

We are exactly the Same, We are Totally Different: People in Poverty's Dual Narrative in Striving for Epistemic Standing

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ABSTRACT

After Dr. Martin Luther King Jr.'s assassination, his successors led one last march on Washington. This was "the Poor People's Campaign" – a campaign planned by King before his death, in an attempt to transcend race and address the social economic question of poverty. Attracting leaders of all colors and creating a feeble yet operational coalition, King aimed to bring people in poverty to the capital in hopes that their presence would make their plight clearer and harder to ignore.

Using the method of narrative analysis, this paper goes deep into a neglected part of a mostly neglected campaign: the testimonies before Congress of the Poor People's Campaign of 1968. I analyze congressional records to expose the narratives of people in poverty who were brought to give testimony of their needs in front of Congress.

In the age of Black Lives Matter, #MeToo, and other social uprisings, the importance of individual lived experience in the face of oppression is emphasized. But what is the place of individual stories told in the process of legislation and law-making? Specifically, this paper will discuss what is the place of such testimonies in the legislation of poverty laws that are inherently legislated for the "othered." Traditionally controlled and conducted by 'experts' focused on macro-economics, those laws are biased toward epistemic hierarchy valuing statistics and 'objective' data over experience and personal testimonies.

This case study, taken from the Poor People's Campaign of 1968, shows how people in poverty choose to present two seemingly opposite claims to achieve the same goal: epistemic power. At the same time, the speakers emphasize their proximity to the listeners and their vast distance. Exposing this dual narrative is important to understanding resistance and poverty alleviation discourses today.

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INTRODUCTION

Anyhow, one certain color was for those who didn't have no money at all. I had that card . . . When you hand the card to the cashier, people would look at you; you feel low. It should not be that way. We should not have certain colors to separate us; like one poor, one rich, something like that.¹

I got into it like my boy got into Vietnam because he could not get a job. He is in Vietnam, and I am in Washington. We are both after the same thing.²

We don't want welfare in Mississippi. We want money in our own hands. We don't want white men sitting on our money or you all either. We are not going to beg anymore. We are not in Washington to beg.³

All representations of historical events are just that: representations. As such, they hold a position relative to those events, and it is essential to recognize what is told and represented—and what is not.⁴ This Article examines a piece of history that has been somewhat overlooked. It tells the untold story of the people who came to be a part of the lawmaking process when they gave their testimonies in front of Congress during the 1968 Poor People's Campaign. This campaign was the turning point of Dr. Martin Luther King, Jr.'s message. While Dr. King had long been sensitive to class-focused demands, they eventually became his main focus. Arguably, it was intentionally buried by the government, because incorporating solutions that were seemingly addressing the issue of race into the capitalist market was not as threatening as addressing deep issues of class inequality built into the structure of the market.⁵

Using textual analysis of the testimony transcripts, this Article sheds light on how the witnesses perceived their lives and what was vital for them, out of their whole life story, to tell the power-holders.⁶ It also aims to read the voices

1. *A Select Committee on Nutrition and Human Needs: Hearings on S. Res. 281 Before the Subcomm. on Emp. Manpower & Poverty of the S. Comm. on Labor & Public Welfare*, 90th Cong. 198 (1968) (statement of John Trujillo).

2. *Id.* (statement of Lupe Martinez).

3. *The Proposed Intergovernmental Cooperation Act of 1967: Hearing on S. 698 Before the Subcomm. on Intergovernmental Relations of the Comm. on Gov't. Operations*, 90th Cong. 295 (1968) (testimony of Lela Mae Brooks).

4. See generally MICHEL-ROLPH TROUILLOT, *SILENCING THE PAST: POWER AND THE PRODUCTION OF HISTORY* (2015).

5. For the latest comments on King's more critical agenda see for example <https://mondediplo.com/2018/04/10/laurentpodcast>. For more on the intersection of class and race see generally *Law and the Critique of Capitalism*, 121 S. ATL. Q. (2022); MICHAEL HONEY, *GOING DOWN JERICHO ROAD: THE MEMPHIS STRIKE, MARTIN LUTHER KING'S LAST CAMPAIGN 174-75* (2007); Amy Nathan Wright, *Civil Rights "Unfinished Business": Poverty, Race, and the 1968 Poor People's Campaign* (Aug. 2007) (Ph.D. dissertation, The University of Texas at Austin) (on file with University).

6. See Trouillot *supra* note 4, at 29. Trouillot makes an observation in his book, about the dual meaning of "history"—as a depiction of an event and as a narrative told by the narrator of this event.

described here through a legal lens, which understands the product of the legislature to be law—and all interaction with it, interaction with legal institutions.⁷

In the spring of 1968, thousands of people inhabited encampments in Washington, DC in an attempt to assert their presence and “to make poverty visible.”⁸ The Poor People’s Campaign (PPC) was the last to be organized by Dr. King, and was implemented only after his assassination.⁹ It was intended to reflect a novel shift: from civil rights discourse to economic rights.¹⁰ Moreover, it was meant to expand the ranks of those demanding to be heard by the United States government. Dr. King’s vision for the campaign included African-Americans suffering segregation and discrimination but also people in poverty of all races suffering discrimination, stigma, and despair due to their vulnerable economic situation and the resulting social segregation and marginalization.¹¹ The PPC lasted just six weeks and many of today’s generation have not even heard of it.¹² Scholarly research into this event has largely focused on the demonstrations and marches, public disruptions of order such as road obstruction, and the protest camp itself, dubbed “Resurrection City”—an attempt to bring together thousands of people from around the country in a makeshift tent city on the National Mall.¹³ But, amid the marches and demonstrations, dozens of people came to testify before Congress and in Senate hearings about their lives in poverty, and to participate in different legislative processes relevant to their pleas.

Recognizing this event as a historic moment that provides an opportunity to glimpse people rising to speak truth to power in the house of power itself, this Article suggests that those testifying in this crucial place and time were simultaneously challenging and reaffirming perceptions of belonging, citizenship, and participation. Their testimonies offer an alternative way to perceive power and the role of engagement with the legislator in shaping that power and being shaped by it.¹⁴

This inquiry, which is based on a qualitative (thematic) analysis of these voices, brings together three important normative threads: empathy (the relationship between the individual and others around her); power; and relevant knowledge. I

7. As such, it is interaction with a desire, in the words of Spivak. See generally GAYATRI CHAKRAVORTY SPIVAK & SARAH HARASYM, *THE POST-COLONIAL CRITIC: INTERVIEWS, STRATEGIES, DIALOGUES* (1st ed., 1990).

8. See generally GERALD D. MCKNIGHT, *THE LAST CRUSADE: MARTIN LUTHER KING JR., THE FBI, AND THE POOR PEOPLE’S CAMPAIGN* (second printing, 1998).

9. See generally SYLVIE LAURENT & WILLIAM JULIUS WILSON, *KING AND THE OTHER AMERICA: THE POOR PEOPLE’S CAMPAIGN AND THE QUEST FOR ECONOMIC EQUALITY* (first edition, 2019).

10. See generally MCKNIGHT, *supra* note 8.

11. See generally WRIGHT, *supra* note 5; MCKNIGHT, *supra* note 8.

12. See generally WRIGHT, *supra* note 5; MCKNIGHT, *supra* note 8; LAURENT & WILSON, *supra* note 9; see generally Trina Jones, *Occupying America: Dr. Martin Luther King, Jr., the American Dream, and the Challenge of Socio-Economic Inequality Martin Luther King, Jr. Lecture*, 57 VILL. L. REV. 339 (2012).

13. WRIGHT, *supra* note 5; MCKNIGHT, *supra* note 8; LAURENT & WILSON, *supra* note 9; Jones, *supra* note 12.

14. Of course, all engagement with power shapes it and is shaped by it, in a sense. See e.g., JUDITH BUTLER, *VULNERABILITY IN RESISTANCE* (2016).

will examine how all three interact with each other and show their interplay with the background tensions of difference and similarity, or distance and proximity.

Regarding *empathy*, in what can be described as a ‘Levinasian’ move,¹⁵ the witnesses both stress their proximity to the listeners and emphasize their distance. By upholding this tension between the familiar, the relatable, vs. the unknowable, rather than solving it, they transform their once-redundant or trivial position vis-à-vis the legislators. They are now similar enough to be listened to but different enough to negate their redundancy to the process. We will see how they successfully show that their point of view is essential and cannot be guessed or assumed by others. This tension is necessary for any participatory process that is genuinely interested in the voices of any Other in society. But it is of utmost importance concerning people in poverty, who are too often regarded as *not different enough*. If the legislators assume that the experiences, circumstances, and reactions of the individuals standing before them are similar to their own, they can too easily project themselves and legislate what they believe to be a neutral rule but which is, in fact, embedded in their own (relatively privileged) life experience. *Empathy* provides this tension between wanting to get to know the Other while deeply understanding that one can never really do so. And this understanding ensures that the Other’s participation is validated and valued.¹⁶

However, in a countermove,¹⁷ the Others do not present themselves as passive victims or set up a dynamic in which the legislators are responsible for them by virtue of their mere existence. The second thread I identify through textual analysis is therefore *power*. In this thread, the speakers actively problematize the concept of power. They do so as they reposition themselves at once as objects of legislation aimed to assist them in dealing with unbearable life circumstances *and* as confrontational subjects demanding this legislation and bearing these very lives with an inner strength many would find hard to contemplate.

The witnesses manifest *power* in these testimonies in many forms. Importantly, it lies in how the witnesses tell their story of belonging, taking ownership of this opportunity to have their voices heard and reifying the legitimacy of

15. Emmanuel Levinas construes the relationships between the self and the “Other” in his discussion of the ethics that apply to personal behavior. He sees the self as responsible for the Other, and the Other—any other—becoming “the neighbor” because of the care (or love, in the Judeo-Christian commandment) of the self. See generally EMMANUEL LEVINAS: BASIC PHILOSOPHICAL WRITINGS (Adriaan T. Peperzak, Simon Critchley, & Robert Bernasconi eds, 2008); DE SAINT CHERON, CONVERSATIONS WITH EMMANUEL LEVINAS: 1983–1994 (Gary Mole trans., 2010). For a critical discussion and more details, see generally M. Jamie Ferreira, “Total Altruism” in Levinas’s “Ethics of the Welcome”, 29 J. OF RELIGIOUS ETHICS 443 (2001). For an interesting radical discussion of the institutional implications of Levinas’s ethics, see generally Victoria Tahmasebi, *Does Levinas Justify or Transcend Liberalism? Levinas on Human Liberation*, 36 PHIL. & SOC. CRITICISM 523 (2010).

16. See also Arthur C. Bohart et al., *Empathy, PSYCHOTHERAPY RELATIONSHIPS THAT WORK: THERAPIST CONTRIBUTIONS AND RESPONSIVENESS TO PATIENTS* 89, 89–108 (2002); Laura Ellingson, “Then You Know How I Feel”: *Empathy, Identification, and Reflexivity in Fieldwork*, 4 QUALITATIVE INQUIRY 492 (1998); Michael Slote, *Autonomy and Empathy*, 21 SOC. PHIL. & POL’Y 293 (2004).

