

Psychopathy as a clinical-forensic construct: conceptual evolution, diagnostic criteria and challenges in forensic assessment

Abstract

Psychopathy is a highly complex clinical-forensic construct, whose definition, diagnosis and practical application have been the subject of intense debate over time. This article offers a critical review of the conceptual evolution of the term, the main assessment instruments already known and the ethical-legal challenges involved in its use in forensic contexts, with emphasis on the Mexican case. Through a theoretical-documentary methodology with a qualitative approach, two central questions are analyzed: how has the conceptualization of psychopathy changed from its classical formulations to the current models, and what are the risks and limits of its expert application in the legal field? The findings show that, although psychopathy has evolved from subjective clinical descriptions to structured models (such as the PCL-R and the triarchic model), its interpretation remains controversial and its forensic use requires caution. In Mexico, important normative gaps, lack of specialized training and absence of culturally validated instruments have been identified, which limits a rigorous and rights-respecting assessment.

Keywords: Psychopathy, forensic assessment, PCL-R, imputability, criminal justice, Mexico

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Karla Paola Hernández Pulido

Master's degree in Forensic Psychopathology and the Justice System from the National Institute of Criminal Sciences, Mexico

Correspondence: Karla Paola Hernández Pulido, Master's degree in Forensic Psychopathology and the Justice System from the National Institute of Criminal Sciences. She holds a law degree from the Open and Distance University of Mexico. She holds a criminology degree from the Distinguished Autonomous University of Puebla, Mexico

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Introduction

Psychopathy is one of the most complex and debated constructs in the field of forensic psychopathology. Its study has attracted the interest of various scientific disciplines -such as psychiatry, clinical psychology, criminology and law- due to its close relationship with criminal behavior, criminal recidivism and social risk. Despite its frequent use in the forensic field, there are still debates about its definition, classification and diagnosis, which has given rise to multiple interpretations and practical applications, some of them with significant ethical and legal implications.

The term *psychopathy* has evolved from an essentially descriptive characterization, focused on affective and behavioral aspects -such as lack of empathy, interpersonal manipulation and impulsivity, depending on the case-, to become an object of study structured on the basis of psychometric instruments and complex theoretical models. However, its relationship with the criteria for Antisocial Personality Disorder (ASPD) established in the *Diagnostic and Statistical Manual of Mental Disorders* (DSM) continues to be a source of controversy, especially when the diagnosis is intended to be used for expert purposes, to assess imputability, social risk or, specifically, risk of recidivism.

In this context, the present article aims to examine psychopathy as a clinical-forensic construct, through a critical review of its conceptual evolution, the most relevant diagnostic criteria and the main challenges facing its expert assessment. To this end, the following research questions are formulated: What transformations has the concept of psychopathy undergone from its classical formulations to contemporary diagnostic approaches? What are the limits, risks and ethical dilemmas of the use of psychopathy diagnosis in legal and forensic contexts?

The methodology used corresponds to a qualitative theoretical-documentary review, based on the analysis of academic-scientific

sources, including specialized literature on psychopathology, diagnostic manuals, psychometric instruments, recent empirical studies and contributions from forensic *praxis*. From an interdisciplinary approach, we propose to identify the scope and limitations of the use of the psychopathic construct in the justice system, as well as to provide conceptual and methodological elements that contribute to a more rigorous, contextualized and ethically responsible forensic practice.

Brief evolution of the concept of psychopathy

The concept of psychopathy has a long history in the history of psychiatry and criminology, although its meanings have varied considerably over time. From their earliest formulations, they were used to describe individuals with persistently dissocial patterns of behavior, but whose intellectual capacity and contact with reality remain intact. However, it has been since the 20th century that it has been consolidated as an object of systematic study in the clinical-forensic field.

