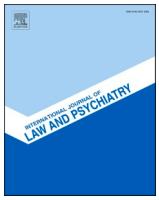
International Journal of Law and Psychiatry 89 (2023) 101908

Contents lists available at ScienceDirect

International Journal of Law and Psychiatry

journal homepage: www.elsevier.com/locate/ijlawpsy



Mental health-related limitations and political leadership in Germany: A multidisciplinary analysis of legal, psychiatric, and ethical frameworks

Alexander Smith [a,*], Stefan Theil [b], Stephen D. Hart [c], Michael Liebrenz [a]

[a] Department of Forensic Psychiatry, University of Bern, Bern, Switzerland
[b] Faculty of Law, University of Cambridge, Cambridge, United Kingdom
[c] Department of Psychology, Simon Fraser University, Burnaby, British Columbia, Canada

ARTICLE INFO

Keywords:
Forensic psychiatry
Law
Mental health
Germany
Politics
Chancellor
Functional capacity
Ethics

ABSTRACT

In recent years, political events have reignited contentious debates about psychiatry and democratic governance. This discourse has largely centred around the ethics and morality of public commentary, particularly in relation to the American Psychiatric Association's Goldwater Rule. Yet, few studies have examined the practical implications of health-related limitations due to mental illness in national leadership and the constitutional and legal provisions that surround these issues, including voluntary or involuntary proceedings. Accordingly, this theoretical paper analyses these topics in a German context using the position at the head of the executive: the chancellorship. Germany was selected as a case example as the biggest democracy in Europe with modern legal frameworks representative of the post-World War Two era in European constitutionalism, and for its economic and political influence within the European Union. Throughout this paper, we do not speculate on the mental health of any individual (past or present), but instead explore jurisdictional mechanisms around health-related limitations in German high office. Consequently, we outline relevant constitutional and legal scenarios, and how short- or long-term medical incapacity may determine requisite responses and contingent complexities. This underpins our discussion, where we consider legal ambiguities, functional capacity, and ethical concerns in psychiatric practice.

1. Introduction

1.1. Psychiatry, functional capacity, and political leadership

Across academic and popular discourse, psychiatry's role within the political sphere has proven controversial. Notably, throughout Donald Trump's presidency in the United States, notions of mental illness and dangerousness were openly discussed (e.g., Lee, 2017). This polarised opinion: although some applauded the classification of supposed dysfunctional behaviours (Friedman & Downey, 2018), apparent ethical breaches were condemned owing to the American Psychiatric Association's (APA) Goldwater Rule (McLoughlin, 2022). This prohibits APA member-psychiatrists from offering "a professional opinion" concerning "an individual who is in the light of public attention or who has disclosed information about himself/herself through public media", without examination or consent (Levin, 2016). Lately, theories about contemporary leaders have reanimated these exchanges (e.g., (Meads, 2022; Plante, 2022)). For some, speculative diagnoses can perpetuate stigmatising paradigms around mental health (Brendel, 2017), or detract from legitimate conversations about abuses of power (House, 2022). Conversely, others underline the medical "duty to warn", asserting their responsibility to educate the electorate and protect civil interests (Gartner, Langford, & O'Brien, 2018).

Nonetheless, the moral and ethical dialectics of public psychiatric commentary may mask more fundamental concerns about mental health-related limitations in government. Figures disseminated by the World Health Organization indicate that one in eight people worldwide might experience a psychiatric disorder (World Health Organization, 2022); albeit a simplistic proxy, it could be problematic if these trends applied within the political arena, especially if decision-making, executive functioning, and other capacities were affected (Mangione, 2020; Painter & Watt, 2017). Poulter et al. provide more tangible vocational evidence, showing that British politicians exhibit elevated rates of psychiatric morbidities (Poulter et al., 2019). Isohanni suggests that high-level political leaders may be susceptible to affective disorders, substance use disorders, or trauma- and stressor-related disorders (Isohanni,

* Corresponding author.
E-mail addresses: Alexander.smith@unibe.ch (A. Smith), st608@cam.ac.uk (S. Theil), hart@sfu.ca (S.D. Hart), Michael.liebrenz@unibe.ch (M. Liebrenz).

https://doi.org/10.1016/j.ijlp.2023.101908
Received 19 May 2023; Received in revised form 27 June 2023; Accepted 3 July 2023
Available online 17 July 2023

2020). Analogously, Weinberg has highlighted the unique stressors and risk factors of public office (Weinberg, 2017; Weinberg, 2021).

