

QIKJS-Part.II.B

Qualitative Inquiry of Korean Judicial System

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Introduction

We concede that the method students are often exposed to the dichotomy between quantitative and qualitative, and eminent categorization of five approaches within the qualitative method. I think in generic considerations that such orthodoxy would come less significant, and may even impede a possibly emerging need of scholastic pluralism. Of course, such paradigm is useful in selection of appropriate method and approaches adaptable with the purpose of researcher and nature of study. It may also be serious for the concerned prospective political scientists if the quantitative articles hail within the prestigious journals and often would lead the scholarly discourse and communication with a number of citations. In this case, it would be advantageous to work on the quantitative studies that he wishes to raise his scholarly impact and reputation. Therefore, I just mean, instead of arguing on exodus or total emancipation, that an unnecessary apotheosis of current paradigm on the research method can have a potential to shackle a possibly new frontier in terms of methodological concern.

Two Qualitative Approaches and the Dissertation Research

As Frost et al enunciated, the interest in furthering understanding of data and phenomena by whatever means available is burgeoning, and the great number of qualitative methods, techniques and practices are now available (2010).[1] Truly, it is increasingly trending that the pluralism of qualitative approaches seemingly come into research practice.[2] For example, the Pluralism in Qualitative Research (PQR) simply shows the creative tensions of integrating diverse qualitative approaches. It is also needed that the researchers of qualitative study investigate the benefits of diverse approaches beyond five traditional categories, which can make their research methodologically more appropriate. Since my purpose on the dissertation project involves generating a theory of PAKJS, the grounded approach had been planned. Additionally, I may consider, though complementary

or just a matter of extent, two other approaches beyond the five categories by Creswell (2007).

The hermeneutics approach can be applied to my dissertation research that is especially characteristic to be effective on the research based on the foreign language and distinct culture. Therefore, we may popularly call it grounded hermeneutics approach that entails, however, more strongly with the sensibility of sophistication. Originally, the hermeneutics refers to the theory and methodology of text interpretation to deal with the sophisticated materials, such as biblical scripts, wisdom literature and philosophical texts (Patton, 2002). The wide forms of data will inform my research and will be used to produce the understanding and theory of PAKJS. The journal writings published publicly by the influential policy makers and scholarly literature dealing with the topic of PAKJS would be a principal source in vast volumes. They are written in Korean language dominantly that can be epitomized into meanings and themes by applying the hermeneutics approach. The points of consideration in exercising this approach are principled by Herder (Leventhal, 1994). In his rant, the most important craftsmanship on this approach is relating with the word uses, dependency on and bounded-ness by the thinker's capacity for linguistic expression, and sensations. In his principles on the hermeneutics, the duty of researcher is to set hermeneutics on the foundation of a new, and moreover arguably correct philosophy of language (1994).^[3] Other neighboring term would be exegesis, sometimes used interchangeably with hermeneutic, which, however, focuses primarily upon texts. Since hermeneutic involves essentially the work of interpretation leading to the hermeneutic consistency or a coherent explanation, it could be used in a wider discipline including written, verbal and non-verbal communication. The approach, therefore, is useful to analyze sources of written materials in various forms and in Korean language that will eventually be theorized with terms, concepts, themes, and stories of PAKJS.

Since my research employs a qualitative inquiry and particularly within the grounded theory approach, Foucauldian discourse analysis can be a lens of analysis (Frost et al, 2010). This approach is particularly appropriate to construct the meanings and implications from the Korean data sources, literature, and the endogenous nature of written materials and intellectual provisions. The methodology is derived from post-structuralism, and Foucauldian conceptions of power relations and subjectivity (2010). This approach can elicit connections and important bearings between the policy makers and civic pressure group in the policy process of PAKJS. The reform and new policy agenda also can be evaluated from the point of economic inequality and sex discrimination within the judicial system. The context also can be investigated in consideration of globalization drive and judicial reform, in which the power relations, policy making and subjectivity intersected. Since the topic lies on the continuum, 'ideological, political and values,' reflexivity is key to this methodological approach and taking a social constructionist framework provides to examine how objects and subjects are constructed in discourse and to explore what the effects might be (2010). For

