

Legal Research and Interpretation Methodology

Lecture Title: What is Legal Research?

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Diploma in Law (Malta)



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How would you define research?



What is Research?

- Multiple definitions
- Concise Oxford Dictionary - The prefix in the word research means repeated, frequent or intensive. Meaning that research is continuous
- Webster's International Dictionary:

Research is a careful, critical inquiry or explanation in seeking facts or principles. It is a diligent investigation to ascertain something

- Collins Dictionary definition:

"Research is work that involves studying something and trying to discover facts about it"

- American Sociologist Earl Robert Babbie:

"Research is a systematic inquiry to describe, explain, predict, and control the observed phenomenon. It involves inductive and deductive methods". Inductive research methods analyze an observed event, while deductive methods verify the observed event. Inductive approaches are associated with qualitative research, and deductive methods are more commonly associated with quantitative analysis. Collins Dictionary definition:



What is Research?

- Aimless, unrecorded, unchecked research which cannot lead to valid conclusions is not research.
- Valid research is systematic (well planned/ organized) meaning it involves the selecting, collection and managing of the best available evidence/facts for research, according to a defined, planned and consistent method.



What are the characteristics of research?

1. Good research follows a systematic approach to capture accurate data. Researchers need to practice ethics and a code of conduct while making observations or drawing conclusions;
2. The analysis is based on logical reasoning;
3. Real-time data and knowledge is derived from actual observations in natural settings;
4. There is an in-depth analysis of all data collected so that there are no anomalies associated with it;
5. It creates a path for generating new questions. Existing data helps create more research opportunities;
6. It is analytical (critical thinking) and uses all the available data so that there is no ambiguity in inference;
7. Accuracy is one of the most critical aspects of research. The information must be accurate and correct. For example, laboratories provide a controlled environment to collect data. Accuracy is measured in the instruments used, the calibrations of instruments or tools, and the experiment's final result.



Why is research important?

- It's a tool for building knowledge and facilitating learning about a phenomenon, situation, or behaviour under study
- To test existing theories and to develop new theories on the basis of existing ones;
- To answer different questions of “how”, “what”, “which”, “when” and “why” about a phenomenon, behaviour, or situation;
- It allows us to disprove lies and support truths
- It contributes to existing knowledge e.g. historical events are continuously revised and reviewed on the basis of research



What is Methodology?

- Methodology is the beginning of research
- It is the technique/ strategy on how to conduct research
- Applied at the initial stage
- It is the approach to be used for writing research papers
- Research methods are only a small portion of research methodology. Methodology includes the processes, the methods refer to the actual steps you take throughout your research to collect and analyze data. The methodology serves as a summary that demonstrates the validity and reliability of your methods, while the methods you detail in this section of your paper are the scientific approaches to test and make conclusions about the data you study.
- It is a study comprising of not only research methods but also an explanation and justification for using certain research methods and of the methods themselves i.e. their application in a given situation and validity for the research problem at hand
- Format - methodology usually appears at the beginning of your paper and looks like a summary or essay in paragraph form detailing your research validity, process and rationale.
- The content within your entire methodology focuses on delivering a concise summary of your research, approaches and outcomes. Therefore, the content of your methodology includes all aspects of performing your studies.
- Concise: It is a set of rules of procedure about the way to conduct research
- It covers also relevancy and efficiency of the research methods, the logic behind



What is Methodology?

- C R Kothari definition:-

The scope of research methodology is wider than that of the research methods. Thus when we talk of research methodology we not only talk of the research methods but also consider the logic behind the methods we use in the context of our research study and explain why we are using a particular method or technique and why we are not using others so that the research results are capable of being evaluated either by the researcher himself or by others. Why a research study has been undertaken, how the research problem has been identified, in what way and why he hypothesis has been formulated, what data have been collected and what particular method has been adopted, why particular technique of analyzing data has been used and a host of similar other questions re usually answered when we talk of research methodology concerning a research problem or study



Advantages of research methodology

- Helps the researcher to formulate his research problem in an intelligent manner
- Instills objectivity in the research problem and in the seeking of the solution
- Research is conducted in an efficient manner
- Enables to take rational decisions at given research stages
- Enhances ability to analyze and interpret data with objectivity
- Leads to good and confident research



