

The Brazilian Perspective on Issues Related to Psychopathy

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Abstract

Psychopathy is a construct characterized by persistent emotional detachment, lack of empathy, superficial charm, manipulativeness, and chronic violation of social norms. Although psychopathy is not recognized as a distinct diagnostic category in major classification systems such as the World Health Organization ICD-11 and the American Psychiatric Association DSM-5-TR, its core features are represented within dissociality and antisocial personality disorder, respectively. This article examines the Brazilian perspective on psychopathy, emphasizing psychiatric, neuroscientific, ethical, and legal issues. Epidemiological studies suggest that psychopathic traits are present in approximately 1% of the general population and are associated with significant social and economic costs. Neurobiological research has identified abnormalities in brain regions related to emotional processing, moral judgment, and behavioral inhibition. In Brazilian criminal law, psychopathy does not automatically imply legal insanity, and most individuals are considered criminally responsible under the Código Penal. Comparative analysis with other jurisdictions, including Argentina, reveals different approaches to the assessment of dangerousness and the use of forensic psychiatric measures. The article also discusses the implications of advances in neuroscience for concepts of culpability and punishment, drawing on classical legal theory and contemporary debates. It is concluded that psy-

chopathy represents a multidimensional phenomenon requiring integration between psychiatry, psychology, neuroscience, ethics, and law.

Keywords: Psychopathy; Antisocial Personality Disorder; Dissociality; Criminal Responsibility; Forensic Psychiatry; Neuroscience; Brazilian Penal Code.

Introduction

In the World Health Organization classification system, the 11th edition of the International Classification of Diseases (ICD-11), antisocial personality traits are represented by the domain of dissociality. In the previous version, ICD-10, there was a specific diagnosis called Dissocial Personality Disorder. In ICD-11, the clinician first identifies the presence of a personality disorder, determines its severity (mild, moderate, or severe), and then describes the main personality traits [1].

Dissociality is characterized by a persistent pattern in which the person focuses excessively on their own needs and desires, with little concern for the rights, feelings, and well-being of others. Common features include egocentricity, lack of empathy, reduced guilt or remorse, manipulation, exploitation of others, hostility, cruelty, and repeated violations of social rules. In practice, dissociality corresponds closely to what was previously diagnosed as Dissocial Personality Disorder in ICD-10 and as Antisocial Personality Disorder in the Diagnostic and Statistical Manual of Mental Disorders (DSM) [3].

In clinical and forensic practice, dissociality is often associated with disinhibition. This combination produces a pattern marked by emotional coldness and manipulation, together with impulsivity and irresponsibility. Therefore, instead of making a categorical diagnosis of antisocial personality, ICD-11 allows a more precise description, such as “Severe Personality Disorder with prominent Dissociality and Disinhibition traits.” This model is especially useful in forensic psychiatry because these traits are associated with criminal behavior, violence, interpersonal exploitation, poor adherence to treatment, and a higher risk of recidivism.

Psychopathy is a personality disorder character-

ized by persistent antisocial behavior, lack of empathy, manipulation, impulsivity, and emotional coldness. Unlike other personality disorders, psychopathy includes specific affective and interpersonal traits such as superficial charm, grandiosity, and absence of remorse [4].

Psychopathy can be understood as a combination of personality traits and socially deviant behavior. Individuals with psychopathy are often arrogant, callous, manipulative, and emotionally superficial. They may appear charming and self-confident, but they tend to use other people for their own benefit. Many adopt a parasitic lifestyle, show no remorse for the harm they cause, and have very limited empathy [5].

In clinical and forensic settings, psychopathy is commonly assessed with the Psychopathy Checklist-Revised (PCL-R), developed by Robert D. Hare [6]. This instrument measures psychopathic traits in four main domains: interpersonal style, affective traits, lifestyle, and antisocial behavior. It is estimated that about 1.2% of the general population shows this personality pattern, which can have serious consequences for society [7].

Psychopathy is not restricted to criminal populations. Some individuals with psychopathic traits may function in business, politics, or other social settings, where these characteristics can negatively affect relationships and ethical decision-making. However, in criminal populations, high levels of psychopathic traits are associated with greater violence and higher rates of recidivism [8].

From a sociological and philosophical perspective, psychopathy raises important questions about moral responsibility and social control. Although psychopathic traits influence behavior, they do not automatically remove legal responsibility. Instead, they illustrate the complex relationship between personality, biology, and criminal conduct [4,8].

