

# Legal Research and Interpretation Methodology

Lecture Title: Research Process

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# Recap

- Stages of Legal Research – various models



# Recap

- Example of the 7 stage process – The feasibility of the European Civil Code
  - 1. identification of formulation of hypothesis/ research Q
  - Various types of hypothesis – alternative, null, simple, complex, empirical and statistical
1. Simple/ basic hypothesis – shows a relationship between two variables. One of the variables is called the independent variable or cause. The other variable is called the dependant variable or effect.  
E.g. Global warming causes icebergs to melt (cause: global warming. Effect If melting of icebergs)
  2. Complex hypothesis – A hypothesis where there are multiple dependent and independent variables i.e. relationship exists between multiple variables  
E.g. Global warming causes icebergs to melt which in turn causes major changes in weather patterns
  3. Statistical hypothesis - A hypothesis that is able to be verified through statistics. It can be either logical or illogical, but if you can use statistics to verify it, it is called a statistical hypothesis
  4. Empirical hypothesis – a.k.a working hypothesis. It is an only an assumption during the formulation phase, but when it is tested it is no longer just an idea or notion.
  5. Null Hypothesis: These are used when the researcher believes there is no relationship between two variables or when there is inadequate theoretical or empirical information to state a research hypothesis
  6. Alternative hypothesis: is a statement of what a hypothesis test is set up to establish. It is opposite of Null Hypothesis. Frequently “alternative” is actual desired conclusion of the researcher
  7. Non Directional hypothesis - This hypothesis states that there is a relationship between two variables but it does not predict the exact nature or direction of the relationship
  8. A directional hypothesis specifies the direction or nature of the relationship between two or more independent variables and two or more dependent variables. They are developed from research questions and use statistical methods for validation.



# Recap

- 9. Associative hypothesis - Proposes relationships between variables - when one variable changes, the other changes. Do not indicate cause and effect. Looks at how specific events co-occur
- 10. Causal Hypothesis- Proposes a cause and effect interaction between two or more variables
  - i) Hypothesis should be simple so that it is easily understood by everyone.
  - ii) Hypothesis should be clear, specific and precise. If the hypothesis is not clear and precise, the inferences drawn on its basis cannot be taken as reliable.
  - iii) ii) Hypothesis should be capable of being tested.
  - iv) Hypothesis should state relationship between variables.
  - v) Hypothesis should be consistent with most known facts. i.e. it must be consistent with a substantial body of established facts.
  - vi) The hypothesis must explain the facts that gave rise to the need for explanation. It must actually explain what it claims to explain.
- Errors Type I false positive and Type II false negative
- Step 2 – Literature Review – does my research overlap? Re-formulate from a different aspect, identification of central concepts and terminology
- Step 3 – re-formulate hypothesis or search Q
- Step 4 – Research Design – structure – blue print- subjective – sets parameters – cost effective and less time consuming



# Recap

Q to ask drafting a RD

- What is the study about?
  - Why is the study being made?
  - wherever are going to be the study be carried out?
  - What type of data is required?
  - Where can the required data be found?
  - What periods of your time can the study include?
  - How will the data be analyzed?
  - What will be the sample design?
  - How will the data be sifted?
  - In what way can the report be prepared?
- 
- Quantitative vs Qualitative RD, Empirical (understanding social facts) vs Doctrinal (applying the letter of the law)
- Step 5 Collection of data –sampling – choose appropriate size and features, terminology – universe, sampling unit, element



# 5. Collection of Data – Sampling classes

Probability Sampling	Non-Probability Sampling
Every member of the population has a chance of being selected	Selection is based on a non-random criteria. Not every member has a chance of being selected
Mainly used in quantitative research	Mainly used in qualitative research
Produces results that are representative	High risk of sampling bias
4 types: simple/random, systematic, stratified, cluster	4 types: convenience, purposive, snowball, quota
Aim is to test hypothesis	Aim is to develop an understanding

Video: Introduction to Sampling and types:  
<https://www.youtube.com/watch?v=Cl2uZGGL-U>



# 5. Collection of Data – Probability sampling methods

Most common 5 are:

1. Simple/random – little preparation, simpler, may be highly representative, expensive since all population is included, no bias. e.g. Lottery method
2. Systematic – sample units easy to select, gives a good indication of the population if used correctly, efficient, cheaper, more biased especially if confounded by a trend /cycle
3. Cluster – less travel/ resources required, cost effective useful when population is large, tends to have homogenous units
4. Stratified – acquire info. about whole population and individual strata, may not be representative

Videos with examples:

Simple Sampling - <https://www.youtube.com/watch?v=-BRoH-NiRM-o>

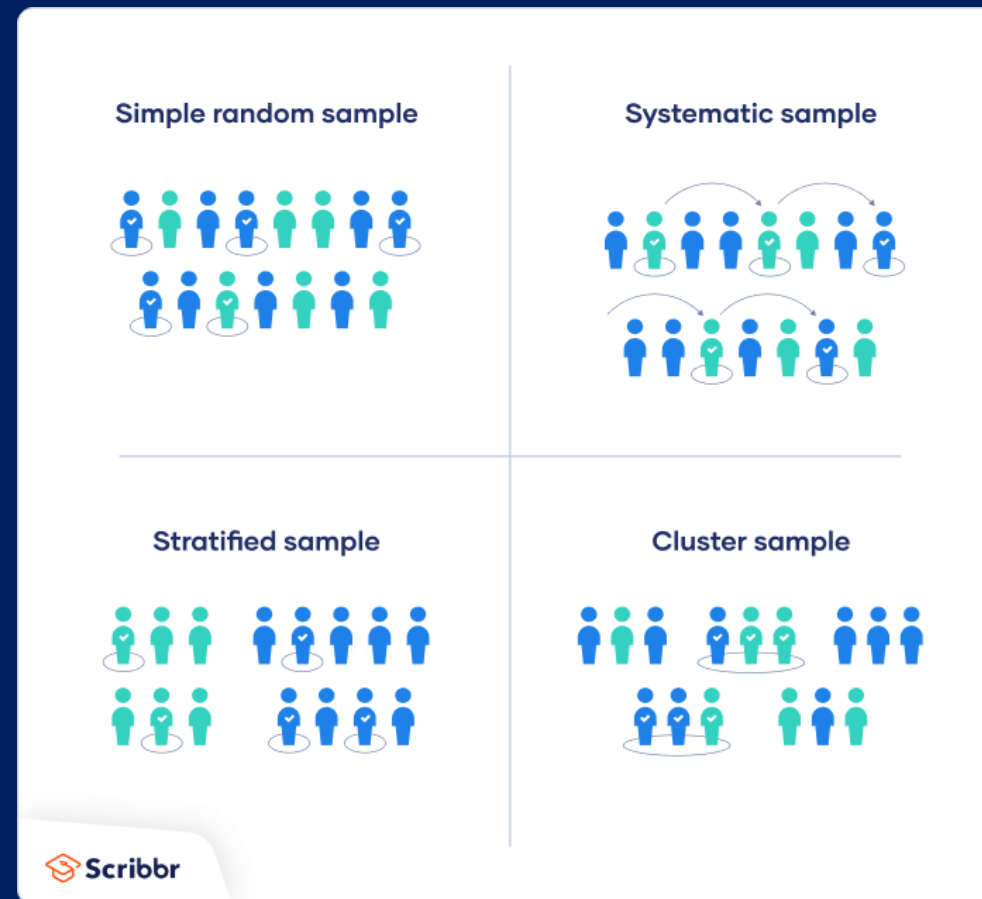
Systematic Sampling - <https://www.youtube.com/watch?v=SBsgnpby-Hc>

Stratified Sampling –

<https://www.youtube.com/watch?v=rsNCCQhkKN8>

Cluster Sampling -

<https://www.youtube.com/watch?v=pV3FAVrO86s>



# 5. Collection of Data – Which is the sampling method used?

1. You want to select a simple random sample of 100 employees of Company X. You assign a number to every employee in the company database from 1 to 1000, and use a random number generator to select 100 numbers
2. All employees of the company are listed in alphabetical order. From the first 10 numbers, you randomly select a starting point: number 6. From number 6 onwards, every 10th person on the list is selected (6, 16, 26, 36, and so on), and you end up with a sample of 100 people.
3. The company has 800 female employees and 200 male employees. You want to ensure that the sample reflects the gender balance of the company, so you sort the population into two strata based on gender. Then you use random sampling on each group, selecting 80 women and 20 men, which gives you a representative sample of 100 people.
4. The company has offices in 10 cities across the country (all with roughly the same number of employees in similar roles). You don't have the capacity to travel to every office to collect your data, so you use random sampling to select 3 offices – these are your clusters.