One of the most influential contributions was that of the American psychiatrist Hervey Cleckley, who in his work *The Mask of Sanity* (1941) proposed a clinical profile of psychopathy based on the observation of patients who, despite presenting an apparent normal psychological functioning, showed emotional insensitivity, inability to experience guilt or remorse and a constant tendency to manipulate and transgress social norms. Cleckley described 16 clinical criteria which, although not systematized into a quantitative scale, established the basis for the future operationalization of the construct. This was presented by Pozueco-Romero, et al. below:

“As for the subclinical perspective of integrated or non-criminal psychopathy, Cleckley characterized the psychopath as apparently innocent, insensitive, asocial, charming, and sometimes impulsive or violent, and also portrayed him literally as the most dangerous of criminals, the most predatory of politicians, and the most

unscrupulous negotiator. This author also found, through observations of his patients, that common criminals who lack the emotional *défi* cit typical of these subjects are not psychopaths, despite the fact that they may be poorly or not at all socialized.”¹

Decades later, Canadian psychologist Robert Hare developed the *Psychopathy Checklist* (PCL) and its revised version (PCL-R), an instrument that made it possible to quantify the degree of psychopathy based on 20 items organized into two main factors: the first related to affective and interpersonal traits (such as egocentrism and manipulation), and the second linked to an impulsive and antisocial lifestyle. The PCL-R became the most widely used assessment tool internationally, especially in forensic and correctional contexts; however, it has also been subject to various criticisms. Although it is a structured scale, it requires subjective judgments that may be influenced by biases of the assessor or by the context (e.g., institutional pressure to classify an individual as “dangerous,” which is no longer acceptable). In addition, the PCL-R is largely based on observable behaviors and criminal history. This can lead to confusing *persistent criminality* with psychopathy, especially in forensic contexts.

At the same time, in the field of psychiatry, the concept of psychopathy was partially absorbed into the criteria for Antisocial Personality Disorder (ASPD), formalized in the DSM-III, in the section on *Personality Disorders*, stating that “The personality is abnormal either in the balance of its components, their quality and expression or in its total aspect. Because of this deviation or psychopathy the patient suffers or others have to suffer and there is an adverse effect upon the individual or on society. It includes what is sometimes called psychopathic personality, but if this is determined primarily by malfunctioning of the brain, it should not be classified here but as one of the nonpsychotic organic brain syndromes [...]”.²

In recent decades, alternative approaches have emerged that seek to overcome this dichotomy, such as the *triarchic model of psychopathy*,³ which proposes three fundamental dimensions: boldness, disinhibition and meanness. The meanness scale, composed of 19 items, evaluates traits associated with psychopathy - such as lack of empathy,³ contempt for other people, aggressiveness and violent behavior-. This instrument considers behaviors that usually occur from early stages in people with this profile, such as mistreatment of animals, hostile attitudes, interpersonal exploitation and rejection of authority figures. On the other hand, the boldness scale, also composed of 19 items, focuses on an interpersonal pattern characterized by self-confidence, willingness to take risks, the ability to remain calm in the face of danger and a remarkable resilience in the face of stress. Finally, the disinhibition scale, which includes 20 items, identifies aspects such as impulsivity, irresponsibility and difficulty in controlling one’s emotions and actions. This dimension reflects a deficit in self-regulation mechanisms, including the scarce presence of emotions such as guilt or shame, which normally inhibit inappropriate behaviors, as referred to by Pechorro et al.⁴

This model gave rise to new assessment instruments, such as the *Triarchic Psychopathy Measure* (TriPM), thus contributing to the study of neurobiological and genetic correlates of the disorder. Although the evolution of the concept of psychopathy reflects a shift from subjective clinical approaches to increasingly structured and quantifiable models, the term is still not free of controversy. This evolution has been marked by a growing interest in its forensic applicability, which has intensified the debate on its conceptual delimitation and diagnostic validity in legal contexts.

Primary, secondary or sociopathy psychopathy?

The study of psychopathy has advanced significantly thanks to differentiated approaches that recognize the heterogeneity of the phenomenon, conceiving it as a stable set of affective, interpersonal and behavioral traits. However, it is increasingly accepted that this construct is not unitary, but presents differentiated clinical variants, especially in terms of etiology, symptomatic expression and response to the environment. In this sense, the distinction between primary psychopathy, secondary psychopathy and sociopathy has proven useful both in clinical assessment and in criminological and legal analysis, both academic and scientific.