17. CHERON, *supra* note 15; BENDA HOFMEYER, *RADICAL PASSIVITY: RETHINKING ETHICAL AGENCY IN LEVINAS* (2009).

their participation in the legislative process. The contours of different kinds of belonging—of citizenship—are drawn and projected by the speakers. They perform this boundary work¹⁸ around motherhood, the army, labor in the more traditional conceptualization, and the concept of activism, in stark contrast to the cartoon-like portrait of people in poverty as idle and unproductive.

Another aspect of their power is the power of knowledge. The witnesses provide essential input of various kinds to the hearings: (i) factual details and data; (ii) situated and experience-based explanations of the workings of the law on the ground; and (iii) proposals for potentially better solutions. Acting in this privileged-insight role, the witnesses take possession of some of the legislators' institutionalized role as the policymakers.¹⁹

Repositioning themselves as influential in these three ways can only be done within the institution in which they operate. The fact that they are listened to by the people in power is the foundation of their ability to flip or wrest this power from the authorities. The testimonies, therefore, reflect the importance of Congress as the legislature. The witnesses themselves do not express any wish to see Congress dissolved or to dismantle the institution but to change it so that it is better placed to relate to their needs and realities. They offer a co-constituted space of power, in which they simultaneously assign power to themselves and reaffirm the power of the members of Congress listening.²⁰

Building on these now-complexified notions of *empathy* and *power*, the third theme, *relevant knowledge*, surfaces. The witnesses—seemingly on the margins of society, subordinated and excluded—extend invitations to the legislators to witness their lives, their experiences, and their ideas about how to solve the problems they are facing. In encouraging the members of Congress to move closer and to pay attention to the insights they have to offer, they change and contest what is regarded as relevant knowledge and who holds it. Once again, the witnesses turn the tables on the listeners. Even if, practically, they are very much aware of being watched, monitored, and regulated,²¹ the speech gesture of invitation reflects the control they hold over their perception of their lives—a perception they are willing to share if the legislators accept the call to look.

This gesture is also a complex, dynamic movement. On the one hand, the witnesses invite the gaze of the members of Congress and the media, to *see* them and their innermost intimate hardships and struggles. Exposing themselves by their own choice is a matter of power and strength, not shame, although they reveal

18. "Boundary work" is a term describing the actions, speech, and general conduct that are meant to signal a difference between the speaker and others. See Michèle Lamont & Virág Molnár, *The Study of Boundaries in the Social Sciences*, 28 ANN. REV. OF SOC. 167 (2002).

19. For more on institutions as role-clusters, see LUCIE E. WHITE & JEREMY PERELMAN, STONES OF HOPE: HOW AFRICAN ACTIVISTS RECLAIM HUMAN RIGHTS TO CHALLENGE GLOBAL POVERTY 176 (2010).

20. This is a perception of co-production of the I, as presented and discussed in JUDITH BUTLER, GIVING AN ACCOUNT OF ONESELF (1st ed., 2005).

21. JOHN GILLIOM, OVERSEERS OF THE POOR (2001).

themselves as weak or vulnerable,²² struggling to survive. On the other hand, some witnesses are angry, defiant, and threatening, and, in this aspect, excluding. They recognize poverty for the violence it is²³ and the members of Congress as the embodiment of the force inflicting this violence.²⁴ This move is a divisive one, emphasizing the binary and the adversary aspects of the process of testimony as well as the witnesses' position in relation to the listeners.

The two types of interactions are also placed on the dyadic balance between distance and proximity. Threatening and defiance are, at once, creating chasms between the "you" and the "us" but also raising recognition among the listeners, as they position the speakers on a par with them, not superior. By being invited to speak (that is, being valued as a fundamental part of the process), the witnesses gain the power to hold a space that enables them to invite those who invited them. This transformation from being watched to providing access to oneself voluntarily changes the institution itself: the process is no longer a hierarchical collecting of statistics and data but the participatory creation of a body of knowledge. This invitation to speak did not "just happen": the individuals who gave the testimonies were chosen by movement organizer Marian Wright, out of all those who wanted to participate in this process. Their arrival is set against a backdrop of politicizing their individual problems and understanding them as a social, structural issue and not merely personal grievances.²⁵ The combination of individual, personal voices and politicized, structural claims is what gives this process its unique force. It saves it from succumbing to the pitfalls of common identity politics, on the one side, and from unauthentic, manipulative representation, on the other.

The possibilities and insights found in the voices of these witnesses from 1968 are invaluable, as, even in situations of extreme subordination, the power of testimony can transform subjectivities in a way that affects power relations and the institution itself. Unlike traditional legal scholarship, especially human rights scholarship,²⁶ this Article is not focused on the advocacy and litigation that happen in courts but on the stages of crafting and making the laws that control the distribution of housing, food, income security, and all welfare-related issues: the legislative process.

22. BUTLER, *supra* note 20.

23. WHITE & PERELEMAN, *supra* note 19.

24. This is structural violence, as categorized by Young, for example. Iris Marion Young, *From Personal to Political Responsibility*, in RESPONSIBILITY FOR JUSTICE (2011); Iris Marion Young, in POLITICAL RESPONSIBILITY AND STRUCTURAL INJUSTICE (2003). While Young refuses to place blame on individual actions causing unjust outcomes, she does recognize and trace individuals' and groups' participation in everyday processes that cause those unjust outcomes. For more on structural injustices, see Matthew Evans, *Structural Violence, Socioeconomic Rights, and Transformative Justice*, 15 J. OF HUM. RTS 1 (2016); Dorothy E. Roberts, *The Most Shocking and Inhumane Inequality: Thinking Structurally About Persistent Poverty and Racial Health Inequities*, U. OF MEM. L. REV. (2018), https://scholarship.law.upenn.edu/faculty_scholarship/2498; Virginia Mantouvalou, *Welfare-to-Work, Structural Injustice and Human Rights*, 83 MLR 929 (2020); WHITE & PERELEMAN, *supra* note 19.

25. This M.O. is used by some organizations, albeit not all who claim to "speak for the poor" (or generally for marginalized and oppressed groups) do, indeed, include their voices.

26. See e.g., the literature reviewed in Chapter 6 of WHITE & PERELEMAN, *supra* note 19.

By connecting these voices and the alternative narrative they provide to the present-day discussion on participation, legal truth, and the place of testimony in the legislative process, this Article aims to reflect a novel understanding of the place that marginalized people can take up in a democracy that is, indeed, shaped by the people but does not give in to populism and the post-truth culture. This impactful place can be maintained by not viewing personal stories as *solely individual* but instead perceiving their individuality as part of an interlocked combination of attributes—along with their targeting at power (i.e., their politicization) and their shifting of epistemic hierarchy and the politics of difference.

I. THE POOR PEOPLE'S CAMPAIGN: HISTORICAL BACKGROUND

A. Initial Aim and Organization of the Campaign

In the mid-1960s, Marian Wright was a lobbyist on civil rights issues and working in Congress on behalf of the Southern Christian Leadership Conference (SCLC), an African-American civil rights organization.²⁷ Having moved to Washington at the beginning of the decade, she was familiar with the prejudicial reality in the southern, unseen parts of the US and advocated for racial and class justice.²⁸ In 1967, for example, she advocated for children in the South in a congressional hearing and invited members of Congress to participate in a field visit, to see for themselves the state of those children in Mississippi. As a result of these meetings, Senator Bobby Kennedy was struck by a reality he had not come to grasp until then, of deep poverty and need.²⁹ He recommended that Wright suggest to Dr. King, and the civil rights movement in general, to somehow replicate his experience—to expose *all* legislators in Washington to the reality of poverty in the US. This was the seed of the Poor People's Campaign.³⁰

Wright convinced King.³¹ This was not a difficult task, since, by this point, King was talking publicly about the need to propel the racial justice movement into a wider class struggle.³² He advocated for justice “to people of all colors,”³³ appealing to a broad coalition of people in poverty from various races and ethnicities, especially Native Americans, Latinx people, and White Appalachians.³⁴ His

27. The fact that Wright was already in Washington and had established connections with members of Congress was important for her ability to later carve a place for the witnesses reviewed in this Article to testify before Congress. See Kevin M. Leyden, *Interest Group Resources and Testimony at Congressional Hearings*, 20 LEGIS. STUD. Q. 431 (1995).

28. See GORDON K. MANTLER, *POWER TO THE POOR: BLACK-BROWN COALITION AND THE FIGHT FOR ECONOMIC JUSTICE, 1960–1974* (2013); HENRY HAMPTON, STEVE FAYER, & SARAH FLYNN, *VOICES OF FREEDOM: AN ORAL HISTORY OF THE CIVIL RIGHTS MOVEMENT FROM THE 1950S THROUGH THE 1980S* (reissue ed., 1991); Wright, *supra* note 5.

29. *Id.* at 94.

30. McKNIGHT, *supra* note 8.

31. McKNIGHT, *supra* note 8.

32. LAURENT & WILSON, *supra* note 9.

33. See generally *id.*

34. Such a coalition was secured for the campaign but was challenged and, to some extent, failed, due to many organizational and structural, as well as personal, reasons. See generally MANTLER, *supra* note 28; See generally LAURENT & WILSON, *supra* note 9.

appeals worked, and the Poor People's Campaign became the next major event to be organized by King prior to his assassination in early April 1968.³⁵ Moved to action by the sheer scale of public grief and shock, King's successors refused to call the campaign off and declared it to be in the memory of their fallen leader.³⁶ This connection proved to be an effective recruitment method,³⁷ prompting many to join the campaign ranks, and many more to support it with donations and assistance.³⁸

Initially, the campaign's goal was to expose Washington to the plight of the poor.³⁹ Declaratively, the campaign organizers wanted "the poor to be seen."⁴⁰ The underlying assumption was, it seems, that if the needs of people in poverty and the severity of their situation could only be *seen*, they could surely not be overlooked.⁴¹

Public opinion, shaped by the media coverage of this campaign, was positive, initially.⁴² Building on the death of Dr. King, media coverage was focused on the resilience of the campaign's participants and their just call for some material aid.⁴³ Documentaries such as "Hunger in America" and books such as "Poverty, USA" were drawing the public's attention to the social phenomenon of "poverty amid prosperity."⁴⁴ This public support would shift, however, as would the tone of most of the media coverage, as the campaign progressed.⁴⁵

In what can be characterized as strategic foresight but was presented as an attempt to avoid the need for thousands to descend upon Washington, Ralph Abernathy, King's successor, and a delegation of 100 representatives (chosen by the planning committee of the campaign) met with several government officials and presented them with "the poor people's demand."⁴⁶ This was a performance

35. See generally McKNIGHT, *supra* note 8.

36. See generally MANTLER, *supra* note 28.

37. Black Power leaders and others report leaving disagreements aside to support King's "legacy" in this campaign. See generally MANTLER, *supra* note 28.

