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How Emotions in Hearing Testimonies Shape Mental Health Policy-Making: An Application of the Social Construction Theory of Emotion to the Legislative Process

Aarthi Uthayakumar - University of Southern California

BIOGRAPHY

Aarthi Uthayakumar is a recent honors' graduate from the University of Southern California. She is a mental health rights' advocate based in Los Angeles, the founder of USC's Student Psychiatric Association, and a longstanding activist for Amnesty International. She currently works as a program manager for the United States Tamil Action Group, a human rights' organization which works with the U.S Government to bring peace and transitional justice to Tamils in Sri Lanka.

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Words could never truly compose my sincere appreciation and gratitude for the important people in my life who have contributed to my success in creating this body of work. Regardless, I will make a humble attempt to acknowledge those who have supported me in my journey. First and foremost, I would like to thank my extremely loving and supportive parents and my younger brother who have all given me a sense of direction, purpose, and hope when I needed it the most. I am forever indebted to their unconditional love, support, and guidance. Finally, I would like to acknowledge the thousands of children and adults struggling with mental illness in America during these turbulent times. This work is dedicated wholeheartedly for you.

Abstract

Mental health laws (MHLs) in America are designed to ensure the community integration of people with mental health disorders, the ethical construction of mental health care treatments, provision of high-quality care, and easy access to care at the community level. As the number of individuals diagnosed with mental health disorders in the United States continues to increase, the need to pass effective and sustainable mental health legislation becomes increasingly urgent. Efforts to pass such legislation rely heavily not only on political assemblies, but also on the emotions expressed within the statements made during the law-making process. This study uses a content analysis approach and the social construction theory of emotion to better understand how different emotional appeals used in state and federal testimonies are perceived and understood. The results of the content analysis primarily indicate that: (1) lawmakers cannot accurately detect and empathize with emotions in panelists' statements, (2) witnesses with mental illness providing testimonies at legislative hearings receive less engagement from lawmakers than their co-panelists, and (3) emotional appeals from family members were used to push psychiatric solutions for mental health while emotional appeals from consumers were used to push for policies that looked past medical solutions (e.g. housing and jobs).

Introduction

“What is at stake is nothing less than the survival and well-being of a generation of innocents.”

- António Guterres, United Nations

Mental health laws (MHLs) have been legislated by state assemblies across the United States for decades, but their efficiency has been continually subject to criticism. Citizens have expressed that MHLs require reform due to the lack of laws governing critical elements of mental health treatment including involuntary hospitalization and restrictions placed on communication with a patient's family (Sederer, 2013). The lack of accessibility, medical training, and efficient court

proceedings have also been cited as areas in need of reform by rights-based advocacy (RBA) groups such as Mental Health America.

Despite these problems in behavioral healthcare, doctors emphasize that current mental health laws have improved because they have become increasingly multidisciplinary in recent decades (Gopalakrishnan, 2016). Modern psychiatry has advanced beyond the traditional focus on scrutinizing the criminal aspects of mental health, including the insanity plea, fitness to stand trial, and testamentary capacity.

Despite this progress, mental health laws are still in need of reform, as shown by the increasing rates of suicide and mental illness diagnoses in the United States. The most recent data on suicide rates provided by the CDC cites that more than 48,000 people committed suicide in 2018, an increase from 42,773 deaths from suicide in 2014 (CDC Data Brief 355, 2018). With these numbers, the United States has one of the highest suicide rates among wealthy nations.

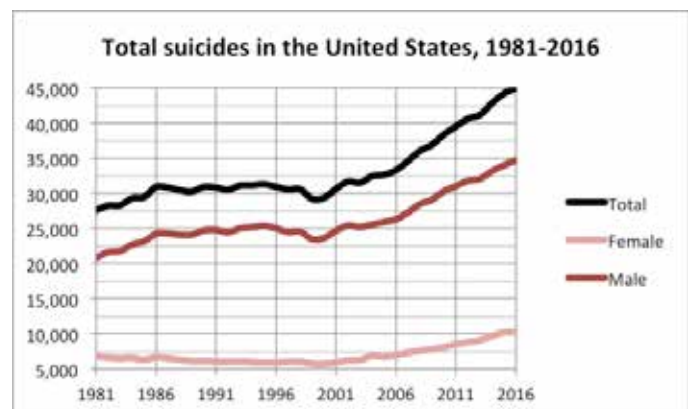


Figure 1. Increase in Total Suicide Rates in the United States (1981-2016) cdc.gov.

