chapter one

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Introducing risk

Risk has been described as the ‘world’s largest industry’ (Adams 1995: 31). It is ubiquitous, pervasive, diverse and global. As one headline put it: ‘Warning: You’re Risking Death by Being Alive’ (Alice Thomson, Daily Telegraph, 27 October 2000: 21). A plethora of risks for the twenty-first century were noted, from risks to newborn babies from their mothers’ kisses, to vaccines, cot death, food risks and paedophile abductions enroute to school. As the writer put it: ‘Being a mother in the 21st century is a fraught business. Everyday there is another reason to worry’.

Myriad risks confront us, from voluntary risks we choose to run (such as
smoking, alcohol use, bungee jumping) to involuntary risks imposed upon us (such as environmental pollution), from personal risks (such as choices on lifestyle) to public risks (such as crime). Risks also come in different sizes, with differing levels of probability, impact and consequence. Ranging from low probability/high consequence risks such as nuclear discharge to high probability/low consequence risks often associated with small-scale gambling (for example many of us regularly spend £1.00 on a lottery ticket for the chance of winning millions but consider the high risk of loss as ‘worth it’). Some risks are localized, associated with living in ‘high crime’ areas for example, and some are global with their origins far from the final site of impact, such as acid rain or the risk of flooding from climatic change. The word risk can carry different meanings, positive and negative connotations, and different levels of tolerance and acceptability. Subsistence farmers may choose to live on flood plains for the added benefit of irrigation and soil fertility (Wildavsky 1985), and view the risk of flooding as a natural, seasonal hazard that has to be accepted. Involuntary risks are generally more resented than voluntary risks (Slovic et al. 1980), hence public ‘NIMBY’ (not in my back yard) reactions to the location of hostels for offenders or the release of paedophiles into the community.

Risk then is a complex phenomenon, not simply about calculating the odds of ‘mischance’, ‘hazard’ or ‘danger’. While often presented as a ‘commonsense’ value-neutral term (Adams 1995), risk is increasingly recognized as highly politicized and value-laden (Douglas 1992), with views over probability, impact and consequence hotly contended. As Lupton (1999a: 59) puts it: ‘Debates and conflicts over risk have begun to dominate public, political and private arenas’.

What is risk?

The Oxford English Dictionary (1989: 987) defines risk as: ‘Hazard, danger; exposure to mischance and peril’. The contemporary interrelationship of hazard, danger and peril, and the negative connotations of risk, has a long history. Ayto (1990: 446) notes the derivation of the English word ‘risk’ from both the seventeenth-century French term risqué and the Italian word risio, both meaning to ‘run into danger’. By the seventeenth century English usage had clearly associated risk with ‘peril, jeopardy, danger, hazard’ (Oxford English Dictionary 1989: 987), later reflected in Dr Johnson’s dictionary in 1755 (Alaszewski 1998). This usage was paralleled by the use of risk to mean ‘taking a chance’ epitomized by the Latin risicum, and the association of risk with gambling (for example the Roman soldiers dicing for Christ’s clothes at the foot of the cross). The association with gambling inevitably rooted risk in the world of probability, literally ‘calculating the odds’, particularly from the seventeenth century onwards as formalized mathematical models of probability and statistical models were
developed (Hacking 1987, 1990). The increasing linkage of risk to danger and negative consequences was also significant, particularly in areas such as marine insurance where calculating safe return to port with precious cargoes and insuring appropriately against loss was important. The debt owed to Shylock in Shakespeare’s *Merchant of Venice* was incurred through a shipping loss. The spread of the slave trade and the growth of shipping fuelled the emerging insurance industry (for example Lloyd’s of London), and the use of statistics, particularly on death rates, enabled the rise of ‘prudential insurance’ based upon actuarial tables (Hacking 1987). In 1762 Equitable Life set up the first life assurance actuaries, calculating life assurance policies based upon statistical tables of death rates among the population as a whole. (This company was sold to avoid bankruptcy in 2001, a situation that arose through its miscalculation of future financial risks and subsequent over-exposure on policies sold.)

By the nineteenth century risk was in common usage, not only as part of the lexicon to describe actions, events or games of chance, but also as part of an industry concerned with the prediction of, and insurance against, future risks. The development of mathematical models and the application of statistics moved insurance from the realm of personal calculation of misfortune to a formalized probability calculation of risk (Daston 1987). Probability and the possibility of prediction were linked and risk calculations were seen as the way to ‘tame chance’ (Hacking 1987, 1990). The vagaries of nature could be subject to probability models of calculation. However, understanding of risk was not entirely negative or risk averse. During the eighteenth and nineteenth centuries risk had a key role in the development of capitalism, with risk-taking acknowledged as a key feature of entrepreneurship and venture capital (Higgs 1931), a feature of capitalism that continues to the present day.

Actuarial risk, or the calculation of risk probabilities derived from statistical models based on aggregate populations, was extended to numerous areas of social and commercial life throughout the twentieth century (Rowe 1977). Insurance spread from the merchant and corporate spheres into the personal realm with the extension of personal and life insurance to other sections of the population. Workers began to self-insure against the possibility of accidents through friendly societies such as the Cooperative Society, and mutual societies were formed as insurance against the possibility of unemployment and illness. Working-men’s clubs and societies often gave the security of insurance as well as social and leisure opportunities, based upon the pooling of collective resources against the possibility of individual risk. After the Second World War and the Beveridge Act 1948, the welfare state adopted such a notion of collective insurance through systems such as National Insurance and the National Health Service.

The twentieth century also saw the rise of high consequence/low probability risks such as nuclear discharge arising from new technologies.
and the process of industrialization (Douglas 1986). The need to accurately assess, manage and contain these ‘manufactured risks’ (Beck 1992a, 1992b; see also Giddens 1990, 1991) located risk in the scientific and engineering arenas for much of the century (Ansell and Wharton 1992). This resulted in an ‘artefact’ approach to risk, in which risk was viewed as a material object amenable to objective calculation and measurement (Horlick-Jones 1998). The 1983 Royal Society Report framed risk in entirely these terms, locating concerns with risk firmly in the arena of science and engineering. The society’s main concerns were with the accurate and objective identification of risks and their appropriate management, and in correcting ‘exaggerated’ public perceptions of risk or public failures to act appropriately upon risk information (for example to increase the efficacy of public health campaigns). In addition to its artefact approach this view of risk also assumed a homo prudens view of risk actors, the prudential (hu)man who will make the correct and rational choice if only given the right information by experts. Risk information is presumed to be the preserve of experts, and the relationship between experts and lay public is a didactic one. Accidents for example are seen as caused by human fallibility and error (Reason 1990) that can be learnt from and eradicated from future at-risk situations. ‘Zero-risk’ human is the aim, held up by large corporations such as Shell as the ultimate risk-aware worker (Visser 1991).