Primary psychopathy is often considered the most “pure” manifestation of the disorder, in that it is attributed a predominantly biological and innate basis, with possible genetic origins. This subtype is distinguished by characteristic features such as emotional coldness, interpersonal insensitivity, deficits in fear and anxiety processing, as well as low reactivity to punishment. These individuals may show remarkable self-control, behave in a planned manner and even be socially charming. From a neuropsychological perspective, this subtype has been associated with dysfunctions in the amygdala and ventromedial prefrontal cortex, regions involved in emotional processing and moral decision-making. Neuroimaging studies have supported these correlations, suggesting a significant biological basis for the etiology of the disorder.

In contrast, secondary psychopathy involves more disorganized, impulsive and chaotic emotional dynamics. Those with this profile typically experience high levels of anxiety, intense emotions, depressive episodes, and impulsive reactions to frustrating situations. Although they share with primary psychopaths certain antisocial patterns, such as aggression or irresponsibility, their behavior tends to be less strategic and more reactive. Several studies affirm that those who have been diagnosed with this subtype showed a history of childhood trauma, parental neglect, physical and/or emotional abuse, which supports the hypothesis that this form of psychopathy has a more environmental (social) and traumatic origin. It has also been argued that this subtype is more responsive to psychological treatment, especially if the underlying trauma and deficits in emotional regulation are addressed. Luján et al.,⁵ state the following:

“Despite the fact that phenotypically both variants share an affective deficit as a main characteristic, there is consistent empirical evidence regarding the different levels of anxiety, so is considered a key aspect to understand their difference. Primary psychopaths are low anxious so they have high social dominance, overconfidence, absence of fear and guilt, superficial charm, feeling of grandiosity, emotional detachment and manipulative attitudes, unlike secondary psychopaths who have high levels of negative affect and anxiety, so they are withdrawn and antisocial, which will lead to other disorders such as major depression or borderline personality disorder, in addition to reactive aggression, anger, hostility, guilt, impaired interpersonal functioning, substance abuse, among others.”⁵

The distinction between these two subtypes has been empirically supported by factorial studies and profile analyses, particularly through instruments such as the PCL-R and complementary measures such as the *Triarchic Psychopathy Measure* (TriPM). In the latter, the traits of meanness and boldness correlate more closely with primary psychopathy, while disinhibition is more characteristic of the secondary type - without being totally determinant.

On the other hand, the academically widely used term sociopathy lacks formal mention in the major diagnostic systems. It is often used to refer to individuals with antisocial behaviors, but whose etiology is mostly attributed to contextual factors, such as violent family environments, social exclusion and/or structural violence. Unlike the primary psychopath, the subject with a sociopathic profile usually presents emotional disturbances derived from a deviant adaptation to social norms, influenced by dysfunctional learning, affective deficiencies in early stages of development or, in some cases, by acquired neurological damage. Unlike primary psychopathy, which is predominantly biologically based, sociopathy is understood as a more reactive and social construct. Because of these similarities in impulsivity, emotional lability and reactivity to the environment, some authors have argued that sociopathy could be considered a clinical equivalent to secondary psychopathy. However, this equating remains a matter of debate, as diagnostic criteria and etiological trajectories do not always fully coincide.

From a forensic perspective, these distinctions have relevant implications for the assessment of risk of violence, criminal imputability and the need for specialized intervention. For example, while primary psychopaths may present a high risk of recidivism with little response to treatment, secondary psychopaths may benefit from psychotherapeutic programs focused on emotional management and reconstruction of the interpersonal bond. In the case of subjects with a sociopathic profile, psychosocial and structural interventions - such as strengthening support networks or addiction treatment - may be more effective than exclusively clinical approaches.

Distinguishing between primary, secondary or sociopathic psychopathy allows for a better understanding of the phenomenon, but also favors a more ethical, contextualized and scientific assessment of the subject. Labeling a person as a psychopath, without nuance, can lead to unfair forensic decisions, especially in settings where does not consider individual differences, life trajectories and structural factors involved. Therefore, it is of paramount relevance that mental health and criminal law professionals adopt comprehensive diagnostic approaches, combining rigorous clinical criteria with social sensitivity and professional ethics; as a prestigious academic from the National Institute of Criminal Sciences (Mexico) puts it: it is essential that the white coats (mental health experts) and the black robes (law experts) work as a team when it comes to psychopathologies.

