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

Diploma in Law (Malta)

Lecturer: Dr Elian Scicluna

Date: 12/02/2026

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

5. Collection of Data

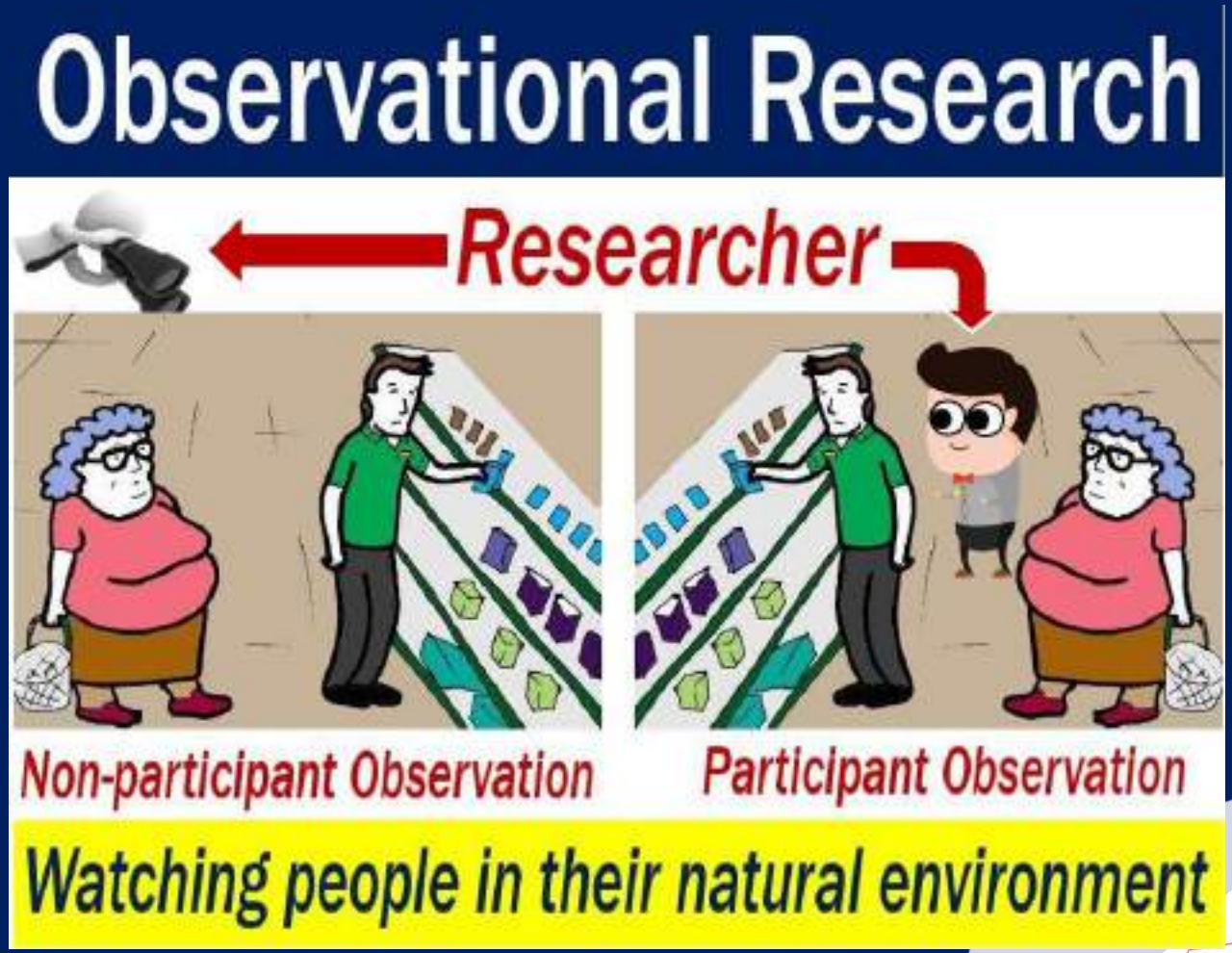
- Sometimes one needs to refer to empirical studies i.e. (investigation of the effects of the law) or think out of the box in cases where data is very limited. Tools that may be used include social sciences techniques
- E.g. Of Social sciences techniques

1. Observation
2. Interviews
3. Questionnaires
4. Case Study
5. Survey

- More than one tool/technique may be applied for the same study

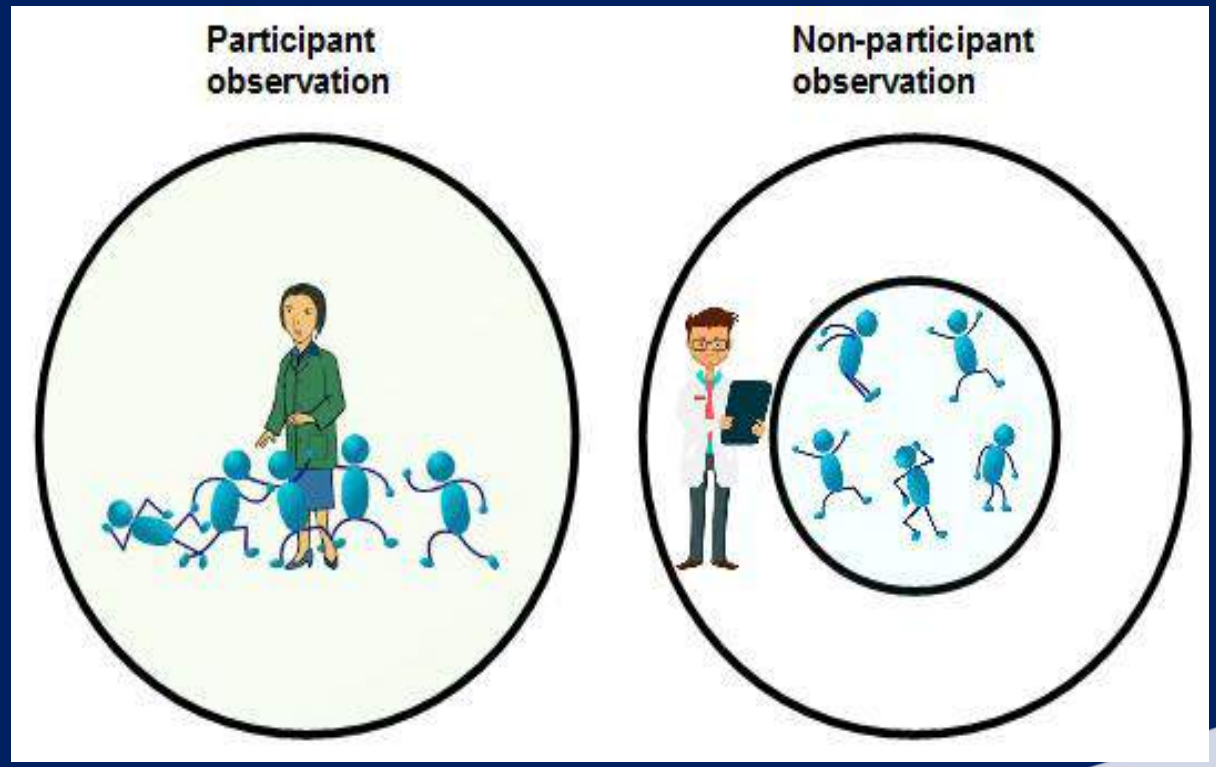
5. Social Sciences Collection of Data – Observation Method (OM)