The notion of homo prudens is usually accompanied by inquiries and hindsight bias in which both blame allocation and learning are key features. While the imperative is that ‘this must never happen again’, it often does (Sheppard 1996). Adams (1995: 16) contends that this is because ‘Zero-risk man is a figment of the imagination of the safety profession’. We are risk-takers as well as risk-averse, homo aleatorius or gambling (hu)man exists, and in many walks of life is positively lauded and rewarded. As Adams (1995) points out, the oil industry owes its existence to the early risk-taking entrepreneurs and ‘wild-cats’. Risk then is often double-edged, balancing the benefits of positive risk-taking against our risk aversion to the costs that may follow.

In the early twenty-first century the ‘myth of calculability’ has been challenged (Reddy 1996), not only by a fin-de-siècle preoccupation with risk and safety (Furedi 1997) but also by the changing nature of risk. This change has been linked to the transformation from modernity to late modernity or postmodernity, concepts that are integral to debates about the contemporary nature of risk. Sociological debates about the extent and nature of this transformation abound (Kellner 1999), along with disputes about the relative usefulness of the terms modernity, late modernity and postmodernity. For those like Giddens (1990, 1998a, 1998b, 1999) who see the transformation as a gradual one, the term late modernity is preferred; for those who see a more radical departure (Leonard 1997) the term postmodernity is used. In brief (a further discussion is provided
in the ‘Risk and crime’ section), the modern age or modernity has been largely characterized as the historical period stretching from the late eighteenth-century Age of Enlightenment to around the 1970s. The age is characterized by faith in reason, scientific knowledge, progress, capitalist development (particularly in the west), and an evolving social order (Leonard 1997).

Contemporary social theorists such as Giddens (1990, 1998a, 1998b, 1999) and Beck (1992a, 1992b, 1999) have argued that since the severe challenges to capitalism in the 1970s the relationship between labour and capital, and between citizen and state has been radically transformed. This is most readily epitomized by the global market, the spread of information technology and technological advances that have radically redistributed both markets and sites of production. This has been paralleled by cultural and social transformations (Leonard 1997) in which claims to universal truths are increasingly doubted and science and reason are subject to challenge and dispute.

Postmodernity describes the period from the late 1970s onwards and the social transformations emerging at the start of the twenty-first century. Postmodernity is characterized by global risks, indeterminate and contingent knowledge about the probability of such risks, and uncertainty over future outcomes and impacts. Postmodernity has been characterized as ‘the end of certainty’ and the ‘politics of difference’ (Leonard 1997: 12), a period of late capitalism in which flexibility of labour and capital supply, mass global production and ever-shifting markets are the key features.

Criminologists have also adopted these terms in contemporary analyses of risk and crime, with attention focused on the relationship between risk, postmodernity and new penal forms (Feeley and Simon 1992, 1994), and the centrality of risk to emerging forms of social control (Rose 1996a, 1996b, 2000) (this is discussed in more detail in the section ‘Risk and crime’).

What Giddens (1990, 1991) and other commentators have dubbed the modern age was characterized by known and calculable risks, predictable and hence controllable. ‘Artefact’ risk was rooted in objective, scientific knowledge, part of a world in which both the social and the natural ‘may be measured, calculated and therefore predicted’ (Lupton 1999a: 6). Risk was known through statistical models and the language of probability (Bernstein 1996), based upon knowledge of patterns and frequencies that ‘happen regularly enough and often enough in a whole population of people to be broadly predictable, and so insurable’ (Giddens 1998a: 27). In essence, aggregated knowledge of past events assisted future prediction (for example death rates to predict life expectancy, previous convictions to predict future offending). However, Beck (1992a, 1992b) and Giddens (1990, 1991, 1998a) have argued that risks in late or postmodernity are characterized by their global nature, uncertainty, indeterminacy and our
contingent knowledge of them. The risks facing us constantly outstrip the
tools and technologies used to assess and ‘tame’ them, producing what
Giddens in his 1999 Reith lectures referred to as the ‘runaway world’
(Giddens 1999). The industrialization and technological developments
of late modernity produce risks, or ‘manufactured uncertainties’ and
unintended consequences, often knowable only with hindsight. As Giddens
expresses it: ‘We just cannot know beforehand when we are actually
“scaremongering” and when we are not’ (Giddens 1998a: 30). We cannot
know the consequences of future risks until we get there.

Late modernity has transformed risk from a probabilistic, calculable
artefact to risk as uncertainty, plagued by indeterminate knowledge and
subject to a number of ‘it depends’. Calculating risk and choosing sub-
sequent courses of action is itself infused with risk as customary patterns of
responding to the world are challenged (Giddens 1998a).

The individual’s life course is no longer mapped out with any certainty.
Choices and the subsequent risks arising from such choices must be indi-
vidually navigated. However, little help is given ‘as to which options should
be selected’ (Giddens 1991: 80), leaving the individual in a constant state
of reflexivity, constantly processing and adapting to risk information and
myriad risk choices. This personal navigation increases both personal
responsibility for risk decisions, and personal anxiety about getting such
decisions right. Self-monitoring and anxiety are key features of individual
experiences of risk in late or postmodernity.

Summary

Myriad risks confront us and risk has diverse meanings. While often
presented as a value-neutral term, risk is actually a highly politicized and
contentious concept, and has changed both in terms of meaning and usage
through history. The modern view of risk was risk as artefact, measurable,
knowable, calculable and predictable. Risks in late or postmodernity,
as it has been dubbed, are characterized by uncertainty, indeterminacy,
contingency and their global impact. Contemporary risks also require
personal choice and navigation, resulting in increased uncertainty, anxiety
and reflexivity.

Late modernity and the risk society: new risks or new ways of looking
at risk?