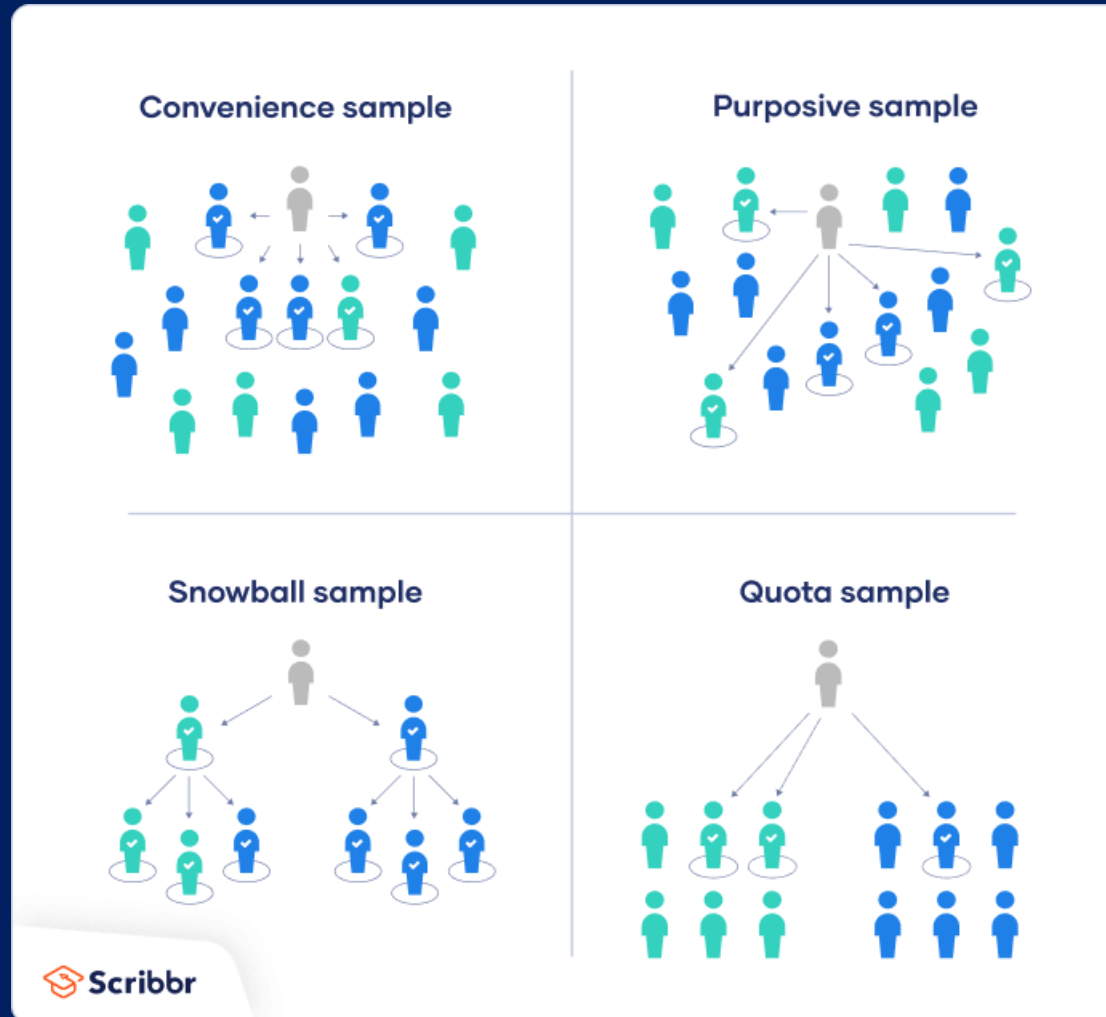


## 5. Collection of Data – Non-Probability sampling methods

Most common 5 are:

1. Convenience – easy, time and cost effective, highly biased. Ideal to gather initial data
2. Purposive – Aka judgment sampling. Researcher uses his expertise to select a sample that is most useful to the purposes of the research. Used to gain detailed knowledge about a specific phenomenon rather than make statistical inferences, or where the population is very small and specific. Must have clear criteria and rationale for inclusion.
3. Snowball – Used when population is hard to access. Involve participants through other participants. The number of units snowballs.
4. Quota – elements from the population are chosen on a non-random basis. Used to study particular traits/ subgroups. Used for large groups. Researcher must have knowledge of the proportions

Video: <https://www.youtube.com/watch?v=TtcCvy-CKLc>



# 5. Collection of Data – Which is the sampling method used?

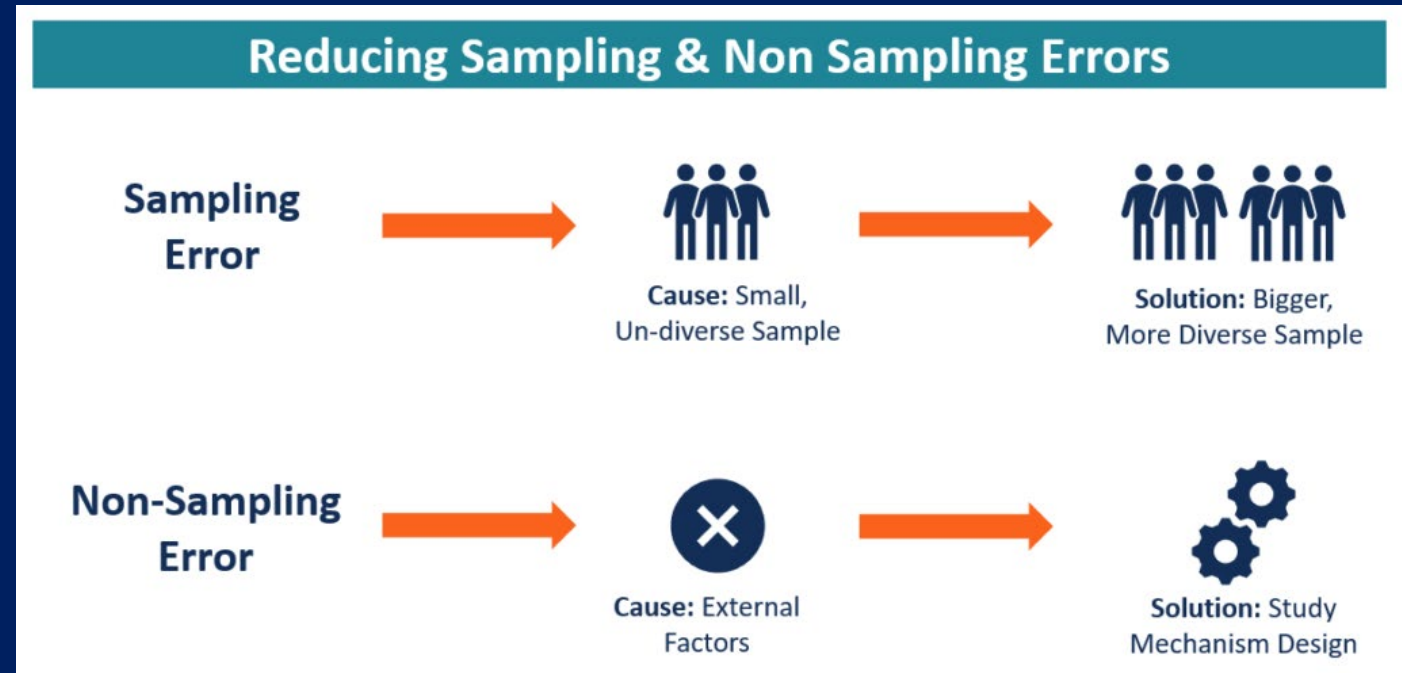
1. You are researching opinions about student support services in your university, so after each of your classes, you ask your fellow students to complete a survey on the topic. This is a convenient way to gather data, but as you only surveyed students taking the same classes as you at the same level, the sample is not representative of all the students at your university
2. You want to know more about the opinions and experiences of disabled students at your university, so you purposefully select a number of students with different support needs in order to gather a varied range of data on their experiences with student services.
3. You are researching experiences of homelessness in your city. Since there is no list of all homeless people in the city, probability sampling isn't possible. You meet one person who agrees to participate in the research, and she puts you in contact with other homeless people that she knows in the area.
4. Two different groups of respondents from a population can be formed based on the gender of the respondents, and further participants can be selected based on their age or income factor. Other factors can also be added to the subset as per the requirement of the research study



## 5. Collection of Data – Types of Errors

2 types:

1. Sampling error – wrongly selected sample. Most common errors are sample size (especially when convenience sampling is used) & heterogenous samples (too varied)
2. Non-sampling error – external factors e.g. Non or wrong response



# 5. Collection of Data – Sampling Errors

- How can you avoid sampling errors?