Diagnostic criteria and assessment tools

One of the main difficulties surrounding psychopathy is its diagnostic delimitation, especially in settings where clinical precision and rigorous scientific substantiation are required, such as the forensic setting. Unlike other psychopathological entities that have stable recognition in official classification systems, psychopathy does not appear as an autonomous disorder in the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-5-TR) or in the *International Classification of Diseases* (ICD-11). Instead, it is usually associated with Antisocial Personality Disorder (ASPD), which, as mentioned above, has generated controversy regarding its validity and scope.

TAP, as defined in the DSM-5-TR, is characterized by a pervasive pattern of disregard for and violation of the rights of others, evidenced by behaviors such as deception, impulsivity, irresponsibility, and

lack of remorse.⁶ However, several studies have shown that many individuals who meet TAP criteria do not exhibit the distinctive affective and interpersonal traits of psychopathy, such as superficial charm, emotional coldness and, of course, impulsivity, since one of the most characteristic features of psychopathy is calculating behavior - linked, mainly, to the primary psychopath. Hence, many authors consider that TAP represents a broader and less specific construct than psychopathy. Likewise, although one of the distinctive features of psychopathy is the inability to experience authentic emotions, this does not imply -unlike what happens with mental disorders recognized by the *American Psychological Association* (APA)- that people with this profile experience psychic suffering, “clinically significant distress” as established by the DSM, derived from their condition. In fact, people diagnosed with psychopathy do not usually manifest distress, remorse or concern about their actions, their way of relating, their personality traits or the impact they have on others.¹

To address this distinction, specialized instruments have been designed to assess psychopathy as a dimensional construct, moving beyond purely categorical approaches. The most widely used tool is the *Psychopathy Checklist-Revised* (PCL-R), developed by Hare. This scale consists of 20 items that are scored on a three-point scale (0, 1 or 2), and its scores are traditionally organized into two main factors:

Factor 1: Affective and interpersonal traits, such as emotional superficiality, grandiosity, manipulation, lack of empathy, and lack of remorse.

Factor 2: Socially deviant lifestyle, including impulsivity, irresponsibility, early criminal history, and interpersonal exploitation (social parasitism).⁷

The PCL-R has demonstrated strong inter-rater reliability, predictive validity for recidivism, and practical utility in judicial and correctional systems. However, its application requires specialized training and a semi-structured interview complemented by documentary review, which limits its widespread use and opens the risk of expert malpractice when applied without due ethical and methodological rigor. In order to overcome the limitations of the traditional model of psychopathy, alternative psychometric instruments have been developed that broaden the understanding of the construct from dimensional and clinically more integrative approaches. Among the most relevant, according to Cooke, et al. are:

I. Psychopathic Personality Inventory-Revised (PPI-R): designed to assess psychopathic traits in non-forensic populations, especially in community or university contexts, allowing a less criminally biased approach.⁸

II. Triarchic Psychopathy Measure (TriPM): based on the triarchic model, which conceptualizes psychopathy based on three central dimensions: boldness, meanness and disinhibition, integrating affective, behavioral and interpersonal aspects.

III. Comprehensive Assessment of Psychopathic Personality (CAPP): focused on a qualitative assessment of psychopathic traits from a broad clinical perspective, which prioritizes the structured analysis of personality beyond antisocial behavior.⁹

Instrument	Main focus	Target population	Dimensions assessed	Key strengths	Limitations
PCL-R (Hare)	Psychopathy from a classical forensic model	Adults in judicial or penitentiary settings	Factor 1 (interpersonal/affective), Factor 2 (behavioral/antisocial)	High predictive validity, widely used	Risk of labeling, focused on criminal behaviors
PPI-R ⁸	Psychopathic personality traits	General and non-forensic population	Traits such as dominance, emotional coldness, impulsivity	Applicable in non-clinical or forensic contexts	Less useful for predicting criminal behavior
TriPM ³	Triarchic dimensional model	Diverse contexts (forensic, clinical, community)	Boldness, meanness, disinhibition	Integrates neurobiology and personality psychology	Still undergoing empirical validation in some populations
CAPP ⁹	Personality-focused qualitative assessment	Forensic-clinical, adaptable to multiple contexts	Dominance, attachment, self-directedness, emotionality, hostility, and so on.	Integrative model, not focused on criminality.	More extensive and qualitative assessment, requires more training

Instruments such as the PPI-R allow the exploration of psychopathic traits in the general population, while the TriPM offers a more balanced conceptualization between neurobiology, affectivity and behavior, which is useful both in research and clinical practice. For its part, the CAPP represents an advanced and qualitative model that privileges the structural understanding of psychopathic personality, without reducing it to criminal manifestations.