- 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

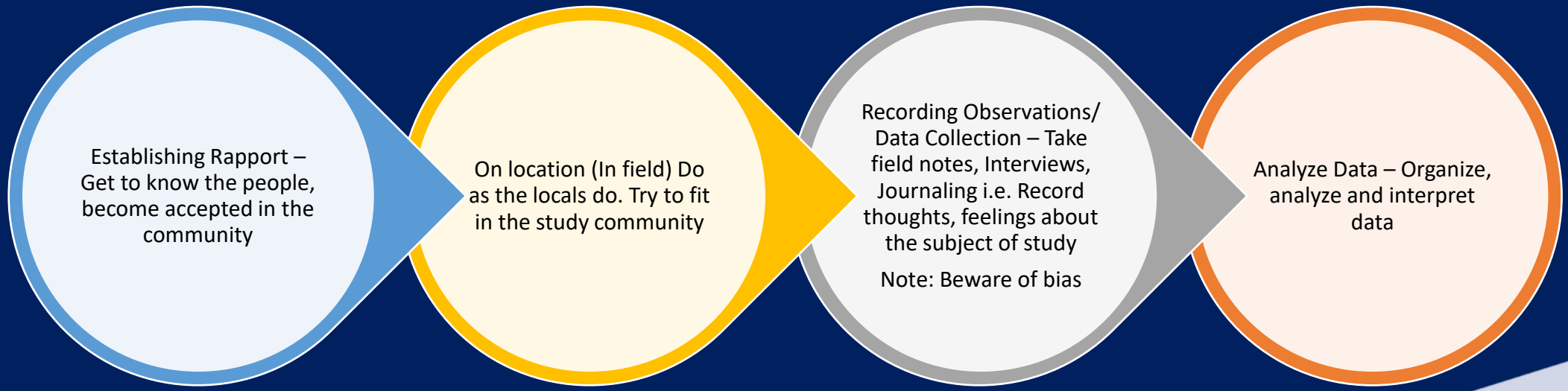


5. Collection of Data – Observation Method (OM) – Participant Observation

- 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. 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.*



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

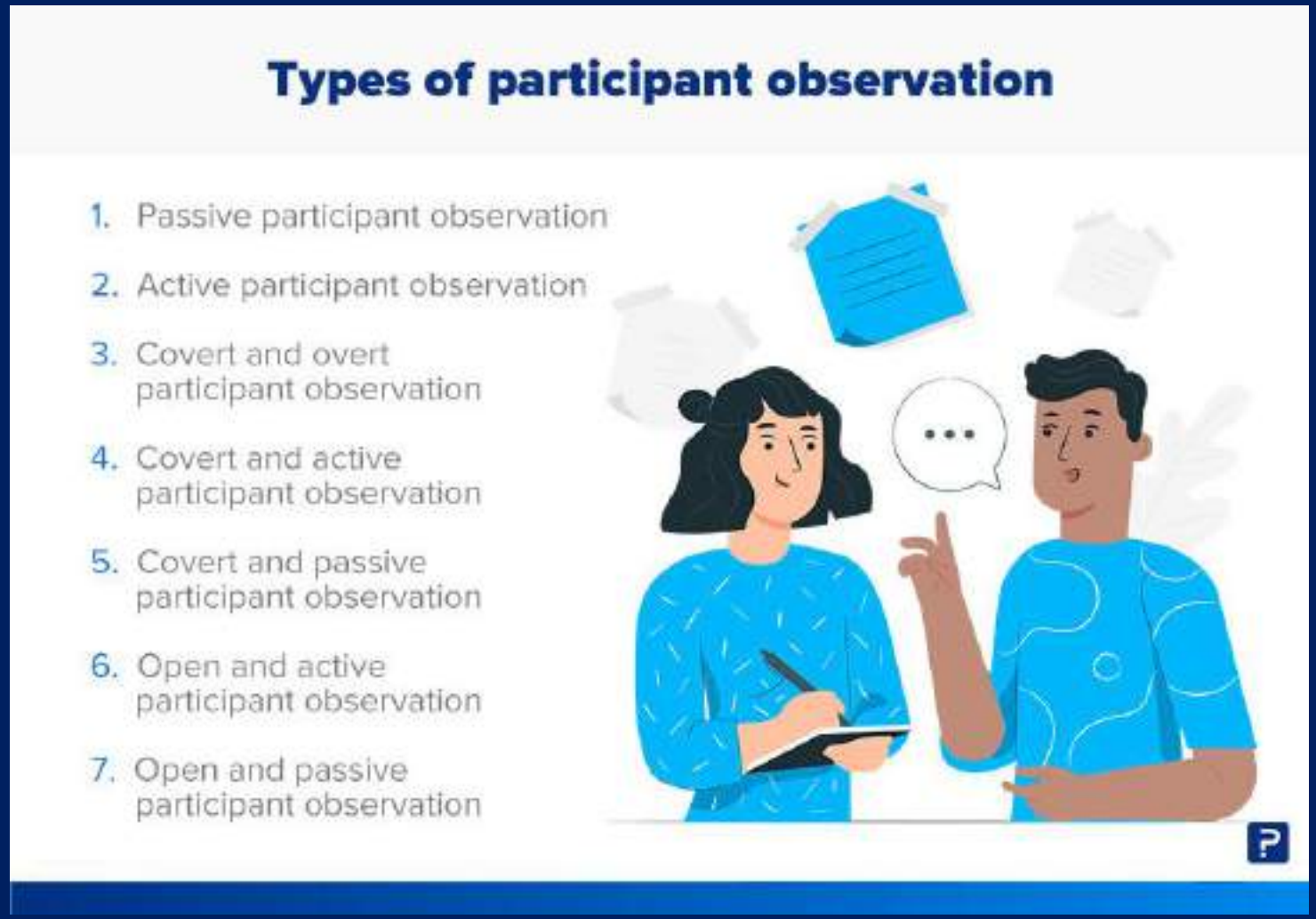


5. Collection of Data – Observation Method (OM) – Why Participant Observation?

- Video: Participant Observation – Qualitative Methods – Observation
- Why choose participant observation, personal background of the researcher, skills