Studies about democratically elected leaders have hypothesised about the effects of mental health-related limitations in government (e.g., (Ghaemi, 2011)). Analysing the biographies of United States presidents, Davidson and colleagues argue that eighteen in their total sample ($n = 37$) met diagnostic criteria per the Diagnostic and Statistical Manual of Mental Disorders (DSM) (Davidson, Connor, & Swartz, 2006). These researchers contend that ten presidents may have had a mental illness whilst in office, which likely affected role capacities (Davidson et al., 2006). Likewise, Lilienfeld et al. identified psychopathic traits in several American leaders; although not constituting psychiatric diagnoses in themselves, these may have resulted in successful interpersonal behaviours, whilst concomitantly entailing adverse influences on job performance (Lilienfeld et al., 2012). Additional links between cognitive decline and political actions have been explored (Schioldann-Nielsen, 1996). For example, Förstl has examined psychiatric and neurological impairments in several officeholders (Förstl, 2020), including Paul von Hindenburg, who appointed Adolf Hitler to the German chancellorship in 1933 (Förstl, 2018). Discussions of the latter have involved numerous retrospective diagnoses based on scant clinical evidence (Redlich, 1998).

It should be reiterated that not every psychiatric diagnosis and disorder-associated symptom necessarily impacts all areas of psychosocial functioning (Canela et al., 2016). Suggesting otherwise perpetuates negative and anachronistic perspectives about mental health (Corrigan & Watson, 2002). Instead, identifying and diagnosing mental illness is often just the entry criteria for additional assessments about severity and implications for sociocultural expectations and primary role responsibilities (Zimmerman, Morgan, & Stanton, 2018), as per the biopsychosocial model (Linden, 2013). However, little is known about the legislative issues underpinning mental health-related limitations in political high office and the relevant jurisdictional provisions for a national leader whose functioning may be severely impaired due to a psychiatric disorder. Whilst monarchs have purportedly been deposed for these reasons (e.g., Smith & Liebrenz, 2022), to the author's knowledge, involuntary legal or constitutional procedures have not been formally enacted for an elected leader of a democratic state.[1]

In the United States, Watt has examined the corrective mechanism of the Twenty-fifth Amendment to the American Constitution, exploring possible grounds for its implementation (Painter & Watt, 2017). Specifically, Section Four of the Twenty-fifth Amendment enables a vice president and a majority of the cabinet or congress-designated body to declare presidential incapacity, resulting in a vice president becoming acting president. Furthermore, this Amendment also prescribes potential future protocols in cases of disagreement. Previously, the former president, Jimmy Carter, identified difficulties for disability determinations (Carter, 1994) based on this and other areas of this provision have engendered contentious discussions, including around a vice president's role and grounds for obtaining medical opinions (e.g. (Goldstein, 2014; Park, 2001)).

Nevertheless, there has been scant attention to this topic outside of the United States, rendering this an underexamined intersection between psychiatry and the law, especially in Europe. Concerningly, should relevant situations transpire in democratic states, hermeneutic problems could well arise since constitutions and legislation cannot encompass every political or medical eventuality, leaving them open to interpretation (Feerick, 2014). Consequently, clinical, medicolegal, and political ambiguities could conceivably complicate appropriate procedures (Mangione, 2020). These may be increasingly contentious amidst upsurges in tribal and partisan politics (Slothuus & Bisgaard, 2020), past instances where psychiatry was politically misused (Dudley, Silove, & Gale, 2012), and discrepancies between medical and legal definitions of mental health disorders (Schleifer et al., 2022; Walvisch, 2017).

1.2. The current study

Based on this, we sought to investigate the jurisdictional provisions for mental health-related limitations in executive government in the Federal Republic of Germany and the position of the chancellor. In doing so, we are not commenting on any individual's mental health status (current or past), but rather investigating the apposite legal frameworks of this political role; specifically, the applicability of voluntary or involuntary proceedings. With a population of over eighty-four million people, Germany was selected as Europe's biggest democracy and for its influential economic, diplomatic, and security status in the European Union and the North Atlantic Treaty Organization. From a legal perspective, Germany is representative of post-World War Two European constitutionalism, emphasising fundamental rights protection and constitutional supremacy, enforced through a Constitutional Court (Constitution of the Federal Republic of Germany, 1949). Moreover, its focus on robust, strong-form judicial review and enforcement leaves comparatively less space for conventions and informal political processes than uncodified constitutions with more deferential courts (Waldron, 2006).

Below, we outline theoretical constitutional and legal scenarios for mental health-related limitations in the office of the German chancellorship. This supports our subsequent discussion, where we highlight various legal, psychiatric, and ethical considerations.

2. Case example: mental health-related limitations and the position of the German chancellor

2.1. Overview

A chancellor is the head of the Federal Government per article 62 of the German Constitution (*Grundgesetz*) (Constitution of the Federal Republic of Germany, 1949)[2]: their powers notably include advising the president on the appointment and dismissal of all Ministers (Article 64, GC), designating a vice-chancellor (Article 69, GG), and determining overall policy directions of the government (Article 65, GG). Chancellors are elected by a majority of the German Federal Parliament (*Bundestag*) following a presidential proposal and multi-stage voting (Article 63, GG).

