

# What counts as proof?

## Litigation, research, and evidence

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# Types of evidence in social science



## Anecdotal evidence:

weak support for an argument, but powerful as a counterexample; often a single case, or several cases; not representative and not robust.



## Testimonial evidence:

moderate support for an argument with rich empirical evidence collected using robust methods: interview or observation data; never representative, but it does represent complexity.



## Statistical evidence:

moderate to strong support for an argument with large data collected using robust methods to summarise general trends or characteristics; simplifies complexity, but it can be representative.



## Analogical evidence:

strong support for an argument by a comparison to a known case; good to illustrate casual mechanisms in new examples of something already known, but hardly constitutes a hard proof.

# Anecdotal evidence: immigration exemption litigation

- **Claimants:** the Open Rights Group and the3million.
- **Argument:** the immigration exemption under Schedule 2 of the DPA 2018 is incompatible with Article 23 of the UK GDPR.
- **Evidence:** a failed challenge in October 2019 pushed the Home Office to reveal it applied the exemption in 66% of data requests by migrants, without informing the relevant data subjects.



# Testimonial evidence: deprivation of pre-settled status litigation

- **Claimants:** the Independent Monitoring Authority; intervention by the EUCO and the 3million.
- **Argument:** the loss of pre-settled status for failing to apply again for settled status is incompatible with the UK-EU Withdrawal Agreement.
- **Evidence:** the 3million were not allowed to introduce new evidence, but were allowed to provide a witness statement... with some footnotes!



# Statistical evidence: denied my vote litigation

- **Claimants:** the 3 million and 6 individual co-claimants.
- **Argument:** the UC1 process is unlawful and ought to have been changed after 2014 EP elections; and the Cabinet Office rather than Electoral Officers responsible.
- **Evidence:** a questionnaire mailed out to over 300 EROs and the first 100 responses analysed; a survey completed online by 182 claimants to determine 4 claimant types.