38. See generally *id.*; McKNIGHT, *supra* note 8; LAURENT & WILSON, *supra* note 9.

39. McKNIGHT, *supra* note 8.

40. See generally Jones, *supra* note 12; Audrey Amidon, *Protest Camps in D.C.: The Poor People's Campaign and the Bonus Army Marchers*, THE UNWRITTEN RECORD (June 25, 2018), <https://unwritten-record.blogs.archives.gov/2018/06/25/protest-camps-in-d-c-the-poor-peoples-campaign-and-the-bonus-army-marchers/>; See generally HAMPTON, FAYER, & FLYNN, *supra* note 28.

41. See generally Wright, *supra* note 5.

42. See generally McKNIGHT, *supra* note 8.

43. See generally McKNIGHT, *supra* note 8; LAURENT & WILSON, *supra* note 9.

44. See generally Wright, *supra* note 5.

45. Of the campaigners, commenting that they were "chronic welfare types," for example, and of the leadership, emphasizing the undemocratic decision making among the campaign leadership. Congressional Record – House, p15416, June 11 1969. <https://www.congress.gov/bound-congressional-record/1969/06/11/115/house-section/article/15409-15466?q=%7B%22search%22%3A%22%5C%22Poor+People%27s+Campaign%5C%22+AND+%5C%22chronic+welfare+types%5C%22%22%7D&s=1&r=1>.

46. McKNIGHT, *supra* note 8, at 83 (quoting a description delivered by Senator Byrd (West Virginia), found in the Congressional Record, US Senate, 21 May 1968: "Mr. President, I have been informed by my staff that, earlier this afternoon, a group of 10 to 15 persons visited my office. They indicated that they were representatives of the Poor People's Campaign and that they would like to deliver a memorandum to me. The group was told by my assistant that I was on the Senate floor, the Senate being in session, whereupon one of the individuals stated that the group would like to speak with an aide. My assistant talked with the group, and he was handed a paper to be delivered to me. The group

of an ultimatum, which was *meant* to fail, thereby justifying the march on Washington by people in poverty from around the country.⁴⁷ On May 12, the campaign officially started.⁴⁸ Five caravans, carrying 3,000 people, started their way to Washington from various corners of the US, and the campaign organizers orchestrated the building of a tent city to accommodate them. On Washington's National Mall, tents were erected to welcome people in poverty and to attempt to be noticed by the public and the decision-makers in Washington.⁴⁹

B. From Resurrection City to Engagement with the Government

As the marchers were arriving in town, members of the campaign, especially its organizers from the SCLC, held frequent meetings with government officials to present their demands in the name of the PPC.⁵⁰ In those meetings, the leading figure usually gave a speech, to which the official would respond with a declaration of some sort promising to “look into their possibilities” or some other non-committal gesture.⁵¹ Moreover, PPC leaders were also engaging with legislators outside of the formal legislative process, bringing them to visit Resurrection City,

indicated that they would ‘come back later.’ My assistant has supplied me with the memorandum, which contains ‘Demands of Poor People’s Campaign to Executive Agencies.’ I ask unanimous consent to insert this memorandum, addressed ‘Dear Senator,’ and carrying the names of Ralph Abernathy and Walter Fauntroy, in the record.”).

47. See generally Wright, *supra* note 5; see generally MANTLER, *supra* note 28. Carl Bernstein & Peter Milius, “First Marchers Due Today,” WASH. POST, May 12, 1968, at A1.

48. May 12 was Mother’s Day, and Ms. King joined a march organized by the NWRO, which had refused to be assimilated into the PPC but agreed to partly join the campaign’s actions. Much criticism was (and is) expressed by NWRO members of the PPC, which is beyond the scope of this Article. It is important to note that the NWRO had been testifying in Congress before the PPC and continued to do so after the campaign was dispersed. Unlike the testimonies in Congress (but much like the other acts of engagement with government ministries taken by the PPC during the campaign), the NWRO’s testimonies were mostly given by its chairman, Wiley, or other officials in the organization. See MANTLER, *supra* note 28, at 102-105; McKNIGHT *supra* note 8 at 89-90, see generally FRANCES FOX PIVEN & RICHARD CLOWARD, POOR PEOPLE’S MOVEMENTS: WHY THEY SUCCEED, HOW THEY FAIL (1978).

49. Jenna Goff, *A Place for the Poor: Resurrection City*, WETA (Jul. 14, 2015), <https://boundarystones.weta.org/2015/07/14/place-poor-resurrection-city>.

50. This was the declared purpose of the campaign, see for example at the SCLC Press Release, June 1968. See also reports of meeting for example in Congress Record – House – p16305, June 6, 1968. As expected of an event involving thousands of people and multiple organizations and grassroots movements, during the weeks of its operation, there was no single action at any point that could have been singularly characterized as “the campaign’s activity.” Rather, there were many activities and events taking place around Washington and in Resurrection City itself. The site where the campaigners lived held not only their temporary accommodation but also public arenas such as a dining hall and an education facility. From here, campaigners left to hold demonstrations, picket lines, and small marches. In addition, awareness-raising, consciousness-building, and community and movement formation were ongoing in the background at all times. See Robert Hamilton, *Did the Dream End There? Adult Education and Resurrection City 1968*, 45 STUDIES IN THE EDUCATION OF ADULTS 4 (2013); Class Resurrection: The Poor People’s Campaign of 1968 and Resurrection City Robert T. Chase, George Mason University <https://web.archive.org/web/20160411031232/http://www.essaysinhistory.com/articles/2012/116>.

51. See generally MANTLER, *supra* note 28; Wright, *supra* note 5.

for example.⁵² Bills such as the Economic Bill of Rights were discussed in the media as suggested by the PPC and considered in the Capitol.⁵³ In solidarity, members of the public who identified with the aims of the campaign also attended hearings regarding the Indian Land Bill and expressed their support of the Native Americans in attendance.⁵⁴ While none of the suggested bills were ultimately passed, some practical achievements *were* procured, for example, in expanding the Food Stamp Program into more regions and increasing its funding.⁵⁵

II. THEORETICAL FRAMEWORK

A. Proximity and Distance: From Empathy to Subjectivity

First, some important socio-philosophical background. The reasoning employed in this inquiry draws significantly on the philosophical notion of empathy as discussed in the writings of Emmanuel Levinas,⁵⁶ produced in mid-20th-century Europe. In his constant quest to better understand the relationship with the “Other,”⁵⁷ Levinas regarded empathy as rooted in the tension between simultaneously *meeting* others while also discovering what is, and will remain, unknowable to us.⁵⁸ The present study also adopts that understanding. The event of the face-to-face encounter—such as those surrounding the 1968 testimonies—provides both an opportunity to be close to one another and the assurance of

52. Jean White & Willard Clopton, Jr., *Hill Delegation Visits Resurrection City, Promises Hearings*, WASH. POST, June 6, 1968, at B1; Jean White, *Ford Says Poor's Campaign Stirs 'No Noticeable Impact' on Congress*, WASH. POST, May 23, 1968 at A10.

53. James Welsh, *Poor People Clarify Demands, Give Food Top Priority*, EVENING STAR, June 12, 1968, at A1. Other bills and policy demands mentioned in the Article include: Bill of Rights for the Disadvantaged; Specific Demands for Housing Bill; Food Plans Bill; and Guaranteed Income Bill. See also Congressional Record – House – p16306, June 6, 1968; Congressional Record – House – p15823, June 3, 1968.

54. They claimed pointedly that “no legislation should be passed, no matter apparently how beneficial, no legislation should be passed by Congress that does not originate with Indian people, does not originate with Indian nations and people acting through governments or institutions of their own choosing.” See Mr. Amory, SENATE SUBCOMMITTEE ON INDIAN AFFAIRS, MAY 15, 1968 - FURTHER TESTIMONY ON S. 1816, A BILL TO PROVIDE FOR THE ECONOMIC DEVELOPMENT AND MANAGEMENT OF THE RESOURCES OF INDIVIDUAL INDIAN AND INDIAN TRIBES.

55. See, e.g., *1968 Poor People's Campaign – Challenges and Successes*, NAT'L MUSEUM AFR. AM. HIST. & CULTURE, <https://nmaahc.si.edu/explore/stories/1968-poor-peoples-campaign-challenges-and-successes> (last visited Feb. 23, 2025) (“Congress extended existing labor programs, and the Senate approved an additional \$5 million for Head Start and \$13 million for summer jobs . . . Additionally, Congress approved \$139 million for the Bureau of Indian Affairs' education and welfare services. The government also approved rent subsidies and home ownership assistance for the poor.”); see also, e.g., 114 Cong. Rec. 14204 (1968) (statement of Sen. Walter Mondale) (“Mr. President, on May 16, I introduced a bill called the Domestic Food Assistance Act of 1968. This bill is aimed at ending the endless cycle that now exists in this country of hunger, poverty, sickness, and death among the poor. On May 17, I had the opportunity to visit Resurrection City and to view at first hand some of the things the citizens board of inquiry had found about ‘Hunger, U.S.A.’”).

56. See generally LEVINAS, *supra* note 15; see generally MICHAEL L. MORGAN, *THE CAMBRIDGE INTRODUCTION TO EMMANUEL LEVINAS* (2011).

57. Tahmasebi, *supra* note 15; Ferreira, *supra* note 15.

58. See also Ferreira, *supra* note 15.

unbridgeable distance.⁵⁹ It is this tension between proximity and distance, between similarity and difference, to which this Article speaks.

The Other, in Levinas's writings, is somewhat passive. When this undescribed, anonymous Other is presented in some way to the individual—the "Me"—the former then automatically acquires some ethically-driven responsibilities toward the latter. Levinas claims that, on the basis of the mere fact of that presentation, that encounter, the individual is ethically obliged to "affirm or deny" the claims set forth by the Other.⁶⁰ This is why, although theorizing from a deep commitment to the Other, Levinas arguably diminishes the Other's agency by treating them as an amorphous shell—without independent will, character, or needs—and using their presence merely to deflect the discussion back to the self, the "Me." The locus of interest for Levinas is thus, counterintuitively, not actually the Other at all but our reactions to (and responsibilities toward) this vague conceptual entity.⁶¹

Thus, for the purpose of the analysis presented in this Article, additional theoretical frameworks are needed, ones that critically and in a more grounded way address the many forms of otherness surrounding any individual in society.⁶² Relational theories, such as that of Judith Butler, study the different ways in which the subject of our gaze—the Other—is transformed by that gaze, then turns to subjectify us and our relationship, in an endless cycle.⁶³ The ever-shifting dynamic of transformative subjectivities—how our mere interactions with each other involve us in an ongoing cycle in which we are subjected to others and they are subjected to us—is a nonstructural perception. Not because it ignores the social structure in which we operate as people but because it acknowledges the interactive molding of people by their ecologies⁶⁴—society, institutions, infrastructures, and also Others—and those ecologies by people.⁶⁵ This last piece is

59. Tahmasebi, *supra* note 15.

60. In the sense that there is no position *outside* of those two options. See generally SHOSHANA FELMAN & DORI LAUB, TESTIMONY: CRISES OF WITNESSING IN LITERATURE, PSYCHOANALYSIS, AND HISTORY (1991); Shoshana Felman, *Turning the Screw of Interpretation*, 55/56 YALE FRENCH STUD. 94 (1977).