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

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



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

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

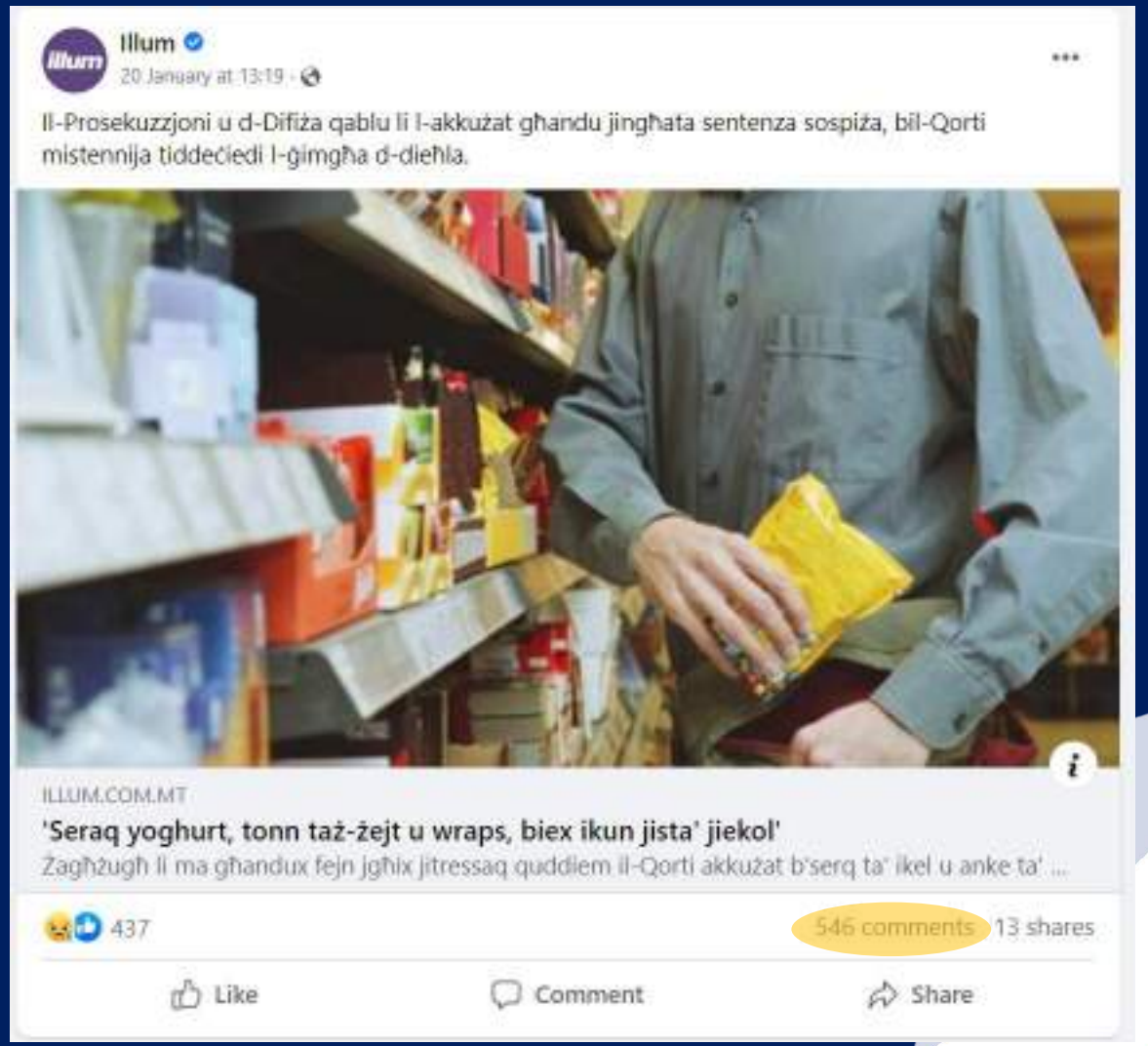
5. Collection of Data – Observation Method (OM) – Participant Observation Types

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



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

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

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.

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

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=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 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.

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

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

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.

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

- 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.

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)

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.

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

- 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?'

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

Questionnaire

Instructions: Please put a tick (✓) in the box next to the answer of your choice or write in the space provided as the case may be.

Sex

Male ☐ Female ☐

Age

☐ 13-14 ☐ 15-16 ☐ 17-19

Religion

☐ Christianity ☐ Islam

☐ Rastafarian ☐ Other

1. What type of family are you from?

☐ Nuclear ☐ Sibling house hold

☐ Single parent ☐ Extended

2. Do you use drugs

☐ Yes ☐ No

3. Do you know of least one teenager in your community that uses drugs?

☐ Yes ☐ No

4. If your answer is yes to question 2 (two), how often do you use drugs?

☐ Every day ☐ Every 2-3 days ☐ Once a week

☐ Every fortnight ☐ Once a month ☐ every 2 months

5. Are drugs easily available to teenagers in your community?

☐ Yes ☐ No

6. What types of drugs are used by teenagers in your community?

☐ Alcohol ☐ Marijuana ☐ Cocaine ☐ Heroine ☐ Others

If others please specify: _____

_____

_____

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

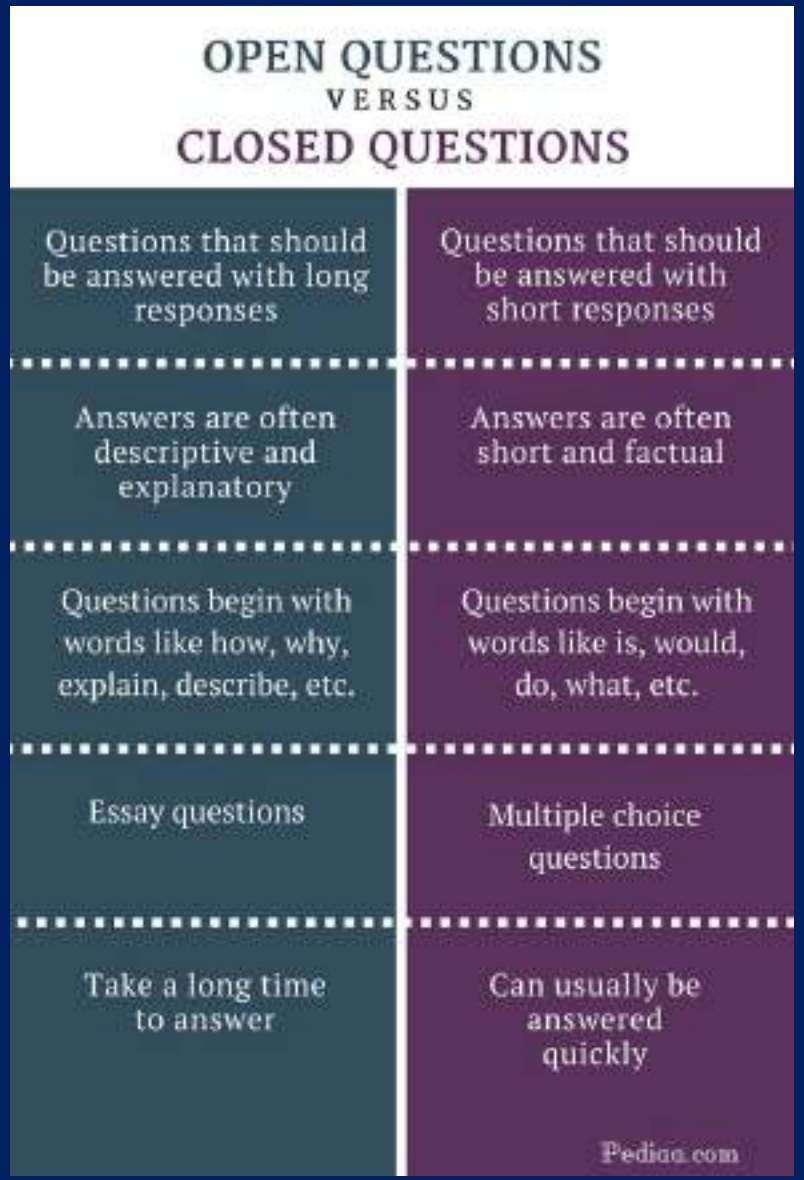
5. Collection of Data – Surveys

- 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)