Doctors also predict that suicide rates will increase due to the COVID-19 pandemic as a result of psychosocial repercussions of the crisis (Panayi, 2020). The importance of implementing effective MHLs is more pressing than ever. The consequences of the lack of MHLs are at the expense of families grieving loved ones lost to the effects of mental illness. According to a study done on MHLs (including gun laws) in 2015 by the National Institutes of Health, laws have significant

effects in lowering suicide rates that are directly linked to mental illness (Anetis & Anetis, 2015). Thus, while modern psychiatry offers solutions to treat mental illness, the key to reducing American suicide rates could be dependent upon MHLs more so than contemporary medical practices. The notion that MHLs play a larger role than modern psychiatry in addressing suicide rates is affirmed by a 2013 study which finds that inpatient involuntary commitment procedures, the quality and accessibility of mental health services, and the amount of transparency currently [have more impact] and calls for regulation amidst the toxic privatization of the pharmaceutical and behavioral services industries—all of which strongly impact individuals with mental illness and their families (Sederer, 2013).

“While understanding emotional appeals will not eliminate the deficiencies currently present in national and state mental illness policies, it still may be an important tool to improve policy-making in mental health law.”

The Power of Legislative Testimony and its Impact on Law Creation

While many legislative hearings that undergo the rigors of mental-health policymaking are pursued silently, the power of testimony and its ability to affect public discourse and the reformation of laws is still at work. This power is best illustrated through televised congressional hearings. In 1954, army lawyer Joseph Welch openly expressed his frustrations with Senator Joseph McCarthy and his anti-Communist agenda. This hearing resonated with Americans, and the anger prevalent in McCarthy’s testimony encouraged public discourse questioning anti-Communist sentiment and the lives it was affecting. Similarly, in 1966, the televised congressional hearing on the Vietnam War and the placement of soldiers there triggered a public anti-war response. The shocking admission from government officials

that soldiers were being sent to war zones in which they were unlikely to win and the perceived obstinance in their testimonies popularized the national sentiment which vowed to “bring back our soldiers.” These historical moments, followed by the Iran-Contra affair, the Watergate hearings, former President Clinton’s hearings, and the recent impeachment hearings of former president Donald Trump, all elicited strong nationwide emotions, a result of televised emotional appeals from some of America’s most notable figures.

Some prominent female figures utilized emotional appeal in their hearings to persuade national discourse to be sympathetic towards their cause. Their compelling stories of heartbreak, pain, and loss impacted the creation of improved laws and social culture. Understanding how these stories—and their emotional frameworks—operate in the creation of new policies is essential to the betterment of advocacy-related issues being pursued in the modern political climate.

The Importance of Understanding the Emotional Appeals in MHL Creation

Emotional appeals in testimonial narratives and suggestions made at policy-making hearings, while often overlooked, provide a means to analyze state governments and how legislative entities create laws. Understanding how emotional appeals are devised and delivered in the lawmaking process presents an innovative angle as to how RBA groups can better advocate for Americans with mental health conditions. Historical analysis into how emotional appeals have impacted the legal fora of both state and federal legislatures can provide insight as to how emotions have been perceived by lawmakers and how such perceptions may have influenced the creation of current unsustainable MHLs, including involuntary commitment procedures for minors, uninformed consent agreements per admission upon a psychiatric institution, and 5150, which seeks to address all suicidal and homicidal tendencies without listing a specification in public records. While understanding emotional appeals will not eliminate the deficiencies currently present in national and state mental illness policies, it still may be an important tool to improve

policy-making in mental health law. In order to understand the role that emotional appeals may have in state assembly hearings for mental health bills, it is informative to examine past cases in which emotional appeals successfully influenced the party interests presented on the bill. The following section explores the emotional appeals used in political assembly hearings regarding the opioid crisis.

How Understanding the Opioid Epidemic Hearing Can Help to Understand Emotions in the Creation of Mental Health Laws

In 2017, the National Senate Subcommittee convened a hearing to seek solutions for one of America's worst opioid epidemics. In the hearing, a budget proposal endorsed by the White House suggested that the Affordable Care Act (ACA) end Medicaid expansion and convert federal Medicaid funding into block grants to states (The National Council). This proposal would result in tremendous cuts to the Medicaid program. In response to this proposal, former Congressman Patrick J. Kennedy (D-RI), a witness at the hearing, stated the following:

I can assure you, there is definitely one thing we CANNOT do, or history will judge this Congress very harshly. WE CANNOT CUT FUNDING TO MEDICAID. That is not a political statement, it is a practical one.... In 2016, suicides claimed more than 44,000 lives. Combine that with the 64,000 lives lost to drug overdoses in 2016 and the total is over 100,000 American lives lost. And God only knows how many other lives were torn apart or shattered due to the trauma brought upon by these tragedies. Do the math: nearly 300 people die EVERY SINGLE DAY due to brain illnesses. What are we doing for this crisis? Not nearly enough. Talking and reporting about this crisis is not enough! Hiring expensive agencies to create national advertising campaigns is not enough. We need real, substantial, emergent dollars – NOW! (The United States Senate Committee on Appropriations, 2017).

