter-processes which may develop, and which might testify, for example, to the reintegration of the use of risk in the "old" correctionalist penology. We must take care, then, to avoid falling into the same trap as the one we condemned at the beginning of this article: that is, succumbing to the sirens of belief and quick denunciation, to the detriment of analysis. The to-and-fro movement of analysis between specific cases and generalization referred to above should not replace one totalizing approach by another. The denunciation of neo-liberal and neo-conservative thinking should not, in turn, become a lazy, unsubtle *doxa* according to which that "thinking" would explain away every sort of change (Franssen, 2002).

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Notes

1 For a broad introduction, see Dean, 1999.

2 We are grateful to the anonymous *Champ Pénal/ Pénal field* evaluator, to our colleague Dan Kaminski and to the participants in the conference on “Actors, risks and risk-taking” held by the *Clerse* at Lille 1 University on November 25-26, 2004. Their remarks definitely improved this paper, but that obviously does not in any way lessen our responsibility for our assertions.

3 This normative process is made all the more invisible when risk is depicted as a “scientific” given. The governmentalist perspective aims at *making this normative process visible*, as will be shown below.

4 Furthermore, we would add that over and beyond the processes of overlapping, simultaneous coexistence and mutual influence between various regimes of government, we must pay attention to the way actors handle different rationalities in their everyday practice, how they adopt them, circumvent them and redefine them, or conversely, how they redefine them or resist them on the basis of ethics, values, pragmatism, routine, know-how, etc. Unfortunately, this disparity cannot be analyzed here.

5 This concept, forged in particular by the Norwegian, N. Christie (2003), but also by other critical sociologists from the U.S., most probably owes its apparent radicalism to the “excessive” character of the object under study: the incredible inflation of American prison populations and the beginnings of what has been termed “mass” incarceration in the so-called land of freedom. For a critical analysis of Bauman’s influence on Christie, see the comments in Chantraine, 2004c.

6 Although Brown does not operate any distinction between different theoreticians of neo-liberalism, she points out that in his 1978 and 1979 courses devoted to economic liberalism, Foucault (2004) was careful to distinguish between ordoliberal thinking and the Chicago School, which followed it and radicalized it.

7 See also Foucault, 2004, and for an invaluable overview, Lemke, 2001.

8 We have borrowed Lianos’ (2002, 16) concept of the institution, as “any structure centralizing human behavior around its own existence and its own projects, and in this sense, inevitably shaping the fragments of action and thought devoted to it, with an impact of these fragments on the inner, intimate and social life of those subjects.”

9 *Towards A Just, Peaceful and Safe Society: The Corrections and Conditional Release Act Five Years Later*. This document is intended to encourage public discussion on how to make Canada’s correctional system even more effective. We are grateful to P. Landreville for this illustration.

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