Open	Closed
How do you get to work?	Do you get to work by driving, busing, or walking?
Tell me about your relationship with your boss.	Do you get on well with your boss?
What did you manage to accomplish on the trip?	Was your trip successful?
What happened at the meeting?	Did you have a good meeting?

6. Analysis & Interpretation of Data – Data Analysis

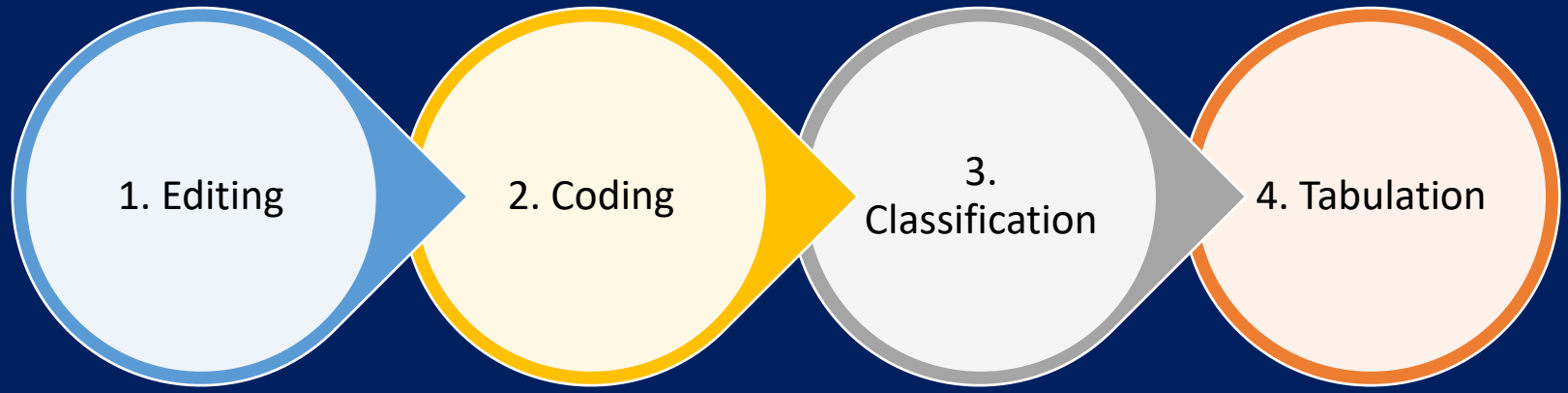
- Data Analysis (DA) – one the most crucial tasks
- Definition: summarizing the collected data and organizing these in such a manner that they will yield answers to the research questions or suggest hypothesis
- Legal Interpretation is the skill of bringing out or explaining the meaning of the law

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

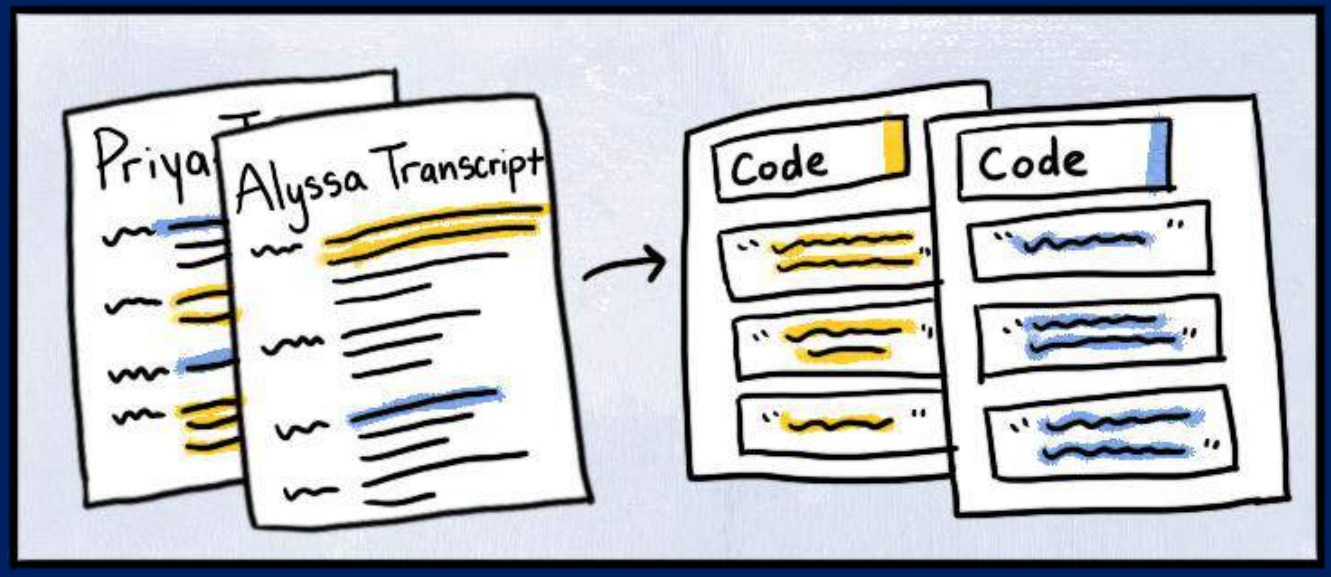
6. Analysis & Interpretation of Data – Coding and Classification