61. See generally HOFMEYER, *supra* note 17.

62. But importantly, since this Article revolves around an individual practice of testimony, it can be portrayed within the framework of liberalism, specifically as it is discussed critically by scholars such as Halley and Brown. See generally LEFT LEGALISM/LEFT CRITIQUE (Wendy Brown & Janet Halley eds., 2002).

63. This process is conducted through interaction with others and with the context in many forms. Spivak talks, for example, about how this interaction is performed through textuality. See generally SPIVAK & HARASYM, *supra* note 7.

64. I take this term from Gibson-Graham but use "ecologies" in place of "economies," since I talk about more than the economic system. See generally J.K. Gibson-Graham, *Post-development and Community Economies*, in EXPLORING POST-DEVELOPMENT (2007); ETHAN MILLER, REIMAGINING LIVELIHOODS: LIFE BEYOND ECONOMY, SOCIETY, AND ENVIRONMENT (2019).

65. See generally Bruno Latour, *Why Has Critique Run out of Steam? From Matters of Fact to Matters of Concern*, 30 CRITICAL INQUIRY 225 (2004); BRUNO LATOUR, SCIENCE IN ACTION: HOW TO FOLLOW SCIENTISTS AND ENGINEERS THROUGH SOCIETY (revised ed., 1988); MILLER, *supra* note 64; Gibson-Graham, *supra* note 64. See generally also Marie Garrau & Cécile Laborde, *Relational Equality, Non-Domination, and Vulnerability*, 45 SOC. EQUAL. 45 (Carina Fourie, Fabian Schuppert, & Ivo Wallimann-Helmer eds., 2015); Lisa M. Austin, *Person, Place, or Thing? Property and the Structuring of Social Relations*, 60 U. TORONTO L.J. 445 (2010).

essential: it is not only we who are affected—we, too, have the potential to affect.⁶⁶ Indeed, it is our very dependence on infrastructure that both limits our mobility in the world *and* drives us (some of us, in some moments) to mobilize to demand that these infrastructures be more responsive to our needs.⁶⁷

As this Article progresses, these dynamics will come to the surface as they are reflected in the interactions of the witnesses with the legislative branch: their dependence on an invitation to testify both weakens their power in the hearing and enhances it. It is this relative weakness and their social exclusion that they are mobilizing against in their testimonies and outside the doors of Congress in the spring of 1968. But their exclusion is what gives them the power and invaluable insight that is what they are called to testify on.

Another aspect of all the aforementioned theories is their ‘dance’ with universalization and individualization. Can we tell one Other from another? Can we say anything meaningful about the general needs of people, of groups, while not necessarily denying some individual vulnerability? Butler suggests we cannot understand bodily vulnerability without acknowledging the place of different social interactions (parent–child, teacher–student, bank–debtor, landlord–tenant, and so on) and the resources into which those interactions translate in the person’s life.⁶⁸

B. Epistemological Standing: Testimony and Its Place in Knowledge-Production

Before analyzing the testimonies given before Congress during the events of 1968, I wish to briefly turn to the literature dealing with the use of testimony in legal proceedings as a means of establishing truth through another individual’s account of it.⁶⁹ It is striking that the legal process, which, at its core, is involved in what scholars have dubbed “*a crisis of truth*,”⁷⁰ relies so heavily on individual testimony.⁷¹

1. The General Concept of Testimony in Legal Procedures

The main question that interests legal scholars regarding testimonies is a commonsense one: how do we know whether to believe the witness? After all, the entire premise is this: that a person is invited into the courtroom to contribute an honest insight or information (this varies, depending on which kind of witness they are) about the world that the fact-finders would otherwise have no way of

66. See generally BUTLER, *supra* note 14, 20.

67. See generally BUTLER, *supra* note 14, 20.

68. See generally BUTLER, *supra* note 14, 20.

69. Susan Haack, *Judging Expert Testimony: From Verbal Formalism to Practical Advice*, 1 *QUAESTIO FACTI. INT’L J. ON EVIDENTIAL LEGAL REASONING* 13 (2020).

70. FELMAN & LAUB, *supra* note 60, at 6.

71. Edward Cheng & G. Nunn, *Beyond the Witness: Bringing a Process Perspective to Modern Evidence Law*, 97 *TEX. L. REV.* 1077 (2019).

knowing.⁷² Countless scholars have debated this question of reliability. Still, for the goal of this Article, it is not so important to establish how such trustworthiness is determined as much as to understand that it must be established as such in order for the testimony to fulfill its purpose in the legal process.

From these basic concepts, two qualities of the testimony can be drawn: it is *important* in its contribution to the assemblage of knowledge already on the table;⁷³ and it is, or needs to be, *trustworthy*. The level of trust is assigned to testimonies by the factfinders, and some will be considered unreliable.⁷⁴ But, when they *are* found to be credible, they are elevated—deemed to be constructing some part of the truth, as far as the legal procedure is concerned.

Note, however, that, in talking in terms of trustworthiness, no one is suggesting that testimonies need to be, or indeed can be, objective. In any legal procedure, witnesses (expert and otherwise) are called on by one side of the adversary judicial game of tag. They are assumed to have their own, specific point of view. Leaving expert witnesses aside, “regular” witnesses are called on to provide their own particular point of view.⁷⁵ Their personal understanding of reality, the reality they create through their unique perspective on it,⁷⁶ is what is missing from the courtroom and what is deemed important enough to invite them. So, in addition to being important and (potentially) trustworthy, testimonies are, in essence, *individual*.

2. Testimonies in the Legislative Procedure

When it comes to the practice of delivering testimonies of the nature that concerns us here, the difference in venue between courts and Congress is a matter of utmost importance. The value of testimonies (their epistemic work in the world and what is required of them) is shaped by the specific legal process in which they are performed. In criminal procedures, where the benchmark for conviction is the high bar of “beyond reasonable doubt,” testimonies should provide the legal system with some notion of truth that is convincing enough for the jury to *know*, as opposed to *assume* (even with high probability).⁷⁷ By contrast, in a civil court,

72. Haack, *supra* note 69 (W.K. Clifford is reported to have said: “In order that we may have the right to accept [someone’s] testimony as ground for believing what he says, we must have reasonable grounds for trusting his veracity, that he is really trying to speak the truth so far as he knows it; his knowledge, that he has had opportunities of knowing the truth about this matter; and his judgement, that he has made proper use of those opportunities in coming to the conclusion which he affirms.”).

73. Some say: too important. See Cheng & Nunn, *supra* note 71.

74. A testimony, an account given by oneself, is always personal and always given as a defense, prompted by a request or invitation or external demand. See more on this in BUTLER, *supra* note 14, 20, at 22.

75. Cheng & Nunn, *supra* note 71.

76. The question of objective reality or the shifting reality in relation to the beholder of such reality is a complex one, well beyond the scope of this Article. For a broad discussion of the ideas of seeing, changing by seeing, and the transformation (of the reporter and the reported) undergone by the reporting of an event, see FELMAN & LAUB, *supra* note 60.

77. Sarah Moss, *Knowledge and Legal Proof*, 7 OXFORD STUD. IN EPISTEMOLOGY 176-213 (Tamar Szabó Gendler ed., 2022).

testimonies, like other forms of evidence, are only meant to provide a “more credible story” or to be just convincing enough to go over the famous 50% threshold of proof.⁷⁸ Testimonies in both kinds of judicial procedures not only construct the reality (as the legal decision-makers deduce it) but are also sometimes used to create a moral–legal bar by which to measure the behaviors of others: in establishing the “reasonable conduct” of a professional, witnesses might be called to reflect on the *common* practice, which would be later considered the reasonable bar.⁷⁹ What are the testimonies in Congress specifically used for, then?

Practically, witnesses are invited to testify in front of a congressional committee (and not on the floor), to provide information to the members of Congress, who must navigate a status quo characterized by incomplete information, and to facilitate any of the four recognized missions of committees: (1) to collect information and opinions on legislation, (2) to conduct oversight on executive agencies, (3) to investigate events, and, in Senate committees, (4) to consider presidential nominations as part of confirmation processes.⁸⁰ Witnesses are called to testify, but if they refuse to do so, they can be compelled to by law.⁸¹

Specifically, since we don’t expect Congress to establish truth as much as we expect it from the legal branch, The most important tool in sifting truth from lies in the testimony realm—the cross-examination—is not used in the congressional context.⁸² Indeed, some commentators, albeit a minority, consider the process of testifying before Congress nothing but a “stage-managed spectacle.”⁸³

Far from being the only avenue by which Congress members collect much sought-after information,⁸⁴ testimonies given in congressional hearings provide information that was preselected as important to the committee process.⁸⁵ Expert testimony, in particular, is considered by scholars to be one of the main domains for the collection and evaluation of information that forms the basis of legislation and decision-making in Congress.⁸⁶

78. See generally Edward K. Cheng, *Reconceptualizing the Burden of Proof*, 122 YALE L. J. 1254 (2012).

79. Cheng & Nunn, *supra* note 71.

80. See Valerie Heitshusen, “Senate Committee Hearings: Arranging Witnesses” (2017) (as cited in Pamela Ban, Ju Yeon Park & Hye Young You, *How Are Politicians Informed? Witnesses and Information Provision in Congress*, 117 AM. POL. SCI. REV. 122, 124 (2023)). See also generally Paul Burstein & C. Elizabeth Hirsh, *Interest Organizations, Information, and Policy Innovation in the U.S. Congress*, 22 SOCIOLOGICAL FORUM 174 (2007).

81. See generally Christopher F. Corr & Gregory J. Spak, *The Congressional Subpoena: Power, Limitations and Witness Protection*, 6 BYU J. PUB. L. 37, 45–46; 53 (1992).

82. See Cheng & Nunn, *supra* note 71, at 1086 (quoting Jeremy Bentham: “Against erroneous or mendacious testimony, the grand security is cross-examination.” JEREMY BENTHAM, *RAISONALE OF JUDICIAL EVIDENCE SPECIALLY APPLIED TO ENGLISH PRACTICE* 212 (Fred B. Rothman & Co. 1955) (1827)). See also Sheila Jasanoff, *Law’s Knowledge: Science for Justice in Legal Settings*, 95 AM. J. PUB. HEALTH S49, S49 (2005) (suggesting that law, as well as science, practices “organizational skepticism”).

83. Burstein & Hirsh, *supra* note 80, at 179.

84. Ban, Park, & You, *supra* note 80, at 122.

85. *Id.*

86. See generally *THE LEGISLATIVE BRANCH* (Paul J. Quirk & Sarah A. Binder eds., 2005).

The goal of the testimony in Congress varies, with respect to the identity of the inviter of the witness⁸⁷ and other factors, such as the particular committee's position within Congress.⁸⁸ At times, beyond providing information, testimonies can be wielded as a tool to promote partisan messages or attempt to influence public and media perceptions of the subject at hand or those of the politicians in the room.⁸⁹ Despite their perceived differences, this dynamic is, in some ways, similar to that of witnesses in the courtroom who are subpoenaed to influence the jury's opinion of the character of someone else in the courtroom, be they the defendant, other witnesses, or actors.