In 2018, the House and Senate passed a budget agreement to lift the budget caps and authorize an additional \$6 billion to address the opioid epidemic over the fiscal years 2018 and 2019 (National Council Board, 2019). Over the next two fiscal years, the \$6 billion was allotted for various efforts to address opioid diversion, addiction, prevention, and treatment. The previous budget proposal to which Mr. Kennedy objected at the hearing ultimately lacked the political support to be passed. While Mr. Kennedy's strong emotional appeals of anger and disappointment in his witness statement cannot be causally linked to the refusal to cut funding to Medicaid, his emotions served as the backbone for senatorial discussion arguing the justification of continuing Medicaid expenditures. Mr. Kennedy's witness statement was frequently referred to throughout the hearing, with its significance stemming from the emotions integrated into his argument. The emotional appeals in Mr. Kennedy's argument translated directly to the qualities of the budget proposal itself. Not granting cuts in Medicaid expenditures for opioid treatment was politically favorable because it countered the anger and disappointment that could have arisen had the cuts been pursued. Mr. Kennedy's interests on behalf of Americans struggling with opioid addiction were honored in the committee's decision because he attached strong emotional fervor consistently throughout his witness statement.

Patrick Kennedy's use of emotional appeals to

"...harmful policies affecting those in America with mental illnesses will not be properly addressed unless the testimonies of those affected are acknowledged at the national level."

encourage federal action, which would protect Americans with a drug addiction, offers valuable insights into how emotional appeals can be used to better convey a victim-based and rights-based approach for policy-making procedures. This is crucial in creating more effective mental health

laws. In the opioid crisis hearings, attaching emotions to a legislative suggestion brought positive change for Americans struggling with drug addiction. Similarly, attaching emotions to legislative suggestions may open up new possibilities for more empathetic government actions and policies addressing the treatment and management of Americans suffering from a mental illness. Whether or not such possibilities are valid can be answered by the following research question: How do the emotions of witnesses in testimonies for state and federal hearings impact the law-making process of modern mental healthcare policies?

Literature Review

This literature review is an attempt to summarize the current knowledge about emotions in political testimony and the impact they may have on law and public policy. The expected contribution of this research is to set existing theories on how emotions apply to judicial testimonies and international criminal tribunals as a precedent to state and federal legislative testimony. While a lack of data affects the academic focus on emotions in the legislative assembly, well-established studies on the interpretation of emotion in video and audio cues and the power of emotions in courts and international tribunal testimonies are extended to address the applicability of such foci to the policy-oriented components of this study.

The Power of Emotions in the Lawmaking Process

As stressed by popular congressional hearings throughout history, the importance of testimony and the emotions which have informed them is central to this study. Gillian Whitlock's review essay "The Power of Testimony" (2007) in the journal *Law & Literature* instructs this study's analytical findings on why emotions matter in policy-making and law. Whitlock's essay examines five case studies on international atrocities analyzed in Schaffer and Smith's book *Human Rights and Narrated Lives*. She frames these studies to reveal the importance of witness testimony on restorative justice and human rights.

While the proposed research examines the power of testimony in the context of American policy-making, Whitlock's analyses nevertheless explain and support the findings of this study. Just as human rights violations are often overlooked until brought to an international platform, harmful policies affecting those in America with mental illnesses will not be properly addressed unless the testimonies of those affected are acknowledged at the national level. In Whitlock's analysis, the emotions in the testimonial narratives of victims of human rights abuses were found to significantly shape human rights discourse on an international scale. For example, the emotional devices used by women who were brutally oppressed by the Taliban regime significantly influenced the world's view of female oppression in the Middle East and impacted further testimonies given by women in similar situations.

Furthermore, Whitlock suggests that the "codings of life narrative" is overlooked in academia but should be subjected to further study because it informs a critical understanding of the "production, circulation, and reception of trauma story" that emerge from the victims of some of the world's most unspeakable atrocities (Whitlock, 2007, p. 146). Whitlock's findings demonstrate the impact that emotions from persons with mental illness testifying before law-making entities may have on legislative bodies. Just as testimonial narratives of pain, loss, and heartbreak can initiate discourse about an area of international conflict, the narrated lives of people in America with mental illnesses could help reform the negative stereotypes informing modern public discourse as well as that discourse's impact on unsustainable healthcare legislation and initiatives.

A critical extension of Whitlock's analysis is supported by Joshua Karton's work on the legal implications of interpreted testimonies at international criminal tribunal proceedings. In his piece, *Lost in Translation*, Karton explains that error in emotional interpretation by courts violates the rights of international criminal defendants and negatively impacts the attestation of a fair trial. Furthermore, he notes how emotional appeals used by categorically different witness groups are

interpreted with variance. Some appeals, such as victim appeals, are valued more and are less prone to being received as inaccurate than, for example, a criminal defendant's appeal. Karton's analysis shows that differences in witness group labels may correlate with differing emotional appeals used in legislative hearings.