Methodology Example

- *This research paper explains the psychological and emotional effects of a support program for employees with mental illness. The program involved extended and individualized support for employment candidates through a job support agency that maintained contact with candidates after initial job placement to offer support in various ways. I used a 50% random sampling of individuals who took part in the support program through the job support agency between April and October, and who fit the study criteria I developed from previous and similar studies*
- *My team and I randomly assigned the resulting 350 cases to either the treatment group or the control group, which comprised life skills development and employment training within an in-house workshop environment. My team and I measured all 350 participants upon intake and again at the 90-day threshold of employment. The psychological functioning and self-esteem measurements we used provided significant data on the effects of treatment within both measures, including opposing outcomes that differed from our initial hypothesis.*
- *We found through our research that instead of improved function and higher self-esteem, the individuals within the treatment group displayed lower levels of cognitive and emotional function and lower self-esteem. These results led my research team and I to conclude that individuals who work in roles they find unfulfilling often experience significant decreases in performance due to higher job stress and diminished emotional wellbeing, regardless of their mental health conditions.*

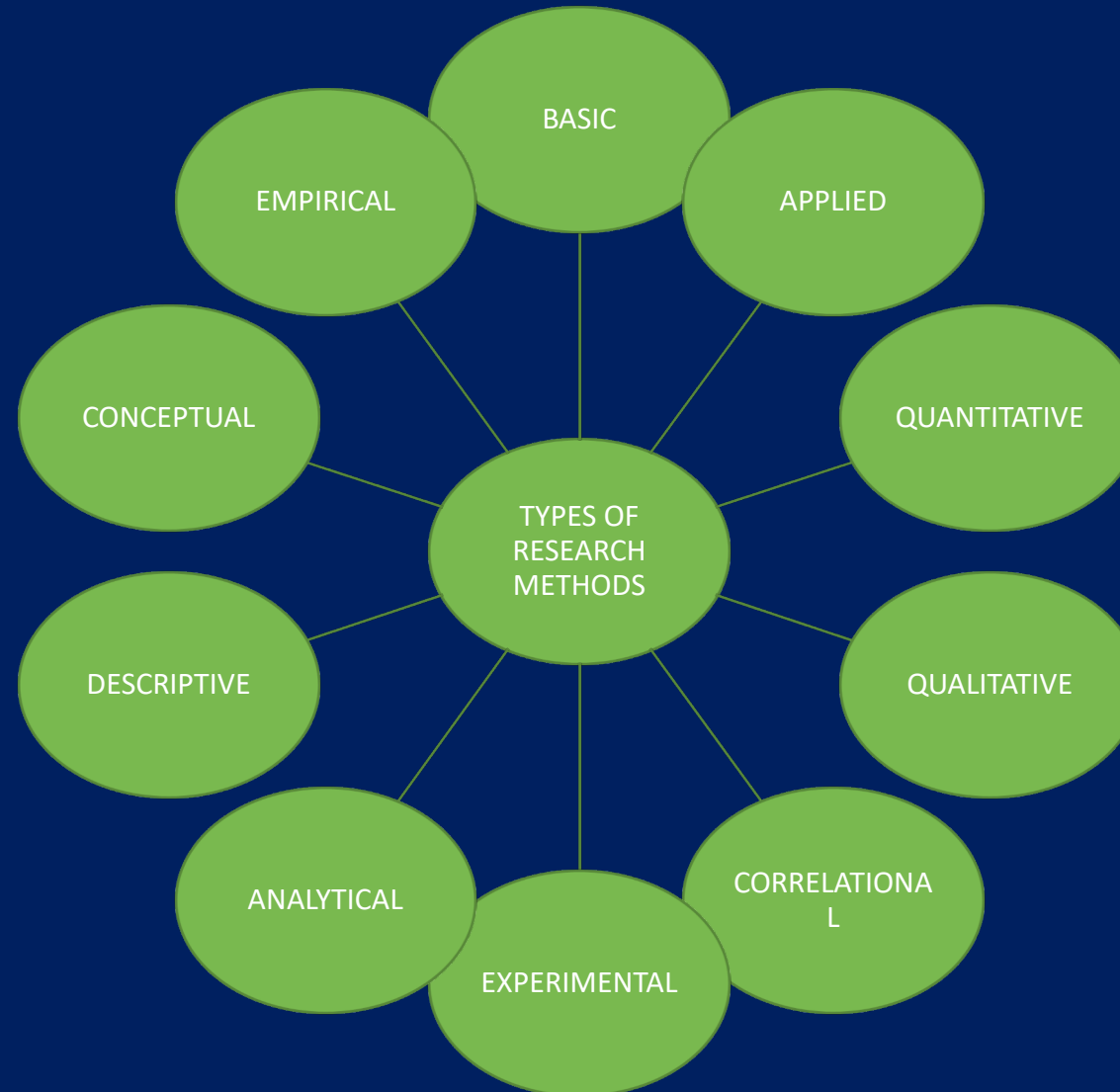


What are Research Methods?