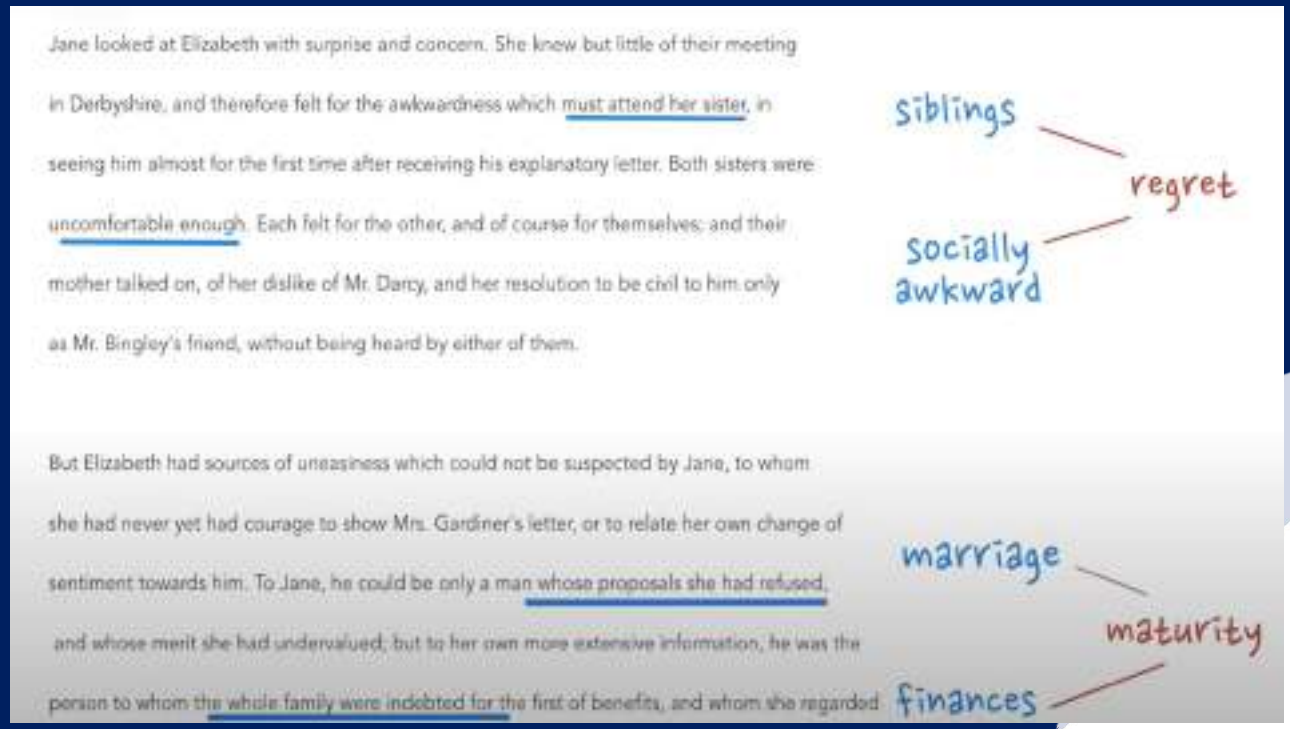
- For coding you don't need a specific software. You can code by hand e.g. scribbling on the paper, highlighting similar categories by the same colour or using coloured sticky notes. If the volume of data is large a software e.g. excel sheet will be more time effective
- If coding is done by hand, margins 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





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

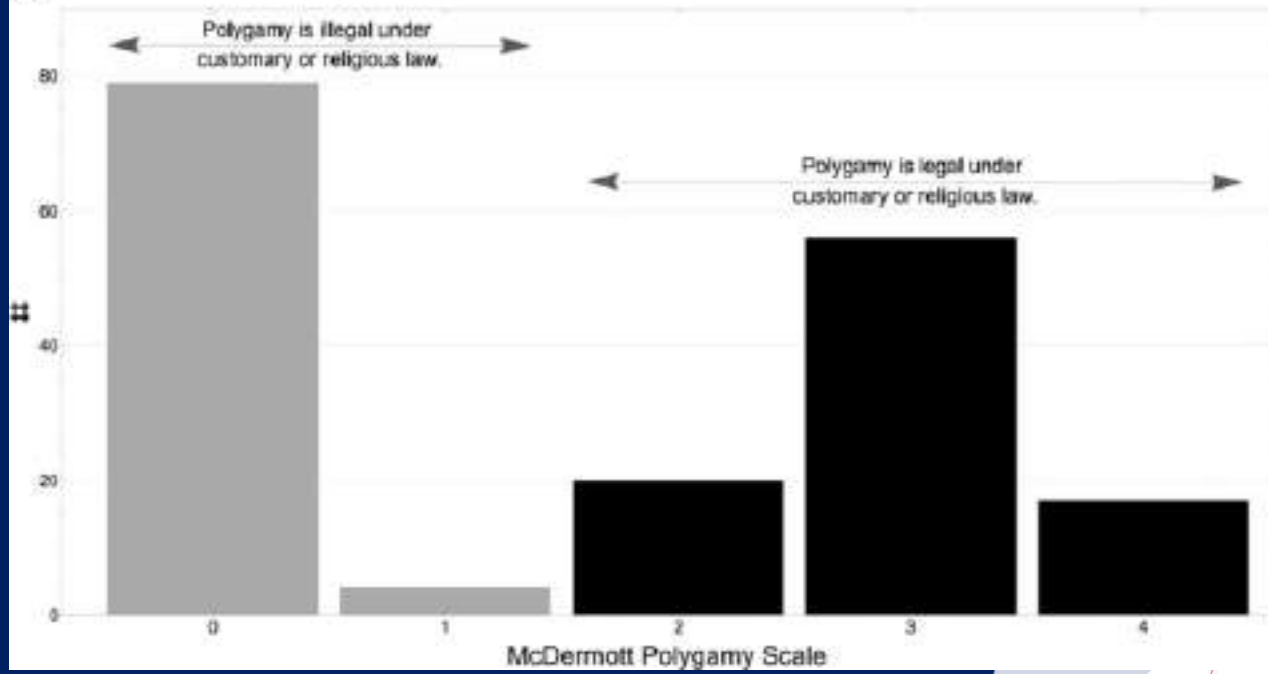
- Benefits of tabulation:-

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

(A)

Coding	N	Customary/Religious Law	National Law	w^a	$\mathcal{P}/n\mathcal{P}$
0	79	Illegal[b]	Illegal	<2[e]	$n\mathcal{P}$
1	4	Illegal[c]	Illegal	>2	$n\mathcal{P}$
2	20	Legal[c]	Illegal	<5	$\mathcal{P}$
3	56	Legal	Unenforced	<25	$\mathcal{P}$
4	17	Legal	Unenforced	>25	$\mathcal{P}$

(B)



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 Judgments - Camilla Scerri et vs Awtorita tal-Artijiet – LAB – 14/12/22 – Cap. 573

Kumpens

Ai termini tas-sub-artikolu (3) tal-artikolu čitat, il-kumpens dovut għall-akkwist tal-art għandu jkun skont il-valur tal-art fiż-żmien li nħarġet id-Dikjarazzjoni Presidenzjali, f'dan il-każ fl-1992. F'dawn il-proċeduri ġew esebiti żewġ rapporti – wieħed tal-Periti Tekniċi u ieħor tal-Awtorità intimata fejn jirriżulta diskrepanza qawwija ħafna.