# 5. Collection of Data – Sampling stages

Follow the sampling stages:-

1. Determine the population/universe to be studied
2. Ascertain the qualities required
3. Decide the sample method required
4. Decide sample size



# 5. Collection of Data – How to avoid errors?

**Sampling + Non-Sampling errors = Faulty study**

Tip: Draw a sampling (before starting sampling)

1. Think about the objective of your research
2. Define the universe
3. Choose sampling class and method
4. Choose sample size in accordance with the nature of study e.g. Qualitative or quantitative
5. Cost and time constraints
6. Will contacting/finding respondents prove difficult?
7. Try to pre-empt errors at the beginning of the research



# 5. Collection of Data – Tools and techniques

- Collection of data is the bridge between the research problem/hypothesis and results of research
- Once sampling methods and size are chosen, you need to collect the data from the universe chosen
- Data may be collected by various instruments/tools depending on the complexity and the question/hypothesis to be answered
- Different instruments/tools have merits and limitations
- Researcher needs to know how to construct and use the instruments/tools effectively to obtain good data



# 5. Collection of Data – Doctrinal vs Empirical

- In doctrinal (flat research → look into the law) tools consist of law research and library research
- In empirical (investigation of the effects of the law), same tools and techniques of social sciences are used:-
  1. Observation
  2. Interviews
  3. Questionnaires
  4. Case Study
  5. Survey
- More than one tool/technique may be applied for the same study





## 5. Collection of Data – Observation Method (OM)

- OM deals with the recording of behavior of the respondents or sampling units
- Researcher has to observe the required phenomenon by himself
- Researcher will be able to keep his eye on the entire activity for the accurate data
- First hands collection of facts and there is scientific precision in this method as facts and related information is collected in a natural situation
- From observation, researcher can very well relate cause and effect relationship
- Rarely used in legal research
- Observations can be:- (i) participant – the researcher takes part in the actions of the group (ii) non-participant – observer is detached from actions of the group

# Observational Research



← **Researcher** →



**Non-participant Observation**



**Participant Observation**

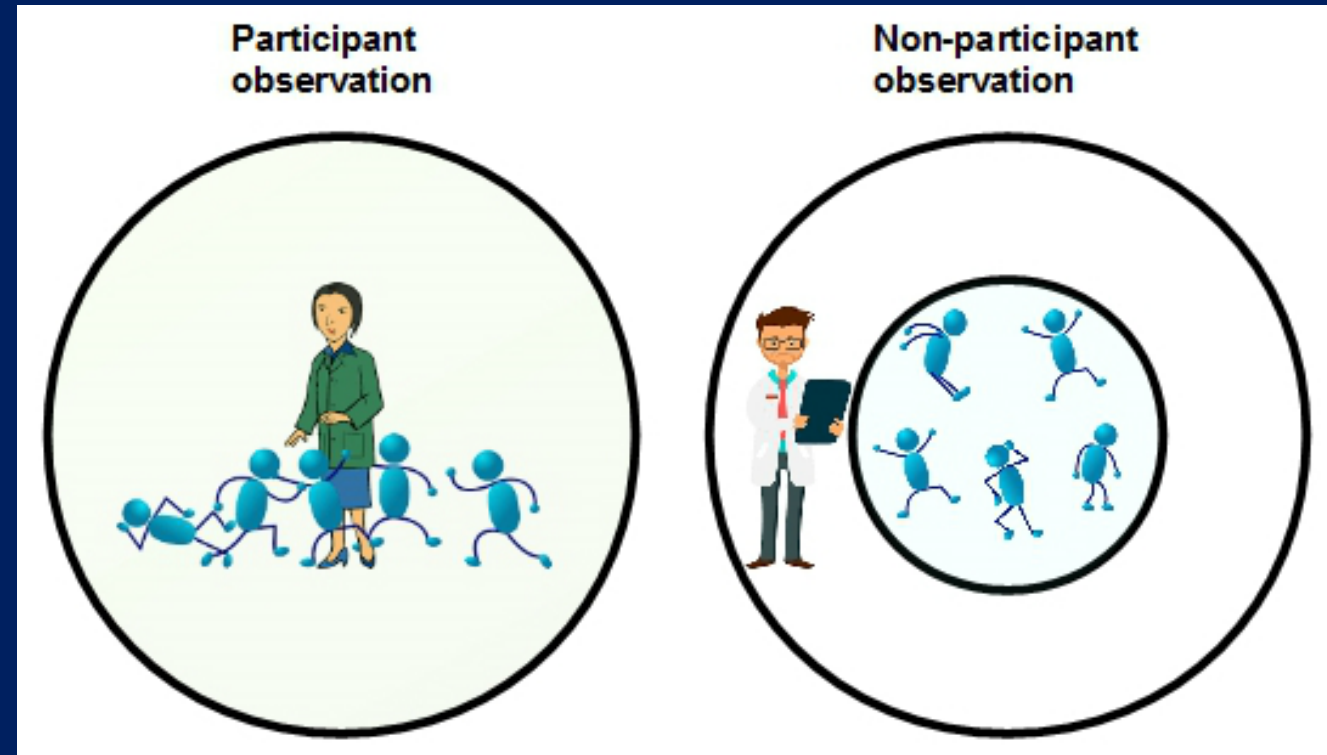
**Watching people in their natural environment**

