

# CONTENT ANALYSIS TECHNIQUE IN LEGAL RESEARCH—A CRITIQUE

Dr. R. Srinivasan\*

## I. Introduction

Content Analysis is a scientific study of the information and communication. It reveals the intention of the communicator, circumstances of the communication and the purpose of the communication. It is a standard application of research method in all social sciences. In the legal research method content analysis employs empirical study to learn the legal doctrines through different lenses. In pursuing this work the research scholars step into the shoes of social scientists and collect various set of documents including judicial opinions on particular subject and reading it consistently and systematically.

According to Professor Herman Oliphant in his inaugural address as President of the American Association of Law Schools in 1928 he observed that "Our case material is a gold mine for scientific work. It has not been scientifically exploited ... We should critically examine all the methods now used in any of the social sciences and having any useful degree of objectivity."<sup>1</sup> In this research paper an attempt is made to analyze that how the social science standard technique of content analysis form the basis for an empirical methodology on legal research.

## II. Epistemology

Historically, Content analysis was a time consuming process. It was done manually or slow. The mainframe computers were used to analyze punch cards containing data punched in by human coders. Single studies could employ thousands of these cards. Human error and time constraints made this method impractical for large texts. However, despite its impracticality, content analysis was already an often utilized research method by the 1940's. Initially the studies limited to examine texts of the frequency of the occurrence of identified terms. But in the mid 1950's researchers were already starting to consider the need for more sophisticated methods of analysis, focusing on concepts rather than simply words and on semantic relationships rather than just presence. Now it was widely relied in the field of sociology, political science and communication field. Recently it also relied in the field of legal research and applied to texts of legal documents such as trial court records, statutes and regulations.<sup>2</sup> In the later 1950s some lawyers and scholars began to develop spontaneously a self taught method that could be labeled content analysis. The Content analysis has three different components: a. systematic selection of cases; b. coding cases; c. analyzing the coding cases.<sup>3</sup>

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\* Dr. R. Srinivasan, Assistant Professor, P.G. Department of Constitutional Law & Human Rights, Tamil Nadu Dr. Ambedkar Law University, Chennai-600 028, Cell: 9444609315, E-mail: srinivasan@tndalu.ac.in.

### III. Definitions

In the 'Content Analysis' the word 'Content' denotes what is contained and 'Analysis' means what is contained in a information or communication. Broadly speaking that the word content analysis is a method where the content of the message forms the basis for drawing inferences and conclusions about the content. In this there are various definitions of content analysis are available.

According to *Kaplan* the Content Analysis means "any technique for the classification of the sign-vehicles which relies solely upon the judgements of an analyst or group of analyses as to which sign-vehicles fall into which categories on the basis of explicitly formulated rules provided that the analyst's judgements are regarded as the reports of a scientific observer."<sup>4</sup> *Berelson*, defined the content analysis is a research technique for the objective, systematic and quantitative description of the manifest content of communication.<sup>5</sup> According to *Barcus*, the content analysis is used here to mean the scientific analysis of communications messages...the method is broadly speaking the scientific method and while being catholic in nature, it requires that the analysis be rigorous and systematic.<sup>6</sup> According to *Stone* the content analysis refers to any procedure for assessing the relative extent to which specified references, attitudes or themes permeate a given message or document.<sup>7</sup> Further *Holsti* says that it is any technique for making inferences by systematically and objectively identifying specified characteristics of messages.<sup>8</sup> *Kerlinger* defined content analysis is a method of studying and analyzing communication in a systematic, objective and quantitative manner for the purpose of measuring variables.<sup>9</sup>

### IV. Purpose of Content Analysis

A careful consideration of the above said definitions of the content analysis techniques revealed that this method shows emphasis on systematic, objectivity, qualification, context and validity with reference to the interferences drawn from the communication content about the sender, the message or the receiver of the message. Thus content analysis is all about making valid replicable and objective interferences about the message on the basis of explicit rules. The material for the content analysis can be letters, diaries, newspaper content, folksongs, short stories, messages of radio, television, documents, texts or any symbols.

