Recap

- Research design Models
- 1. Hypothesis
- 2. Research planning problem identification, fact analysis, reformulation of the hypothesis/ research question
- 3. Identification of literature
- 4. Research design sets the parameters of the research
- 5. Collection of data probability sampling vs non-prob sampling



Legal Research and Interpretation Methodology

Lecture Title: Research Plan, Sampling, Data Collection and Interpretation Methodologies PII

Lecturer: Dr Elian Scicluna Date: 05/02/2025



Diploma in Law (Malta)

5. Collection of Data – Sampling Errors

How can you avoid sampling errors?



5. Collection of Data – Tools and techniques

- Collection of data is the bridge between the problem/ hypothesis and results of research
- Once sampling methods and size are chosen, you need to collect the data from the universe chosen e.g legal principle from different judgments given in the span of 40 years by the FHCC
- Data may be collected by various instruments/tools depending on the complexity of the issue and the limitations encountered e.g. Agricultural Leases (Reletting) Act, Cap. 199 amended in 2022 entered into force on 08/02/2023 introduction of a mechanism to revise the rent of agricultural leases no case law -> only the law and parliamentary debates



- Sometimes one needs to refer to empirical studies i.e. (investigation of the effects of the law) or think out of the box in cases where data is very limited. Tools that may be used include social sciences techniques
- E.g. Of Social sciences techniques
- 1. Observation
- 2. Interviews
- 3. Questionnaires
- 4. Case Study
- 5. Survey
- More than one tool/technique may be applied for the same study



- Case 33/2017 Constitutional Court General Workers' Union vs Attorney General (now State Advocate)
- The Nationalist Party insituted proceedings before FHCC against GWU et alleging breach of contract when GWU leased parts of the Workers Memorial Building in Valletta to ARMS Ltd and Sciacca Grill.
- Case was to be heard by Judge Jacqueline Padovani Grima. GWU requested the recusal of judge (judge to abstain from hearing the case) on the basis on impartiality since the lawyers who drafted the application on behalf of the Nationalist Party were related to the judge. Partner of the firm was the judge's brother, P.L employed with the firm was her sister and relative of another partner in the same firm
- Judge rejected the request following review the EU's principles regarding impartiality.





- GWU filed constitutional proceedings before FHCC (Const. Juris.) alleging breach of HR – Right to a fair trial (Art. 6 ECHR) & (Art. 39 of the Constitution)
- Judge JZM made extensive reference to the principles regulating recusal of judges/mag. Quoting Maltese & foreign case law, authors, reference to the Judicial Ethics Reports, quoted US principles – 97 pages
- Judge JZM rejected claims on the following basis:-



5. Collection of Data – Considerations part

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On what basis are you going to appeal if the judge has exhausted all data available and used it against your argument? To what data/ information you are going to resort to?



- GWU filed appeal before the Constitutional Court (3 judges)
- Only 1 grievance was raised by the GWU

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Diploma in Law (Malta)

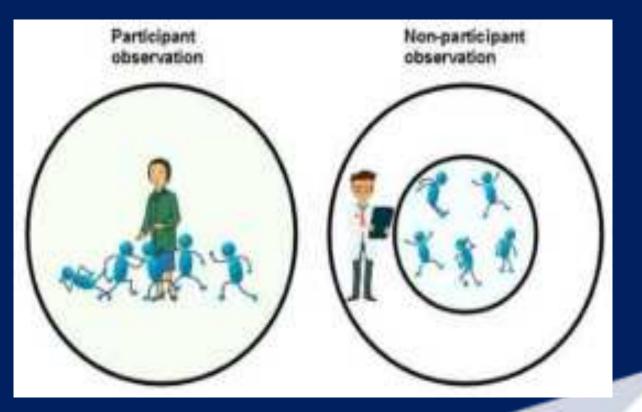
5. Social Sciences Collection of Data – Observation Method (OM)

- Law does not exist in a vaccum hence an interdisciplinary approach is required i.e. Don't just look at the legal aspect. E.g. Jeremy Bosseivan srudy of Maltese society as explained in the GWU appeal
- Social Science most used method for collection of data is through participant and non-participant observation
- This OM deals with the recording of behaviour of the respondents/ society
- Researcher will keep an eye on the entire activity for the accurate data.
- It is a first hand 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
- 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