This correlation is a key focus of this study and is further supported by the findings of Rosemary Byrne from her work in testimonial evidence in asylum proceedings at international criminal tribunals. Byrne (2007) assesses the issue of credibility bias in testimonies of asylum proceedings. She finds that decision-makers often fail to adapt to the determination process to account for the realities of refugees presenting their testimonies in legal fora, directing proceedings with a 'presumptive skepticism' of claims. Byrne's conception of presupposed skepticism is central to the evaluation of testimony of people with mental illnesses during American legislative proceedings. Testimonies delivered by persons with mental illness are viewed with less validity by decision-makers in national legal fora than testimonies delivered by those without mental illness. This tendency explains why the testimonies given by persons with mental illness do not translate to effective MHLs that address the issues of people suffering from mental illness.

Perception of Testimonies by People With Mental Illness

While the aforementioned literature assesses the impact that emotions can have in judicial and legislative processes, further research is needed to expand our understanding of how persons with mental illness communicate their emotions during testimonies in policy-defining hearings. While there is a deficit in information regarding how psychological disabilities have communicative implications in legal fora, studies that assess political decision-making through other forms of psychological impairment can be applied. For example, Gail Goodman's study on how child testimonies are perceived in criminal court (Troxel et al., 2009) serves as a comparative example in understanding how testimonies by people with mental illness are perceived by

lawmakers. Goodman argues that a child's fears and anxieties are reflected in the emotional nature of their testimonies. In a similar way, when people with severe mental illness testify before legislative bodies, their fears or anxieties may impact their testimonies. Additionally, children's involvement in the legal process proves similar to that of people with mental illness. Goodman's study found that child testimony is often perceived as less credible than that of an older victim due to the assumption of unreliability attached to a child's developing brain. As a result of this perceived unreliability, the testimonies of child victims are easily deconstructed by the argument that said testimonies are infected with false memories. This presumption was recently proven false by a data-driven study conducted by the National Institutes of Health which verified that "the principle that children's testimony is necessarily more infected with false memories than adults' and that, other things being equal, juries should regard adults' testimony as necessarily more faithful to actual events is untenable" (Brainerd & Reyna, 2012). Similar misrepresentations are prevalent in beliefs about testimonies given by people with mental illnesses. This study demonstrates that the testimonies of people with mental illness receive significantly less engagement, credibility, and, consequently, less testimonial weight than those given by their co-panelists. A nationally representative study analyzing the public's perception of people with psychiatric disorders found that those with stigmas found people with mental illnesses to be incompetent, less reliable, and more prone to falsifying information and physical disruption than people who were not diagnosed with a psychiatric disorder (Corrigan & Watson, 2007). However, parallel to Brainerd & Reyna's findings which advocate for the credibility of child testimony at trial, a qualitative study done on witnesses with mental illnesses at judicial proceedings found that people diagnosed with mental illness were equally capable of giving well-informed, competent, and emotionally constructive testimonies as their non-diagnosed peers (Slobogin, 2009). These findings indicate that the stigmas associated with mental disorders create similar presumptive skepticism of testimonial narratives given by those with mental

illnesses as they do of child victim testimonies. The testimonies of both groups are subject to increased skepticism due to an impression of incompetence which unfairly results in lack of regard and testimonial weight by lawmakers and judges. This lack of regard has dangerous consequences in the lawmaking process; without the testimony of people affected by MHLs, potential improvements resulting in more sustainable laws are ignored. A comparison between Goodman's work on child testimony and studies of testimonies by people with mental illness is central to the formulation of a hypothesis which questions whether one's status as psychologically impaired warrants a lack of credibility in their testimonial narratives in contemporary legal fora.

"...witnesses with mental illness testifying before a legislative body are perceived differently and more negatively than co-panelists who are not diagnosed with a psychiatric disorder."

Theories of Emotion

This study requires the application of existing theories of emotion to understand how emotions are socially constructed, perceived, and labelled in testimonies at legislative hearings. Three theories of emotion are integral to understanding this application: the social construction theory of emotion, the psychological theory of emotion, and the neuro-construction theory of emotion. Identified by Dr. Lisa Feldman Barrett in her book *How Emotions are Made*, the social construction theory of emotion "studies the role of social values and interests in determining how we perceive and act in the world" (Barrett, 2017, p. 52). In the context of this study, social construction theory offers an explanation as to how emotions in hearings are triggered differently according to one's role in society. The feelings and perceptions from a testimony by a mother who has lost her child to suicide would differ significantly from a police officer who may be advising law makers

to further criminalize individuals with mental illness for the sake of public safety. However, the social construction theory has its limitations. While social construction theory analyzes how social circumstances contribute to emotional construction, the theory does not consider how those circumstances affect neural circuitry. This is where the equally applicable neuro-construction theory of emotion supplements this study. A comprehensive understanding of the neuro-construction theory is essential in understanding communicative relationships in the legal fora. For example, an emotional testimony from a psychiatric patient may be perceived differently by a senator who has had negative experiences with people with mental illness than one whose son has a psychiatric disorder. These incongruities, according to neuro-construction theory, are the direct result of a biological trigger operant through a molecular mechanism. Different perceptions about mentally ill people are a result of different synapses firing in the brain generated by differing past experiences.