- Research methods are the actual methods/ techniques/ tools to be used in conducting the search and collecting data
- It is the process used for collecting information
- Different methods can be selected e.g. experimental
- Research methodology is the beginning. Research methods are applied at a later stage



Types of Research Methods



Types of Research Methods

- Descriptive vs Analytical
- Basic/ Fundamental vs Applied
- Qualitative vs Quantitative
- Correlational vs Experimental
- Empirical vs Conceptual



Types of Research Methods – Basic

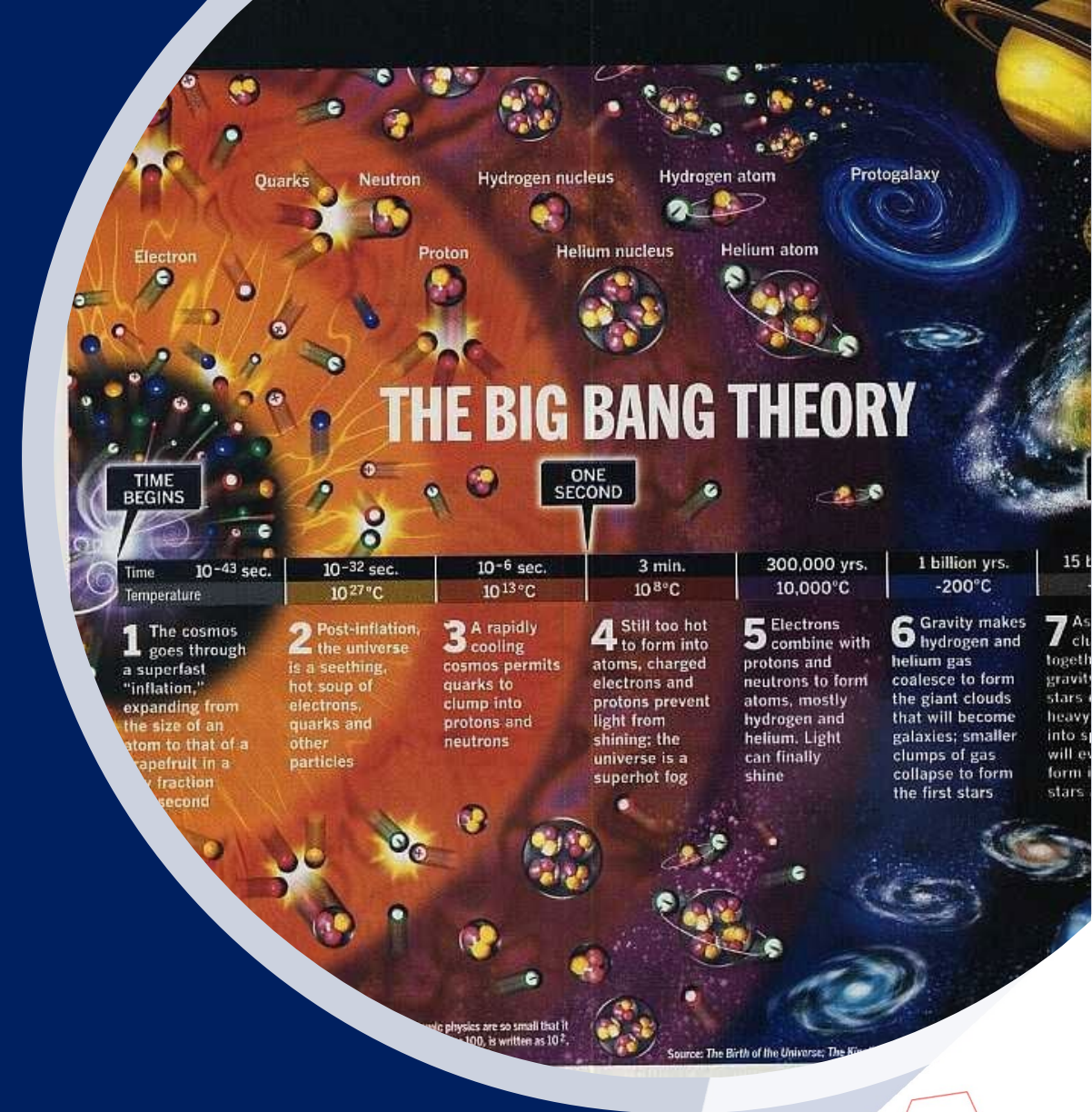
- *Pure/Basic Research Method*

- The foundation of research
- Most basic and fundamental examination
- Primary aim is to gain a better understanding of a subject or extend information
- Generic



Types of Research Methods – Basic

- *Q: How did the Universe begin?*
- *Q: What are the symptoms of Covid-19?*



Types of Research Methods – Applied

- Basic research is the foundation of applied research
- Applied research is designed to answer specific questions aimed at solving the problem in question



Types of Research Methods – Applied

- Basic: What is Cholesterol?
- Applied: How to reduce cholesterol?