- 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. group being affected by a particular law etc or the implementation of a particular law
- E.g Law dissertation by R.J. Lanfranco "The role of the armed forces of Malta in Maritime Law enforcement and crime prevention"
- Methodology Maritime Law Enforcement is a subject of great concern to many countries, which exercise maritime jurisdiction. Two-thirds of our world is covered by waters, which are used on a daily basis for the transportation of materials, the exploration and exploitation of resources as well as for a multitude of other purposes. It is therefore essential that some form of international or domestic control be present to make sure that one of the world's greatest resources is not abused of or tampered with. For this purpose most countries of the world have their own law enforcers at sea, who make sure that both internationally recognised and domestic maritime related laws be adhered to. In Malta, this is the primary role of the Maritime Squadron of the Armed Forces of Malta, the major entity at sea, having the jurisdiction of enforcing all laws and regulations pertaining to the sea; starting from the basic control of swimmer zones in bays and extending to the surveillance of Malta's continental shelf area, many miles beyond Maltese shores. This research paper will analyse the duties of the Maritime Squadron in relation to maritime law enforcement and crime prevention, and will discuss both international and domestic maritime related laws applicable. Following this, quantitative statistical data will be presented as to the work carried out in the field of maritime law enforcement, month. by mouth, by the Squadron since 1995. This data will then be analysed in a qualitative manner, using the concept of participant observation and answers will be given as to why and what, has brought about such figures/results in the quantitative research. The study will end by giving a recommended strategy that could be implemented by the Squadron for improvements in crime prevention and maritime law enforcement.





- Key: involvement and engagement of the researcher in the environment/situation of the universe
- Involvement may be active or passive
- Used for qualitative research i.e. Substance
- 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 i.e. will immerse himself in the group. Might be difficult to keep objectivity
- Universe might notice the researcher and may alter their behaviour



Establishing Rapport – Get to know the people, become accepted in the community

On location (In field) Do as the locals do. Try to fit in the study community Recording Observations/ Data Collection – Take field notes, Interviews, Journaling i.e. Record thoughts, feelings about the subject of study Note: Beware of bias

analyze and interpret data

Analyze Data – Organize,



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- Video: Participant Observation Qualitative Methods Observation
- Why choose participant observation, personal background of the researcher, skills
- https://www.youtube.com/watch?v=fDNYzPDIfRA



Types of participant observation

- 1. Passive participant observation
- 2. Active participant observation
- Covert and overt participant observation
- Covert and active participant observation
- Covert and passive perticipent observation
- Open and active perficipent observation
- Open and passive perticipent observation





Passive Participant Observation

- Researchers observe and record the behaviours 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 behaviour and communications in public places, such as restaurants, coffee shops, transportation hubs, court rooms and even on the Internet through innovative methods such as *netnography*
- Video: Netnography inventor: Robert Kozinets

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

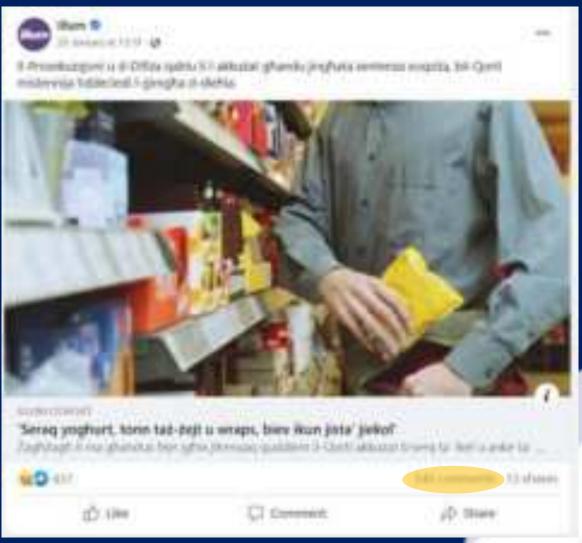


Application of Nethnography in the legal sphere can be benefical to legislators (Facebook)

Prosecution & defence agreed to a suspended sentence.

Q: Is suspended sentence too harsh? Harsher?

Legislator will get an overview of how the general public is viewing particular offence -> may prompt amendments to the law



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.
- Legal sphere e.g. Traineeship with a lawyer/notary/lega procurator – basic briefs e.g. Writing legal letter, attend for meetings



Covert vs Overt Participant Observation

- In covert participant observation, the group does not know that it is being studied and the researcher do not identify himself as.
- Even when the investigation is open i.e. Overt (when the subject being observed is aware of being so observed) 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.



Covert and Active Participant Observation

- Covert and active participant observation has several advantages e.g. 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 behaviour by their presence, but in this form of participant observation, groups would not consciously change their behaviour 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 – A rogue sociologist take the streets https://www.youtube.com/watch?v=yRg1AhFAN-4



Covert and Passive Participant Observation

- In the case of covert and passive participant observation, researchers are not likely to alter the behaviours 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.