The psychological construction theory of emotion is a combination of both the social and neurological frameworks. This theory advances the idea that conceptual constructions of emotion are based on the immediate situations or environments from which they emerge. The psychological construction theory, the neuro-construction theory, and the social construction theory of emotion combined suggest that emotions are neither universal expressions nor hardwired brain reactions. Rather, they reveal that emotions are merely predictions the brain generates based on one's experiences. These experiences and interactions inform psychological and neurological predictions which ultimately allows one to decide how to react or assess a reaction and consequently express emotion. Barrett applies this idea directly to judicial decision-making, making her findings on emotions relevant to the lawmaking process as well. In her book, Barrett asserts the dangers that come with a classical view of emotion—or essentialism—in American law. She argues that the pursuit of justice in the courtroom is not one that can be carried out in its entirety because some defendants receive undeserving

punishments as a result of their inability to show emotion in a way that is universally acceptable and recognizable. The stone cold face of a serial killer at trial, for example, cannot be accurately analyzed or detected as remorseless by the jury because such detection is baked into the essentialist view of human emotion. Furthermore, what a single juror may see as remorseful is simply the juror's subjective construction of past expressions of remorse, and not an understanding of how the defendant expresses and understands remorse. These inconsistencies in emotional communication have the unjustified power to bring about wrongful sentencing and other obstructions to the pursuit of justice. Although such facets of our legal system should remain focused within the judicial sector, this study examines the possibility of their extension into legislative policy-making. Barrett's findings on emotions in the courtroom directly apply to emotions in state and federal hearings. The way a judge makes an unjustified decision in sentencing a defendant due to a classical view of human emotion parallels how a state legislator may make an uninformed decision to discredit a witness testimony because of the inability witnesses with mental illnesses may have in expressing their emotions in a way.

Interpreting Emotions Based on Video and Audio Cues

While theories of emotions and their contribution to various legal processes are fundamental to the framework of this study, the content analysis design created to answer the research question cannot be fully understood without a comprehensive study of what past literature has said about the interpretation of emotions based on visual and auditory cues. Paul Ekman, a psychologist with expertise in emotional cues, explained in his 2003 work *What is Emotion?* that only some emotions can be accurately detected via facial and vocal recognition. The evaluation of vocal response, according to Ekman, is one of vascular and muscle tonus changes of the vocal apparatus in the context of psychological construction. Similarly, facial responses such as flinching, turning, and forward thrusts are qualities that are often prone to subjective interpretation. With these variables in mind, it is important to note that all of Ekman's

factors are relevant in the creation of emotional labels explicitly marked during the testimonies sampled in this study. Furthermore, in accordance with Ekman's understanding of emotional theory and interpretation, the subjective experience – while commonly deemed irrelevant in modern psychology – is significant both to the interpretation of emotions in general and their contextualization in this study because it “includes sensations that are the result of feedback from changes occurring in the already named response systems” (Ekman, 2003, p. 122). Named response systems, according to Ekman, include, but are not limited to, subsumed memories, images, and expectations associated with emotions. Ekman's interpretation of verbal and facial responses and the emotional cues they both exude apply directly to the content analysis design of this study which samples testimonies from visual and audio sources that are interpreted by the researcher with emotional subjectivity.

How Emotions Matter in Audio and Visual Testimonies by Persons with Autism Spectrum Disorder

While literature on emotional interpretation of witnesses with mental illness in legal testimony is lacking, sufficient study has been completed on emotional appeals used by people diagnosed with autism. An investigative study done in 2014 examined emotions in eyewitness testimonies by people with autism spectrum disorder (ASD) (Maras & Bowler, 2014). The researchers found that certain facial responses, such as facial spasms or excessive blinking, in addition to vocal responses like tonal changes, indicated frustration associated with memory difficulties that are often described as a common symptom of ASD. Similarly, people with severe mental illnesses often experience distinct physical responses which can be interpreted alternatively in an emotional context compared to an essentialist view. For example, people with schizophrenia are commonly misinterpreted as being emotionless, but certain physical indications such as shaking hands or the clenching of the fists can commonly be noted as expressions of nervousness, tension, or frustration (Mandal, 1998). These findings were utilized when interpreting emotional appeals

used by patients expressing their schizophrenic symptoms and the collection and labelling of such appeals.

Hypotheses

To categorize the findings of the main research question, three sub-questions are posed followed by three corresponding hypotheses. First, when mentally ill people testify before a committee are they perceived differently than other panelists who do not have a mental illness at a reformative hearing? Second, do emotional appeals differ amongst the different witness groups? How so? And third, what types of solutions are the emotional appeals being used to push? and how do these solutions differ amongst witnesses who have had mental illness in comparison to witnesses who have not?