My doctor told me to watch my cholesterol. So now I stare at my French fries for a few seconds before I eat them.

twaxine.com



Types of Research Methods - Descriptive

- Describes the current state of affairs
- Reports what has happened or what is happening
- It does not delve into the causes of the situation
- evokes a particular person, place, thing
- recounts what happened
- only explains a theory and gives no opinion

E.g. How much/ how many/ how regularly/ what percentage/ what time? Census



Types of Research Methods – Analytical

- Use already available facts/ information available, analyze and provide a critical evaluation of the facts
 - evaluates strengths and weaknesses
 - makes reasoned judgments
 - draws conclusions
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- Ideal for legal writing



Descriptive Writing	Analytical writing
States what happened (the event).	Explain what the impact of the event was (especially in relation to the research question/s).
Explains what a theory says.	Explains how this is relevant to the key issue(s) and research question(s).
Notes the methods used.	Explains whether these methods were relevant or not.
States what time/date something happened.	Explains why the timing is important/relevant.
Explains how something works.	Explains whether and why this is positive or negative.
Provides various pieces of information.	Draws a conclusion in relation to the various pieces of information.



Descriptive or Analytical?

Text A

According to the trait theory of leadership, some people are better suited to leadership because they are born with particular qualities and characteristics. This theory is likely to have stemmed from the work of Galton (1869) who argued that the qualities necessary for effective leadership are naturally endowed, and therefore only passed on through genetics. This idea was popular until the 1950s when it was thought to be too limited in its explanation of what makes a good leader (Zaccaro, 2007). The theory regained popularity in the 1980s, after new research highlighted the importance of personality traits in successful leadership. A five-factor model of personality has been developed to outline what these favourable personality traits are. They include: neuroticism, extraversion, openness to experience, agreeableness, and conscientiousness (Digman, 1990). The degree to which these five factors are present in an individual can be used to predict whether someone will emerge to be a leader, and how effective their leadership will be (Judge et al., 2002).

Text B

The trait theory of leadership indicates that some people are better suited to leadership because they are born with particular personality traits. Although it is unlikely that genetic factors alone influence leadership ability, this theory is nonetheless a useful tool for predicting whether someone will emerge to be a leader, and how effective their leadership will be (Judge et al., 2002). A five-factor model of personality has been developed to outline what these favourable personality traits are. They include: neuroticism, extraversion, openness to experience, agreeableness, and conscientiousness (Digman, 1990). While application of the theory is useful for assessing the relationship between personality and leadership, it does have limitations. Firstly, to determine the degree to which these traits are present to an individual, a self-evaluation of personality is carried out. To make the assessment more objective, observer ratings should also be included (Colbert et al., 2012). The main limitation, however, is that trait theory does not consider the extent to which developing and honing one's natural abilities make a person a good leader. Innate personality characteristics are undoubtedly necessary for successful leadership, as trait theory suggests, but a leader must be able to take advantage of and develop their natural traits.



Types of Research Methods – Quantitative

- Quantitative research is the process of collecting and analyzing numerical data
- It deals in numbers, logic, and unchanging data
- Eliminates bias
- Narrow Questions
- Used for surveys and statistics
- Objectivity



Types of Research Methods – Qualitative

- Qualitative research involves collecting and analyzing non-numerical data (e.g., text, video, or audio) to understand concepts, opinions, or experiences.
- It can be used to gather in-depth insights into a problem or generate new ideas for research
- It includes interviews, case studies, narrative research
- Generic questions
- Subjectivity / biased



Quantitative Methods



Qualitative Methods



Types of Research Methods – Correlational

- The study of the relationship between variables
- It involves making connections between variables and looking at statistical patterns
- Used to determine the level of association between variables
- No manipulation of variables – Just look at the data that already exists
- 3 types of correlational research:
 - i. Observation
 - ii. Archival Research
 - iii. Survey

E.g. The more time you spend running on a treadmill, the more calories you will burn