Psychopathy is often associated with serious criminal behavior and presents important challenges for treatment and rehabilitation. Earlier views that psychopathic individuals were completely untreatable are no longer accepted [9,10]. Nevertheless, treatment is difficult and usually requires intensive interventions focused on reducing dynamic risk factors and lowering the probability of future offending.

In summary, psychopathy is a personality pattern marked by specific emotional and behavioral deficits, with important implications for clinical psychology, criminology, and law.

The term serial killer refers to a person who commits multiple homicides in separate events over time. These crimes are usually separated by “cooling-off” periods and often follow a repetitive pattern or are driven by internal psychological motivations. Understanding this concept is important for criminal investigation because it helps identify behavioral patterns and psychopathological traits that contribute to criminal profiling.

The purpose of this article is to discuss the clinical, forensic, and legal aspects of psychopathy in serial killers, with special attention to the Brazilian legal system. The article describes psychopathy according to the ICD-11, especially through the personality trait domain of dissociality, and explains why this concept is important in forensic psychiatry.

Another objective is to examine whether psychopathic serial killers should receive long prison sentences or psychiatric treatment under security measures. For this purpose, the article reviews scientific evidence about the neurobiological basis of psychopathy, its effects on criminal responsibility, the risk of recidivism, and the difficulties in treatment.

Finally, the article aims to encourage discussion between psychiatry, neuroscience, and criminal law in order to identify legal responses that protect society while respecting constitutional rights and fundamental legal principles. This is a narrative review study on this topic.

Long-Term Imprisonment or Psychiatric Treatment-Security Measure- For Psychopaths?

Determining the most appropriate criminal justice response for individuals with psychopathic traits who commit serial homicides constitutes one of the most complex issues at the intersection of forensic psychiatry and contemporary criminal law. This question involves not only the normative interpretation of criminal responsibility but also ethical, philosophical, and scientific reflections on the nature of human responsibility. In the Brazilian legal system, structured under the Brazilian Penal Code, the distinction between punishment and security measures is directly linked to the offender’s degree of criminal responsibility, as provided in Article 26 of the Brazilian Penal Code [11]. This provision adopts the biopsychological criterion, according to which criminal liability depends on the individual’s capacity to understand the unlawful nature of the act and to act in accordance with that understanding.

Within this framework, psychopathy presents a unique challenge. It is a clinical construct characterized by traits such as lack of empathy, affective superficiality, interpersonal manipulation, and persistent antisocial behavior, as extensively described by Hare [4]. From a neurobiological perspective, studies indicate alterations in brain circuits related to emotional processing and behavioral control, particularly in the prefrontal cortex and structures of the limbic system, which may influence decision-making and impulse regulation [12,13]. However, these alterations generally do not impair the cognitive functions essential to criminal responsibility. Psychopathic individuals understand the illegality of their conduct and often demonstrate a high degree of planning, as evidenced in serial killer cases, where one observes organization, strategic victim selection, and attempts to avoid detection.

A comparison between psychiatric and legal perspectives shows that psychopathy is a complex condition. From the psychiatric point of view, psychopathic individuals have important emotional problems, such as lack of empathy, absence of remorse, and emotional coldness. Brain studies suggest that some of these traits are related to abnormalities in areas involved in emotional regulation and impulse control. These factors may increase the risk of violent

behavior and criminal recidivism. From the legal point of view, however, the main question is whether the person was able to understand that the act was illegal and whether they were able to control their behavior. In most cases, individuals with psychopathy keep these abilities and may even show careful planning and attempts to avoid detection. For this reason, psychopathy alone usually does not remove criminal responsibility. Psychiatry helps explain why the behavior occurs, while the law determines whether the person should be held responsible for their actions.

Accordingly, the prevailing position in legal doctrine and forensic practice is that individuals with psychopathy are generally fully criminally responsible. This understanding is supported by the principle that criminal liability is based not on the presence of emotional abnormalities but on the preservation of the cognitive and volitional capacities relevant to responsibility. As Greene and Cohen [14] argue, although neuroscience expands our understanding of the determinants of behavior, it does not replace the normative criteria underlying criminal law. Thus, the existence of biological bases for certain behavioral patterns does not, by itself, eliminate legal responsibility.

In this context, the predominant criminal response to psychopathic serial killers is the imposition of lengthy prison sentences. This solution is grounded in the principle of culpability and in the tradition of criminal law focused on the act, according to which individuals are punished for their conduct rather than for their personality. This perspective traces back to the ideas of Beccaria [15], who advocated proportionality between crime and punishment and rejected sanctions based solely on predictions of dangerousness. However, the application of this model faces a significant challenge in Brazil: the current maximum period of imprisonment is 40 years, which may eventually result in the release of individuals with a high risk of recidivism.