A chancellor may lose their office in a range of scenarios, including the constituent meeting of a newly elected Bundestag, voluntary resignation, death, and incapacity (Article 69, GG), alongside dismissal following parliamentary confidence procedures (Articles 67 and 68, GG). In all cases, the end of a chancellorship necessarily entails the fall of the entire Federal Government (Articles 62, 69 section 2, GG). For present purposes, we focus on ineligibility and medical incapacity of a chancellor and their respective consequences including less severe and temporary scenarios, such as a leave of absence, alongside comprehensive and long-term provisions. It is important to note that the applicability of these would be contingent on the context-specific nature of a

[1] Formerly, there have been voluntary resignations and periods of absence. For example, Urho Kekkonen, then Finnish president, stepped down from his position in 1981 purportedly on grounds of ill-health. Although Kekkonen's diagnosis was never publicly disclosed, it is commonly believed that he had dementia, which precipitated a significant cognitive decline (Palo, 1999). In 1998, Norwegian prime minister, Kjell Magne Bondevik, publicly announced he was taking short-term sick leave for depression. After around four weeks, Bondevik returned to work and continued his political career (Jones, 2011). In 2023, Denmark's deputy prime minister also returned from a leave of absence due to stress (Wienberg, 2023).

[2] Hereafter, all references to the German Constitution (*Grundgesetz)* will be noted as follows (Article Number, Section Number, GG).

chancellor's mental health.

2.2. Ineligibility

Ineligibility occurs if an individual does not possess (or subsequently loses) some necessary legal characteristic that forms a condition for their election to the chancellorship. The consequence of ineligibility is that an individual cannot be elected chancellor, or alternatively automatic removal from office; a straightforward example is a chancellor's death. Here, the chancellorship ends immediately (Article 69 section 2, GG) and the president obliges a minister to act as a caretaker until a successor is appointed (Article 69 section 3, GG; Jarass & Pieroth, 2020). The president then initiates election procedures in the Bundestag (Article 63 section 1, GG). As the fall of the government does not alter the balance of power within parliament, it is entirely open to the parties that supported the previous government to elect a different chancellor (usually from the party with the most seats). Alternatively, another configuration of parties may strike a coalition agreement and elect a chancellor from their ranks, provided they secure a parliamentary majority. This process concludes either with the election of a new chancellor by an absolute (or exceptionally: a relative) majority or the dissolution of the Bundestag and a fresh general election.[3]

Ineligibility hinges on whether a chancellor is legally capable of standing for election to public office (*passives Wahlrecht*) Article 38, GC) (Brinktrine, 2021). The constitutional provision is supplemented through the more detailed Federal Election Act (*Bundeswahlgesetz*), which regulates the right to stand for parliamentary elections (Herzog, 2022; Jarass & Pieroth, 2020). Apart from age and citizenship requirements, this provides for a loss of the right to stand on the basis of certain court decisions (§ 15 section 2 (2) Federal Election Act), including those that remove the associated right to vote (§ 15 section 2 (1) in conjunction with § 13 Federal Election Act) (Jarass & Pieroth, 2020). Accordingly, a chancellor may be removed from office as a result of a criminal conviction (§§ 45, 45a, 358 German Criminal Code – *Strafgesetzbuch* – StGB), or following a forfeiture of basic rights procedure before the Federal Constitutional Court (Article 18 GG; Epping, 2018).

Previously, individuals could lose their right to vote (and the associated right to stand) under the Federal Election Act if they were subject to guardianship in all matters (§§ 1896 German Civil Code – *Bürgerliches Gesetzbuch*) or were being treated in a psychiatric hospital following a criminal trial (§§ 63, 20 StGB).[4] Whilst the provisions did not overtly tie ineligibility to medical issues, individuals subject to guardianship or treatment in a psychiatric hospital typically (at least for a time) had a mental illness, or a physical, mental, or psychological impairment. In this context, mental illness encompasses "endogenous and exogenous psychoses as well as personality disorders like psychopathy and neuroses" (2 BvC 62/14, 2019; Grüneberg, 2022).

Yet, in 2019, the Federal Constitutional Court held that these provisions violated the right to vote (Article 38 section 1 (1) GG), breaching equality rights for persons with disabilities (Article 3 section 3 (2) GG; 2 BvC 62/14, 2019). Whilst the Constitutional Court found it reasonable to presume that guardianship typically indicates an inability to participate sufficiently in the "democratic communication process" (2 BvC 62/14, 2019), and hence may justify exclusion from voting rights, the impugned provisions exclusively turned on the formal appointment of a guardian. If, for whatever reason, a guardian was not appointed then an individual retained their voting rights regardless of any medical issues (2 BvC 62/14, 2019). Treatment in a psychiatric hospital was likewise found insufficient: criminal culpability is judged exclusively for the purposes of the offence and does not permit inferences on democratic participation (2 BvC 62/14, 2019).

The Constitutional Court decision does not preclude the introduction of more targeted parliamentary restrictions, but as the law currently stands, medical issues are not a trigger for ineligibility. For this reason, there is no legal requirement or constitutional convention for a chancellor to submit to medical fitness examinations or disclose any health conditions.