The late twentieth century saw a major paradigm shift in social theory with
a growing emphasis upon the consequences of postmodernity, in particular
the consequences of industrialization and globalization and the rise of
what Beck (1992a) has labelled the ‘risk society’. The multiplication of risk
and its increased spread and impact within the compressed social space of globalization have become key issues for contemporary theorists (Turner 2001). The risks of traditional society have been characterized as fatalistic, framed by a pre-Renaissance discourse of fate in which risks were seen as the product of destiny and the ‘will of the Gods’ (Green 1997). The Black Death was seen in exactly these terms, unseen and spreading at the whim of the Gods. With the hindsight of the twenty-first century we see the Black Death rather differently: as a powerful disease carried by fleas on the back of rats, transported across the world from the Middle East as shipping and trade routes expanded. However, for the villagers of Eyam in Derbyshire, all but wiped out by the Black Death, this must have seemed like the terrible hand of fate.

The risks of modernization have been characterized as increasingly calculable, knowable and controllable through mathematical models and the advances of science. The risks of nature could be tamed, and the ‘will of the Gods’ need not be accepted. Advances in medical science in the nineteenth century for example began to tame the threat of numerous ‘natural’ risks such as cholera, typhoid, smallpox and bubonic plague as disease was subjugated to the discipline of science (Adams 1995). However, Beck argues that this very industrialization of society itself produces risk: ‘new technologies’, ‘atomic fallout’, ‘ecological disaster’, all arising from the very processes of science and technology associated with a relentless modernization, industrialization and globalization (Beck 1992a). For Beck, these risks are different: global in nature, high impact, unseen and ‘open to social definition and construction’. No longer is nature the source of risk, it is nature itself which is threatened by risk. The risk society is also peculiarly defensive, characterized by fear and anxiety: ‘the commonality of anxiety takes the place of the commonality of need’ (Beck 1992a: 49). While the ‘class society’ of modernity had been concerned with the equitable distribution of goods (everyone getting a fair share of the pie), the risk society is concerned with the equitable distribution of risks, and in particular the avoidance of risks: ‘one is concerned not with attaining something good, but with preventing the worst’ (Beck 1992a: 49). The risk society’s central feature is the ‘precautionary principle’, better safe than sorry, underpinned by a critique of the Enlightenment’s promise of progress (Leonard 1997) and lack of trust in experts (Freudenberg 1988, 1993). The risk society is also characterized by the increased democratization of risks. While Beck does acknowledge that disadvantaged groups are likely to experience the highest degrees of risk and have the least resources to successfully manage them, we are all exposed to some degree. Acid rain is no respecter of social class.

However, some commentators argue that Beck’s notion of the risk society is overstated (Steuer 1998; Turner 2001). Critiques of the risk society tend to cluster around the following themes:
The contention that the distinction between traditional and late modern risks is overstated.

• The thesis that risks are under-regulated and weakened social control of technology has contributed to risk proliferation is incorrect.
• The claim that the end of traditional bonds exacerbates risk is overstated.
• The multiplication of risk is overemphasized.

Beck characterizes late modern risks as unseen and global. However, as Adams (1995) and Turner (2001) point out, these characteristics are not new. Disease, particularly the high impact and large spread diseases like the bubonic plague and smallpox have exactly these characteristics. Deadly disease has always existed; all that has changed is our ability to discover such risks through medical science. As Turner points out, the Black Death in the fourteenth century killed about one-third of the population travelling from as far as the Middle East to Greenland (McNeill 1977), and had its origins in the Mongol armies that attacked the Crimea in 1346. Not only does this challenge Beck’s dichotomy of risk between traditional ‘dangers’ and ‘manufactured risks’, but also the neat periodization of history implied by his thesis is confronted. Rigakos and Hadden (2001) for example dispute the view that ‘risk society’ is a late modern phenomenon, and link it to the seventeenth-century development of capitalism rather than the nineteenth-century rise of probabilistic science. They see risk and its attendant calculative attitude to matters of public policy and regulation as rooted in early capitalist society’s accounting systems and aligned to entrepreneurial calculations of profit and loss. Such seventeenth-century probabilistic calculation was the precursor of nineteenth-century probabilistic science and the deployment of actuarial practices to areas of public policy and population regulation. Risk and surveillance also have a long history in the management of civil disorder, paralleling the use of a politicized arithmetic in the disciplining and regulation of populations (Lynch 1996).

More recently, the late modern AIDS pandemic has much in common with the Black Death of the Middle Ages; and while not the actions of an ‘angry God’ in return for humankind’s wickedness, the floods of contemporary society are increasingly a consequence of human behaviour (Smith 1992). It is therefore difficult to totally accept Beck’s position that contemporary risks are entirely new. This position is exacerbated by Beck’s focus on high consequence–low probability risks such as Chernobyl. As Turner (2001) argues, these are perhaps more accurately known as ‘environmental hazards’. However, not all risks can be categorized as environmental hazard (Douglas 1986): the risk of a road accident is not the same as the risk of nuclear discharge, and the risk of ill-health run by smokers is not the same.
as the risk to health emanating from radiation leaks. There is a crucial difference between voluntary and involuntary risks, and those embedded in technological advance and breaches of regulation, and those arising from the complexity of social life.

**The thesis that risks are under-regulated and weakened social control of technology has contributed to risk proliferation is incorrect**

Giddens has described late modern society as a ‘runaway world’, a world that is beyond our control (Giddens 1999: 2), with future risks unknown until we get there (Giddens 1998b). For Giddens (1993: 3), ‘we face risk situations that no one in previous history has had to confront’, such as environmental hazards like global warming. The key contention is that globalization has spread both the possibility and impact of risks. Rather than providing control and risk reduction, science and technology themselves produce risks (for example acid rain, or nuclear discharge: Wildavsky 1988). Such risks can be transnational, with impacts far from their origins, and precipitated by global social and economic changes. These risks are also embedded within capitalist society’s future-oriented and calculative attitude. Risk is integral to speculation, entrepreneurship, profit and loss. For Giddens, this is what distinguishes contemporary risk from traditional hazard: ‘Risk refers to hazards that are actively assessed in relation to future possibilities’ (Giddens 1999: 22). The active and reflexive calculation of future risk possibilities is the hallmark of late modernity.