Testimonies before Congress can, therefore, also be understood as possessing the three essential qualities attributed to testimonies in court: they are *important* ("necessary," in the language of the law);⁹⁰ they are (potentially) *trustworthy*; and they are *individual*, albeit less so the more institutionalized or scientific.⁹¹

The individual aspect is particularly worth exploring, given the epistemic hierarchy that bears heavily on all our lives. Private individuals give more testimonies before Congress than either lawyers or lobbyists.⁹² Yet, private individuals still only account for 2.7% of all the congressional testimonies presented in the last 50 years (with the bulk being devoted to expert witnesses and the members of Congress themselves) and are considered by some to be of less value in the legislative process taking place in the committees.⁹³

Scholars seem to agree that, when Congress members' agenda is a wide search for some kind of "truth"—more typical in the preliminary stages of lawmaking (when the legislators are forming an overall understanding of the information about the subject, weighing general arguments, etc.)—it is more common to invite the testimonies of expert witnesses.⁹⁴ In the more advanced stages (arguably, when there is somewhat less opportunity to affect the legislation and influence legislators' understanding), individual or interested parties will be summoned (or allowed) to speak,⁹⁵ to explain their assessment of the bill's predicted results or effects on other issues.⁹⁶

87. The general consensus between scholars is that Congress members have three goals in mind when seeking testimonies: reelection, promotion of their perception of good, and recognition (which might be viewed as instrumental for the first two). For further discussion, see, e.g., Leyden, *supra* note 27.

88. Pamela Ban, Ju Yeon Park & Hye Young You, *How Are Politicians Informed? Witnesses and Information Provision in Congress*, 117 AM. POL. SCI. REV. 122, 129 (2023). Legislative committees seemingly have more power over the actual legislation passed in Congress, but, in fact, there is a more complex effect of both legislative and non-legislative committees' hearings. See Jeffery C. Talbert, Bryan D. Jones, & Frank R. Baumgartner, *Nonlegislative Hearings and Policy Change in Congress*, 39 AM. J. OF POL. SCI. 383 (1995).

89. See generally Ban, Park, & You, *supra* note 88.

90. Corr & Spak, *supra* note 81.

91. See, e.g., Amy Pollick, *From There to Here: Testifying Before Congress*, APS OBSERVER (May 1, 2007), <https://www.psychologicalscience.org/observer/from-there-to-here-testifying-before-congress>.

92. Ban, Park, & You, *supra* note 88, at 125.

93. *Id.*

94. *Id.*

95. Leyden, *supra* note 27.

96. See generally Ban, Park, & You, *supra* note 88; Leyden, *supra* note 27.

Nonetheless, individual testimonies are of importance to legislators, and some commentators suggest that they might have been even more important at the time when the events described in this Article took place.⁹⁷ Of course, the question of who is invited or permitted to participate in congressional hearings is important, as not all who wish to attend have the chance to do so. Multiple scholars have observed a strong link between having a voice in such hearings and having significant resources and/or long-term personal connections with Congress.⁹⁸ This tendency of leaning toward those with resources and giving them more of “the ear of Congress” also supports the argument that people-in-poverty giving their personal testimony before Congress is a rare event.

Against this backdrop of some of the core premises established in the literature, let us now turn to the historical background of the events of spring 1968 and to the actual testimonies of those who spoke before the lawmakers.

III. THE TESTIMONIES: ANALYSIS AND DISCUSSION

A. Methodology

As a qualitative empirical researcher, I treated the congressional hearings as a recorded history of what was said in the discussions and conducted an analysis of the testimonies based on textual grounded theory.⁹⁹ To collect the data, I used ProQuest Congressional, which extracted all congressional hearings between April 1, 1968, and June 30, 1968 (441 hearings in total). From this dataset, I searched for the phrase “poor people’s campaign,” which yielded 17 documents. Out of those, six were related to security issues such as permits for building Resurrection City, the use of public grounds for those purposes, and similar concerns raised by members of Congress. According to the categorization used by scholars to classify congressional hearings, there are three kinds: legislative, nomination-related, and investigatory.¹⁰⁰ The final sample of 11 transcripts (and,

97. See generally Jonathan Lewallen, Sean M. Theriault, & Bryan D. Jones, *Congressional Dysfunction: An Information Processing Perspective*, 10 REGUL. & GOVERNANCE 179 (2016) (claiming that committees’ work has changed over the years and that in the early 1970s, committees were more interested in finding solutions than those working today).

98. Maraam A. Dwidar, *Diverse Lobbying Coalitions and Influence in Notice-and-Comment Rulemaking*, 50 POL’Y STUD. J. 199 (2022); Alexander C. Furnas et al., *More than Mere Access: An Experiment on Moneyed Interests, Information Provision, and Legislative Action in Congress*, 76 POL. RSCH. Q. 348 (2022); see also, Leyden, *supra* note 27 (suggesting that a physical presence in proximity to Congress has the ability to affect the question of invitation to testify, which can explain both why it was important for the PPC to be actually physically present in Washington and also why this was one of the few times in history such testimonies were heard by Congress.). See also Burstein & Hirsh, *supra* note 80 (suggesting that it is uncommon and difficult to affect legislation as an individual citizen).

99. Grounded theory is an analysis method used in Qualitative Empirical Methods, where the researcher goes from the material and the themes arising from it to theory and back, enriching the theory while using it to understand the material gathered. See generally ANSELM STRAUSS & JULIET M. CORBIN, *GROUNDING THEORY IN PRACTICE* (1997).

100. Ban, Park, & You, *supra* note 88.

thus, the resulting analysis) related exclusively to the first type, legislative hearings.¹⁰¹ They contain what scholars call “ordinary knowledge.”¹⁰²

The texts of the testimonies were fed into an ATLAS.ti program for qualitative analysis. I coded each testimony multiple times for thematic processing purposes. During the coding and re-coding, several themes emerged, sometimes resulting in the re-coding of other interviews, in a spiral movement.¹⁰³ Eventually, the pattern stabilized due to this iterative process, and the central and most important themes to be addressed in this Article became clear.

B. Findings & Discussion

The themes are presented here separately to facilitate subsequent discussion. They are, of course, connected and in dialog with each other. I start with the theme dealing with the question of “truth” and data. I then move to the issue of individual perception, which is presented around the question of the individual placing themselves in relation to the community and the listeners. I end with the theme of power, and how it is perceived and flipped by the testimonies. Note that, while these themes are the product of a textual analysis of the testimony transcripts, they bear a striking resemblance to the aforementioned core features of testimonies in court (and the reason to rely on them there): importance, trustworthiness, and individuality.

1. Complicating the “Crisis of Truth”¹⁰⁴

As discussed above, testimonies constitute a practice of truth-seeking, in the sense that witnesses provide information that was previously unknown to the legal entity before which they are testifying. This entity is then expected to derive some “truth” out of all assembled information. The witnesses in this research present the truth as they know it to the Congress members. This theme is manifested in three kinds of representation of the reality and experiences of the

101. Testifying in the Senate Committee on Manpower, Employment, and Poverty (in two out of the four committee meetings), House Committee on Federal Grants-in-aid to states and to local units of government, fiscal hearing. Testimonies From Atlanta, GA (3), Berkely, MI (1), Brownsville, NY (1) Camden, NJ (1), Denver, CO (2) Berthold Reservation, ND (1), Idaho Springs, SD (1), Marks, MI (3), New Town, ND (2), Passamaquoddy Tribe (1), San Lorenzo, CA (1), Sunflower County, MI (1), Hidalgo County, TX (1) Bismark, ND (1), MA (1).

102. See generally Ban, Park, & You, *supra* note 88.

103. The “spiral” movement in qualitative method’s analysis refer to the idea that the researcher goes over her material over and over, each time recognizing more concise themes and codes, which emerge from the coding practice alongside the theoretical reading. Finally, the main themes in the analyzed text emerge and are presented by the researcher, as was done here. See generally Sarah J Tracy, *Qualitative Research Methods*, 370 (2013); JOHN W. CRESWELL & CHERYL N. POTH, *QUALITATIVE INQUIRY & RESEARCH DESIGN CHOOSING AMONG FIVE APPROACHES* (2018); SHARAN B. MERRIAM & ELIZABETH J. TISDELL, *QUALITATIVE RESEARCH: A GUIDE TO DESIGN AND IMPLEMENTATION* (fourth ed., 2016).

104. It is interesting to note that, at the same time, spring of 1968, in Paris, the post-modern project is emerging, where scholars including Foucault, Derrida, and others problematize the neutrality of the concept of truth and knowledge. See Spivak & Harasym, *supra* note 7, 18.

individual: (i) providing the “hard facts” of policies and laws, in which the members of Congress who construct said laws (and, through them, policies) learn of the realities of household budgeting that those standing before them have to juggle; (ii) reflecting-back the harsh truths and unseen implications of the laws and policy in their lives, as law on the ground; and (iii) suggesting possible solutions to the problems they describe. I now discuss each of these in turn.

a. Providing alternative “hard facts” to those held by legislators

By providing numbers, such as prices or the amounts of monetary benefits they receive, the witnesses are not challenging the epistemic hierarchy as such but, rather, contort themselves to it. In principle, those facts could have been easily provided by any survey conducted by a congressional aide.¹⁰⁵ But the fact that the witnesses bring this information forward personally carries much strength—for them and for the data they provide. Their knowledge is of relevance and importance. Just like expert witnesses, they are bringing valuable facts to the table. This notion is reflected, for example, in Vincent Negron’s testimony, plainly concluded with the remark: “If you have any questions, ask.” Others, too, starkly lay out the unadorned facts, leaving the audience to do the unavoidable math:

She has to pay \$85 for \$127 worth of food stamps. There are two of us on welfare. We don’t get but \$56 and my mother gets \$27. That is all.

(Robinson)

After I pay rent, I have \$36. I have to pay \$7 for insurance and then with the rest I have to buy groceries and some clothes for my kids.

(Simmons)

She passed the whole 1967 year with an income of \$96.

(Kruger)

We get \$154 from welfare a month. By the time we pay \$60 house rent and the gas bill, in the wintertime in real cold weather it runs about \$15 a month, maybe more.

(Elder)

105. This is only a mirage, though. Coherent and clear information on the exact amount of the monetary benefit a person is entitled to is hard to compile because it is based on varied policies, approved by different administrative agencies, and translated into different commodities. In this aspect, the witnesses’ accounts mirror many reports of people in poverty today, who, needing to survive every month on small, fractioned amounts collected under separate benefits schemes, are more the experts on the sums of each benefit and the expenses they have each month than any detached central observer. For more examples of the implications of this somber phenomenon, see generally STEPHANIE LAND & BARBARA EHRENREICH, *MAID: HARD WORK, LOW PAY, AND A MOTHER’S WILL TO SURVIVE* (first ed., 2019); BARBARA EHRENREICH, *NICKEL AND DIMED: ON (NOT) GETTING BY IN AMERICA* (first ed., 2011). And, to that effect, attempts made by the author in Israel to discover if the Central Bank research department, the budgetary unit in the Finance Ministry, or anyone in government could provide a definitive answer as to the sum of the accumulated benefits to which a specific profile of person would be entitled (for example, a single mother to three children living in a specific area) were answered in the negative—See <https://law.acri.org.il/he/28814>.