2.3. Medical incapacity

Medical incapacity occurs if an individual is unable to perform (temporarily or permanently) some or all of the duties of the chancellorship due to illness or injury. A chancellor does not have a personal physician and is expected to manage their own healthcare needs as a private matter. Chancellors are only consistently attended to by a doctor when travelling abroad on state business; in those cases, the Federal Foreign Office (*Auswärtiges Amt*) typically provide physicians.

With medical incapacity, avenues for removing a chancellor depend on the severity and duration of the incapacity. The general rule is that the fate of the Federal Government is inextricably tied to the chancellor: votes of no confidence are directed against them alone, and a chancellor can only be removed against their will by the Bundestag.

2.3.1. Less severe and temporary

In cases of less severe and temporary incapacity, a chancellor may instruct the vice-chancellor to act as their agent, exercising powers and assuming responsibilities assigned to them (Article 69 section 1 GG; Herzog, 2022; Epping, 2018). In this scenario, a chancellor remains in office and retains their constitutional role, including their ability to appoint and dismiss members of the cabinet and direct the government's overall policy. A chancellor may at their discretion curtail or revoke the agent status of a vice-chancellor at any time and for any reason: there are no formal legal requirements for reassuming some or all powers and responsibilities of the chancellorship; accordingly, this allows for a leave of absence under German law due to temporary incapacity, after which a chancellor is able to resume their duties.

However, under these circumstances there remains one involuntary and two voluntary procedures to remove a chancellor. The involuntary procedure involves a chancellor facing a so-called constructive vote of no confidence: an absolute majority of the Bundestag can at any time and for any reason vote in favour of a different candidate (Article 67 section 1 GG). Should this individual be elected, the current chancellor is dismissed by the president and the new candidate is sworn in immediately.

Additionally, a chancellor may voluntarily leave their office. First, they can simply resign by requesting that the president release them from office, a request the president is obliged to grant (Art 69 GG) (Jarass & Pieroth, 2020). Second, a chancellor is able to request a vote of confidence to test the level of support across the Bundestag (Article 68 section 1 GG). If a chancellor loses this vote, they may request that the president dissolve the Bundestag within twenty-one days, unless a different chancellor is elected in the interim.[5]

2.3.2. Comprehensive and longer-term

Should a chancellor be unable to instruct their vice-chancellor owing to a comprehensive and longer-term medical incapacity, then the precise procedure is unclear; the German Constitution makes no definitive provision. Possible procedures emphasise political and legal mechanisms to different degrees. For instance, Herzog suggests that the vice-chancellor steps in as an agent on their own initiative without any further legal requirements, envisioning an almost entirely political process and placing the decision and associated political risks on the

[3] For more details on the election procedure, see (Theil, 2017).

[4] See the now repealed § 13 section 2 and 3 Federal Election Act.

[5] The other option is a procedure for declaring a 'legislative emergency' with a president and federal council's consent, in order to achieve the passage of certain bills (Article 81 GG).

vice-chancellor (Herzog, 2022). Instead, scholars argue that an affirmative majority vote in the cabinet is required before this happens (Brinktrine, 2021; Hermes, 2015). This process thus provides a legal formality in the guise of a cabinet vote, but ultimately leaves the (political) assessment and decision in the hands of a small group of ministers.

Alternatively, Epping articulates a minority view that a formal legal procedure before the Federal Constitutional Court is necessary before a vice-chancellor may act as an agent: the so-called *Organstreitverfahren* (Epping, 2018). This procedure typically resolves disputes between the highest federal bodies, or elements thereof, for instance between the Bundestag and a parliamentary party (Article 93 section 1 (1) GG). In our scenario, the vice-chancellor would apply to the Federal Constitutional Court to protect their rights under Article 69 GG: specifically, they would claim a right to act as an agent of the chancellor even without formal instruction owing to their comprehensive and longer-term medical incapacity. This would necessitate a legal assessment of the supposed right, as well as the alleged medical incapacity. The Constitutional Court has broad discretion to investigate and establish any legally-relevant facts to its satisfaction (§ 26 section 1 Act on the Federal Constitutional Court –*Bundesverfassungsgerichtsgesetz* – BverfGG; Lechner & Zuck, 2019; Walter, 2022). This includes determining the applicability of submitted evidence, as well as seeking out and weighing evidence autonomously. The Court may invite experts to submit statements (§ 27a BVerfGG) and publishes its reasoned decision following secret deliberations (§ 30 BVerfGG).