These instruments do not compete with each other, but complement each other. Their choice must respond to the objective of the assessment, the scope of application and the profile of the person being assessed. This methodological diversity enriches the understanding of the psychopathic phenomenon and makes it possible to approach its multiple expressions with greater clinical, ethical and scientific precision. It should not be forgotten that, although diagnostic criteria and psychometric tools have advanced considerably, their application in forensic contexts requires caution, specialized training and a qualitative clinical interpretation that avoids reductionism and ensures an ethical and contextualized evaluation.

Mexico: forensic applications and forensic challenges

Psychopathy has acquired relevance in the forensic field due to its association with serious criminal behavior, criminal recidivism and alleged “dangerousness” -a term in disuse, but still used in academic contexts-. Its evaluation is common in judicial proceedings where it is required to determine criminal liability, establish security measures, assess the risk of recidivism or recommend treatment in the penitentiary system. However, its use in these contexts poses major ethical, technical and legal challenges, which must be carefully analyzed.

One of the main forensic uses of the diagnosis of psychopathy is in the *assessment of imputability*. Although psychopathy is not usually considered a disorder that excludes criminal responsibility - since it does not affect the understanding of wrongdoing or the capacity for self-determination, as schizophrenia might be - its presence can influence the judicial decision, especially when it is linked to the notion of *criminal dangerousness*. This association has been strongly criticized by various authors, who warn of the risk of stigmatization and overuse of the diagnosis as a permanent “mark” or “labeling” that can have negative effects on the chances of social reintegration of the person being evaluated, hence the term *social risk* is currently more appropriate.

Along the same lines, psychopathy is frequently considered in the assessment of the risk of violent recidivism, where tools such as the PCL-R have been incorporated into actuarial scales, for example,

HCR-20 - *Historical Clinical Risk Management-20*, a structured tool to assess the risk of future violence in individuals - and VRAG - *Violence Risk Appraisal Guide*, an actuarial instrument designed to predict the risk of serious violence or violent recidivism in adults, mainly those who have already committed crimes. Both are used to make parole or prison decisions. While they provide a structured framework for risk prediction, their predictive ability is not absolute and their use without a comprehensive clinical analysis may lead to unfair or disproportionate decisions. Moreover, the prediction of human behavior, especially in relation to violence, remains an area with significant margins of uncertainty, and their presentation as conclusive evidence in court should be avoided.

As for the role of the forensic expert, the evaluation of psychopathy requires not only mastery of the available psychometric tools, but also a solid background in psychopathology, professional ethics and knowledge of the current legal framework. The expert must maintain a critical attitude towards the instruments used, understand their limitations and contextualize the results within the psychosocial environment of the person being evaluated. A rigid or mechanistic reading of the scores represents a *malpractice* that contradicts the fundamental principles of forensic psychological evaluation.

Additionally, the application of the concept of psychopathy in the penal system has been questioned from approaches such as Critical Criminology and Neuroethics, which warn about the danger of reducing human behavior to neurobiological variables or individual traits disconnected from the structural, historical and socioeconomic context in which it is produced. Hence, the accepted position in Criminology is the study of the person as a *bio-psycho-social* entity.

In Mexico, within the justice system, important legal gaps have been found in the training and updating of professionals involved in expert evaluation. Unlike other countries where there are standardized protocols and specialized teams in forensic psychology, the treatment of psychopathy in the Mexican context is characterized by the heterogeneity of diagnostic criteria, the scarcity of locally validated instruments and the lack of clear institutional guidelines on its use in judicial processes.