When they gave me the 13-percent raise, the welfare cut my check \$7. So, we didn't get anything after all. I pay \$50 a month rent, \$5 a month light bill. In the wintertime, my largest gas bill was \$15 and the water bill is \$4.58.

(Goodman)

Neutrally providing the numbers gives the witnesses an objective aura: numbers don't lie. In a deeper sense, however, leaning on the numbers encourages an understanding of the severity of the situations the speakers are describing. The math is so ugly and harsh, it speaks for itself.

The other "hard facts" that the witnesses provide concern eligibility criteria or timeframes of specific policies. Again, these pieces of information could have been aggregated through reports and administrative review, but opting to bring them directly is an epistemically significant choice on the part of the witnesses: far from trivial or mundane, they are pitched as important by the witnesses because they affect their lives and cause hardship at the most basic level, just as much as the higher-level policy objectives and the lofty goals of legislation. As another testimony reveals:

The stamps last but 3 weeks and you can't go back and apply for the stamps. They give you 30 days to come. You can't come the day before.

(Williams)

b. Reflecting-back the ramification of law on the ground

In this aspect of the informational—or versions of truths—theme, the witnesses present the messy reality of policy and law as they live it in their daily experiences. Since the numbers don't stack up, the speakers report the domino-effects of surviving on a minimal income. One example of such unseen implications of poverty policy is the quality of food the government provides through the commodities aid programs:

There are many people on my reservation that have the same thing, diabetes. I believe it is caused by these starchy foods that we have to eat.

When I go into a coma, they rush me to the hospital and the doctors get after me. "How come? Can you hold down your sugar somehow?"

(Knight)

Other witnesses spell out further consequences of poverty, which are not directly related to the specific program under discussion:

If [I get] sick, I have no money for the doctor. If I have money to pay the doctor, I don't have money to go to the drugstore to buy medicines for the children.

(Brown)

Programs like the manpower are great but what happens? Our people have to be relocated to Dallas, Fort Worth, and other areas. Thus, the roots of the family are broken.

(Kruger)

Other ramifications have to do with respect (or lack thereof), stigma, and shame. One high school student testifies:

Anyhow, one certain color was for those who didn't have no money at all. I had that card . . . When you hand the card to the cashier, people would look at you; you feel low. It should not be that way. We should not have certain colors to separate us; like one poor, one rich, something like that.

(Trujillo)

c. Suggesting ways forward

The third aspect of the informational theme is that of making additional contributions. Here, the witnesses shift from merely providing facts and unseen realities to exhorting policies and solutions to the problems they recognize. By doing so, they not only assume power but also frame themselves as able to contribute something the legislators cannot to the legislative process. Some of the suggested solutions are simple and individually focused: *"The VA should help me in this,"* says Ellis Blackhorse, a widow. Some are provocative and seemingly rhetorical: *"When this meeting is over, why don't you say, 'Mr. Ortiz, would you and your group like to come downstairs and eat, on the house?'"* says Benjamin Ortiz. Later, he suggests: *"You are getting ready to add another thousand police to the Washington, DC police force. Why don't you take that money and give it to us?"* Sampson makes another such general claim:

The basic problem we are concerned about is the same problem that the Indians are concerned about, and that is the Government's role in relationship to its people. They always feel the resources are more important than people. A motel is not what poor people need in this country. We need better legislation, and we need you gentlemen to go back into your chambers and come out with an economic program to deal with the question of poverty and not put-up motels.

But some suggestions are more specifically articulated to address the facts the witnesses themselves revealed in their testimonies:

We wish for fulfilling an immediate distribution of per-capita payments as designated.

(Elgin)

We ask that the city of New York and the Senators down here look into this and then build houses at the same moment that you knock one down.

(Negron)

What I would like to see is for each welfare family to have an income, not commodities or food stamps because I feel that the dignity of a person to have a chance to go and buy their groceries does a lot to a person's ego.

(Kruger)

So, 10 years ago, they had a housing project brought up there and the housing project cost us \$80,000 for 11 homes. Up to now, those houses have cost us over \$200,000 because those houses were built on a swamp. I told them at that time—I was not the Governor at the time. I told them, you cannot build houses on a swamp. Well, they just took me for granted that I did not know nothing. But 6 months after those houses were built, the foundation went one way and the house went the other way. So they spent almost \$46,000 to put the houses back together again. Now, they did that twice already. Now, they have to do it again. That is why I am fighting this housing project up there. We do not want to be taken again for \$100,000.

(Francis)

2. Ways of Belonging—the Individual and the Community

The act of providing testimony, as mentioned above, is inherently about *individual* perception of the truth. By bearing witness, individuals are marked—just as their testimony—as important, as part of the community that is gathered to pass judgment or decide on the case in question.¹⁰⁶ In this theme, the witnesses actively mark themselves as important, as belonging to the group.

To begin with, the witnesses testifying can be described as marginalized. They are people who live in extreme poverty, who traveled from afar and are thus strangers in Washington DC, and who are professionally estranged: they do not know the working of the venue in which they are testifying.

Yet, despite (or because of) that, one recurrent theme in the testimonies is concerned with emphasis on ways of belonging, expressing the worth of their testimony to the listeners as a part of the relevant circle of decision-makers. There are two typical ways witnesses assert their belonging and relevance: they either stress their belonging *to the relevant group*, thus suggesting they are “experts” on the subject in question; or they emphasize their belonging to the general group—

106. See generally Cheng & Nunn, *supra* note 71 (discussing the history of the testimonies and how, in their earlier stages, they were, in fact, just that: community members and anyone who had a say in the matter, reporting on the issue at hand).

their citizenship, their contribution to society in ways beyond the financial—thereby asserting their legitimacy in weighing in on public matters such as redistribution and welfare.

a. Belonging to the relevant community

In this manifestation of the theme, the witness self-presents as an expert. Sometimes, this is achieved by emphasizing their role as representatives of a bigger collective:

Somebody else paid the bill to get me here. A whole crowd of somebodies are minding my children so that I could come.

(Arsenault)

If they do get houses on it, who is going to pay the interest on the houses? Eighty percent of those people up there cannot even pay their electric light bills, because I know; I pay them.

(Francis)

I am not only pleading for myself but I am speaking for the whole nation of poor people.

(Brown)

Others talk about people in their communities, stressing their connection to, and familiarity with, the reality they are portraying:

Some of the houses some of the people in Mississippi are living in, in Mr. Eastland's county, I want to tell you because I saw it with my own eyes, they are not decent for dogs to live in.

(Brooks)

Sometimes, the expert dimension is connected to bringing facts about the working of policy and law on the ground. For example, in her testimony, Tina Kruger specifies an occurrence in the distribution of commodities, and is asked about it by the senator:

Mrs. KRUGER: . . . Once a month. We have asked the county commissioner to give emergency food to some of these families and he has not done it.

Senator NELSON: You are testifying that in your community these surplus commodities are available only 1 day a month?

Mrs. KRUGER: Right; 1 day a month. Families are assigned to go on a certain day, and it is 1 day a month.

In another incident, the witness, Mr. de Pineda, is also questioned about his testimony in the same way:

Mr. DE PINEDA: . . . the food stamp program.

Senator NELSON: You were on it?

Mr. DE PINEDA: Yes.

Senator NELSON: You are not now?

Mr. DE PINEDA: No; I am not now.

Senator NELSON: Why not?

Mr. DE PINEDA: Because there are so many bills pile up that the money for the food stamps could not be afforded.

Senator NELSON: You mean you don't have enough money left over to buy any food stamps?

b. Belonging to the general community: The witness as an equal citizen

In this manifestation of the belonging theme, the witnesses express their perceptions of themselves as valuable because they belong to the same group as the *listener*. In doing so, they justify the place given to them to talk in the hearing: as part of the group, they have a say in its decision. Three primary ways of asserting this kind of belonging are expressed in the testimonies.

i. We are soldiers

One avenue the witnesses take to stress their value and their contribution to society as equal citizens is their belonging to the military. Benjamin Ortiz states: "*I am eligible for the draft, you see.*" Lupa Martinez also articulates impactfully:

I got into it like my boy got into Vietnam because he could not get a job. He is in Vietnam and I am in Washington. We are both after the same thing.

And another witness alludes, with irony, to his army service:

I wonder if he [President Johnson] has a son or grandson to go over there and see what it feels like.

(Grinell)

Speaking in the spring of 1968, the witnesses touch on a highly contested issue in these quotes. They choose to connect their actions with the acts of soldiers, in what seems to be a criticism of President Johnson in his continued engagement in Vietnam, and to rhetorically emphasize their similar connection to the country. Just as soldiers, they are risking their lives, they are not selfishly benefiting themselves. As soldiers, they are worthy of the state's trust and inclusion. Just as soldiers, their citizenship should not be questioned. Moreover, the claim that the result of their actions should be similar to the soldiers' (or is aimed to achieve the same thing) can be understood more profoundly as linking poverty

with the state's (or the general public's) affluence. The witnesses are protecting the public, just as the soldiers are protecting the public's goals, sacrificing themselves so that others may flourish.

ii. *We are mothers*

A parallel route to citizenship is found through the role of motherhood. Female witnesses devote a significant amount of their testimony to their children, their hard work in raising and caring for them, and sometimes their success despite the hardship they endure. Many start their testimony by making a pointed statement about their parenting role, like Mirtle Brown: "*I have five children to support.*" Others push deeper into the narrative of the mother. Barbara Arsenault, declares proudly:

I do not work. I do not intend to work. I am not interested in a job. I have five children to raise.

And Lela Mea Brooks links her motherhood to her audience's childhoods, emphasizing the racialized aspects of motherhood and childcare:

How did we raise y'all? I am not raising any more white babies for you. I am not.

Other witnesses flesh out the trials of motherhood under poverty:

It is a shame that our youngsters drop out of school because they do not have decent clothes and money to pay for school lunches.

(Kruger)

That is all I had to say. I want to live. I have two children to raise.

(Knight)

I brought them all with me. We live in Resurrection City. I didn't leave a one back. I brought all seven of them, because there was no one there to take care of them; they would starve. I took four of them out of school and brought them along, because they were not getting anything at school to eat, because I was not able to buy the lunch. So, I took them out of school.

(Williams)

The motherhood narrative not only entails citizenship but defies prevalent criticisms regarding people in poverty in terms of education, parenting, and neglect of their childrens' best interests. Emphasizing their motherhood and its place in their lives, as well as their abilities in this area, also enables the witnesses to challenge the individualistic perception of poverty (which would have us

believe that parents are the main determinant of children's poverty and social mobility, ignoring systematic and structural barriers and inequalities).

iii. We are hard workers.