Regardless of the process ultimately employed, should a vice-chancellor be confirmed as a general agent, they exercise all powers on their behalf with few legal restrictions (§ 8 Rules of Procedure for the Federal Government – *Geschäftsordnung der Bundesregierung*; Herzog, 2022; Jarass & Pieroth, 2020). By constitutional convention, they must act in a manner consistent with a chancellor's policy agenda and any prior instructions (Herzog, 2022). Crucially, a vice-chancellor cannot initiate the resignation procedure of a chancellor, nor can they test parliamentary confidence in a chancellor (Herzog, 2022; Jarass & Pieroth, 2020). This leaves only a constructive vote of no confidence as an avenue for removal.

3. Analysis and discussion

3.1. Vagueness and the law

Based on the circumstances described above, ill-defined medical and legal interactions may affect the conceptual frameworks used to determine the severity of a chancellor's mental health-related limitations and their short or long-term effects. Similar issues have been noted in relation to the Twenty-Fifth Amendment of the United States' Constitution (Carter, 1994; Feerick, 2014). Cross-jurisdictional debates continue about the medical and legal conceptions of mental health disorders (e.g., Malatesti, Jurjako, & Meynen, 2020). In certain settings, this has engendered shifts from internationally recognised guidelines, including the DSM and the International Statistical Classification of Diseases and Related Health Problems (ICD), to localised diagnostic models (Schleifer et al., 2022). Other medical and legal discrepancies concerning mental illness have been observed elsewhere, such as inherent challenges in classifying mental disorders during legal proceedings (Walvisch, 2017), which can entail adverse implications.

Nevertheless, as a matter of law, vagueness is not inherently problematic. Ambiguous legal norms conceptually apply in some scenarios, clearly do not apply in others, and yield a considerable spectrum of borderline cases. In one sense, this may be viewed as undesirable, rendering the legal outcome more uncertain and risking arbitrary and ad-hoc decisions (Endicott, 2011; Galligan, 1986). For instance, relevant mental health-related limitations may not be specified, and no clear conditions laid out for when medical incapacity rules apply. However, especially at the level of constitutional law, vagueness is an essential feature that has important benefits to those charged with applying and interpreting legal norms. In our view, overly precise legal rules are no panacea and may unduly foreclose desirable legal flexibility in responding to unforeseen scenarios (Endicott, 2011), like the circumstances discussed above. For us, it might also simply be impossible to make provision for all potentially relevant scenarios, thus leaving vague legal norms as the only viable option.

For instance, a hypothetical legal rule that prescribed a list of eligible morbidities and required seven days of serious symptoms before incapacity mechanisms are triggered could lead to undesirable and subjective outcomes. Such a rule would arbitrarily exclude any medical conditions not listed (for whatever reason) and could be overly formalistic because legal effects would only ensue after the prescribed number of days: regardless of whether it is clear on the first day that the officeholder will not sufficiently recover, or conversely, that they will make a full recovery after nine days. The waiting period could thus either be entirely unhelpful or alternatively, even a trivial exceeding of the seven-day timeframe would make all the legal difference. Both outcomes would undermine the rationale for the legal norm in the first place; that being, securing effective administration and continuity of government in cases of medical incapacity.

Owing to these difficulties, constitutional law typically makes only basic provisions. Instead, other non-legal rules, conventions, and procedures fill the gaps. There is accordingly nothing untoward about legal norms relying to a considerable extent on input from outside of the legal system; for example, expert medical evidence and political judgements that determine whether the requirements for medical incapacity have been met and what (if any) democratic accountability mechanisms (e.g., votes of confidence, fresh elections) should be triggered. Admittedly, this does not answer the complex question whether, as a matter of professional ethics, medical experts, particularly psychiatrists, should insert themselves into the political process and on what basis their views should count as compelling evidence. To the extent that the application of legal norms hinges on the views of experts, courts should provide guidelines and standards for the submission of this type of evidence (Schleifer et al., 2022).[6] In our scenarios, we believe this should be contingent on the use of sufficient diagnostic standards that comply with internationally recognised criteria and are themselves the result of meaningful consensus in applicable scientific communities.

3.2. Severity and functional capacity of mental health-related limitations

It is recognised that a substantial proportion of people who experience mental health problems may have difficulties at work, which can include one or more of the following (Hobson & Smedley, 2019): (1) inability to effectively discharge work-related duties under regular or, when relevant, emergency conditions; (2) worsening of mental health issues because of the work environment or the nature of the work itself; and (3) risk to the health and safety of others due to (1) or (2). As a matter of human rights, however, it is accepted that people should not be discriminated against by being denied or deprived of employment solely on the basis of health problems (see the United Nations (UN) Universal Declaration of Human Rights (UN General Assembly, 1948) and the International Covenants on Human Rights, in particular the Convention on the Rights of Persons with Disabilities (UN General Assembly, 2006)).