example, the sharp income disparity of lawyers on the globalization of legal market or law graduates from the new law school policy can be analyzed through the FDA that would divulge possible social locations which afford or delimit the particular experiences or ways of being. The approach can be useful for the critique of current institutional and social practices that it eventually culminates at the identification of subject positions leading to action and subjective experiences. In comparison with the usual intuition of truth claims by the social scientist, the approach often patterns with utilizing appropriate analytic concepts and reporting findings in a way which is consistent with the appropriate theoretical and epistemological positions. Therefore, it fairly can service generating a theory of PAKJS, the prior research of which lacks or would be incomprehensive with merely issue-by-issue dealings. In terms of knowledge claims, the approach can be measured by its usefulness rather than the kind of accuracy which works through the construction of PAKJS theory. Since it begins with the attitude that no outside truths is supposed, it also facile adapts with the grounded theory approach. An emphasis of this approach lies in the privileged role of researcher's interpretation and epistemological foundations, and dialectic process,^[4] all of which is considered akin to the basic thought process of Korean scholars, judicial policy makers and other intellectuals including the lawyers and civic leaders.

Some Thought

Since my research project will be investigated by qualitative method, this class must be precious for the consideration of current progress on my research plan and rethinking its appropriateness through the end of dissertation process. As a scientist, we seek a truth and new discovery for the better world view (Kim, 2015a,b,c,d,e). Our professional expression as a research, as we see, comprises many important strands of personality as a human that we even learnt a different response in description if same objects were presented for description within the observation hours yielding an empirical data . We have learnt a certainty of bell type assumption and confidence interval that would base the verity of quantitative studies. We considered between the description of general populace and intact cultural group for the reality and scientific meanings within the humans and community or universe. Through the method classes, we have seen the nature of findings by attributing to the political quality on one hand^[5] and deep truths for the cultural groups on the other. Since my topic is PAKJS (public administration of Korean judicial system), I may take it as the kind of cultural issues, but within the broad context of prevailing understanding on the public administration. That would be one of motifs that I selected the qualitative method to investigate PAKJS. Other considerations also have been minded that the qualitative method can be more adaptable and convenient to yield an action plan or reform agendas. Beyond implications and suggestions from the quantitative analysis, I also feel that the tone and style of stripping, argumentation and critiquing can be more powerful and attuned to the sensitive and specific issues by employing the qualitative method (Maxwell, 2005). Of course, the narrative hook, especially with a naïve thrust, would be every way of impasse that the scientists will disgust to avoid.

Although the qualitative method is on service to understand the dynamism of policy process and the roles or impact of policy makers in shaping the policy making of KJS, the dilemma had never be non-existent if I would be proper to see the Korean policy makers on this area of policy making as a cultural group. Korea is one of advanced economies and established statehood in the world politics. They would have the national standard of science and policy diffusion often occurred through the rigorous process and statutory protocols. They have a western standard of laws and constitution on which they play and act to decide on the important policy issues. Over the preliminary work, however, I had formed a belief that the decision making and policy diffusion had their own rule of progress and retraction, in which the key leadership often exerts a significant influence for PAKJS (O’Sullivan, Rassel & Berner, 2008). The policy area also is fairly institutional and less palpable with the general public that they are distinct to enjoy the extent of insulation and without any serious public pressure unlike other policy areas. They are also easily deferred by the public that the decision makers themselves are highly professional and with their own intellectual stewardship. A public criticism, if any, could arise from the civic association, but principally would be engineered by the same professionals. In fact, the policy areas significantly differ from the kind of issues, say, tax exemption of salary workers or switch from the compulsory conscription to the small professional army. Upon the time of methodological appreciation, I had a mind to investigate the key leadership with in-depth interviews and several focus group meetings for the exchange of views (2008).