The first sub-question is directly substantiated by Karton and Goodman's work on testimonial credibility and Dr. Barrett's work on emotion and the law. The literature upholds the fact that children and criminal defendants are perceived differently due to a presupposed notion of emotional incompetency and unreliability. With this noted, a parallel hypothesis—in the context of mentally ill witnesses—was drawn: witnesses with mental illness testifying before a legislative body are perceived differently and more negatively than co-panelists who are not diagnosed with a psychiatric disorder.

Additionally, the second sub-question directly addresses the findings of Whitlock and Karton as well as the six classifications of witness groups (which are addressed in further detail in the data collection and methods portion of this study). The literature previously discussed on international tribunal criminal proceedings suggests that the emotional appeal of statements given by victims of war crimes are notably variant from international criminal defendants. The second hypothesis which poses parallelism of differences in emotional appeal for human rights' abuses hearings to witnesses with and without mental illnesses in American lawmaking hearings is as follows: People affected by unsustainable MHLs including

family members, founders of nonprofits, and psychiatric consumers would reveal significantly different emotional appeals than that of witnesses who have not been directly affected by such laws. These witnesses include law enforcement, for-profit medical industry workers, and government workers.

The aforementioned hypothesis, if found to be consistent with the findings, could also be sufficiently explained by Barrett's application of construction theories of emotion to law because the reception of an emotional appeal from a lawmaker is subjected to the same inaccuracies and vulnerabilities of detection that the production of an emotional appeal from a witness's end may elicit.

The third sub-question centers not only on the operant mechanisms of emotional appeals but also the implications it has in pushing forward policy agenda. A study by Gerald Grobe, an American mental health policy expert, suggests that individuals with mental health issues often advocate for solutions that center around job and home security as well as financial help in educational and career needs. Psychiatric patients have time and time again experienced the disastrous deficits of quality care in the behavioral health industry. Because the system has wronged these individuals so many times, patients or consumers tend to find efficiency in solutions that are not completely dependent on the reformation of America's broken medical system. On the contrary, Grobe's study revealed that while consumers themselves were not fans of healthcare advocacy, parents and family members who were mental health advocates favored solutions that directly endorsed both the failures and successes that come with privatized behavioral care. These discrepancies in advocacy goals automatically call for differences in emotional appeals which push varying policy agendas. Based on the established frameworks, the following hypothesis is the expected solution to the third subquestion: persons with mental illness will push for solutions through emotional appeals that do not require psychiatric care. Other panelists will push for solutions that involve psychiatric care.

| Witness Classification | Examples |
|---|--|
| Law Enforcement Officials | District Attorneys, Sheriff Deputies |
| Non-Profit Organizations | Mental Health America, Kennedy Forum |
| Bureaucratic Entities (Not including law enforcement) | State Department of Behavioral Health and Intellectual Disability Service, Members of the U.S. Department of Health and Human Services |
| Psychiatric Patients/Consumers | Bipolar, Schizophrenia |
| Family Member Allies | Parents advocating on behalf of their children, Parents who's children have committed suicide |
| For Profit-Medical Industry Workers | Private Psychiatrists Health Insurance Company Representatives Pharmaceutical Company Representatives |

Figure 2. Witness Classification groups and examples.

In its entirety, all three sub-questions and the hypotheses which offer predictions for them provide a more categorized and organized approach to the main research question central to this study. The implications that the stated hypotheses could have on mental health policymaking and the legislative process which it generates are tested through a thorough content analysis approach.

Data Collection and Research Methods

This section explores the content analysis research which compared and analyzed emotional appeals used in testimonies from multiple state and federal legislative hearings across the United States from 2014 to 2020. A content analysis approach was the best method to study the main research question since this allowed for a more thorough comparative analysis of hearings and their witnesses throughout time and for the effects of emotional appeal to be studied on a broader scale.

Sample Selection

Over twenty different testimonies at legislative hearings were selected and analyzed for this study. The testimonies were selected based on the researcher's interpretation of availability,

medium, witness classification, and significance in impacting modern mental healthcare policy. The media of the hearings sampled were both video and audio records. For the purposes of this study, hearings which were only available via transcript were not analyzed since text cannot convey a subject's emotional appeal as effectively as voice or facial expression (Werwick & Shah, 2014). Furthermore, Ekman's analysis of facial and vocal response detection in human emotion could not have been applied comprehensively. All of the examined testimonies were from mental health policy hearings from the years 2014 to 2020. This time span displays relevant contemporary legislation which has had a significant impact on people with mental illness.

The sampled testimonies are from three different types of hearings: budget hearings, investigative hearings, and policy improvement hearings. The budget hearings were primarily centered on how state and city budgets could be better distributed to serve the needs of citizens with mental illness. Investigative hearings scrutinized state noncompliance with parity laws and the effect noncompliance may have on people with mental illness. Policy improvement hearings primarily focus on what measures government programs can introduce to ensure that the intentions of a

policy are met, how the problem of mental illness in homeless communities is addressed, and how marginalized communities struggling with mental illness can receive access to equal healthcare treatment.