On the other hand, security measures, applicable to individuals deemed not criminally responsible or partially responsible, are based on the offender's dangerousness and have an indeterminate duration, contingent upon the cessation of that condition. In theory, this model could offer greater social protection in relation to individuals with a

high probability of reoffending, such as some severe psychopaths. Nevertheless, its application encounters important legal limitations, since psychopathy alone is not considered a disabling mental disorder for purposes of criminal irresponsibility. Furthermore, the literature indicates that these individuals often show limited responsiveness to therapeutic interventions, raising doubts about the effectiveness of security measures as instruments of rehabilitation [13]. In addition, the indeterminate duration of such measures raises concerns regarding fundamental rights, as it may lead to deprivations of liberty that exceed the penalties prescribed for equivalent crimes.

Discussion

This discussion shows a basic conflict between two approaches in criminal law. One approach focuses on the criminal act itself and is based on culpability and the protection of individual rights. The other approach focuses on the offender and gives greater importance to dangerousness and the need to prevent future crimes. Psychopathy challenges both models because it involves individuals who are legally responsible for their actions but may continue to present a high risk of serious violence.

This dilemma becomes even more complex with advances in neuroscience. Research has shown that biological factors can influence emotional regulation, impulse control, and decision-making. However, these findings do not provide sufficient legal grounds to eliminate or reduce criminal responsibility. Neuroscience helps us better understand behavior, but it does not replace the legal criteria used to determine responsibility.

From a comparative perspective, some South American countries, such as Argentina, place greater emphasis on the assessment of dangerousness. Although psychopathic individuals are usually considered criminally responsible in these countries as well, this approach may lead to longer periods of psychiatric detention in some cases [16]. This example shows that different legal systems balance social protection and individual rights in different ways. There is no single solution to this problem.

In the Brazilian legal system, long prison sentences appear to be the most appropriate response for psychopath-

ic serial killers, since these individuals generally retain criminal responsibility. Security measures should be reserved for exceptional cases in which psychopathy is associated with a severe mental disorder that significantly impairs the person's capacity to understand the unlawful nature of the act or to control their behavior.

Nevertheless, this issue remains open to debate. The central challenge is to protect society while preserving constitutional guarantees and fundamental rights. In this sense, psychopathy continues to test the limits of modern criminal law and highlights the importance of continued dialogue among law, psychiatry, and neuroscience.

Conclusions

Psychopathy is currently understood in the World Health Organization ICD-11 as part of the personality trait domain called dissociality. This pattern is characterized by lack of empathy, manipulation, absence of remorse, and repeated violation of social rules. When dissociality is associated with disinhibition, the individual may show impulsivity, irresponsibility, violent behavior, poor adherence to treatment, and a high risk of criminal recidivism. For this reason, these traits are especially important in the forensic assessment of individuals who commit serial homicide.

Although several studies have shown neurobiological abnormalities related to emotional processing and behavioral control, psychopathy usually does not impair the mental capacities required for criminal responsibility. Psychopathic offenders generally understand that their acts are illegal and are able to act according to this understanding. In many cases, they show careful planning, organization, and attempts to avoid detection. Therefore, in Brazil and in

most legal systems, psychopathy by itself does not justify a finding of criminal irresponsibility.

In this context, long-term imprisonment remains the most appropriate legal response for psychopathic serial killers. This approach is consistent with the principles of culpability and proportionality, which require punishment based on the criminal act rather than on personality traits alone. Security measures should be reserved for exceptional cases in which psychopathy is associated with a severe mental disorder that significantly impairs the person's ability to understand or control their actions. The routine use of indefinite psychiatric detention based only on dangerousness could violate constitutional guarantees and fundamental rights.

At the same time, the high risk of recidivism and the limited response to treatment seen in some psychopathic offenders show the importance of specialized forensic evaluation, structured risk management, and evidence-based interventions aimed at reducing modifiable risk factors. Experiences in other countries show that different legal systems adopt different ways to balance social protection and individual rights, but no system has fully solved this problem.

In conclusion, psychopathy and serial homicide continue to challenge criminal law, forensic psychiatry, and neuroscience. A balanced approach requires maintaining criminal responsibility when the legal capacities are preserved, while also adopting effective measures to protect society and reduce the risk of future violence. Continued interdisciplinary research is essential to improve diagnosis, develop better treatment strategies, and guide legal responses that are scientifically sound and consistent with the fundamental principles of justice.

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