Between the literature and data, I have spawned some doubt if Korean literature could be a data source that could be utilized for my research. We generally know that the ideas expressed in written materials have two strands, say, facts and opinion.[\[6\]](#) The kind of categorizations, for example, discussion, evaluation, or suggestions would largely pertain to the opinion in this case. The literature often is meant to denote the scholarly nature of written work, in which Korean source could come opaque in chances. This doubt could be compared with the thought that the common law lawyers had a tradition of categorizing the foreign laws as a fact other than law. In other words, it could be a scholarly piece for the Korean community, but can be received as a fact – or data in this case – for the English speaking world. Provided that one reason to regard the foreign laws as a fact has underlain the difficulty of knowing it by the judges,[\[7\]](#) that view may not survive if the CrossRef will currently lead us to a sea of Korean literature for our scholarly investigation. The doubt still has yet to been solved if we can utilize the personal story books of key policy makers on KJS. They contain same nature of description that we can obtain through the in-depth interviews. For his lifetime novels or memoirs, he would register key statements or the like of interview responses that would otherwise have been collected by the interviews of qualitative researchers. In this reality, the interviews and replica of his or her memoirs of non-scholarly nature or personal documentation may result in same sorts of information in the end (Miles, Huberman & Saldana, 2014). In other words, his or her published piece of writing would be the kind of journal writings that convey facts or personal views and opinions – the same

alternatives to the data or response obtainable from the qualitative interviews. I would not be a radix who argues if these sources always could be an empirical data in replacement of in-depth interviews. Nevertheless, I may ponder if we can utilize it as one form of data on the condition (i) they like to avoid the face-to face interview and already acknowledged the interview questions (ii) they have a sufficient opportunity to compare the relevance and accuracy of his or her statements to the known questions (iii) the contact interviewees expressly agree to use it. Just a thought for whom would have a same concern!

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[1] For example, Sandelowski would be a champion of the descriptive qualitative research, and Thorne and her colleagues developed interpretive description in order to meet a need in nursing research. In some cases, however, it would not be a new approach, but just is relatively unacknowledged. In other cases, the definition of specific approach can be clearer when it is defined in the negative. Therefore, as differs from the big three – phenomenology, grounded theory and ethnography, the generic qualitative research can be defined as “that not guided by an explicit or established set of philosophic assumptions in the form of the known qualitative methodologies.”

[2] As Frost et al saw, the qualitative work is distinct that qualitative researchers aim to capture the meanings of narratives along several dimensions, including argumentative, discursive, emotional, sentient, imaginary spiritual, sentient and spatial. This trait may be a node to create the backdrop of pluralistic approaches in the qualitative studies.

[3] For example, because of importance of word usages, , all thought (as essentially articulated in terms of concepts or meanings) is essentially dependent on and bounded by the thinker's capacity for linguistic expression – i.e. a person can only think if he has a language and can only think what he can express linguistically.

[4] The stages of FDA includes beginning with (i) the identification of discursive constructions, (ii) the identification of these within wider discourse, (iii) the identification of subject positions, and (iv) the mapping of possibilities for action and subjective experience.

[5] Of course, the work of quantitative researchers is not that of politicians within the *realpolitik* since they are merely subservient as an investigator of election poll or public opinion.

[6] Now the summit meetings on climate change are being held in Paris under the title “2105 Paris Conference des Nations Unies Sur Les Changement Climatiques.” Given the humans are a subject investigated by social scientists, they may likely be a weather spoon as if opinion can be changed while the facts tend to be hard and constant. Between the subjects and object, we know that the ideas or scholarly thought may change according to the societal transformation. It is, therefore, any important responsibility of social scientists to connect the humans with the universe changing constantly, but eternally on verity.

[7] In a maxim of law, the “judges should know a law” that will be applied to the facts discovered in the courtroom. It would be overcharging that the judges are assumed to know the laws of every country, which he is responsible to apply. Therefore, the discovery and presentation of foreign laws falls within the disputed parties, often represented by the attorney.