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 behaviour of their subjects through their interactions with them, and that their subjects change their behaviour by themselves knowing that they are being studied.



Overt(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 behaviour 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.





- 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



- E.g. Non participant collection method in a court room observing cases
- Almost all sittings are accessible to the public unless there is a sensitive issued and case is heard behind closed doors -"Bil-magħluq"
- List of cases affixed to the notice board
- Cases are called either according to their number/ time/ queue
- Court behaviour of lawyers, parties and judge/ magistrate can be observed





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.



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5. Collection of Data – Interview Modes



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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 – <u>https://www.youtube.com/watch?v=oM1acdBAka0</u>



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

5. Collection of Data – Developing Interview Tips

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

Types of quantions to other interview talk-

- Direct paretimes: The your find it easy to keep undiring solute according contentary?/ "Are your happy with the way you and your basiliand dockle how money about the opent?" Such quantimes are perhaps best laft antil towards the year of the interview, in order not to influence the direction of the interview too much.
- Inditer questions: "What do must people mural have think of the mays that management treats its stall?", perhaps followed up by 'to that the way you hell two?, so order to get at the individual's own store.
- Structuring gaestions." I would now like to move on to a different topic."
- Probing questions: hillowing up what has been said through direct questioning.
- Specifying quintum: 'What alid you do then?'/ 'How did X must be what you used?'
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5. Collection of Data – Writing Interview Questions (Harvard)

- 1. Write down the larger research questions of the study. Outline the broad areas of knowledge that are relevant to answering these questions.
- 2. Develop questions within each of these major areas, shaping them to fit particular kinds of respondents. The goal here is to tap into their experiences and expertise.
- 3. Adjust the language of the interview according to the respondent (child, professional, etc.).
- 4. Take care to word questions so that respondents are motivated to answer as completely and honestly as possible.
- 5. Ask "how" questions rather than "why" questions to get stories of process rather than acceptable "accounts" of behavior. "How did you come to join this group . . .?"
- 6. Develop probes that will elicit more detailed and elaborate responses to key questions. The more detail, the better!
- 7. Begin the interview with a "warm-up" question—something that the respondent can answer easily and at some length (though not too long). It doesn't have to pertain directly to what you are trying to find out (although it might), but this initial rapport-building will put you more at ease with one another and thus will make the rest of the interview flow more smoothly.
- 8. Think about the logical flow of the interview. What topics should come first? What follows more or less "naturally"? This may take some adjustment after several interviews.
- 9. Difficult or potentially embarrassing questions should be asked toward the end of the interview, when rapport has been established. 10. The last question should provide some closure for the interview, and leave the respondent feeling empowered, listened to, or otherwise glad that they talked to you



5. Collection of Data – Questionnaires

- Most popular method of data collection for empirical legal research
- Consists of a set of questions
- Useful when observation and interviews are not possible
- Objective
- Language should be easy to understand and not ambiguous
- Responses are not usually made in the presence of the researcher so guidance cannot be provided is the questions are not clear
- Not useful if respondents are illiterate or they don't understand the terms being used → the questionnaire must be tailor made to the characteristics of the targeted universe
- May be supplied personalli, by mail or internet
- Information from distant places can be easily accessed by the researcher economically

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5. Collection of Data – Questionnaires

- Pitfall –subjects may not interested in answering questionnaires due to lack of motivation, attitude, cumbersome etc
- Tip: Enhance questionnaire response rate. How?
- 1. Sponsorship a reputable and legitimate sponsor is likely to get a higher response rate e.g. students are more likely to respond to a questionnaire administered by their school authorities than those administered by unknown individuals or organisations
- 2. Covering letter questionnaires should be accompanied by persuasive covering letters or notes to respondents explaining the nature, purpose and importance of the research project, and soliciting their cooperation
- 3. Questionnaire Format namely typing, length, font, spacing etc., could also affect the response rate. Understandably, people are more likely to respond to short questionnaires than to long ones, and to neatly typed, legible and well—spaced questions than rough, illegible ones. The researcher should also limit the questions to the necessary minimum
- 4. Ease of completion avoid ambiguity, provide detailed instructions, include stamped addressed envelopes
- 5. Rewards payment