Fir-rigward tal-kumpens, fin-nota ta' sottomissjonijiet tagħhom ir-rikorrenti jsostnu li l-Bord għandu jistrieħ fuq ir-relazzjoni ulterjuri tal-Periti Tekniċi ċjoe ta' €1,196,792 li miżjud bl-indiċi tal-għoli tal-ħajja jammonta għal €2,244,538. Minn naħa l-oħra l-Awtorità intimata tgħid li l-Bord għandu jistrieħ fuq il-valutazzjoni tal-Perit Arielle Agius aġġustata għal kejl ta' €126,447.35[4] bħala valur tal-art fl-1992 u għal €237,474.42 bħala valur miżjud bl-indiċi tal-għoli tal-ħajja. L-intimata tgħid li sabiex il-Perit Arielle Agius waslet għal dan il-valur għamlet referenza għal tlett operazzjonijiet

[4] L-istima mogħtija kienet fir-rigward tal-kejl ta' 1,245m² meta l-kejl imerfu ta' dawn il-proceduri huwa ta' 6,007m²

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paragunabbli ta' artijiet mibjugħa mill-Gvern fl-istess żmien u li fihom hemm indikat li l-kumpratur ġiegħed jobbliga ruħhu li *"josserva d-dispożizzjonijiet stipulati fl-Antiquities Protection Act tal-Liġijiet ta' Malta..."*. Inoltre wieħed mill-kuntratti huwa fir-rigward ta' art li hija ferm viċin l-art mertu ta' dawn il-proċeduri tant li r-rikorrenti oriġinarjament ħasbu li kienet tappartjeni lilhom u li kienet inbiegħet bil-prezz ta' Lm0.37c kull metru kwadru. B'hekk fil-fehma tal-intimata l-valur mogħti mill-Periti Tekniċi huwa wieħed eżorbitanti u l-Bord m'għandhux jistrieħ fuqu.

Mill-provi prodotti jirriżultaw is-segwenti valuri:-

Deskrizzjoni tal-art	Kejl	Sena tal-istima/ bejgħ	Valur tal-art skont il-kejl	Valur kull metru kwadru	Aġġustament skont l-indiċi tal-inflazzjoni għall-valur tal-1992
Art mertu ta' dawn il-proceduri msemmija fid-dikjarazzjoni *causa mortis*[3]	50,776m² (f'dan il-kejl ġie kompriż il-kejl espropriat)	2008	€200,000	€3.94/m.k.	€2.52/m.k.[5]
Raba' viċin l-art mertu ta' dawn il-proceduri[7]	271m²	1991	Lm100 ekwivalenti għal €232.94	€0.86/m.k.	€0.87/m.k.[9]
Stima tal-Periti Tekniċi tal-art mertu ta' dawn il-proceduri[8]	6,007m²	2019	€2,102,450	€350/m.k.	€190.63/m.k.[10]
Stima ulterjuri tal-Periti Tekniċi tal-art	6,007m²	2005	€1,722,370	€286.73/m.k.	€199.23/m.k[11]

[3] Dok. SEJ – fol 4 sa 6
[4] (475.89 – 743.05) x €3.94 = €2.52
[7] Dok. A – fol 37 u 38
[9] (475.89 – 468.21) x €0.86 = €0.87
[8] Fol 44 sa 46 u 49
[10] (475.89 – 873.73) x €350 = €190.63
[11] (475.89 – 684.88) x €286.73 = €199.23

mertu ta' dawn il-proceduri[11]					
Stima ulterjuri tal-Periti Teknici tal-art mertu ta' dawn il-proceduri[12]	6,007m²	1992	€1,196,792	€199.23/m.k.	€199.23/m.k.
Stima tal-Perit *ex parte* Arielle Agius tal-art mertu ta' dawn il-proceduri [14]	6,007m² [15]	1992	€126,447.35[16]	€21.05/mk aggustat ghal €39.48/MK[17] skont l-ahhar indici tal-inflazzjoni (2021)	€21.05/m.k.
Operazzjoni Paragunabbli – Att 39 – Art il-Manikata [18]	31m²	1991	Lm280 ekwivalenti ghal €652.22	€21.03/mk	€21.37/m.k. [19]
Operazzjoni Paragunabbli – Att 34 – Art il-Manikata [20]	21m²	1991	Lm190 ekwivalenti ghal €442.58	€21.07/mk	€21.42/m.k. [21]
Operazzjoni Paragunabbli – Att 76 – Art il-Manikata[22]	21m²	1991	Lm190 ekwivalenti ghal €442.58	€21.07/mk	€21.42/mk

Mit-tabella tirrizulta diskrepanza qawwija fil-valuri mogħtija ghas-sena 1992 fir-rigward tal-istess art jew art vicin fejn il-valuri jvarjaw bejn €0.87/m.k. u €199.23/m.k.

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[11] Fol 129 sa 130
[12] Fol 130
[14] Fol 70 sa 112
[15] Kejl aggustat minn 1,245m²
[16] (€26,207.25 ÷ 1,245) x 6.007 = €126,447.35
[17] (892.31 – 475.89) x €21.05 = €39.48
[18] Fol 104 sa 106
[19] (475.89 – 468.21) x €21.03 = €21.37
[20] Fol 107 sa 109
[21] (475.89 – 468.21) x €21.07 = €21.42
[22] Fol 110 sa 112

Il-Bord jagħmel referenza għas-segwenti enunċjazzjonijiet ġurisprudenzjali li jinsabu riportati fil-kawża **Andrew Agius u martu Nikolina Agius u Zoqdi Developers Limited (C10213) vs Direttur Dipartiment tat-Toroq et** deċiża finalment mill-Qorti tal-Appell fis-17 ta' Marzu 2021 (Rikors numru 889/09/1 JZM) fejn intqal hekk:-

> *In linea ta' prinċipju, għalkemm qorti mhix marbuta li taċċetta l-konklużjonijiet ta' perit tekniku kontra l-konvinzjoni tagħha (dictum expertorum numquam transit in rem judicata), fl-istess waqt dak ma jfissirx pero' illi qorti dan tista' tagħmlu b'mod legger jew kapriċċjuż. Il-konvinzjoni kuntrarja tagħha kellha tkun ben informata u bażata fuq raġunijiet li gravament ipoġġu fid-dubju dik l-opinjoni teknika liħa sottomessa b'raġunijiet li ma għandhomx ikunu priv mill-konsiderazzjoni ta' l-aspett tekniku tal-materja taħt eżami ("Grima vs Mamo et noe" – Qorti tal-Appell – 29 ta' Mejju 1998).*
>
> *Aġifieri qorti ma tistax tinjora r-relazzjoni periżili sakemm ma tkunx konvinta li l-konklużjoni ta' tali relazzjoni ma kienetx gusta u korretta. Din il-konvinzjoni pero' kellha tkun waħda motivata minn ġudizzju ben informat, anke fejn meħtieġ mil-lat tekniku. (ara - "Cauchi vs Mercieca" – Qorti tal-Appell – 6 ta' Ottubru 1999 ; "Saliba vs Farrugia" – Qorti tal-Appell – 28 ta' Jannar 2000 ; "Tabone vs Tabone et" – Qorti tal-Appell – 5 ta' Ottubru 2001 ; 'Attard vs Tedesco et' - Qorti tal-Appell – 1 ta' Ġunju 2007 u "Poll & Spa Supplies Ltd vs Mamo et" (Qorti tal-Appell Inferjuri – 12 ta' Diċembru 2008).*