Further like any other method the content analysis conforms to three basic principles of scientific method. They are:

- a. **Objectivity** which means that the analysis is pursued on the basis of explicit rules which enables different researchers to obtain the same results from the same documents or messages.
- b. **Systematic** means the inclusion or exclusion of content is done according to some consistently applied rules where by the possibility of including only materials which support the researcher's idea is eliminated.

- c. **Generality** means the result obtained by the researcher can be applied to other similar situations. By generality we mean that the findings must have theoretical relevance; purely descriptive information about content, unrelated to other attributes of content or to the characteristics of the sender or recipient of the message is of little scientific value.

The three requirements are not unique to content analysis, but are necessary conditions for all scientific inquiry. They serve to indicate that, in general terms, content analysis can be regarded as the application of the principles of scientific research to the analysis of communication content. From this above analysis the general consensus on the defining characteristics of content analysis has objectivity, systematic and generality. Apart from these characteristics the content analysis contains quantitative and qualitative of the content. The quantification has usually been accepted as one of the most important characteristics of content analysis. It is also equated with numerical terms. It aims at the classification of content in more precise terms than is provided by impressionistic 'more or less' judgement of 'either or'.

Traditionally the legal research method is acquainted with analytical, critical and comparative methods etc. But the content analysis is not ventured to apply due to the non-availability of statistical and data processing technology. Information and communication technology comes to the rescue of legal researcher to apply content analysis technique to legal research more precisely.

Holsti (1968) points out that the inferences about sender's message, characteristics of message or the effect of the communication on the receiver, where the researcher interprets the content so as to reveal something about the nature of the audience or of its effects. Lasswell propounded the above said components in his classical formulation: WHO says WHAT to WHOM with WHAT EFFECT?<sup>10</sup>

The below stated Table-A adopted from Berelson (1952) gives a comprehensive picture of the different applications of the methods of content analysis.

**Table 1: Content Analysis Research Design**

Purpose	Questions	Research Problem
To describe the characteristics of communication	What?	a. To describe trends in communication content. b. To relate known characteristics of sources to the messages they produce. c. To audit communication content against standards.

	How?	a. To analyze techniques of persuasion. b. To analyze style
	To Whom?	a. To relate known characteristics of the audience to message produced for them. b. To describe patterns of communication.
To make inferences as to the antecedents of communication.	Why?	a. To secure political and military intelligence. b. To make psychological traits of individuals. c. To infer aspects of culture and cultural change. d. To provide legal evidence.
	Who?	a. To answer questions of disputed authorship.
To make inferences as to the effects of communication	With what effect?	a. To measure readability. b. To analyze the flow of information. c. To assess responses to communication.

### **Uses of Content Analysis**

In this section an attempt is made to explain some studies about the applications of content analysis. It is most widely used in social science and mass communication research. It has been used broadly to understand a wide range of themes such as social change, cultural symbols, changing trend in the theoretical content of different disciplines, verification of authorship, changes in the mass media content, nature of news coverage of social issues or social problems such as atrocities against women, dowry harassment, social movements, ascertaining trends in propaganda, election issues as reflected in the mass media content and so on.

One of its most important applications has been to study social phenomena such as prejudice, discrimination or changing cultural symbols in the communication content. For example by using AIR INFOTECH software from 1950-2011 it was identified that there were 45 cases the Supreme Court relied "Sustainable Development Principle" and even that 45 cases were decided by the Supreme Court from 1993 to 2011. Further it identify how the Supreme Court relied the American doctrines in India in protecting environment. Moreover, the study can be made on the qualitative analysis of the content of the case. In the

qualitative analysis it was identified that the Supreme Court held that the Sustainable development principles are treated as law of the land after Vellore Citizen forum case in 1996.<sup>11</sup> The changes in the attitude of the Supreme Court and how the Court duly recognized the foreign principles as law of the land as general principles of law recognized by the civilized nation under customary international law.