Legal frameworks for protecting employment-related rights of people with mental health-related limitations differ cross-jurisdictionally, yet the underlying logic remains; assessments to constrain employment-related rights based on mental health problems must be individualised and contextualised (e.g. (Tausig, 1999)). It should not be assumed that people with mental health problems are the same. Instead,

[6] On general requirements for the admissibility of scientific evidence in UK and German courts, see (Theil, 2021).

assessments must be predicated on an understanding of the nature and severity of mental health issues experienced, resulting functional impairments, and the requirements of their work environment. Similarly, it should not be assumed that mental health issues experienced by the person about whom evaluations are being made are complete, that is, that they affect all aspects of occupational functioning, are evident in all physical or social environments, and are irremediable (Glozier, 2002).

Accordingly, we believe that the presence of a psychiatric disorder and a valid diagnosis should not immediately provoke questions about a chancellor's capacity to discharge their duties. Stigmatising paradigms arise when mental health disorders are immediately attached to activity limitations, including the ability to govern (Brendel, 2017). As noted, this is analogous with German law, which does not preclude legal eligibility to run for office based on mental illness, alongside wider UN regulations. Yet, the primary concern of this paper, is the question of whether and how a chancellor should be considered unable to discharge their duties due to mental health-related limitations. In light of our analysis herein, we assume that this issue should only be raised when there is suspicion that a chancellor has (or may have in the future) mental health concerns that cause significant impairments. Thus, we believe it would be helpful to contextualise disorder-based symptoms per their severity and the resulting short- or long-term impact on specific (psychological) functions, activities, and participation (Linden, 2017). This again aligns with the legal argumentation above, and with developing opinions in psychiatric literature (Escorpizo, et al., 2013).

In this regard, studies have illustrated associations between severe mental disorders and poor decision making (Cáceda, Nemeroff, & Harvey, 2014), adverse cognitive functioning (McGurk & Mueser, 2003), and worse role outcomes (Dixon, Goldberg, Lehman, & McNary, 2001). Others have highlighted the importance of analysing functional capacity in relation to occupational competence and participation, particularly for severe morbidities (Harvey & Strassnig, 2012). As such, Linden proposes a capacity–context–interaction model, which foregrounds context-related functioning impairments rather than general notions of disability (Linden, 2017). In our view, together with a symptom-based diagnosis, measuring severity and functional capacity may shape clinical, legal, and political responses.

Validated methods and instruments could substantiate these considerations. For instance, these might include specialised self-reporting measures (Sandin et al., 2021), which have shown efficacy in severity classifications for certain disorders. Equally, self-assessment tools incorporated within standardised diagnostic manuals could provide further context for disorder-based symptoms and jurisdictional questions about functional impairment. To that end, the ICD-11 encompasses the World Health Organization's International Classification of Functioning Disability and Health (ICF) (Harrison, Weber, Jakob, & Chute, 2021) as a culturally independent mechanism for functioning evaluations, and the DSM-5 comprises the World Health Organization Disability Assessment Schedule 2 (WHODAS 2.0) (Gold, 2014). These instruments have shown robust psychometric properties and reliability (Cieza et al., 2009; Gold, 2014).

However, the applicability and complexity of the ICF and WHODAS 2.0 have been previously criticised in psychiatric practice (Álvarezz, 2012; Gold, 2014). As such, a clinician-led tool like the Mini-ICF-Rating for Mental Disorders (MINI-ICF-APP), as adapted from the ICF, might also prove beneficial (Linden, Baron, Muschalla, & Molodynski, 2014). With good internal consistency (Molodynski et al., 2013), the MINI-ICF-APP provides capacity assessments based on specific role responsibilities and participation criteria across 13 traits related to functional capacity. Namely: (1) adherence to regulations and routines; (2) planning and structuring of tasks; (3) flexibility; (4) competency/efficacy; (5) endurance; (6) assertiveness; (7) contact with others; (8) group integration; (9) family and intimate relationships; (10) leisure activities; (11) self-care; (12) mobility; and (13) competence to judge and decide (Egger, Weniger, Bobes, Seifritz, & Vetter, 2021). Instruments which assess functional capacity could help clarify medical, legal, and political discussions, especially given the inherent vagueness of constitutional provisions on this matter in Germany, as we have illustrated.

With the composite duties of political leadership, one can hypothesise that impairments within specific functional capacity domains from the MINI-ICF-APP may be more pertinent in our scenarios; for example, (4) competence/efficacy and (13) competence to judge and decide will likely have greater significance for role responsibilities in governance than (10) leisure activities. Efforts are underway to tailor functional capacity evaluations to distinct professions (Muschalla, 2019), but additional research is needed to define this in relation to national leadership, exploring how medical and legal conceptions of health-related limitations may be affected.[7] Still, using diagnoses as entry criteria for functioning assessments may avoid stigmatising paradigms and crucially, help uphold scientific validity (Linden, 2013) in determining the applicability of temporary or permanent changes to the chancellorship.