Another narrative that conveys a sense of belonging to American society is through (potential) contribution to the capitalist market. Here, witnesses stress that, even though they are currently not succeeding in navigating it to their benefit, they "have what it takes" to do so and therefore their poverty is not "their fault." This narrative counteracted the "lazy" stereotype that was all too often attached to people in poverty (and continues to be so, to this day). Emphasizing their strong work ethic in their testimonies also helped to promote their agency, as active and not passive agents in society:

I am poor but I do like to get down on my knees and live the clean way.
(Martinez)

I did nursing and I worked in nursing homes and in hospitals.
(Goodman)

You all are going to have to realize we built Washington, we built these buildings and we must have money.
(Brooks)

All we ask is for an opportunity to help get our people out of their plight and enforce the law at the State and local level so that when our people go for help they won't be treated like scum. My people want jobs; we like to work; we want education; we want justice.
(Kruger)

In turning to this form of citizenship, the witnesses contort to the capitalist construction of the market and, in some ways, to the differentiation between "deserving" and "undeserving" poor.¹⁰⁷

3. Defying power in Power's face

Part of the weight given to the testimonies and their subsequent impact comes from the fact they are placed in the public space that is the congressional hearings. The audience comprises the members of Congress and the representatives of the press covering the testimony. This is speaking truth to Power, and having that Power listen, at least momentarily. By holding the power to speak, the witnesses turn the table on the ordinary way of things and challenge the hierarchy. They do so by the very act of speaking and also by the content of their speech.

107. See generally MICHAEL B. KATZ, THE UNDESERVING POOR: AMERICA'S ENDURING CONFRONTATION WITH POVERTY: FULLY UPDATED AND REVISED (2013).

Their challenging of power can be categorized in two main ways: (i) through a refusal to be shamed by their circumstances and by speaking from a place of “You would not survive what we have to survive, we are stronger than you,” and (ii) through voicing a more “aggressive” depiction of power, sometimes angry, sometimes threatening, but always reproachful, placing the blame for their tribulations firmly in the lap of the members of Congress. This aspect of power, while creating a rift between the speaker and listener—especially in its gendered form—paradoxically also conveys a signal of similarity, of kinship: we react to injustice done to us just as you would have.

a. “You would not survive what we have to survive”: Power as resilience

In this theme, the speakers turn the tables and resist the power structure by conveying pride and strength found in surviving situations of victimhood.¹⁰⁸ It is not by shying away from their dire situation but by shedding light on it that they resist the audience’s perception of them as “less than,” refusing to be shamed.

This is a radical critical practice because, by claiming to be powerful *because* they are victims of these unlivable conditions, the witnesses challenge the dichotomy between the stereotypical categories of weak and strong that play out in everyday life and, specifically, in the legal realm,¹⁰⁹ where victims are helpless, weak, and in need of the system’s protection. They are sometimes so weakened that they are deprived of agency altogether, such as in the traditional criminal procedure where the state steps into their shoes to prosecute offenders. In the testimonies here, by embracing their role as victims of systemic oppression, the speakers resist the markers that accompany this category. Instead, they present themselves as strong—stronger than those (the Congress members) who are not victims and could never have been:¹¹⁰

It is not much. I do not think many people here could live on it. We learn how. But at least, it is something.

(Arsenault)

If you went over there and saw what kind of conditions we are living in, you would be surprised.

(Hale)

108. This, in some ways, echoes Butler’s perceptions of vulnerability. See BUTLER, *supra* note 14, 20.

109. In breaking or challenging (or even criticizing) the categories, the speakers—and, specifically, myself as interoperating them—do not mean to claim that such hierarchies do not exist or that they are not the hegemonic categories of the legal and political system. See generally MILLER, *supra* note 64 (discussing the practice of critical thought in the face of hegemonic “assemblages,” as he calls them).

110. Krumer-Nevo recognizes similar resistance in the everyday life and every action of people in poverty. See Michal Krumer-Nevo, *Poverty Aware Paradigm in Social Work*, 46 BRITISH J. SOC. WORK 1793, 1799 (2022).

Another defiant act is the extension of an inviting hand toward the Congress members. This is, again, an act of power: the invited is now the outsider, requiring an invitation to enter the realm of the inviter. It is a gatekeeping expression, symbolizing the power to withhold such an invitation and the idea that the inviter has the power of choice around whom to invite.

These expressions vary in the testimonies. They can be found, for example, in defiant language that refuses to participate in what is perceived as “your” game. Refusing to enter, choosing to exclude oneself, is an act of power because its corollary is the power to exclude:

The Mexican-American people of the Southwest are not here to entertain you or to be part of a sideshow in a carnival.

(Pineda)

In other instances, which arise more often in these testimonies, the speakers call on the members of Congress to engage with them, visit them, and view their lives first-hand. This is, of course, largely a symbolic gesture: people in poverty are notoriously weary of being observed and reviewed by administrative systems, tediously and invasively “visited.”¹¹¹ But the expression of such an *invitation* to look, to see, is important here. It reclaims the power to invite and the authority and control over one’s life to be shared (or hidden) at will. It also constitutes a claim that there is something worth seeing and visiting, worth looking at. When the witnesses say, “you should see it,” or, “you would be surprised,” they hold the power of a performer in front of a crowd that wishes to see what they hold in their hands.

I live right down there in Resurrection City. We shiver together, we eat together, we work together. We are having a beautiful experience in brotherhood. It works: it works beautifully. I would like you to take a look at it.

(Arsenault)

Don’t come down only for one day and say to another Senator, “I have been down to Resurrection City; I have reviewed the problems.” Come down here and live with me, man . . .

(Ortiz)

b. Anger, pain, blame: Power as a threat

In this sub-theme, the speakers do not attempt to break the dichotomy of strong and weak but, rather, to flip the occupants of those positions. They challenge the members of Congress, overtly or subtly, with the threat that, if not

111. See generally, *supra* note 21.

listened to, they will resort to other means of expression—the (mostly unspoken) message being that such acts will be violent. By using defiant, angry language, the speakers assume the “regular”—gendered—power position: those who hold the power are those who call the shots.

Here, we can also see a *spectrum* of anger and blame, all the way to explicit expressions of threatened violence:

I might go out and punch a cop in the nose because they have a better suit on than I do. It is your fault.

(Ortiz)

At the less explicit end of this spectrum, we can see simply the expression of despair, as a hidden threat conveying that the status quo cannot continue:

We want you all to know that we are tired waiting for a decent place to live in, a decent home, decent food to eat . . . We don't want welfare in Mississippi. We want money in our own hands. We don't want white men sitting on our money or you all either. We are not going to beg anymore. We are not in Washington to beg.

(Brooks)

More hidden threats can be found in descriptions of situations that are delivered in a narrative of blame. It is an act of power to point the finger at those deemed responsible, specifying who is to blame and, as a result, who will be called upon to provide some reparation or otherwise pay the price of their wrongful actions:

There is a deeper problem than that. There are particular ways of stealing things. Some people go about knocking people in the head, some people pass legislation.

(Sampson)

They come with nice ways of smiles and with a forked tongue and take everything away from us Indians.

(Hale)

Now the white people called on our reservation and killed off all our buffalo and all these games here so we have nothing to eat and we are starving half the time.

(Grinell)

4. Empathy: Between Sameness and Recognized Difference

As a combination of all previous themes, one can describe the work of the witnesses as seeking *empathy*. Unlike sympathy, which is the mere feeling of

condolence toward the Other, empathy is defined as the ability to imagine oneself *in someone else's shoes*.¹¹² For this to happen, the listener must possess two elements. First, they need to be positively motivated to truly understand the witness. And, second, they need to be able to distinguish between their own shoes, so to speak, and the Other's. To achieve empathy, one must thus navigate a delicate balance between similarity (which induces feelings of commitment and solidarity) and difference (which maintains curiosity and the understanding that needs and wants might be different than one's own). This balance or tension between sameness and difference is a background theme that relates to all three previous themes and amplifies them.

a. Difference: "You are not like us"

In this dimension of the theme, witnesses focus on the difference between themselves and the members of Congress listening to them. This is done by pointing to racial difference, for example. Here, the witnesses bring up race as the focal point of reference for the discussion of their hardships and the reality they wish to bring to the legislative table:

Now, our concern about this situation is the concern that black people have had for the last three hundred years about white America's relationship to its people. You have consistently and historically broken into people's homes, geographically, and taken them as well as their institutions and attempted to infuse them into the so-called white Anglo-Saxon culture.

(Sampson)

We are here with brothers of other races, here in unity, in love for each other. We are all poor.

(Pineda)

That is why I am here, to speak for my people and the rest of the races that are trodden down by the white man.

(Knight)

These different articulations all point to the same categorization of the witnesses as racially distinct from the Congress members.

b. Sameness: "We are just like you"

At the opposite extreme of this theme, witnesses paint a worldview in which they and the members of Congress are in the same boat. They do so by evoking the similarity between them and the possibility of exchanging places with them:

112. Bohart et al., *supra* note 16; Slote, *supra* note 16.

Do you think we like that filth? No. You would not want your wife and children to inhale it. How would you feel today with no food to eat?

(Brooks)

I took my flour to the welfare worker one day, some of it, and showed her. "I will sift it," I said, "and you can eat it. I will sift it for you and you eat it, you make your bread out of it; see if you can eat It." Who is going to eat bread after the bugs have been crawling over in the flour? Not me. None of us can live on that.

(Knight)

You know, yourself, that it is pretty hard to study on an empty stomach. It is awful hard to concentrate on anything you are trying to do if you have an empty stomach.

(Martinez)

In other examples, the similarity is drawn to the whole of humanity, in broader terms pointing to universal moral common ground:

We look, we feel, we eat sometimes, we sleep, we walk, we love, and we die the same.

(Pineda)

Still others refer to similarities and attempt to engender empathy through expressing despair and pain that is rooted in common human concerns such as sustenance, education, and making a better life for oneself:

We don't have a free lunch program. If you want to eat, you have to bring your own money or your own food. The food we do have at school is commodity food. For lunch, they feed us most starches, rice, maybe a few greens and pieces of cornbread with bugs in it. That is about all we have. If we don't have any money, we have to stay in there anyway.

(Robinson)

These adults here who are here, are here for us young people. They are trying to make our future better. You see what I mean? Why should I go to school, continue to learn and go to college like I had planned on doing, if, after I come out of these institutions, I am still lost?

(Ortiz)

IV. REFLECTION AND ANALYSIS

All of the above themes, then, move along the same axes: similarity and difference, proximity and distance. By expressing how they are different from the members of Congress in the audience, the witnesses gain credibility and justify

their unique value to the process. By describing how they are *similar*, they gain legitimacy and emotional leverage and provoke willingness to listen to their stories.

When they talk in the language of threats and anger, they simultaneously create a chasm between “us” and “them” but also speak to a very natural feeling that the listeners recognize in themselves—we are just like you, you too would be angry.

In providing information that the members of Congress lack, they both situate themselves as outsiders, bringing facts from the outside world into the hearing room, and also elevate themselves to the level of valuable members of the hearing: like all speakers, they have essential information to impart that the legislation cannot do without.

Indeed, pointing to the similarity is, in itself, an act of defiance, an act of leveling, of equating oneself to the others in the room. The witnesses use their differences, their specific identities and social placing, as a tool to facilitate a shift in political power and access toward the public political sphere. In the next Part in which I analyze the findings, I point to ways one can pull normative threads out of the history presented and analyzed here to possibly fulfill the promise of the unfinished campaign.