Types of Research Methods – Experimental

- A method that tests a hypothesis using controls and manipulations of variables
- Experiment with variables
- Cause and effect
- *E.g. In order to test the effects of a new drug intended to treat a certain medical condition like dementia, if a sample of dementia patients is randomly divided into three groups, with the first group receiving a high dosage of the drug, the second group receiving a low dosage, and the third group receives a placebo such as a sugar pill (control group), then the first two groups are experimental groups and the third group is a control group. After administering the drug for a period of time, if the condition of the experimental group subjects improved significantly more than the control group subjects, we can say that the drug is effective. We can also compare the conditions of the high and low dosage experimental groups to determine if the high dose is more effective than the low dose.*



Types of Research Methods – Conceptual

- Is research that relates to abstract concepts and ideas. It doesn't involve practical experimentation but instead relies on the researcher analyzing available information on a given topic.
- Example: Sir Isaac Newton observed his surroundings to conceptualize and develop theories about gravity



Types of Research Methods – Empirical

- Empirical research is based on experience
- Data based with conclusions that can be verified or experimented
- It involves observation, induction (start from specific point and then draw a conclusion) / deduction (assumption and then arrive to a conclusion), testing and evaluation

- E.g. The growth of a plant is measured daily over the year.



What is Legal Research?

- S.N. Jain, Legal Research and Methodology definition:-
- *Legal research can be understood as a systematic finding or ascertainment of law on an identified topic or in a given area as well as an inquiry into law with a view of making advancement in the science of law*
- Blacks Law Dictionary definition:-
- *The finding and assembling of authorities that bear on a question of law*
- It entails the finding of particular laws in a cast mass of statutes which are constantly amended, introduced and repealed to the facts of your case. It also involves the finding of legal principles which do not emanate from law but emanate from out sources e.g. judgments



What is Legal Research?

- S N Jain, Legal Research and Methodology

Research may be defined as systematic fact finding (i.e to find what the law is on a particular point) and advancement of the science of law. In a strict sense, legal research is understood as limited to those works which contribute to the advancement of legal science (i.e. excluding such materials as text books and case books etc). This is a too narrow a view of research and we need not adopt such a restricted definition of legal research. Even the fact finding is not as easy as it may seem. First, a researcher has to go into the different statutory provisions and the rules made thereunder. Secondly, he may have to examine the mass of case-law which may have accumulated on the point in issue, and it is not an easy matter to derive a clear-cut legal proposition from the tangled mass of case-law.

To advance the science of law, it is necessary for a researcher to go into the underlying principles or reasons of the law. The enquiries will have to be: Why a particular rule? What led to its adoption? What are its effects? Whether it is suited to the present conditions? How can it be improved? Whether it needs to be replaced entirely by a new rule?



Purpose of Legal Research

- Law does not exist in a vacuum. It reflects the attitudes and behavioral norms at a given time. Since laws are enacted based on the current social contexts they are subject to change.
- Legal research becomes essential for ascertainment of law, to point out ambiguities and weaknesses of law, to critically examine the laws in order to ensure coherence, consistency and stability of law and its underlying policy, to conduct a social audit of the law, and to suggest reforms in the law



Purpose of Legal Research – Introductions and Reforms

- Article 338(s) Chapter 9 (enacted in 1856 and amended in 1905. Still enforceable):
 - *Drives animals (whether of burden or riding animals) over a drawbridge, with or without a vehicle, otherwise than at an amble*
 - *Isuq bhejjem (tat-tagħbija jew tar-rkib) fuq pontijiet li jintrefgħu, bil-vettura jew mingħajrha, xort'oħra milli bil-pass*



Purpose of Legal Research – Introductions and Reforms

- *DECriminalIZATION OF SLANDEROUS WORDS WRITTEN ON SOCIAL MEDIA*
- In 2015 magistrate Joseph Mifsud appealed to Parliament to decriminalise defamation, noting the contradictory situation in Malta which embraced freedom of expression but also punished certain instances where views were aired publicly.
- March 2017 – Minister for Justice Dr Owen Bonnici proposed a bill of newly-amended laws that regulate media and defamation, stating that 'journalists have [now] been given new liberties'. Amendments aimed to protect journalists are applicable also to all those persons who broadcast information through various media sources
- May 2018 – decriminalisation of offence meaning that slanderous words written on social media do not attract criminal liability (not civil).
- *DECriminalIZATION OF CANNABIS*
- 2018 - Decriminalization of medical cannabis in Malta
- December 2021 – Legalization and decriminalization of recreational cannabis for personal use