The diversity and globalization of risk requires diverse systems of regulation in addition to that provided by state government, including corporate regulation, self-regulation and regulation by non-governmental bodies in addition to that provided by supranational bodies like the European Union. This necessarily raises issues about the integrity of such systems, and the attribution of political responsibility when such regulation fails. The Phillips report showed that the British government’s response to the BSE (bovine spongiform encephalopathy) crisis was both inadequate and secretive (bordering on the dishonest: Phillips 2000). It may not be a simple matter of technological complexity producing risk, but rather the extent to which such risks are involuntary, exported and under-regulated. Is it the ‘fault’ of technology or the failure of governments to ensure appropriate regulation? There is an important distinction then to be made between:

1. voluntary risk where governments accept the presence of risk as an unavoidable aspect of social change (such as car accidents) and involuntary risks where a risk is imported without the knowledge or consent of a government (e.g. acid rain or global warming).

   *(Turner 2001: 13)*

The effective control of such risks is increasingly located in systems of audit
(Power 1999), that is, formalized rules, regulations and procedures that are regularly audited and gate-kept. Systems replace judgement, and formalized tools of risk assessment and risk management procedures supersede professional autonomy (Kemshall et al. 1997). In essence, audit replaces trust, particularly in professionals and experts. Competing information and competing advice has resulted in a weakened trust in experts resulting in an increased scepticism in the role of science to regulate risk (Beck 1992a, 1992b). This has led commentators such as Hood (1996) to argue that the issue is not necessarily one of under-regulation but rather a question of the type of regulation and public trust in the risk management systems that are used.

In arenas where risks are contested and differently understood, trust is a key issue, especially in risk acceptability (Douglas 1986). Trust is a critical factor in building bridges between groups with different views of risk, for example criminal justice professionals and members of the public over paedophile risks. Children are more likely to be sexually abused or murdered by parents than by strangers, yet ‘stranger-danger’ has dominated both public reaction and public policy responses (Wyre 1997; Kitzinger 1999a, 1999b). In a society defensive about risk, concerned with risk avoidance and the prevention of harms, the regulation of risk necessarily attracts public scrutiny and concern.

Increased scrutiny carries with it the spectre of blame, or what Mary Douglas (1992: 27) has called the ‘forensic functions of risk’. She expresses the contemporary preoccupation with risk thus:

the [system] we are in now is almost ready to treat every death as chargeable to someone’s account, every accident as caused by someone’s criminal negligence, every sickness a threatened prosecution. Whose fault? is the first question.

(Douglas 1992: 15–16)

As Green (1997) puts it: accidents happen but risks are caused. All risks are subject to ‘hindsight scrutiny’ (Carson 1996), and with the luxury of hindsight, a key test for risk decisions is their defensibility (Kemshall 1998), in terms of both media scrutiny and litigation. This has resulted in the strange paradox that as risks have become increasingly unpredictable, unknowable and contingent, formalized systems for assessing and managing risks have grown (Kemshall et al. 1997). The increased ‘McDonaldization’ of risk has been a key response to uncertainty (Kemshall 1998), and most particularly in the arena of social risks (welfare, health, social policy, social care and criminal justice). The contemporary response to the uncertainty of risk and the spectre of blame that accompanies it is the imposition of regulation through the use of increasingly prescriptive rules. However, the inability of rules to ‘capture’ risk is well documented, not least the inability of rules to foster creative and dynamic responses to changing risk (Hood and Jones
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1996), the response of practitioners to such ‘McDonaldization’ (Kemshall 1998, 2000), and the inability of rules to adequately capture the local context of risk decision-making or the contingent nature of many risks (Wynne 1992).

The claim that the end of traditional bonds exacerbates risk is overstated

Giddens has argued that one major impact of globalization is the emergence of a ‘global cosmopolitan society’ in which ‘tradition has ended’ (Giddens 1999: 43). The natural world has been superseded by a manipulated world, a world not free from human agency. Within this world the given truths and actions of tradition are challenged. Living without tradition also creates challenges for our self-identity; our sense of self is constantly challenged by the differing views of others, and by the fluidity of our social world.

Similarly, Beck (1998: 12) has contended that ‘risk begins where tradition ends’. The weakening of traditional bonds and social factors such as class position mean that a person’s life course can no longer be predicted with any degree of certainty. While risks are likely to remain distributed along existing lines of inequality in the short term (Beck 1992a: 35), different choices can be made about ‘life-styles, subcultures, social ties and identities’ (Beck 1992a: 131). A process of what Beck calls ‘individualization’ is characterized by the loss of traditional certainties and ties, increased emphasis upon individual control and responsibility for the life course, and transformation of the citizen into an active consumer (Beck 1992a, 1992b). In this world, class position is less important than one’s risk position, that is exposure to, and ability, to negotiate risk. However, Engel and Strasser (1998) dispute the contention that postmodern societies are being transformed from ‘class societies’ to ‘risk societies’. While postmodern society does raise significant challenges to traditional forms of social integration, it cannot be assumed that traditional forms of social inequality will be eradicated by risk. On the contrary, they may well be exacerbated by risk, leaving such inequalities to be negotiated and resolved at the micro level of the individual.

From substantial research into the lives of young people, Furlong and Cartmel (1997) have explored the impact of risk upon structural inequalities. Life chances and choices for Furlong and Cartmel’s young people remain severely restricted, and their exposure to and ability to negotiate risk is constrained by their class position. The significant difference in the risk society is that such risks are individually framed and are subject to individual negotiation. Risks are a matter of personal assessment, adequate reflection and choice, rather than a matter of social position or structural inequalities. Failure to adequately negotiate a risk is rewritten as an individual failure rather than understood as a result of social processes outside of the individual’s control. The consequence of such individualization is that
social inequalities remain hidden and collective responses are delegitimized. ‘Public issues’ are literally transformed into ‘private troubles’ (Wright Mills 1970). In addition, global economic transformations and technological advances in the workplace have challenged the relative stability and certainty of the middle-class life course. For the first time in living memory the relative security of the professional middle class has been significantly eroded, resulting in increased unease and a greater preoccupation with risk.

The multiplication of risk is overemphasized

Is the risk society a more risky and dangerous place? Are risks proliferating? Or is it that late modern risks are different in their nature and extent? Beck himself eloquently poses the question:

Aren’t all risks at least as old as industrial society, possibly even as old as the human race itself? Isn’t all life subject to the risk of death? Aren’t and weren’t all societies in all epochs ‘risk societies’?