# 5. Collection of Data

## – Observation Method (OM) –

### Participant Observation

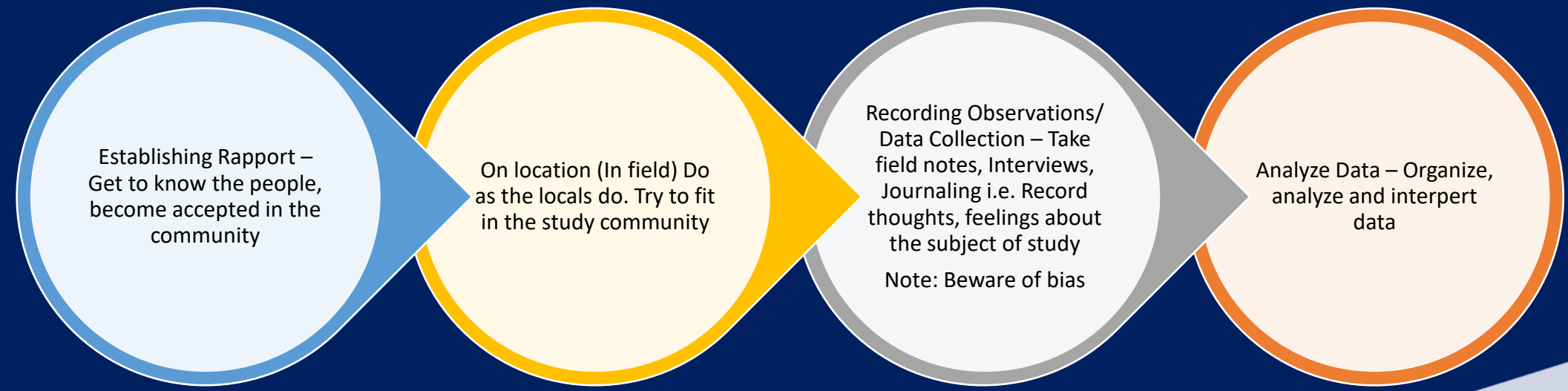
- A.k.a direct observation
- Aim is to gain a closer familiarity/ understanding with a given group of individuals/ organization and their practices e.g. Religious group, group being affected by a particular law, community etc
- Key: involvement and engagement of the researcher in the environment/ situation of the universe
- Involvement may be active or passive
- Used for qualitative research
- Confidentiality must be provided to the group
- Participant observation will include experiencing people's lives. Reseracher will be on the front line of where the action is
- Researcher may be actively participating
- Research will immerse himself in the group. Might be difficult to keep objectivity
- Unvers emight notice the researcher and may alter their behaviour