That said, it remains unclear how the necessity of an assessment of functional capacity would materialise and who would order/conduct this evaluation, alongside the conditions for a return to work should a temporary removal occur, including the notion of reasonable accommodation arrangements; these are not provided for in German law relating to a chancellor. Correspondingly, further questions may arise as to a chancellor's employment status and how this could affect work-related functional capacity determinations within this framework. As we have noted, a chancellor has specific constitutional duties, including serving as head of the federal cabinet (Article 65 GG) and commander-in-chief during times of war (Article 115b GG). Moreover, the German Constitution defines the parliamentary process for appointment election to the position (Article 63 GG) and it comes with a salary, pension, and other benefits. In our view, then, we believe that general legal principles relevant to the consideration of the competency of a chancellor are the same as for other civil servants, and, in the absence of explicit law to the contrary, decisions should be guided by the same legal and clinical frameworks.

Nevertheless, these questions and considerations all represent significant ambiguities in this intersection between psychiatry and the law, which could provoke inherent issues if relevant situations ensue. Consequently, additional clarifications involving interdisciplinary and interprofessional exchanges around the chancellor's employment status may be warranted, drawing upon expertise from legal disciplines, forensic psychiatry, forensic psychology, and work and organisational psychology, amongst other domains. Specifically, this latter field provides mechanisms for evaluating individual performance at work, which could be adapted to political roles, helping ensure occupational assessments are not only accurate but also contextually relevant. Such epistemological contributions could uphold the concept of reasonable accommodation arrangements, which is central to workplace responses to employees' needs in different national contexts, like the UK (e.g., (Petty, Tunstall, Richardson, & Eccles, 2023)). Thus, drawing parallels between a chancellor's political role and learnings from other vocational areas could help advance future considerations and interpretations of this issue. However, any formal initiatives in this regard would require substantial deliberation and potential legal modifications, especially given the distinctive nature of a chancellor's elected role, which is a public service position rooted in constitutional law.

3.3. Professional ethics in psychiatry

In the scenarios we present, a psychiatrist could have numerous responsibilities that necessitate sustained interactions with the political sphere, ranging from initial diagnosis through to ongoing expertise

[7] For example, in the context of psychopathy, Lilienfield et al. identified beneficial psychopathic traits for successful leadership, including crisis management and interpersonal behaviours, amongst others (Lilienfeld et al., 2012).

requested by legal specialists, politicians, or court actors. Here, the plurality and opinion-oriented nature of political discourse and democratic systems means that potential prejudices or conflicts of interest may transpire. Given past instances of the political misuse of psychiatry (e.g., Dudley et al., 2012), such issues could be more contentious. One plausible scenario is that a chancellor is being attended to by a psychiatrist who holds divergent political ideologies or supports a different political party. These attitudes could provoke biases and impinge upon their clinical judgement. Specifically, biases can affect the therapeutic relationship, undermining diagnostic objectivity and treatment approaches (Yager, Kay, & Kelsay, 2021), or influence forensic mental health assessments (Zapf, Kukucka, Kassin, & Dror, 2018); the latter might be requested by the German Constitutional Court. Biases can often be unconscious and thus difficult to mitigate against (Goldyne, 2007), including political opinions. Nevertheless, it should be acknowledged that in other jurisdictions, protocols have been established to uphold ethical commitments to provide medical care. For example, occupational physicians from local healthcare facilities are available to UK politicians in parliament (Jacobs, 2012). Similarly, the US has an office of an attending physician appointed by the president from a shortlist of three nominees assigned by the US Navy with responsibility for emergency care of members of congress, senators, and Supreme Court justices (Office of Attending Physician Independence Act, 2021).

Additionally, a chancellor's healthcare situation and medical obligations to uphold patient confidentiality may elicit constitutional and legal issues that impinge upon professional ethics. As noted, a German chancellor is expected to handle their own health affairs as a private matter and there is no tradition of providing publicly accessible updates on their medical status (unlike the US for example). Further, under current legal provisions, neither a chancellor, nor their physician, has any duty to openly provide medical information.[8] Resultantly, it is conceivable that a chancellor either alone, or through consultation with their party, may not wish to disclose a psychiatric diagnosis for fear of political fallout; past incidents like this have occurred in different countries, causing socio-political and legal issues when health-related limitations were subsequently divulged (e.g., Crispell & Gomez, 1988; Mangione, 2020; Palo, 1999). This could have material outcomes in Germany, where the Federal Government is inextricably tied to a chancellor's position.

Pressures to not disclose relevant issues could potentially be exacerbated by wider societal and political attitudes. Prior findings about German public perceptions of mental illness indicated that stigmatisation represented a major societal issue (Angermeyer, Matschinger, Carta, & Schomerus, 2014). Although recent studies note that stigmatisation has decreased in Germany, personal attitudes towards people with psychiatric disorders either remain unchanged, or may have even worsened (Angermeyer et al., 2014). Additionally, whilst the historical precedent of the Norwegian Prime Minister, Kjell Magne Bondevik, showed that the public were largely supportive of his leave of absence for depression, Bondevik faced some questions about his capacity to hold political office (Karacs, 1998). Correspondingly, Thompson has illustrated the enduring "taboo" of mental health disorders within political discourse (Thompson, 2015). Despite this, there have been examples of open debates around mental health in politics, which may reflect broader opinions. Notably, several UK politicians shared their experiences of mental health conditions and elicited a positive reception (Jacobs, 2012), as more recently have US politicians and parts of the media after Senator John Fetterman received in-patient treatment for depression in 2023 (Stolberg & Barry, 2023).