Issir referenza wkoll għal dak li intqal mill-Qorti tal-Appell fis-sentenza fl-ismijiet **Alfred Cremona pro et noe vs Kummissarju tal-Artijiet** (numru 4/16 FDP) deċiża fit-2 ta' Marzu 2018 fejn intqal hekk:-

> *Abda billi jingħad illi f'materja ta' perizja teknika din tikkostitwixxi prova importanti u mhux normali li l-Qorti jew il-Bord jiskartaw l-istess prova, speċjalment meta parti fil-kawża tonqos milli tadopera r-rimedji disponibbli liha sabiex tikkontrasta tali prova ....*
>
> *..... Huwa ritenut illi l-Qorti m'għandhiex tiskarta l-konklużjonijiet tal-esperti tekniċi maħtura minnha, speċjalment fuq materja puramment teknika, b'mod legger jew kappriċċjuż. Hekk kif din il-Qorti kellha opportunita tistqarr, fis-sentenza tagħha tad-29 ta' Jannar 2016, fil-kawza fl-ismijiet B&B Property Development Company Limited v. Kummissarju tal-Artijiet:*
>
> *Din il-Qorti trid tirribadixxi il-punt illi f'materja ta' natura teknika trid, sa ċertu punt, tagħti affidament lill-opinjoni ta' persuni mħarrġa fil-materja, u dan sakemm ma jitressqux argumenti u veduti li serjament ipoġġu fid-dubbju dak li jgħidu n-nies tekniċi fil-materja.*

F'sentenza riċenti mogħtija mill-Qorti tal-Appell (Superjuri) fl-ismijiet **Rita Borg et vs Awtorità tal-Artijiet (Rik. Nru. 4/18/1 NB)** deċiża fl-24 ta' Novembru 2022 ingħad:-

14. Illi għandu jingħad mal-ewwel li, għalkemm din il-Qorti ma tiskartax faċilment il-giudizio dell'arte kif espressa mill-periti tekniċi, dan ma jfissirx li hija jew il-Bord huma marbuta li jadottaw l-konkluzjonijiet peritali fis-sħiħ. Fil-fatt l-Artikolu 59 tal-Kap. 573 li jitratta r-rapport tal-membri, fis-sub-inċiż (4) tiegħu jipprovdi li c-chairman għandu jiddeċiedi l-kawża huwa stess, wara li jkun ikkunsidra b'mod xieraq ir-rapporti taż-żewġ Periti tal-lista u kull att ieħor relevanti jew sottomissjonijiet magħmula. Inoltre, huwa prinċipju assodat li l-konsiderazzjonijiet u l-opinjonijiet tal-esperti tal-Qorti jikkostitwixxu, skont il-liġi, prova ta' fatt u għandhom jitqiesu bħala tali mill-Qorti. Madankollu, il-Qorti mhix marbutta li taċċetta l-konkluzjonijiet tar-rapport tal-periti kontra l-konvinzjoni tagħha (artikolu 681 tal-Kap. 12 tal-Liġijiet ta' Malta) u għalhekk il-Qorti għandha dritt li tiskartah bħal kull prova oħra. Ladarba l-liġi applikabbli fil-każ in eżami (Kap. 573) tagħti lill-Bord tal-Arbitragg l-istess setgħat illi għandha l-Prim' Awla tal-Qorti Ċivili u tqis li l-provvedimenti tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili jgħoddu għall-Bord bl-istess mod, il-prinċipji hawn imfissra, japplikaw ukoll għall-każ in eżami.

15. Kwindi, il-fatt li l-Bord ħatar esperti tekniċi sabiex jassistuh, ma jfissirx illi huwa ma kellux iħares b'lenti kritika lejn l-opinjoni teknika sottomessa lilu jew li ma kellux jiskarta dik l-opinjoni jekk din ma tkunx waħda sodisfaċentement u adegwatament tinvesti l-mertu, jew jekk il-konkluzjoni ma kenitx tirrizolvi kif suppost il-materja ta' natura teknika. Min-naħa l-oħra, sabiex Qorti twarrab perizja teknika, hija trid tagħmel dan wara li tkun konvinta li l-konkluzjoni ta' tali relazzjoni ma kenitx gusta u korretta. Din il-konvinzjoni għandha fil-fatt tkun waħda motivata minn ġudizzju ben informat, inkluż mil-lat tekniku. (Ara fost oħrajn, is-sentenzi ta' din il-Qorti fil-kawżi fl-ismijiet John Saliba et noe v. Joseph Farrugia deċiża fit-28 ta' Jannar, 2000, u Emanuel Attard v. George Tedesco et. deċiża fl-1 ta' Ġunju, 2007.)

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L-Artikolu 79(3) tal-Kap. 573 relattiv għall-istima peritali fost affarijiet oħra jipprovdi linji gwida għall-fatturi li jiddeterminaw il-valutazzjoni, kemm meta jitqabbdu periti mill-Awtorità, kif ukoll meta jitqabbdu mill-Bord tal-Arbitragg, fosthom:-

(a) id-data tal-valutazzjoni;
(b) id-data li saret riferenza għaliha meta ġiet valutata l-proprjetà;
(c) l-istat li jiġi kkalkulat li l-proprjetà kienet fih fid-data li saret riferenza għaliha meta ġiet valutata l-proprjetà;
(d) l-użu li kien qed isir mill-proprjetà fid-data li saret riferenza għaliha meta ġiet valutata l-proprjetà, inkluża l-informazzjoni dwar jekk il-proprjetà kenitx fl-istess żmien suġġetta għal drittijiet ta' terzi bħalma huma enfitewsi, użu, użufrutt jew kera;
(e) l-operazzjonijiet paragunabbli, jekk ikun hemm, li l-proprjetà tkun ġiet valutata b'riferenza għalihom;

(f) ir-restrizzjonijiet li joħorgu mill-iskemar skont il-pjani lokali u, jew ragunijiet pertinenti oħra;...."

20. L-aktar relevanti f'dan il-każ huwa l-aħħar element, in kwantu galadarba fil-mument tal-espropriju, l-art in kwistjoni kellha restrizzjoni fuqha riżultanti mill-iskemar, peress li setgħet tintuża biss għall-formazzjoni ta' triq, altru milli jirriżulta li dan huwa fattur determinanti fil-valutazzjoni tal-istess art.