5. Collection of  
Data –  
Observation  
Method (OM) –  
Participant  
Observation

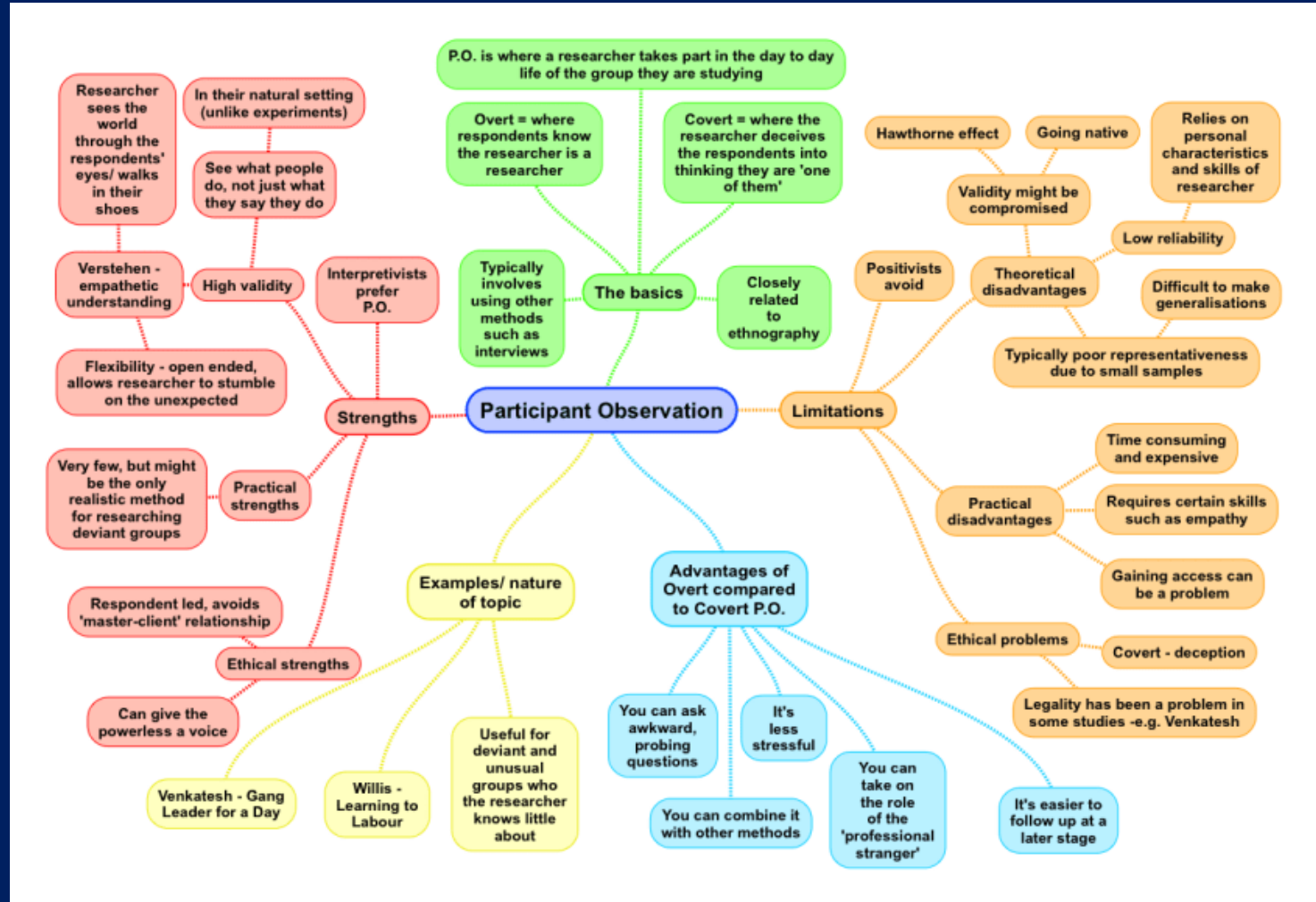


# 5. Collection of Data – Observation Method (OM) – Participant Observation Phases





# 5. Collection of Data – Observation Method (OM) – Participant Observation



# 5. Collection of Data – Observation Method (OM) – Why Participant Observation?

- Video: Participation Observation – Qualitative Methods – Observation

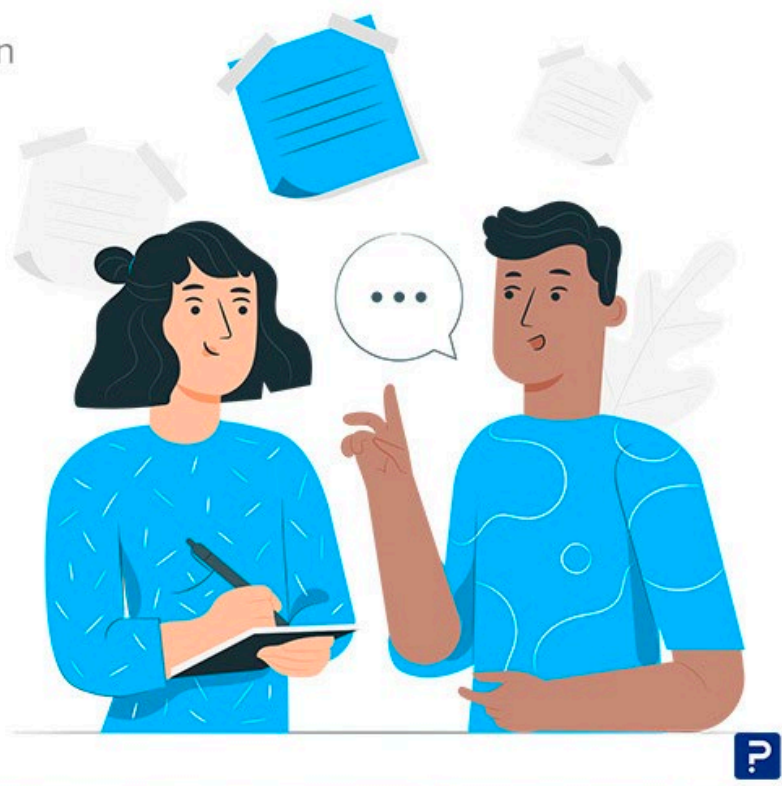
<https://www.youtube.com/watch?v=fDNYzPDlfRA>



# 5. Collection of Data – Observation Method (OM) – Participant Observation Types

## Types of participant observation

1. Passive participant observation
2. Active participant observation
3. Covert and overt participant observation
4. Covert and active participant observation
5. Covert and passive participant observation
6. Open and active participant observation
7. Open and passive participant observation



# 5. Collection of Data – Observation Method (OM) – Participant Observation

## Types

### Passive Participant Observation

- Researchers observe and record the behaviors of their subjects in their own environment without conversing or interacting with them in any way
- Many of the studies that use this form of participant observation are studies in which researchers observe people's behavior and communications in public places, such as restaurants, coffee shops, transportation hubs, and even on the Internet through innovative methods such as *netnography*
- Video: Netnography: Robert Kozinets

<https://www.youtube.com/watch?v=F8axfYomJn4>





# 5. Collection of Data – Observation

## Method (OM) – Participant Observation

### Types

#### Active Participant Observation

- Researchers converse with their subjects and participate in the daily life of the groups they study, including their activities, customs, rituals, routines, etc.
- The degree of commitment of researchers to these groups varies. Some researchers limit their interactions to interviews, while others engage in all aspects of their subjects' lives.
- Examples of this form of participant observation are studies in which researchers lived for long periods of time among different ethnic, cultural, or religious communities.



# 6. Analysis & Interpretation of Data - Analysis

- Analysis stage consists of classification/categorization i.e. arranging the data in groups/classes according to their resemblance/affinity
- Data is classified into categories
- Categorization has to be based on the problem under study/hypothesis formulated
- Categories must be exhaustive and suitable to classify all responses
- Categories will be distinct and separate
- Coding i.e. Giving numbers and symbols to categories may be used



# 5. Collection of Data – Observation

## Method (OM) – Participant Observation

### Types

#### Covert and Overt Participant Observation

- In covert participant observation, researchers do not make their presence known to their subjects and, if they do, they do not identify themselves as investigators, whereas in open participant observation they do.
- However, even when the investigation is open, investigators often do not inform the people they meet in the course of their investigation of the specific purpose of the investigation, nor do they inform everyone they meet that they are researchers, as this could unnecessarily interrupt conversations and events being observed.



# 6. Analysis & Interpretation of Data – Interpretation of data

- Another basic component of research
- Useless to collect data without having the skills to interpret it:

*Properly collected data + properly analyzed data + wrong interpretation = Failed research  
(inaccurate & misleading conclusions)*

- Interpretation of data is the task of drawing inference from the data collected
- Inferences may be deductive (inference from general abstract statement to specific one) or inductive (specific statement to a more general one)
- Establish link between hypothesis and the study and provide explanatory concepts
- Process of interpretation may trigger new questions which may lead to further research



# 5. Collection of Data – Observation Method (OM) – Participant Observation

## Types

### Covert and Active Participant Observation

- Covert and active participant observation has several advantages. In this type of participant observation, researchers can have access to a group that they would not otherwise have the opportunity to observe, and they can experience the practices of the group as they are experienced by the members of the group.
- Generally, researchers can alter group behavior by their presence, but in this form of participant observation, groups would not consciously change their behavior in response to the researcher's presence because they are not aware of being observed.