(Beck 1992b: 97)

Certainly risks existed in the past, but for Beck, contemporary risks are different, not only that there is a multiplicity of competing risks, but also that such risks are global in nature and almost entirely attributable to human agency. These risks result from human decisions, not from acts of God. The location of risks in the social, economic and political processes of modernization increases the individual’s exposure to risk. As a consequence we literally see risk everywhere. Non-fatalistic risks are also avoidable. If caused by organizational failure and human agency then surely such risks are predictable and preventable? Increased regulation and blame attribution are the usual responses to contemporary risk. Risks are resisted rather than accepted, and regulatory systems are increasingly held to account for their failure to protect us. In this sense, the risk society can be distinguished from traditional societies. In late or postmodernity risk is increasingly framed as uncertainty within a discourse of contingency and competing values. This is particularly exemplified by the rejection of the Enlightenment’s progressive agenda and the role of science in providing both certainty and risk protection (Leonard 1997). Experts are no longer trusted, and views of risk (including scientific ones) are seen as driven by vested interest and as therefore inherently trustworthy (Freudenberg 1988, 1993). Contemporary risks are therefore contested, an arena in which different world views and values are played out.

Summary

Is the risk society about new risks, or merely a new way of looking at risk? Certainly risks have always existed, including low probability/high con-
sequence risks (such as fatal diseases), and some (such as epidemics) have been global in nature. However, such risks can be increasingly characterized by their knowability, we literally have the scientific ability to discover them (their origins, nature and potential extent), and we can increasingly attribute them to human agency rather than the will of the Gods. Fatalistic risk discourse has been replaced by a growing discourse of risk as uncertainty and dispute, with blame attribution and a questioning stance towards regulatory systems as key features. Uncertainty, particularly in terms of life course, and the transfer of risk decisions from the social to the individual sphere, has heightened both personal responsibility and anxiety for risk, although it cannot be assumed that the impact of such uncertainty will be uniform across the population. While risks are far from uniform, and the distinction between environmental hazards and those arising from uncertainties and changes of social life is a useful one, contemporary risks are characterized by conflict, blame attribution and personal negotiation. While it is certainly the case that some risks are new, for example the risk of nuclear discharge or the risk of toxic waste, the risk society is perhaps best characterized by its particular framing of and preoccupation with risk rather than with the proliferation (or otherwise) of risks.

Risk and crime

The implications of the risk society and of postmodernity for criminal justice, social control and crime management have been much discussed (Pratt 2000a; Rose 2000; Sparks 2000). In particular, the modernist disciplinary agenda based upon penal-welfare techniques has been challenged, not least by the failure of such techniques to achieve crime control through the rehabilitation and treatment of offenders (Garland 1995, 1996). Garland identifies the modern penal period from about 1895 onward, and as characterized by a ‘shift from the private, ad hoc and charitable to a more systematically organised, publicly funded, national agency’ (Garland 1985: 22). He characterizes modern penality by its concern to assess and classify offenders for normalizing techniques. While classification in penality was not new (houses of correction usually classified their prisoners), modern penality acknowledged a diverse range of offenders when ‘measured’ against the ‘normal citizen’. This prompted the notion of assessment, necessary to answer the question ‘Who are you?’, so essential to the classification of offenders for individual sanctions. Garland sums the transition up thus:

There has been a move from a calibrated, hierarchical structure (of fines, prison, death), into which offenders were inserted according to the severity of their offence, to an extended grid of non-equivalent and
diverse dispositions, into which the offender is inscribed according to
the diagnosis of his or her condition and the treatment appropriate to it.
(Garland 1985: 28)

For Garland the significant shift is from individualism to individualization.
Central to this shift is the use of the ‘psy’ disciplines to assess and individuate
(Foucault 1977) and the consequent expansion of such techniques to the
realm of welfare and ‘softer’ areas of social control like social work
(Donzelot 1980). Repression was replaced by normalization, carried out
through reforming techniques (such as probation), and treatment, in essence
the replacement of ‘prohibition and penalty’ with corrective treatments
towards pre-specified normative requirements. Modern penalty presumed
that the ‘normal’ individual could be trusted to undertake this ‘state-induced
self-control’ carried through the various institutions of the social realm (for
example education and welfare agencies). Within the criminal justice sphere
the Probation Service occupied a key position in this normalizing process,
providing both individualized assessments and classifications of offenders,
and personal supervision aimed at preventing law breaking and inculcating
acceptable norms, attitudes and behaviours.

The demise of the modernist agenda

The close of the twentieth century saw increasing disquiet with the modernist
penal agenda. Modern penal practices were seen as inadequate for the
containment of crime (Pratt 2000a), and their spread into the practices of
welfare were seen as increasingly oppressive (Leonard 1997). Disillusion-
ment with the ‘grand narrative’ of ‘reform, progress and humanitarianism’
(Pratt 2000a) combined with a lack of trust in both science and experts to
deliver the promised reformation of offenders challenged the dominance of
modern penalty. In particular the construction of crime as a social problem
amenable to social engineering through individualized interventions was
challenged by the New Right political era in anglophone countries such as
Britain, Australia and the USA. The ‘causes of crime’, particularly those
linked to notions of social deprivation were dismissed, and the notion of
the ‘criminal act’ as symptomatic of other social ills was rejected. Reforma-
tion, particularly through treatment was seen as a failure, epitomized by
Martinson’s (1974) famous claim that ‘nothing works’, and prison was
seen as a natural and effective alternative. The Thatcher years in Britain
(1979–90) saw a commonsense view of crime prevail, crime as individual
wickedness and moral decline that had to be countered by tough sentencing,
heralding an era of ‘prison works’ and tougher community penalties. As
Flynn (1978) notes, the post-1970s era both in the USA and Britain saw a
shift from a ‘greater selectivity and sophistication in the use of crime control
and correctional methods’ (Flynn 1978: 131) towards a harsher punitive
climate in which greater state executive control over the judiciary and the extended use of custody were key features.