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21. Din il-materja kienet trattata diversi drabi minn din il-Qorti, fosthom fis-sentenza ta' din il-Qorti tad-9 ta' Lulju, 2020, fil-kawża fl-ismijiet I.E.M. Investments Limited v. Kummissarju tal-Artijiet, fejn fost affarijiet oħra ngħad:-

> *Id-distinzjoni bejn ir-rati ta' art li kellha limitazzjoni ta' żvilupp li setgħet tiġi żviluppata b'mod differenti savet ukoll fis-sentenza ta' din il-Qorti tal-14 ta' Marzu, 2019, fil-kawża fl-ismijiet Joseph De' Conti Manduca et v. Kummissarju tal-Artijiet, li kienet ċitratta art li għalkemm tinsab is-Swieqi, ġiet ukoll espropriata fl-istess żminijiet:-*
>
> *Għalkemm il-periti semmew in-natura ta' żvilupp li seħħ fuq l-art in kwistjoni, din il-Qorti tinsab konvinta li fis-suq liberu, fost il-kriterji li jiddeterminaw il-prezz, wieħed certament isib dak tal-potenzjal tal-iżvilupp li jista' jsir fuq l-art. Dana jingħad peress li minkejja li l-iżvilupp li seta' jsir fuq l-istess art huwa limitat b'dak li jipprovdu l-ħtiġijiet tal-ippjanar, dan il-kriterju tal-użu jew żvilupp limitat jiffigura proprju f'dak li jipprovdi l-Artikolu 18(2) tal-Kap. 88, hekk kif ċitat qabel, kriterju li l-periti Periti certament adottaw. Dan, fil-fehma ta' din il-Qorti, jinsab rifless ukoll fir-rati stipulati mill-periti teknici Periti tal-Bord għall-art in kwistjoni, fejn il-periti Periti għamlu distinzjoni wkoll bejn l-użu tal-art li setgħet tiġi żviluppata fi triq li ġiet stmata bir-rata ta' €400 għal kull metru kwadru, filwaqt li dik l-art li setgħet tiġi żviluppata f'Centru Civiku u spazju miftuħ ġiet stmata bir-rata ta' €800 għal kull metru kwadru. Din id-distinzjoni bejn ir-rati certament tirrifletti l-limitazzjoni tal-iżvilupp li seta' jsir fuq l-art in kwistjoni. Kif ġustament rilevat mill-appellati, dan mhux każ fejn il-kriterji tal-ippjanar inbidlu konsegwenza tal-espropriju li seħħ, iżda l-policies tal-ippjanar eżistenti għas-sit in kwistjoni ġew applikati għat-tip ta' żvilupp limitat li seta' jsir fuq l-istess art." (enfasi ta' din il-Qorti)"*

L-art mertu ta' dawn il-proceduri illum hija soġġetta għan-*North West Local Plan* li jagħmel applikabbli għalīha l-policies NWMG1 *Interpretation Facilities for Heritage Sites* u NWCO 11 *Open Space Gaps (Strategic and Local)* li ġew promulgati fil-11 ta' Awwissu 2006. Meta l-art ġiet esproprjata fl-1992 il-policies imsemmija, li jillimitaw l-użu tal-art, ma kienux eżistenti. Dan jirriżulta wkoll mir-rapport *ex parte* fejn il-Perit Arielle Agius (a fol 75) tgħid li ma nstabet l-ebda policy applikabbli fl-1992. Mir-rapport

tal-Periti Tekniċi jirriżulta li fl-1992 l-art kienet tintuża għal skopijiet agrikoli. Dan jirriżulta wkoll mill-att ta' bejgħ tal-10 ta' Awwissu tal-1991 fl-atti tan-Nutar Francis Micallef (fol 37) fir-rigward ta' art viċin it-Tempju ta' Skorba. Minkejja dan l-użu m'għadhux permissibbli l-art xorta waħda għadha tintuża għal skopijiet agrikoli hekk kif jidher anke mir-ritratti annessi mar-rapport *ex parte* li saret referenza għalihom mill-Perit Arielle Agius.

Fis-sentenza fl-ismijiet **Alfred Cremona *pro et noe* vs Kummissarju tal-Artijiet**[23] mogħtija mill-Qorti tal-Appell fit-2 ta' Marzu 2018, art fiż-Żebbiegħ fil-viċinanzi tat-Tempju ta' Skorba ġiet stmata fl-1 ta' Jannar 2005 fil-valur ta' €550 kull metru kwadru għal art fabbrikabbli u €30 kull metru kwadru għal art agrikola. Il-valur ta' €30 imnaqqas bl-indiċi tal-inflazzjoni għas-sena 1992 iwassal għar-rata ta' €20.85[24] kull metru kwadru. F'sentenza oħra mogħtija mill-Qorti tal-Appell fl-ismijiet **Aġent Kummissarju ta' l-Artijiet vs Edith Tabone et**[25] deċiża fid-9 ta' Lulju 2020 art agrikola fiż-Żebbiegħ li kellha permess ta' żvilupp meta ġiet espropprjata, ġiet stmata fir-rata ta' €90 kull metru kwadru fis-sena 2000 in vista tal-potenzjal tagħha. Fis-sentenza **Angelo Fenech et vs Kummissarju tal-Artijiet**[26] deċiża minn dan il-Bord diversament presedut fit-3 ta' Ottubru 2012 art agrikola sabiex tgħaddi triq fir-*Rural Conservation Area* li hija l-*buffer zone* ta' sit arkejoloġiku Tas-Silġ f'Marsaxlokk ġiet stmata f'Lulju 2011 fil-valur ta' €10.81 kull metru kwadru.

Fid-dawl tal-valuri hawn ċitati, il-Bord iqis li m'għandhux japplika r-rata mogħtija mill-Periti Tekniċi għar-raġuni li r-rata kwotata minnhom ma tirriflettix il-valur veru ta' art agrikola fiż-Żebbiegħ. Il-Bord jinnota inoltre li l-operazzjonijiet paragunabbli li għamlu referenza għalihom il-Periti Tekniċi meta ċitaw is-sentenza fl-ismijiet Abela Joseph et vs Kummissarju tal-Artijiet (Rik. Nru. 30/2010) jirrigwardaw bċejjeċ ta' artijiet fabbrikabbli f'Ħaż-Żebbuġ bir-rati tas-sena 2005 u intiżi għal formazzjoni ta' toroq, liema kunsiderazzjonijiet mhumiex applikabbli għal każ in dizamina u għalhekk qajla jista' jingħad li din l-operazzjoni kienet paragunabbli. Il-Bord sejjer minflok japplika r-rata stabbilita mill-Perit ex parte tal-Awtorita Arielle Agius ossia ta' €21.05 għal kull metru kwadru fis-sena 1992 liema rata aġġornata skont l-indiċi tal-inflazzjoni l-aktar riċenti ossia 2021 tiġi għal €39.48[27]. Din ir-rata hija wkoll viċin ir-rati adoperati fis-sentenzi fuq ċitati mill-Bord. **Għalhekk applikata din ir-rata ta' €39.48 fir-rigward tal-kejl ta' 6,007m.k. il-kumpens dovut jammonta għal €237,156.36.**

Danni materjali u morali

Jifdal issa l-kwistjoni tad-danni. Al termini tal-Artikolu 58(g) tal-Kap. 573 il-Bord għandu l-awtorità li jillikwida u jagħti danni materjali u morali. Fid-dibattiti tal-kamra tad-

[23] Rikors 5/2016
[24] (475.89 ÷ 684.88) x €30 = €20.85
[25] Rikors 29/2000/2
[26] Rikors 17/2011
[27] (892.31 ÷ 475.89) x €21.05 = €39.48