Video: Case Study: Gang Leader for a Day: Sudhir Venkatesh

<https://www.youtube.com/watch?v=yRq1AhFAN-4>



# 5. Collection of Data – Observation

## Method (OM) – Participant Observation

### Types

#### Covert and Passive Participant Observation

- In the case of covert and passive participant observation, researchers are not likely to alter the behaviors of their subjects, since the researchers do not actively engage with their subjects and because the subjects are also not aware that they are being observed.
- However, since observation is passive, researchers do not have the opportunity to experience the lives of their subjects for themselves.



# 5. Collection of Data – Observation

## Method (OM) – Participant Observation

### Types

#### Open and Active Participant Observation

- If observation is open and active, people can participate in and experience their subjects' activities as their subjects would, but they run the risk of both changing the behavior of their subjects through their interactions with them, and that their subjects change their behavior by themselves knowing that they are being studied.



# 5. Collection of Data – Observation

## Method (OM) – Participant Observation

### Types

#### Open and Passive Participant Observation

- As in the case of covert and passive participant observation, researchers do not run the risk that their presence alters the behavior of the groups they study through their interactions with them.
- However, the guinea pig effect is a problem for this form of observation, unlike the case of covert and passive participant observation, because the participants are aware that they are being studied. Furthermore, researchers cannot experience the world as it is as subjects would.





## 5. Collection of Data – Observation Method (OM) – Non-Participant Observation

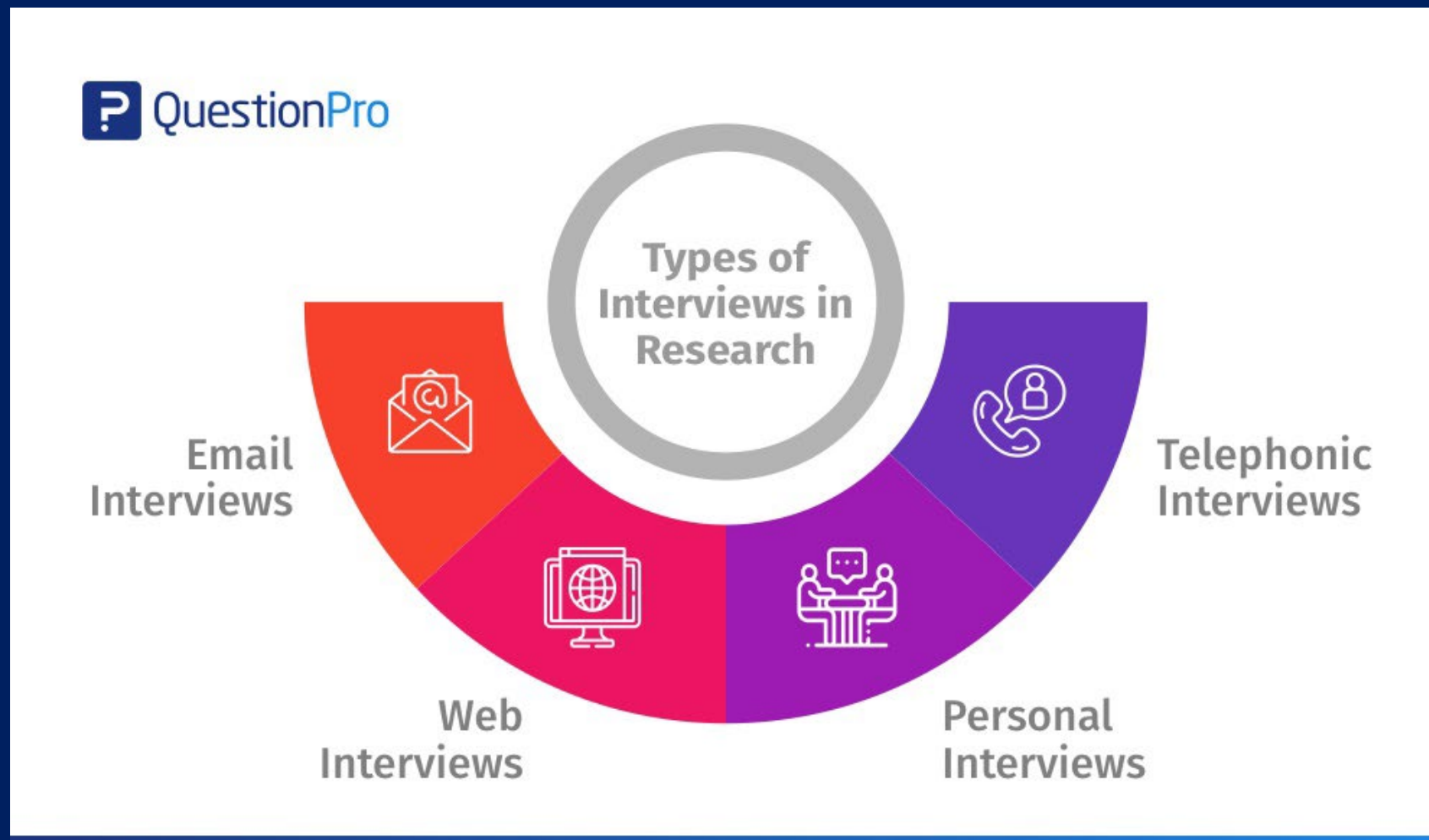
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- A non-participant observation is one where the researcher chooses not to play any part in what is being observed.
- It is a more objective method of collecting data
- Sometimes researchers pretend to be customers or passers-by, or even use one-way mirrors
- Passive vs non-participant observation - Nonparticipation refers to a situation in which a researcher observes activities from outside of the field (e.g., viewing activities captured on video). Passive participation is when researchers are present in a particular social context but not actively involved in the activities