5. Collection of Data – Questionnaires vs Interviews

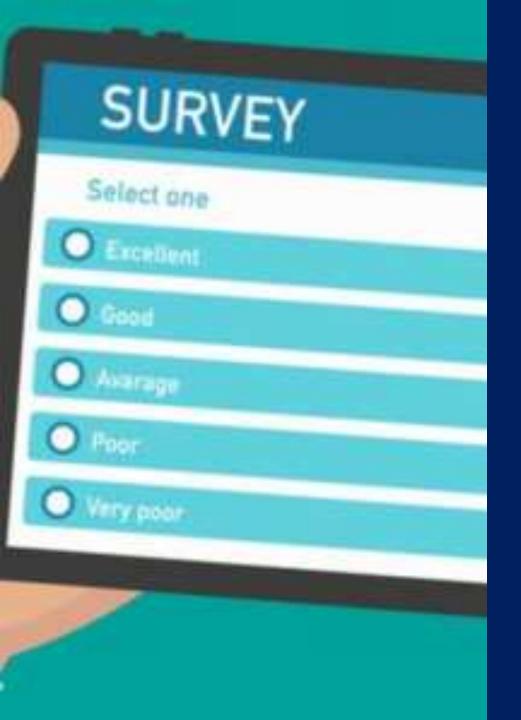
- In questionnaires there is no personal contact unlike in interviews
- A questionnaire does not allow respondent to qualify ambiguous questions whereas interview makes such possible
- Questionnaire provides an opportunity for respondents to give anonymous answers
- In an interview the respondents may be biased
- Questionnaire facilitates the collection of huge amount of data in a short period of time which is not possible in Interview.
- In Interview, people may refuse to furnish information because they were approached at the wrong time, whereas, questionnaire can be completed at the leisure of respondents.



5. Collection of Data – Case Study

- A case study is an in-depth study of any unit from the beginning to end
- Any person, family, institution, group, cast, community, law, aspects of a legal system, nation may be the unit for the purpose of study
- Intended when the research is narrow i.e. focus
- All facts and information relating to such unit from the origin to last are collected
- Sources used for data collection may be internal or external. Internal data gather from such unit or within the unit is internal and any information taken from outer sources are external one





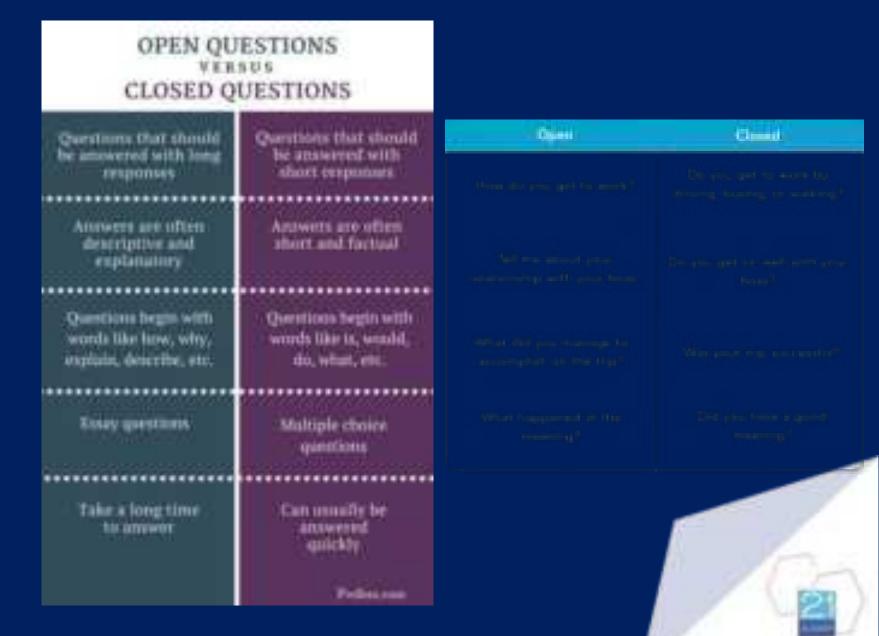
5. Collection of Data – Surveys

- Survey is a process of collecting quantity of facts in systematic and organized manner to report any social problem or status of facts in certain area of society. Where the object of study is to search the information through real public experience, their opinion or feelings as to any of social importance
- Survey vs Questionnaire Survey is the process of collecting data. Questionnaire is the instrument used i.e. a tool



5. Collection of Data – Survey

(Open ended questions are used in examination in chief. **Closed ended** questions/ diretti in cross examination)



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6. Analysis & Interpretation of Data – Data Analysis

- Data Analysis (DA) one the most crucial tasks
- Definition: summarizing the collected data and organizing these in such a manner that they will yield answers to the research questions or suggest hypothesis
- Legal Interpretation is the skill of bringing out or explaining the meaning of the law