One of the main problems is the absence of specific regulations governing the use of tools such as the PCL-R or the TriPM in forensic evaluations. Although some penitentiary institutions or justice centers have incorporated the use of risk and personality scales, the application of these tools usually depends on the individual criteria of the expert or the technical team, without standardized methodological or ethical supervision. This situation generates disparate practices and, in some

cases, evaluations that lack psychometric validity or are interpreted without due clinical rigor.

Another relevant problem is the insufficient training in forensic psychopathology of many experts assigned to prosecutors' offices, courts or prisons. Often, the professionals in charge of psychological or psychiatric evaluations do not have specific training on current models of psychopathy or on the ethical dilemmas involved in its diagnosis. This deficiency is aggravated by the lack of systematic updating programs and by the weak link between the judicial system and universities or research centers specialized in mental health and criminology. In Mexico, the National Institute of Criminal Sciences (INACIPE) created, in 2019, the master's degree in Forensic Psychopathology and Justice System, with the aim of addressing the links between Law and Neurosciences.¹⁰

Additionally, the stigmatization of the diagnosis of psychopathy translates, in Mexican forensic practice, into punitive decisions that reinforce a securitarian rather than a therapeutic or rehabilitative approach. The classification of a person as a "psychopath" tends to be perceived as synonymous with permanent danger or irrecoverability, which can influence decisions such as the denial of penitentiary "benefits", the prolongation of precautionary measures or the imposition of extreme sentences, without an individualized analysis or a contextualized evaluation of the psychosocial factors of the case.

Along the same lines, there is an important deficit in national research on psychopathy. Empirical studies conducted in Mexico are scarce and often replicate models developed in other contexts, mainly Anglo-Saxon, without validating their cultural relevance or adapting them to the legal and social reality of the country. This dependence on external paradigms limits the development of their own instruments, appropriate to the relevant psychosocial, linguistic and legal characteristics. A similar case occurs when designing and implementing public and criminological policies.

In this sense, it is urgent to promote an agenda of professionalization, regulation and knowledge generation to improve the quality of forensic evaluations in Mexico. This implies not only updating the available diagnostic tools, but also training critical, ethically responsible and committed experts with a comprehensive vision of mental health and justice.

Final considerations

Psychopathy, understood as a clinical-forensic construct, represents a complex category that has evolved from subjective clinical descriptions to a diagnostic conceptualization with high relevance in the legal field. Its incorporation as a tool for the assessment of risk, imputability and need for intervention has led to significant technical advances, but has also raised substantial ethical controversies. These tensions are intensified when its application lacks the necessary clinical rigor or is decontextualized from the biopsychosocial environment of the individual being evaluated.

In response to the first research question we posed, it can be stated that the concept of psychopathy has undergone a significant transformation from Cleckley's initial clinical formulations to contemporary structured and dimensional models, such as the PCL-R and the triarchic model. This evolution has allowed for greater diagnostic precision, but has also fragmented the field, generating tensions between classifications that, at certain times -although possibly erroneously- have been considered official (such as the TAP in the DSM), which addresses broader dimensions of interpersonal, affective and behavioral functioning.

With respect to the second research question, it is concluded that the use of the diagnosis of psychopathy in the legal setting carries important ethical, clinical and social limits and risks. First, there is the possibility that this construct may be interpreted as a definitive risk marker, which may reinforce punitive approaches incompatible with fundamental principles such as the presumption of change, social reintegration and the right to individualized assessment. Secondly, the application of diagnostic instruments without adequate professional training, without cross-cultural validation or without taking into account the biopsychosocial context of the person being evaluated, leads to biased or unfair decisions. It becomes even more serious when dealing with environments marked by structural inequality, such as the Mexican case, where social factors can be erroneously read as clinical indicators.

In Mexico, the lack of specific regulations, the limited training of experts in forensic psychopathology and the scarce national academic production on psychopathy create a scenario in which disparate practices, arbitrary diagnoses and judicial decisions influenced by stereotypes rather than by scientific evidence are found, making it essential to transform the way psychopathy is conceived and applied in the justice system. It is essential to promote a critical, technically grounded and ethically oriented expert practice that recognizes the limits of current knowledge, integrates different dimensions of analysis (clinical, legal, social) and promotes the guarantee of the rights of the persons evaluated.

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Conflicts of interest

The author declares there is no conflict of interest.

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