The themes presented above can be understood as reflecting different dynamics in which the speakers are contesting, challenging, and shifting subjectivities, their own and the listeners.’ As a result, they are transforming the institution in which they speak. White and Perelman treat institutions, based on the writings of Goffman, as “role-clusters.”¹¹³ Through interaction with others, the “actors” constituting the institutions improvise and shift their position relative to each other. From this understanding, let us now turn to the possibilities for interaction, viewed through the prism of the dynamics suggested by the testimonies of the people presented above.

1. Empathy

In contrast to the traditional practices of representative legislature, legislating in this transformative institution should be attuned to the concept of empathy as framed here. This means that the notion of objectivity¹¹⁴ and the “veil of ignorance”¹¹⁵ metaphor should be set aside, in favor of a more nuanced process that does not strive to eliminate differences but to address them. The constant presence of different voices in this kind of process is key to its success and validation, as the profound understanding of difference that the situated perspective can generate can help legislators to acknowledge their own individual perspectives. Instead of attempting to “magic it away,” as they are encouraged to do by many

113. See generally WHITE & PERELMAN, *supra* note 19. For the original idea, see generally Erving Goffman, *The Arrangement between the Sexes*, 4 THEORY AND SOC’Y 301 (1977).

114. See generally Ben Williamson & Nelli Piattoeva, *Objectivity as Standardization in Data-scientific Education Policy, Technology and Governance*, 44 LEARNING, MEDIA AND TECH. 64 (2018).

115. See generally JOHN RAWLS, A THEORY OF JUSTICE (1971).

theories of political ethics,¹¹⁶ legislators can embrace instead their inherent inability to do so, and address the need to “import” other perspectives into the discussion. In turn, this may encourage them to reach out for insights into others’ experiences—especially those not represented by the regular indirect engagement with Congress through voting and interest groups. The acknowledged degree of distance from the legislator’s own lived experiences should lead to a stronger emphasis on the necessity of the Other’s voice: the more different a person’s reality is from the hegemonic view, the more valuable they are to the process. This shift in values transforms the structure and professional perspective of the “role” that the legislators are “enacting”: they are no longer attempting to imagine the realities their laws affect but aggregating first-hand accounts of those realities and facilitating a discussion over the required policy solutions.

2. Power and citizenship

Participation—be it through influence, resources, lobbying, or voting—in the legislative process is both essential and also immensely unequally distributed. People in poverty are less represented in the legislature,¹¹⁷ less able to affect the proceedings, and therefore less likely to be considered when laws are enacted. Since poverty (as it is treated in almost all disciplines except legal scholarship and jurisprudence) comprises both material scarcity *and* social exclusion, the underrepresentation fuels a vicious cycle. The more impoverished a community, the more it is excluded, the less it is represented,¹¹⁸ the more the laws—even those meant to address that community’s needs—are likely to be ill-fitting, the less effective the rules are, the more impoverished it becomes.

This understanding and the thread of normativity pulled from the voices presented above boil down to another pillar of support to the participatory process: there are many ways of belonging and expressing citizenship. But, finding those in the legislative process provides another coat of citizenship that is of utmost importance. This is why the participation of people in poverty needs to be infused into this reimagined legislating process and not as an external, extra-informal process.

116. For the most prominent example, see RAWLS *supra* note 115; see generally JÜRGEN HABERMAS, *THE STRUCTURAL TRANSFORMATION OF THE PUBLIC SPHERE: AN INQUIRY INTO A CATEGORY OF BOURGEOIS SOCIETY* (1991).

117. Kevin Quealy & Alicia Parlapiano, *Election Day Voting in 2020 Took Longer in America’s Poorest Neighborhoods*, N.Y. TIMES (Jan. 4, 2021), <https://www.nytimes.com/interactive/2021/01/04/upshot/voting-wait-times.html> (last visited Oct 5, 2022); see generally SOUTH AFRICA ET AL., *DEVELOPMENTAL WELFARE GOVERNANCE BILL* (2000).

118. There are exceptions to this rule, but they are rare. See, e.g., the ultra-orthodox community in Israel that is both materially poor and over-represented in the parliament due to specific constraints of the political system. See generally Rebecca B. Kook & Ayelet Harel-Shalev, *Patriarchal Norms, Practices and Changing Gendered Power Relations: Narratives of Ultra-Orthodox Women in Israel*, 28 GENDER, PLACE & CULTURE 975 (2021); see generally 2019 STATISTICAL REPORT ON ULTRA-ORTHODOX SOCIETY IN ISRAEL: HIGHLIGHTS, <https://en.idi.org.il/articles/29348> (last visited Oct. 7, 2020).

3. Epistemic Superiority, knowledge production, and truth

Any institution that is legislating through a participatory process such as this should invite testimonies to draw forth individual experiential truths. This would constitute a shift in epistemic hierarchy from the search for the ultimate objective data, presented in what is perceived to be the most unbiased way—statistics and numbers—to a blend with individual perspectives, these being just as essential to the information-gathering as the “hard numbers.” The result would be a more complicated but more just process of law-making, one that is not easily generated and not easily generalized. This process would also be reactive and diffusional in the sense that it is open-ended and constantly evolving in reaction to its work on the ground and the changing needs and ecologies that are forming at any given moment. In turn, the continual invitation of such truths as an iterative engagement with the legislature lends power to the invitees to become, as seen in the testimonies cited here, the inviters.

This outline for institutional change could, at first glance, seem reminiscent of a legislature that is similar to a Truth and Reconciliation Committee (TRC).¹¹⁹ As unorthodox as it might sound, such institutional structures are already in place in some internal contexts and not only in the classic post-atrocities model of the 1990s.¹²⁰ But, there are some important reasons to reject such a general structure at the end of the day. First, many scholars have pointed out that, despite the promise of the post-apartheid regime that the TRC facilitated, there are today many shortcomings to it, especially in terms of reconciliation and social equality.¹²¹ Similar processes of communal truth-hearing legal institutions brought forth both hope and criticism.¹²²

Perhaps more importantly, TRC and transitional justice mechanisms are directed at a conflict as institutions mimicking, or replacing, the judicial function. My proposal, however, is more interested in the legal institution of the legislature.

119. See generally Tara J. Melish, *Truth Commission Impact: A Participation-Based Implementation Agenda*, 19 BUFF. HUM. RTS. L. REV. 273 (2013); see generally TANYA GOODMAN, RONALD EYERMAN & JEFFREY C. ALEXANDER, *TRUTH AND RECONCILIATION IN A NEW SOUTH AFRICA* (2015).

120. See generally WEST CHESHIRE POVERTY TRUTH, *Learning from Developing Poverty Truth Commission*, <https://www.edgehill.ac.uk/i4p/files/2018/03/Learning-from-Developing-Poverty-Truth-Commission.pdf> (last visited Jan. 15, 2020).

121. See generally Jackie Dugard, *Courts and the Poor in South Africa: A Critique of Systemic Judicial Failures to Advance Transformative Justice*, 24 S.AFR. J. ON HUM. RTS. 214 (2008); see generally James Fowkes, *A Hole where Ely Could Be: Democracy and Trust in South Africa*, 19 INT’L J. OF CONST. L. 476 (2021); see generally Marius Pieterse, *Possibilities and Pitfalls in the Domestic Enforcement of Social Rights: Contemplating the South African Experience*, 26 HUM. RTS. Q. 882 (2004).

122. See, e.g., the literature discussing the traditional courts called ‘Gacaca’ in the aftermath of the Rwandan Genocide: Bert Ingelaere, *‘Does the Truth Pass across the Fire Without Burning?’: Locating the Short Circuit in Rwanda’s Gacaca Courts*, 47 J. MOD. AFR. STUD. 507 (2009); Coel Kirkby, *Rwanda’s Gacaca Courts: A Preliminary Critique*, 50 J. AFR. L. 94 (2006); Hollie Nyseth Brehm, Christopher Uggen, & Jean-Damascène Gasanabo, *Genocide, Justice, and Rwanda’s Gacaca Courts*, 30 J. CONTEMP. CRIM. JUST. 333 (2014); Susan Thomson & Rosemary Nagy, *Law, Power and Justice: What Legalism Fails to Address in the Functioning of Rwanda’s Gacaca Courts*, 5 INT’L J. TRANSITIONAL JUST. 11 (2011).

An ongoing, participatory legislative process needs to be implemented that will not only create a continuous empathic space for sharing experiential truths and extending invitations for the state to *see* those truths first-hand but will also incorporate the insight of the witnesses in future-facing processes for policymaking and rule-making.¹²³

For any of this to be a possibility, there needs to be some minimal underlying ecology¹²⁴ of consensus about the epistemological value of experiential truth, and opportunities for dialogue about situated knowledge. This ecosystem is already here—for example, in the recent BLM and #MeToo movements, which spotlighted the importance of individual perspectives. But it is also further away than ever before, with the fracturing of solidarity and partisanship only deepening in the public and in Congress. Endangering it the most is the fixation on objectivity, the infatuation with numeric measurement and scientific analysis of social embroidery.

CONCLUSION

The thematic analysis and discussion in this Article expose the importance of the testimonies given by a group of people before the US Congress more than 50 years ago. The witnesses, women and men living in poverty from around the country, provide a window into a possible novel perception of the interaction of marginalized groups with legislators and, more generally, with the rulemaking hegemony.

Through analysis of their speech, a more complex and thought-provoking web of relations is revealed. The importance of the structure of the space and the design of the process of witnessing is exposed. The witnesses are called on to give their personal accounts of poverty but they are using this opportunity to demand that others bear witness to their situation. They own the space by choosing what information to share; and, by stepping into that ownership, they transform the invited/demanded dichotomy. This happens *because* they are testifying *before Congress*, which lends their perception and experiential truth a power and recognition that are much needed.

The witnesses use their moment in the spotlight to both emphasize the differences between themselves and those listening to them, and to invite them to get closer and genuinely understand their situated story. By practicing boundary-work and marking the distance, they are powerful enough to do the including and not only to be excluded, as is their usual civil experience. The accounts they provide surface through their interaction with the audience, thus constructing new “information” that could not have been supplied by experts, reports, or any other

123. An example of this kind of process can be found in the UK. *See generally* WEST CHESHIRE POVERTY TRUTH, *supra* note 120.

124. *See generally* ETHAN MILLER, REIMAGINING LIVELIHOODS: LIFE BEYOND ECONOMY, SOCIETY, AND ENVIRONMENT (2019), <http://muse.jhu.edu/pub/23/book/64342> (last visited Nov. 7, 2022).

source. The presence of both actors in the room, with their respective forms of power and recognized limitations, makes this potentially fruitful.

The empirical data concerning the unequal representation of marginalized groups in Congress, and specifically people in poverty, should be maintained as the backdrop against which the findings here are analyzed, for they remind us of why flexible, dyadic, yet firmly participatory institutions are so very crucial—in the 21st century, just as in 1968. Our legal institutions do not make room for marginalized voices, despite holding the power to do so. They could and should withdraw from their role as the sole bearers of knowledge and share it with others who bring crucial perspectives to the process.