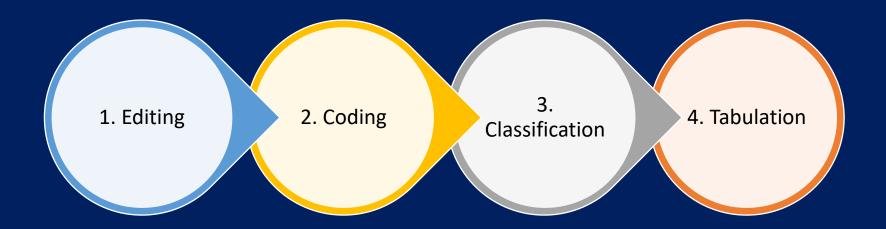
6. Analysis & Interpretation of Data – Data Analysis vs Processing vs Interpretation

- The general understanding is that data processing and analysis are one and the same. Some authors ditinguish between the 2 i.e. data processing leads to data analysis.
- Processing of data refers to concentrating and recasting
- Analysis of data refers to seeing the data in the light of hypothesis/ research question, the prevailing theories and drawing conclusions



6. Analysis & Interpretation of Data – Data Processing

• Once the data is collected, the following steps are taken to process the data into more measurable and concise manner:





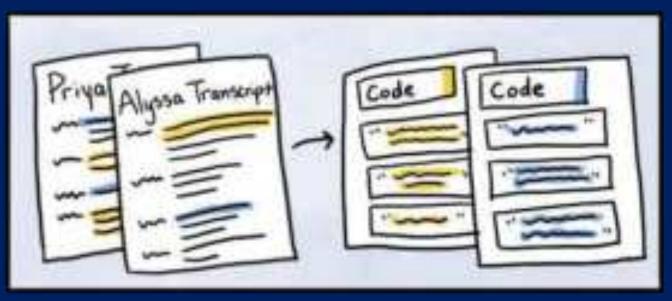
6. Analysis & Interpretation of Data – Data Processing

- 1. Editing In the stage of editing all the raw data that is collected is checked for errors, omissions sometimes legibility and consistency as well. This ensures basic standard in the data collected and facilitates further processing
- 2. Coding Coding refers to the process of identifying themes or codes of the data you have and assigning numerals or other symbols to answers so that responses can be put into a limited number of categories or classes. Categories/ classes must also be exhaustive (i.e., there must be a class for every data item). Coding differs for qualitative and quantitative research
- 3. Classification Once the data is collected it is to be divided into homogeneous groups for further analysis on the basis of common characteristics
- 4. Tabulation the process of summarizing raw data and displaying the data in compact form e.g statistical tables for further analysis. Not always needed



6. Analysis & Interpretation of Data – Coding and Classification

- For coding you don't need a specific software. You can code by hand e.g. scribbling on the paper, highlighting similar categories by the same colour or using coloured sticky notes. If the volume of data is large a software e.g. excel sheet will be more time effective
- If coding is done by hand, margins need to be available for writing on the sides → type of coding needs to be set at drafting stage of questionnaires, survey, interview etc so that the format/ layout allows for coding
- Manual coding usually involves a 2 step process i.e. to turn codes into categories of codes:-
- i. Take notes
- ii. Take notes of your notes
- Coding has to be clear. To achieve the aim of the research it might be the case that the coding process has to be carried out multiple times to build a connection between the data collected e.g. you might notice a pattern in the 5th interview and may need to go back to the previous interviews
- Coding process need to be explained in your research



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6. Analysis & Interpretation of Data – Data Processing – Benefits of Tabulation

- Benefits of tabulation:-
- 1. It conserves space and reduces explanatory and descriptive statement to a minimum.
- 2. It facilitates the process of comparison
- 3. It facilitates the summary of items and the detection of errors and omissions
- 4. It provides the basis for various statistical computations

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6. Analysis & Interpretation of Data – Interpretation

- Once the data has been processed and analyzed, the final step required in the research process is interpretation of the data.
- Through interpretation one understands what the given research findings really mean and what is the underlying generalization which is manifested through the data collected.
- The data is interpreted from the point of the research questions and hypothesis is tested
- Properly collected data + properly analyzed data + wrong interpretation= Failed research (inaccurate & misleading conclusions)



E.g. Analysis & Interpretation of Data Process of Malta) Judgments - Camilla Scerri et vs Awtorita tal-Artijiet – LAB – 14/12/22 – Cap. 573

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