

# The debate on assisted dying—how can we assess the competing claims?

September 25 2017, by Ben White, Andrew Mcgee And Lindy Willmott

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Assisted dying in Australia is no longer a matter of "if" but "when". Will the "when" be 2017 through the Voluntary Assisted Dying Bill likely to be tabled in the Victorian parliament this week?

The politics of assisted dying are notoriously unpredictable, and how our

politicians ultimately vote may turn on last-minute lobbying. However, a robust process to develop the bill, coupled with government and high-profile political support, means reform is a real possibility.

As with [previous Australian assisted dying bills](#), Victorian parliamentarians have been offered a conscience vote. As politicians ponder how they will respond, interest groups on both sides of the debate are lobbying fiercely. MPs are being provided with a range of conflicting information about how assisted dying regimes operate overseas and the risks or benefits of these regimes.

How can politicians sift through and assess these competing claims?

## **Claims about facts or about morals**

A starting point is to distinguish between claims that something should or should not happen (a moral claim about right and wrong), and claims that something is or is not happening (a factual or empirical claim). This distinction matters, because what justifies each type of claim is different.

For example, a claim that the bill should not be enacted because it is wrong for doctors to be involved in deliberately bringing about the death of a patient is a moral claim. This moral claim is based on values – that killing a person is always wrong, and/or it is wrong for doctors to be involved in such a practice.

Politicians should ask those making such claims what values they are relying on. This allows them to assess if those values are justifiable in contemporary Australia, recognising that our society respects a plurality of viewpoints.

On the other hand, a factual (or empirical) claim depends on [evidence](#).

For example, a claim that vulnerable people will be at risk if the bill is enacted is a factual claim. This claim should be supported by evidence, and politicians should ask the claimant for that evidence.