One of the most frequent uses of the content analysis is to study the changing trend in the theoretical content and methodological approaches by content analyzing the journal articles of the discipline. Using this approach the researcher analyzed a stratified random sample of research articles published in the leading journals from and to a particular period and identify the character of authors and document the trends in empirical content, subject areas and methodological characteristics such as source of data, research design, sampling and statistical techniques used in the articles. Similarly, public attitude towards important issues such as civic amenities, unemployment and so on were assessed by analyzing the content of editorials or letters to the editor in newspapers.

One significant are of its use has been the analysis of newspaper content of the election coverage and editorial treatment to mould the opinion of voters. Some time it is used as unobtrusive research method to study sensitive topics to corroborate the findings arrived at by other methods such as persons involved in the conflict, possible causes of conflict, nature of victim's abuse and death and nature of reporting.

#### **Advantages**

- a. It goes beyond the impressionistic observations about the phenomena and can help you make a quantitative expression about the phenomenon.
- b. It is an unobtrusive research technique useful to study sensitive research topics.
- c. It is content sensitive and therefore can process symbolic meanings of data. Though predominantly seen as a quantitative method, it can effectively capture qualitative content as well. The context sensitivity of the method will articulate the qualitative dimensions.
- d. It is safe method in the sense that if the researcher found that a portion of the necessary information was missing or incorrectly codes, it is possible to return to the text and supplement the missing data. This is not possible in empirical study.
- e. It can deal with large volumes of data. Processing may be laborious but of late computers made the job fairly easy.
- f. It is a shoestring methodology, which is typically labour intensive and requires minimum capital investment.

**Disadvantages**

- a. Its inferences are limited to the content of the text only. Similarly, symbols are processed and coded according to the attribution given by the researcher or coder. There is no guarantee that the sender or receiver shares the same attributed meaning.
- b. When it deals with semantic differences or differences in regard to the meanings of words, the findings can be less valid and reliable.
- c. It is argued that content analysis which confines itself to counting the individual units and their frequency of occurrence such as for example the number of times the word 'globalization' appeared, may fail to capture the meaning or significance with which these symbols are used in the texts analyzed.
- d. The reliability and validity issues in content analysis still remain unresolved.
- e. The method cannot be used to test causal relationship between variables.

**Quantitative and Qualitative Analysis**

Quantitative content analysis is the most common kind in the social science. Normally it is designed with statistical analysis. But it does not mean that the quantitative content analysis must be effective when it is designed as statistical analysis. The qualitative content analysis is well effective even with verbal. Compared with the relatively well accepted techniques for doing quantitative content analysis, however, guidelines for doing qualitative content analysis are far and few between. The quantitative content analysis is deductive sort with explicit or implicit hypothesis that the researcher wants to test with data. Qualitative content analysis on other hand tends to be of the inductive sort, analyses that might begins with research questions, but are then likely to involve observations about texts in general.

In the legal research the content analysis is a unit may be a 'section', 'article', 'case', 'concept', 'citation', 'paragraph', 'name of a person', 'name of a court', 'name of a country', etc. The counting of the above said data is very difficult in the traditional technique like counting it in journals, literature etc. But the development of the information and communication technology like "AIR Info-tech Software on Supreme Court and High Court cases", "Manupatra.com" are very useful in collecting the datas and counting the datas numerically for inferring the characteristics of content of the communication, antecedent of the communication and consequences of the communication.<sup>12</sup>

**Conclusion**

Research is a continuous scientific and systematic process and activity. Research always tries to discoverer new things. Research depends upon its

objective, nature and purpose. Some researcher may take objectives of impact analysis, thereby building, testing of hypothesis and behavioral analysis and so on. Legal research is regarded as a part of social science. It is directly related with legal reforms and aims to solve the problems. Content analysis method is properly applied in legal research. This method can be applied to study of court proactive, practice of judges, lawyers and prosecutor police and so on. It helps to explore and analyze the life of social unit selected for research; it can play a significant role in legal research. This method always requires a deep and minute study. It can be taken as the best method of collecting relevant information and data concerning an individual, a family or a group of persons. Weaknesses such as generalization regarding content analysis method can be easily resolved through training attained on the modern method of collecting data and information using the scientific techniques of gathering, classifying and processing of data. Even though this method is most useful it would be better if we could use study method accompanied by other methods as and when necessary.

#### Endnotes

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