Deliberate non-disclosure for political reasons could create significant ethical issues for a psychiatrist, engendering philosophical conflicts between patient confidentiality and the medical "duty to warn" (Gartner et al., 2018). This may be particularly pertinent if symptom severity increases, thereby affecting functional capacity and exacerbating possible socio-political implications. To the authors' knowledge, the German Association for Psychiatry, Psychotherapy and Psychosomatics has not developed a firm position on public commentary (Smith et al., 2023). Therefore, a psychiatrist may not be committing an ethical transgression per localised guidelines for raising open concerns. Nonetheless, in an international context, ambiguities remain as to whether it would be ethically and morally justifiable to reveal a diagnosis in these circumstances. This goes beyond the scope of this paper, but it provides a theoretical test-case for debates around the APA's Goldwater Rule, encapsulating conflicts between confidentiality in the therapeutic relationship and notions of public interest (Smith, Bhugra, Van Voren, & Liebrenz, 2023).

Alternatively, there may be additional duties for psychiatrists should mental health-related limitations be publicly revealed. For example, possible cabinet votes or constructive motions of no-confidence could ensue in the Bundestag, thereby requiring members from across the political spectrum to resolve the question of executive authority. Here, narratives and decision-making may be motivated by confidence in a chancellor's medical status rather than confidence in their political programme. Although general awareness about mental health in politics is growing and symptoms are increasingly being openly discussed (e.g., (e.g., (Jacobs, 2012; Stolberg & Barry, 2023)), certain politicians may still lack psychoeducation and detailed expertise about mental illness (Jenkins, 2013). Thus, discrepancies could evolve between medical and legal conceptions of mental health-related limitations, and how these might be further construed within the political framework of a confidence vote.

Consequently, as we have suggested, objective and holistic clinical guidance about a chancellor's mental health status and capacity to govern would be critical in informing apposite political interpretations or proceedings. Correspondingly, public interest would likely be considerable, and the media may ask psychiatrists to provide comment. Here, specialists could fulfil an advocacy role, helping to educate the public about clinical concepts, including aforementioned issues like functional capacity. In a different context to us, Smith has provided a useful blueprint of "public psychiatry", which could be relevant in these scenarios (Smith, 2008). Yet, again, ethical problems could emerge if professional engagement extended beyond general public education to hypothetical diagnoses without consent.[9]

Generally, more research is needed on patient confidentiality and mental health, and how these interact with democratic politics. For us, these discussions require immediate attention; public opinion can be disproportionately shaped by psychiatrists transgressing ethical guidelines to provide open commentary, whilst the majority abide by professional regulations (Appelbaum, 2017). Transparency about the medical status of politicians has stimulated lively debates across academic and wider discourse. Some have asserted the public's "right to know" (Streiffer, Rubel, & Fagan, 2006), with calls to establish independent commissions to assess politicians' medical capacity (Gilbert, 2003). Others attest that open disclosures can hinder help-seeking behaviours (Annas, 1995). From a psychiatric perspective, additional transparency through personal disclosures or clarifications of legal procedures might help allay ethical concerns. For instance, Ingersoll has outlined how psychiatric fitness-for-duty examinations may have an important role in the political sphere (Ingersoll, 2023). Nevertheless, we believe that this should not be detrimental to an individual's wellbeing.

[8] Recently, these conventions were scrutinised when the health of former chancellor, Angela Merkel, became a topic of sizable interest amongst the German public and media outlets (Chazan, 2019).

[9] Corresponding societal debates arose when medical practitioners provided speculative opinions on Angela Merkel's health in the German press, leading to criticism from media commentators (Stokowski, 2019).

4. Conclusion

The intersection between psychiatry and democratic governance, specifically regarding mental health-related limitations in political leaders, remains largely underexamined. By exploring judicial scenarios in the context of the German chancellorship as an example, we highlighted relevant legal, clinical, and ethical complexities that may arise. For us, given the potential consequences of mental health-related limitations in political leadership, it is imperative that we enhance our understanding in this area. This may involve additional exchanges between policymakers, alongside interdisciplinary dialogues between psychiatrists, psychologists, legal scholars, and political actors. Additionally, promoting psychoeducation and conducting further research in other democratic nations will contribute to a broader international understanding and could facilitate valuable knowledge exchanges. In our view, better aligning legal and clinical procedures with the potential challenges posed by mental health-related limitations could help safeguard the integrity of democratic governance and civil society.

Funding

No funding was received for this paper.

Declaration of Competing Interest

The authors have no competing interests to declare.

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