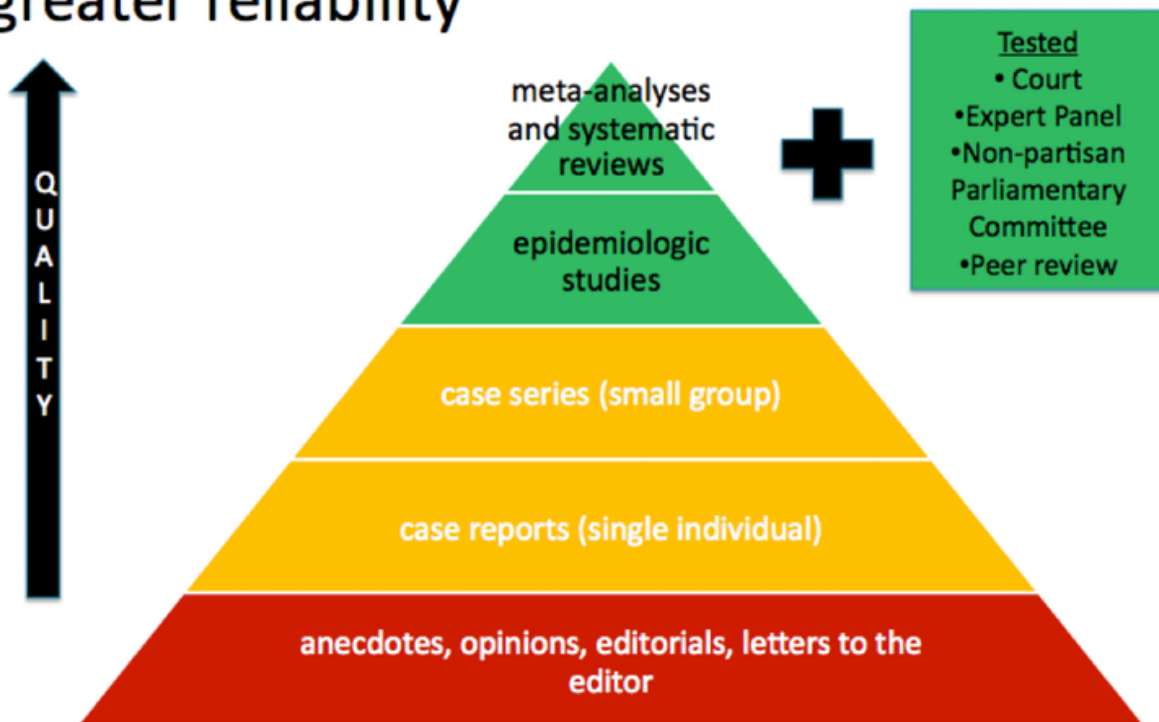
## **Is the evidence reliable?**

If no evidence is provided for a factual or empirical claim, it should be ignored. If evidence is provided, the question then becomes: how reliable is it? There are established ways to evaluate evidence, as shown by the pyramid below.

Key considerations are how high up the pyramid of quality the evidence is, and whether it has been robustly tested. An example of low-quality evidence is anecdotal evidence, which hasn't been independently verified, about a small number of cases in an overseas assisted dying regime.

At the other end of the spectrum, high-quality evidence could be a peer-reviewed systematic review that analyses all existing research to determine what sorts of people are receiving assistance to die in a particular country.

Higher up pyramid + tested =  
greater reliability



End of life law and policymaking in Canada. Credit: Health Law Institute, Dalhousie University

### **Politicians must also support their claims**

In putting forward their views on assisted dying legislation, politicians are also making claims. This means the arguments outlined above apply to them too.

Politicians making a moral claim can rely on different values and so reasonably reach different conclusions on the permissibility of assisted dying. If so, they should be transparent about this, making clear their

values and why they believe in them.

Importantly, they should not confuse the issue by cloaking value claims as empirical or factual claims. For example, a [politician](#) should not claim that safeguards cannot stop inappropriate use of assisted dying regimes (a factual claim) if their real concern is a principled one (based on values) that killing is always wrong.

Likewise, with empirical claims, politicians must not only test the evidence that is presented to them, they must also satisfy themselves of the reliability of the evidence they are relying on.

Fortunately, there is a significant body of reliable evidence that examines how assisted dying regimes in other countries work that can inform these assessments. We invite politicians to critique this evidence for themselves, but here we tackle two empirical claims that are commonly made in the debate.

## **Two common empirical claims**

The first claim is that safeguards cannot protect the vulnerable in society. But a reliable body of [peer-reviewed evidence](#) now demonstrates that assisted dying regimes are not disproportionately used by vulnerable groups. The available body of peer-reviewed research was further tested by the [courts in Canada](#), and upheld by the [Supreme Court](#), which concluded that it was possible to design a regime that adequately protects the vulnerable.

Those making claims contrary to this established body of reliable evidence need to provide their high-quality evidence in support of their position.

The second common claim is that the law will inevitably expand over

time to allow new and broader groups to have access to assisted dying. But this factual claim doesn't reflect what has happened elsewhere. There have been virtually no changes in the regimes that permit assisted dying overseas.

The best comparison for the proposed Victorian model is [Oregon](#), as it permits only physician-assisted suicide (a doctor prescribes medication to a person, who must then take it themselves). Oregon's law has not changed in the 20 years it has been in operation.

A limited exception to this trend is Belgium. In 2014, it extended its laws to permit assisted dying for competent terminally ill people under the age of 18 in restricted circumstances. But this expansion of law has been [very limited](#), with only two young people using it in the three years since.

As the Victorian bill is tabled in parliament, we will continue to hear claims about assisted dying in the media. No doubt many such claims will also be made to politicians behind closed doors.

As informed members of the public, we must closely analyse these claims. It is even more important that our politicians do the same. They should recognise moral claims for what they are – claims underpinned by personal values. And they should challenge those who are making factual claims to name the evidence, then test how reliable that evidence is.

Important issues are at stake, and lazy debate and discussion should not be permitted.

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