All testimonies sampled were given by witnesses who can be categorized into six distinct classifications as illustrated by Figure 2. The witnesses are either law enforcement officials, employees of non-profit organizations, employees of bureaucratic entities other than law enforcement, consumers or psychiatric patients, family member advocates, and privatized medical industry workers. Witness classifications were not chosen or determined prior to the selection of the hearings. Rather, the classifications are an accurate reflection of the witnesses involved in prominent mental health policy hearings. Furthermore, specific keywords were entered into federal databases to obtain relevant hearings. These keywords included: mental health policy hearings, behavioral health hearings, civil commitment hearings, involuntary hold hearings, state policy mental health redesigning, mental health informational hearings, mental health oversight hearings, mental health coping policies, bills on substance use and recovery, executive budget proposals (mental health), federal mental health legislation, mental health access improvement, mental health housing act, parity law noncompliance hearings, and health care costs hearings. These keywords were input into U.S. Senate archives, the National Archives on Congressional Hearings, and Legislative Archives of the federal government.

Research Methods

The primary research methods used both quantitative and qualitative content analysis. Human coding was used to unitize the content analyzed, and thus the research method was heavily reliant upon the researcher's interpretation of discrete emotions, reactions, and facial expressions. This type of interpretation posed a limit to this research method and will be explained in further detail in the limitations section. Appendix A, shown in Figure 4, codes the following

qualitative variables of the hearings sampled. These variables include: date of testimony, hearing medium, hearing name, the issue or piece of legislation the hearing was set to address, the name of the witness, the witness's classification, the witness's position on the issue at hand, the emotional appeal used by the witness in his or her statement, whether or not the witness openly expressed support for a psychiatric or medical solution, the overall hearing committee's reactions to the witness testimony, and the average time the lawmakers of the committee spent engaging in or discussing the witness testimony. The emotions, which were correlated with the appeal stated on the code sheet, were categorized by a theoretically informed, comprehensive understanding of a combination of the witness's facial expression, body language, tone of voice, and overall mood. Based on the qualitative data, a separate code sheet was formulated to quantify and analyze the relevant information from testimonies. Appendix B and Figure 5 map quantitative variables to each witness classification group. The variables are: number of testimonies given by each witness classification group, and average committee time spent on a testimony per witness group. They also include number of witnesses that support a psychiatric or medical solution per group, % of expressions of sadness and/or worry per witness group, % of expressions of fear and/or concern per witness group, % of expressions of shock and/or disgust per witness group, and % of expressions of shame per witness group. The numeric data produced by this code sheet were then graphed.

Data Analysis and Findings

The analyzed data and the findings which were interpreted from the analysis were both consistent and inconsistent with the aforementioned hypothesis. The first sub-question asked: When people with mental illness testify before a committee, are they perceived differently than other panelists at a reformative hearing? The prediction for this subquestion was affirmative, citing Barrett's work on judicial testimony and Whitlock and Karton's work on differences in perceptions amongst witnesses and defendants at international criminal tribunal proceedings. The

results of content analysis remained consistent with this first prediction. In Figure 6, it is apparent from the sampled testimonies that patients receive significantly less engagement from lawmaking committee members than their co-panelists.

In addition to this finding, content analysis results also indicated that emotional appeals differ amongst various witness groups, as shown in the figures below. While the findings seem to remain consistent with the hypothesis, the emotional appeals – while varying amongst witness classifications – appear to be made in favor of reform and are similar in intent. All classifications, including law enforcement and medical workers, have expressed that they have witnessed suffering due unreformed MHLs. Most of the emotions they expressed in their statements stand in solidarity with that of patients and family members. While entities like law enforcement may not have been directly impacted by unsustainable involuntary hold laws, they have seen the consequences of such laws and testified at hearings to improve them.

Furthermore, emotions like “concern” were labelled and collected based on objective testimonies that used words such as “worry” or “anxious” without much fluctuation in facial or vocal response. The emotional appeal of concern was rather neutral and may have appeared scripted.

The emotional expressions demonstrated by family members were far more nuanced and passionately informed, lacking the scripted feel. As such, they were not labelled to include concern. Most familial testimonies appeared genuine, which brought about more exaggerated and easily identifiable appeals including shame, sadness, disgust, and anger towards the justice system.

Discussion and Conclusion

Limitations of Study

First, this section acknowledges the politics involved in legislative hearings and testimonies. Oral testimonies from witnesses are useful pieces of evidence which committees can collect and analyze to inform legislative policymaking.

The power of oral testimony, which is further explored in the literature review, is also used as a political tool for the agendas of the Democratic and Republican parties. While the testimonies and hearings sampled for this study portray a comprehensive image of witnesses at mental health policy-making hearings, the political agenda behind these witnesses’s appearances – or the subpoenas issued to panelists for investigative hearings – were not taken into account in the overall analysis and interpretation of quantitative results. This lack of record was primarily due to a deficiency in available resources. If an extension of this study were pursued, then the exertion of political influence upon the emotional appeals of legislative testimony could further inform the findings of this study.