Economic and social changes were also significant, in particular the ‘hollowing out of the state’ (Jessop 1993) and a withdrawal to a residual welfare state position, and the transition to post-Fordist modes of production. Far from eradicating social problems, the welfare state was seen to perversely encourage them through dependency and ‘moral hazard’ (that is encouraging decisions that are immoral and illegal) (Parker 1982; Giddens 1998b). The burgeoning cost of welfare was not seen as delivering ‘value for money’, and was posed as a severe hindrance to the productivity of the private sector (Langan 1998). Increased marketization and privatization were seen as the solution to the highly inefficient and bureaucratized public sector, paralleled by the introduction of audit and private sector management techniques to bring the public sector into line (Clarke and Newman 1997). The result was a residual welfare state in which eligibility was severely restricted and the emphasis was placed upon the ‘positive welfare’ of return to work, rather than the ‘negative welfare’ of ‘moral hazard’ (Giddens 1998b; Kemshall 2002a).

The globalized marketplace also requires greater flexibility in the labour force, with workers prepared to retrain, reskill, accept non-standard conditions and flexible work patterns. The safety net of the welfare state must therefore encourage such adaptive behaviours rather than counter them through dependency and moral hazard. Jessop (1993) has argued that global markets pose a severe challenge to national markets, and traditional capitalist economies must adapt to constant innovation, flexible labour supply and flexible production if they are to compete. This has resulted in a significant restructuring of the relationship ‘between the citizen and the state’ (Clarke and Newman 1997), not least that the citizen now has reduced entitlement to state protection. The state’s commitment to social engineering through the welfare state has also been significantly reduced (Jordan 1998).

Leonard (1997) has argued that the modernist agenda has also been challenged by a growing recognition that the pursuit of normalization and inclusivity has often been accompanied by oppression and social exclusion. The oppressive social control functions of welfare as ‘discipline’ have received much attention since Foucault’s (1965, 1973) initial work, and sentencing to welfare with its perpetuation of an ‘underclass’ has been much critiqued (Murray 1990). Those most set to benefit from modernity’s welfare agenda, such as women, the young and elderly people remain the most marginalized. As Leonard (1997) expresses it, social inclusion is promoted at the expense of the excluded ‘Other’, the ‘bad mother’, ‘the work-shy’ and the ‘spongers’. The ‘Oneness’ of universal provision is quick to collapse under the ‘brute reality of economic recession’ and the ‘ever-deepening dichotomies of rich/poor, employed/unemployed, male/female, white/black’ (Leonard 1997: 25). ‘Criminals’ are of course one such
group, simultaneously promised inclusion through reform, rehabilitation and treatment and excluded through those very ‘rescuing’ discourses and penal practices of exclusion such as prison.

**Postmodernity and the rise of risk**

The ‘grand theorizing’ of risk society and postmodernity has gained currency within criminology. This can be discerned in the following areas:

- the importation of contemporary social theory into criminological theorizing and analyses (Sparks 1997; Garland and Sparks 2000; Loader and Sparks 2002)
- the application of risk theorization to issues of social control and social regulation (Rose 1996a, 1996b, 2000)
- the contention that disciplinary practices have radically altered with the rise of a ‘new penality’ based upon risk and actuarial justice (Feeley and Simon 1992, 1994)

The debate over postmodernity has been described as a ‘firestorm of controversy’ (Kellner 1999: 639), with some commentators such as Giddens (1990) seeing the characteristics of postmodernity as merely accentuated aspects of modernity: a *late modernity*. Others such as Leonard (1997) identify radical and transformative change within which established structures and categories are challenged, and the future looms uncertainly before us. The debate over nomenclature is to some extent unhelpful, as Bauman (1997: 79) puts it: ‘Perhaps we live in a post-modern age, perhaps we do not’. Within the debate some areas of consensus can be discerned:

- Traditional cultural and social forms are increasingly undermined and displaced by globalization. The certainty of the Enlightenment project of progress is no longer uncritically accepted and claims to universal truth and knowledge no longer hold (Leonard 1997). The extent of this transformation and its impact are disputed, with late modern theorists such as Giddens arguing for a more gradual transformation. Those such as Leonard argue that the contemporary period of late capitalism presents a much more radical and fundamental ‘rupture’ with modernity. For Leonard (1997: 22), we literally are living in ‘New Times’.
- Uncertainty, and the constant reflexivity that this necessitates, are also seen as endemic to life in postmodernity and manifested as a pervasive risk discourse and ‘risk climate’ (Giddens 1990, 1998b).

Within criminology these two theoretical features can be seen in debates about the extent or otherwise of the ‘new penality’ and the extent to which penal practices have been transformed by conditions of postmodernity (Garland 1996; Pratt 2000a, 2000b, 2000c). These theoretical influences
can also be discerned in attention to the increasingly politicized approach to crime (Garland and Sparks 2000) and the attendant controversies of penal politics as a manifestation of risk debates (Sparks 2000, 2001a, 2001b). In addition, the ontological insecurity of risk society has been linked to a growing penal populism in which all citizens are ‘crime-conscious’, ‘attuned to the crime problem, and many exhibit high levels of fear and crime’ (Garland and Sparks 2000: 200).

Risk theorization has also been applied to issues of social control and social regulation, with Rose (1996a, 1996b, 2000) in particular analysing its significance for governance and control strategies. Rose has argued that one of the central features of advanced liberal societies is the technique of governing at a distance through subtle and dispersed disciplinary techniques. While direct state coercion is thus reduced, and individual freedom is espoused, micro systems of power are exercised through the mesh of daily life: employment, family, locale and the responsibilities of citizenship. In essence, Rose argues that this is rule at the ‘molecular level’, a system of governance (that is regulating conduct) in which the active citizen is required to self-regulate and self-manage as a ‘responsible citizen’, or government through responsibilization (see also Loader and Sparks 2002). The ‘soft policing’ of welfare agencies and their normalization techniques (Donzelot 1980; Rodger 2000), seen by Foucault (1973, 1977, 1978) as integral to the identification, classification and regulation of deviant groups, is replaced by individualized risk management towards the pre-set prudential aims of advanced liberal societies. The state’s role becomes that of facilitator of prudentialism through education, training, health campaigns and moral revitalization. The well-informed citizen will make the prudential choice, and self-regulate in line with advanced liberal expectations. Such prudentialism requires citizens to adopt a calculating attitude toward all of their decisions, whether this be the risks of the labour market or the risks of becoming a crime victim. Thus the individual becomes the primary site of risk management, not society, and the ‘good’ citizen is recast as the prudential one. Citizens who do not make the desired choice are recast as imprudent and reckless, blameworthy and responsible for their own misfortune. Disadvantage and exclusion are reframed as matters of choice and not of structural processes, crime itself becomes a matter of irrational and imprudent choices. Citizens who fall into the imprudent category are seen as ripe for remoralization and ‘ethical reconstruction as active citizens’ through ‘training, counselling, empowerment, and community action’, what Rose has dubbed ‘ethopolitics’ (Rose 1996a: 60; 2000; see also Cruikshank 1996). Offenders are of course a key group for such a remoralization and responsibilization agenda, for example through the new probation programmes aimed at correcting both cognitions and behaviours and facilitating ‘straight thinking’ and ‘rational choice’.
20 Understanding risk in criminal justice