# 5. Collection of Data – Interviews

- Interviews are commonly accepted technique of data collection where researcher enters into face to face interaction with any person or group for the purpose of seeking certain information relevant to his research
- Components of the interview are the researcher, the interviewer, interviewee and the interview environment.
- The purpose of the interview is to probe the ideas of the interviewees about the phenomenon of interest
- Interview is the process to know the opinion, information or observations of other person through verbal and non-verbal conversation
- Method is preferred if such information cannot be adequately observed by other methods without entering into conversation only
- Information cannot be easily obtained by this method, because the process depends on the interest and attentiveness and personal qualities of the interviewee
- It may also involve the study of body language - gestures, glances, facial expressions, pauses, even a flick of an eye or mere silence can speak more than verbal exchanges. Behaviour can be judged and attitude can be estimated based upon blush in the face, or laugh, visible happiness or anger.
- Qualitative
- Interview vs Survey – A survey is a questionnaire in which people are asked to write their answers to questions. Interviews involve asking people questions and recording their verbal responses and typically have a higher response rate than surveys do.

# 5. Collection of Data – Interview Modes



# 5. Collection of Data – Interviews

- Typologies:
  1. Unstructured – in-depth interview, conversations held with a purposes in mind i.e. To gather data about the research study. Lean toward an ordinary conversation rather than having a lot of questions. Objective: Build a bond with the respondents due to which there are high chances that the respondents will be 100% truthful with their answers. Flexible since there are no fixed questions however conversation may derail. Is it ethical?
  2. Semi-Structured - offer a considerable amount of leeway to the researcher to probe the respondents along with maintaining basic interview structure. A.k.a a guided conversation
  3. Structured - extremely rigid. Questions in this interview are pre-decided according to the required detail of information. Structured interviews are excessively used in survey research with the intention of maintaining uniformity throughout all the interview sessions.

Typologies of interviews – Qualitative Methods – Qualitative Interviewing –  
<https://www.youtube.com/watch?v=oM1acdBAka0>



# 5. Collection of Data – Interviewer's skills (Harvard)

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## A Successful Interviewer is:

1. *Knowledgeable*: is thoroughly familiar with the focus of the interview; pilot interviews of the kind used in survey interviewing can be useful here.
2. *Structuring*: gives purpose for interview; rounds it off; asks whether interviewee has questions.
3. *Clear*: asks simple, easy, short questions; no jargon.
4. *Gentle*: lets people finish; gives them time to think; tolerates pauses.
5. *Sensitive*: listens attentively to what is said and how it is said; is empathetic in dealing with the interviewee.
6. *Open*: responds to what is important to interviewee and is flexible.
7. *Steering*: knows what he/she wants to find out.
8. *Critical*: is prepared to challenge what is said, for example, dealing with inconsistencies in interviewees' replies.
9. *Remembering*: relates what is said to what has previously been said.
10. *Interpreting*: clarifies and extends meanings of interviewees' statements, but without imposing meaning on them.
11. *Balanced*: does not talk too much, which may make the interviewee passive, and does not talk too little, which may result in the interviewee feeling he or she is not talking along the right lines.
12. *Ethically sensitive*: is sensitive to the ethical dimension of interviewing, ensuring the interviewee appreciates what the research is about, its purposes, and that his or her answers will be treated confidentially.

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## The Interview as an Interpersonal Encounter

- The social skills of empathy, warmth, attentiveness, humor (where appropriate), and consideration are essential for good interviewing.
- Any judgmental attitudes, shock or discomfort will be immediately detected.
- Never answer a question for the respondent.
- One must be completely engaged with the respondent, while at the same time keeping track of the questions one needs to ask.
- Use every active listening technique at your disposal:
  - Repeating back
  - "Wow!"
  - Tell me more about that!"
  - "That is really interesting."
- Don't be afraid of silence; you can use it to prod the respondent to reflect and amplify an answer
- Don't follow the interview guide—follow the respondent. Follow up new information that he or she brings up without losing sense of where you are in the interview.
- Try not to think about time—relax into the interview.



# 5. Collection of Data – Developing Interview Tips

- Should interviews be included in your research design?
- Are there alternative ways of answering your research question through documentary review, observation or unobtrusive measures?
- Be clear about the possible biases and limitations of interviews
- The point of a qualitative interview is to let the respondent tell their own story on their own terms
- How much time will you spend with each respondent?
- Try out a new guide (or parts of it) on friends and get their feedback before using it in the field
- Should you record and transcribe interviews?
- Questions should be simple
- The best questions are those which elicit the longest answers from the respondent. Do not ask questions that can be answered with one word
- Likewise, do not ask for hearsay or opinions on behalf of the group they are a part of



# 5. Collection of Data – Developing Interview Tips

- Harvard tips for types of questions/ interview talk:-

## Types of questions or other interview talk:

- *Direct questions:* 'Do you find it easy to keep smiling when serving customers?'; 'Are you happy with the way you and your husband decide how money should be spent?' Such questions are perhaps best left until towards the end of the interview, in order not to influence the direction of the interview too much.
- *Indirect questions:* 'What do most people round here think of the ways that management treats its staff?', perhaps followed up by 'Is that the way you feel too?', in order to get at the individual's own view.
- *Structuring questions:* 'I would now like to move on to a different topic'.
- *Follow-up questions:* getting the interviewee to elaborate his/her answer, such as 'Could you say some more about that?'; 'What do you mean by that . . .?'
- *Probing questions:* following up what has been said through direct questioning.
- *Specifying questions:* 'What did you do then?'; 'How did X react to what you said?'
- *Interpreting questions:* 'Do you mean that your leadership role has had to change from one of encouraging others to a more directive one?'; 'Is it fair to say that what you are suggesting is that you don't mind being friendly towards customers most of the time, but when they are unpleasant or demanding you find it more difficult?'