In addition to the limitations posed by insufficient addressal of political influence, the issue of researcher subjectivity must also be acknowledged. While the categorization of emotional appeals in this study was theoretically quantified by many emotional tells, such understanding is still vulnerable to human subjectivity. The validity of the overall content analysis is limited because the results were still largely dependent upon the subjectivity of human coding and interpretation. In accordance with Barrett’s theories on emotional perception, researchers’ past personal experiences of emotional expressions like shame, disgust, and anger could affect their categorization of the emotions expressed by the witnesses and lawmakers.

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of the emotions expressed by the witnesses and lawmakers.

Strengths of Study

While there are indeed limitations of this study which must be taken into account when assessing the validity of the findings produced by the content analysis, the strengths apparent in the research methodology must also be acknowledged in the overall assessment. First, this study is replicable and practical since the documentation of all the hearings and the testimonies involved in them are permanent and up to date. Extended research of this study can be done unobtrusively.

Second, the results of the content analysis remain essential to the overall discussion of mental health policy-making. While the validity of the content analysis approach to all political science research is subject to justified questioning due to the nature of the subjective opinion of the researcher, the overall conclusions produced by the research conducted reveal an angle of analysis to policy-making that is crucial for the creation of better and more sustainable mental health laws.

Finally, one of the most notable strengths of this study is the relational analysis of affect extraction. While the evaluation of explicit emotions in a source is subject to the unavoidable element of change over time and populations (Palmquist, 2019), the capturing of the emotional and psychological state through human coding to extract qualitative results speaks to a relational analysis between different witness testimonies which poses a creative design for further experiments that seek to comparatively analyze the relationships between legislative testimony. Furthermore, Ekman's analysis on the benefits of researching emotions through subjective means could provide validity to the findings of this study.

Implications for the Legislative Process

As the literature review of this study indicates, emotions of witnesses in testimonies are an important factor in the progression of policy into action. The findings of this study indicate that emotions are perceived differently from statements given by people with mental illness

as opposed to their co-panelists without mental illness in reformatory MHL hearings. This inequality in testimony weight has negative implications in the law-making process because suffering caused by ineffective laws is not fully understood. Contemporary legal fora do not sufficiently heed the experience of those suffering from mental illness. People with mental illness have firsthand experience of the consequences of poorly informed and implemented MHLs. Instead of encouraging a witness to talk on behalf of a person with mental illness, state senators and assembly members have a responsibility to acknowledge that they cannot accurately detect emotions in people who have difficulties emotionally communicating crucial information. Acknowledging such a notion has the potential to encourage lawmakers to legitimize the concerns testified by consumers and psychiatric patients and allow such testimonies to directly impact policy.

Further, the findings of this study attest that policy recommendations made by family members advocating on behalf of their loved ones differ from the policy recommendations made by people with mental illness themselves. Policy recommendations that are made by family members or people who have lost someone to suicide, for example, may directly promote or encourage psychiatric and/or medical solutions to mental illness which are lacking proper regulation and have severe, damaging effects on the treatment of mental illness. While this study acknowledges that medical solutions cannot be eliminated or deconstructed, a greater emphasis in the lawmaking process on integrating people with mental illnesses back into society post-hospitalization should be made in accordance with better regulation of behavioral hospitalization.

Finally, the implications of this study can be applied to potential policy proposals which can ensure that people with mental illness have the resources they need to communicate their concerns at legislative hearings. People with mental illness, especially those who are unable to emotionally communicate in adherence with the classist view of emotion in American legal fora, should be provided a therapist

or an expert in emotional communication prior to giving testimony so that they can communicate their positions in a way which lawmakers can easily detect. While lawmakers have a responsibility to understand the hardships that come with emotional communication and mental illness, understanding and implementing this responsibility is likely to progress slowly. Thus, for the time being, individuals with mental illness should be given the resources they need to make sure their testimony has their intended impact. As detailed earlier, the power of testimony is one that should not be taken lightly, and people with mental illness must be equipped with that power when they deliver their testimonies.

Avenues for Extended Research

As noted briefly in various sections of this paper, there are multiple avenues for further research to be conducted using the analyses developed in this study. Extensions of this project can perhaps reduce the potential limitations of the findings. For example, future research can focus on important variables that were not accounted for in the comprehensive analysis of the testimonies including political agenda setting, economic gain, destruction of character, and dynamic shifts in lobbying power. The same quantitative content analysis research design demonstrated in Appendix A could be applied to evaluate the impact of any of these variables on legislative testimony. Furthermore, advancements like applications which use facial recognition technology to detect emotion could be applied in visual testimonies for a more accurate and less subjective interpretation of emotion if such an interpretation is required.

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