While prudence is not a new concept (the Victorian age stressed prudence as the cornerstone distinction between the ‘deserving’ and ‘undeserving’ poor), what is new in the contemporary use of prudentialism is the ‘construction of active citizenship in an active society’ as the basis of governance regardless of political spectrum or ideology (Rose 1996a, 1996b, 2000). While the ‘professions of welfare’ and penalty exercised ‘disciplinary power’ in modernity (Leonard 1997: 55), within the post-modernity of advanced liberalism self-surveillance is pursued as a more ‘efficient and cost-effective form of social control’ (Foucault 1991; Leonard 1997: 56). The regulatory professions take on an enhanced role, their expertise deployed to ensure self-surveillance and self-regulation, a discourse of expertise through which the prudent individual is encouraged to pursue rational choice.

Paralleling Rose’s analysis of the governance of advanced liberal societies has been the contention that the disciplinary practices of modernity have been replaced by a new penalty based upon risk and actuarial justice (Feeley and Simon 1992, 1994). Feeley and Simon in particular have argued that this strategic and risk-based approach to penalty has the following attributes:

- ‘Clinical diagnosis and retributive judgement’ are replaced by risk calculations and risk probability assessments, hence the term ‘actuarialism’.
- A systemic approach to justice matters, with an increased emphasis upon managing offenders in place rather than securing rehabilitation. Crime control per se replaces attention to individual responsibility or culpability.
- The pursuit of new crime control techniques such as targeting of offenders, managing offenders as an aggregate group, situational crime risk management, crime prevention techniques, increased surveillance of at-risk groups such as sex offenders.
- Management replaces change as the key objective of criminal justice.

(Feeley and Simon 1992: 450; 1994)

For Feeley and Simon this represents a significant paradigm shift from an ‘old’ penology concerned with individuals, guilt, responsibility, obligation, and the diagnosis and treatment of individual offenders to a ‘new’ penology based upon actuarial justice and acceptance of ‘deviance as normal’ (Feeley and Simon 1994: 173). In a rather pessimistic view of crime control they see the role of penology as transformed from a mechanism of guilt attribution and reformation, to a merely administrative function of risk categorization and the regulation and management of ‘dangerous people’. With the death of the liberal reformative ideal, regulation and containement of the ‘dangerous classes’ has come to the fore (for a full discussion of actuarial justice and the ‘New Penology’ see Chapter 2).
Feeley and Simon argue that three current penal practices exemplify this transition: incapacitation, preventive detention and profiling. Incapacitation as a strategy of crime management aims not to reform individual offenders but to redistribute the risks away from society to prison, a policy recently intensified by the use of selective incapacitation aimed at high-risk offenders and targeting the small number of persistent offenders responsible for the majority of crime (Halliday 2001). Preventive sentencing, including the preventive use of custody, has paralleled selective incapacitation, with sentencing driven by risk factors rather than seriousness of the offence, and ‘future risk of harm’ playing a significant role in the sentencing of sexual and violent offenders (Wasik and Taylor 1991). Criminal profiling has also expanded (Canter 1989; Hopton 1998), using risk factors to profile likely offenders and likely criminal situations, resulting in ‘high-crime areas’ targeted for intensive policing, profiles of paedophiles and violent offenders, and profiling likely drug-traffickers in order to effectively target and use surveillance resources.

However, the extent of actuarial justice in the practice of criminal justice has been doubted (Garland 1996; Lynch 1998, 2000; Kemshall and Maguire 2001). These doubts have been expressed on two grounds: first, that the case is somewhat overstated and that penal policy and practice has not radically transformed (Garland 1996), and second, that actuarial justice is largely rhetorical with actual frontline practice little transformed by risk calculations (Kemshall and Maguire 2001).

The distinction between a risk-based penality and a retributive one has also been disputed, and the ‘periodic’ approach to both risk and penalty is increasingly contested (O’Malley 2001a). While some theorists argue for a clear delineation between risk and retribution (Shearing 2001), with retributive justice concerned with ‘healing the past’, punishment, deterrence and symbolic punishment (Shearing 2001: 206) and actuarial justice concerned with future avoidance of harms and risk reduction strategies, others see the relationship as more symbiotic (O’Malley 1992, 1999a). Garland (1997a, 1997b) for example expresses this as the relationship between economic and expressive rationalities of penalty. Essentially an economic rationality of crime control can be understood as ‘situational engineering’ and the economical management of dangers and risks in which ‘risk, rationality, choice, the supply of criminal opportunities, market share, customers’ are emphasized (Garland 1997a: 4), ‘a language that translates “economic forms of reasoning” and calculations into the criminological field’ (Garland 1997b: 185). However, he points out that this economic discourse of crime control can quickly be replaced by an expressive one, and rationalistic approaches to the control of penal expenditure can be displaced in the interests of populism and symbolic punishment (see for example Bottoms 1995; Sparks 2000). Recent media and legislative responses to sex offenders and paedophiles are a case in point, with penal policy driven as
much by media campaigning and public opinion as by risk (Sparks 2000, 2001a, 2001b).
Pratt (2000b) has also argued that while administrative penalty may have occupied a key role post-1970s, ‘emotive and ostentatious’ punishment has increasingly come to the fore. He points to two key trends as an expression of this: Braithwaite’s (1989) reintegrative shaming, and the involvement of the public in the denunciation, shaming and community risk management of sex offenders (for example the News of the World campaign in 2000, and the subsequent demands for a ‘Sarah’s Law’). While the former may be aimed at reintegration, the latter is clearly constituted to exclude and demonize. For Pratt (2000b) such trends coexist alongside the late modern penal trend towards rationalization, bureaucratization and managerialism, and are indicative of a dual and contradictory approach to penalty (see also Hudson 2002). He roots his argument in Norbert Elias’ (1978, 1982) notion of the civilizing process to examine this duality, arguing that penal power reflects both ‘civilizing and decivilizing influences and thereby pulling the possibilities of punishment in competing and contradictory directions’ (Pratt 2000b: 431). Globalization, technological advance and mass communication are seen as contributors to the civilizing process, literally creating a ‘global village’ and a pluralistic society in which personal relationships and interdependencies are strengthened. However, globalization also challenges national sovereignty and state power, erodes traditional bonds and established forms of authority. Pluralism weakens rather than strengthens tolerance, and citizens see themselves as exposed to increased risks against which the state cannot protect them (Giddens 1990).
The social world comes to be seen as inherently risky and unstable, an arena in which safety and security are mere commodities to be purchased. This purchasing need not necessarily be from the state, and the effective control of risks is not seen as solely a matter of national sovereignty. For Pratt (2000b), ostentatious displays of punishment can be understood in part as a compensation for state ineffectiveness in other areas of risk management, a tactic of reassurance to a risk-fearful public. ‘Populist punitiveness’ (Bottoms 1995) is seen as one expression of this wider decivilizing process in which “the “demonization” of particular forms of criminal behaviour leading to responses that actually merge the opposing penal trends’ (Pratt 2000b: 432).
The result is that both punishment and penalty are highly contested areas, with the emotive punishments of expressive penalty existing side by side with the cold calculations of actuarial justice. The ‘inexorable logic of risk’ (Simon 1987) is not necessarily borne out by the empirical evidence of penal practices. There is no Darwinian predisposition towards unilinear progression (Simon 1988; O’Malley 1992). O’Malley (1992: 257) for example argues that there is no overarching ‘logic of power’, rather
technologies of power cannot be divorced from the ‘substantive political programs’ which deploy them:

The history of the prison or of actuarial techniques in crime prevention . . . is not to be understood as the gradual encroachment of a more efficient technology of power, but the uneven and negotiated . . . implementation of a political program and the consequent . . . installation of appropriate techniques.

(O’Malley 1992: 258)

This ‘unevenness’ is manifested in varying responses and institutional practices on risk, begging the question whether risk logic shapes institutional practices or is shaped and mediated by existing institutional forms and day-to-day operations. O’Malley for example, points out how even in the era of early probability marine insurance mariners ‘rejected actuarial models in favour of the accumulation of information about each individual case’ (O’Malley 2001a: 88). Similar findings can be found in the response of probation officers to the growing actuarialism of probation practice (Kemshall 1998). Kemshall and Maguire (2001) for example, following an extensive review of Multi-Agency Public Protection Panels, ask:

whether this very diverse set of developments can convincingly be portrayed as part of one definite movement in a particular direction, or whether current developments are better seen as forming an unclear and messy picture, exhibiting a number of trends in different directions.

(Kemshall and Maguire 2001: 246)

Garland argues that transformations in penality should be evident in its ‘material forms’ as well as in its ‘objectives and orientations’ (1995: 200). The detailed study of local practice in public protection panels illustrates that systems supposedly led by the new penology of risk do not necessarily exhibit all its key features. In brief, panel members resembled O’Malley’s (2001a) mariners, as much informed by ‘professional judgement’, ‘instinct’ and anecdote as by formal risk assessment tools. Actuarial tools do not neatly replace professional judgement, and risk assessments tend towards a hybrid of the two with assessors mediating actuarial scores with overriding clinical judgements. Such judgements are themselves embedded in particular agency cultures and objectives, with key value disputes between risk, rehabilitation, community protection and individual rights. There is also considerable dissonance between stated policy and management objectives and practitioner views on risk, with managers and policy-makers valuing actuarially based knowledge for its consistency and accountability, and practitioners valuing professional, individualized judgement for its flexibility and responsiveness to individual factors (Kemshall 2000). The acceptance and implementation of the risk agenda also varies, with frontline
staff more resistant to the new penal agenda than managers (Kemshall 1998; Lynch 1998; Kemshall and Maguire 2001). This is not merely a case of ‘poor’ or inconsistent implementation, but reflects that penal programmes and policies are not ‘univocal’, but are ‘multivocal, internally contested and . . . often internally contradictory’ (O’Malley et al. 1997: 513).

The evidence for a new risk-based penology is by no means clear cut, and risk is perhaps more readily characterized by discontinuity, resistance and mediation than by continuity and any ‘inexorable logic’ (O’Malley 2001a), and that while many of its key features have subsequently become embedded in penal practice, we can agree with O’Malley that the case is somewhat overstated and that other significant developments have been under-examined (O’Malley 2001b).

Summary
Crime and risk have increasingly forged a partnership in the risk society, although the extent to which this is a totally new and transformative partnership is contested. Preoccupations with the ‘dangerous classes’ and the threat of the masses to social order are long standing, and notions of risk have been integral to social control and regulation for some time (Rigakos and Hadden 2001). Similarly, risk has played a significant role in penal policy, ranging from the rudimentary risk classifications of houses of correction, to the present sophistication of formalized risk assessment tools. While debates about the genealogy of risk may have a limited value (O’Malley 2001a, 2001b), the recognition that risk, albeit in various framings and within different discourses, had been used to identify, classify, assess, punish and treat offenders well before the risk society is important. The significance however is in the type of framing and mode of use, rather than in any inexorable logic of risk. Risk, and its co-option to varying institutional practices and organizational forms, is often a process of contestation, meditation and resistance. The gap between ‘material form’ and ‘stated objectives and orientations’ can be wide. The chapters that follow will examine the role and use of risk in a range of criminal justice settings, policies and practices. The areas chosen reflect their topicality in current debates about risk in criminal justice, for example risk in work with sex offender registration, public protection panels, hard targeting and zero tolerance; risk and probation practice including current risk policies and work with dangerous offenders; and the role of risk in situational crime risk management. Although they are necessarily selective and other areas could have been chosen, the areas selected are key exemplars of the current place of risk in contemporary debates about criminal justice and penal policy. However, before exploring these areas, the next chapter will review the role of risk in contemporary penal policy.
Further reading