

QIKJS-Part.II.H

Qualitative Inquiry of Korean Judicial System

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Strategies on the Data Management

Given the qualitative approach may be less structured or susceptible of emerging ideas, it can be seen inadequate to require of any strong pretense to be exhaustive on the ways of study management (Babbie, 2006; Maslow, 1966). The lore of colleagues, nevertheless, simply suggests some strategies in order to deal more productively or suitably to the research purpose. There can we find also some elements that the researchers often attend to make their research progress flow in the ordinate and autonomous stream to the end of research.¹

One strategy is the kind of vigil to be constant on the track and take a memo that the initial filed data would not be lost so as not to grudge on regret later. I consider it most prime, of which the qualitative research are minded and practiced to the point of saturation. Other strategy is to store the data safely that they are irreplaceable once lost, vandalized, erased or damaged. Hence, backing up all the work is important. As learned, the data management can be aided by numerous software programs that can be made convenient, safe, enjoyable and systemic. Many functions can supplement to allow the whole picture of research project as integral, pertinent, linked, organic, processorial, focused and even quantifiable (Edelman, 1981). While one cognitive psychologist compares the human brain with various functions of computer,² the kind of programs are encouraging although the contents or moral judgment as

¹ Consciously or unconsciously the kind of data management flows often would be operated by the authors on the qualitative work as showed by Huberman, such as memoing notes, transcribing them, coding, storage, search and retrieval, data linking, analytical memoing, content analysis, data display, conclusion drawing and verification, theory building, graphic mapping, and preparing interim and final reports. Such process also can occur expressly on the design decision or implicitly. It also can be realized with the aid of computer software or by the author's person and hand-on work.

² Thus, the denominator, artificial intelligence, seems very deemed to some expertise of computer science. It could perhaps be some check-mate with the traditional philosophical sophistication or conundrum on

well as basic aesthetics on the research design, logic and metaphor, or structure of chapters are largely left with the researcher. Therefore, we may recommend gaining the benefit and advantage, which will be strategic to progress effectively and to yield the refined final report. Simply can we be more facile to monitor the growth gradient of data or analytic memoing for adjustment, focused or balanced management.

Now that the internet use virtually became ubiquitous in Korea, one study corroborates our guess that people can be more vulnerable of dementia. To say, they are less willing to memorize and generally tend to have a propensity to meet their need of knowing through an internet search with the public tool, such as Google, Bing or Daum. The study concluded that they do not use their brain, which promotes an earlier defect of brain leading to dementia. This life experience will not occur at least for the attentive researcher on constant comparison or track the new data or emerging ideas. I am a morning reader of newspaper, in which I often could find the stories and articles developed to concern the legal service market. It actually would be cumbersome and even could make the researcher irritated, likely the image of grotesque *Einstein*, to instantly take a memo with them. I missed the precious information to my regret, but eventually can be backed to locate by searching the on-line website of newspaper some days later. I may harbinger to be reflexive over the preference of paperback, automatic back-up with the public on-line website, medical impact of internet use or strategies for the researcher. Really fantastic is it that the lives before several decades could not experience. They perhaps might have brought a scissors from his tool box that would scrap the article into their collection notes. This inconvenience is not certainly ours in the contemporary decade. It is also not the sort of researchers that we have to memorize the articles or stories, which, nevertheless, might be strategic for the exam crammers to the schedule for a week or days. I may suppose how this kind of researchers has a probability of early dementia or eclipse the increasing age of life span. The researchers nowadays seem to be surrounded by very unique environment that could make his person as one type. In the face of challenges, I can tell some of strategies beyond the general considerations. First, the researchers need to be minded that he can be prolonged with the chaining field. It should not be longer, but also not such shorter that some extended vision and time awareness can help a final success (Maxwell, 2005). Second, this does not mean that the research plan will be loosely structured. The researchers also have to be aware that the more structured approach can save time and energy. This generally turns starker as the progress will be made and along the stages as develop through the three major performances.³ Therefore, the strategy is that he or she has to be considerate to build up the strong conceptual

epistemology by the centuries of philosopher, such as Cartesian, Hegelian, Kantian through the post-positivists.

³ As pertains to data collection, the main issue will be how to ensure high-quality, accessible data. In the process of data analysis, the researcher's strategy will be to ensure documentation of just what analyses have been carried out. After the study is complete, the researcher has to take care of retention of data and associated analyses strategically.

framework (2005). This could be a good basis to track the data we collect and analyze. This consideration also can work to prevent data loss and data overload that allow the researcher to be productive and refined with the data management and analysis. Finally, the qualitative researcher would do a good practice by thinking, as posited by Huberman, “how thorough do I need to be or what do I need to anticipate in the way of data management needs?” (Miles & Huberman, 1994)

Strategies and Illustrations

Let me demonstrate briefly the strategies for organizing and documenting the research process and tracking qualitative research data with the recent field work (Kim, 2015a,b,c,d). First, the data collection should be constantly attended to characterize my qualitative studies. That can necessitate a strong conceptual framework and link the data as pertains to the mapped concepts and their relationships. The newspaper stories had been closely relevant with the concepts, such as power relations, liberalization of legal service market and local administrations of Korea. The title of story, “Legislative proposal on the joint foreign law firms suddenly halted” implies that the PAKJS is never purely an agenda of domestic issue that the policy network is wider or policy process can be complex with various influences and power relations. Since the on-line source can be available to track later, I could successfully retrieve the data from Joong-Ang Daily, and confirmed its details (Joong-Ang Daily, 2016).

[Summary of Field Data]

The story tells that the complaint of four major economies represented by the visit of their ambassadors had pressed the proposal deferred. It was originally expected that would have referred to the next convention of NA since it passed with the resolution of JCNA. The proposal includes upper limit of share to 49 percents for the foreign law firms. Often this kind of statutory limitation is being practiced with respect to the policy reason of preserving national culture and moral order, what we often called cultural exception in the international trade law. That is particularly notorious in the area of broadcasting and film industries that the corporate governance can be regulated or screen quota would be exempt from the non-discrimination principle of GATT and WTO. It is arguable if the law firms or legal practice can be defined cultural than economic in the trade terms of FTAs with those major countries, such as US, EU, Great Britain and Australia. It also can possibly be disputed whether such regulation is permissible within the agreed international covenants of Korea because the policy is reasonable and necessary to protect the public order or national morals. Since the FTAs have a dispute settlement mechanism, such as ICSID procedure on the investment of counterparts, policy measure could be submissive to the judicial control a *posteriori*. Nevertheless, the proposal was deferred a *priori* although it passed the subcommittee. The story specified, “the liberalization of legal service market over the three planned stages is aching.....49 % limits for the share of investing foreign law firms were contested...Some analysts commented that the national congress kneeed to the foreign powers...” It named the chair assemblyman, S.M. Lee, who decided to drop a referral to the debate and vote session of NA. According to the story, the diplomats of four countries

conveyed concerns and precaution about the possible trade dispute that the proposal contravenes the FTAs among the countries. The proposal, revision act for the foreign counselors in another title, had been prepared to meet the international obligation for the third stage liberalization of legal service market. Upon the passage of the review of first chamber, it was reported that four ambassadors, Mr. Lippert from US and Mr. John Hay from United Kingdom and two vice ambassadors from Australia and EU, made a presence to make a complaint for the wrongs of proposal. They pointed out that the proposal unilaterally favored the Korean law firms, and violates the FTA provisions. Lee later admitted that the deferral of proposal was thought proper for further contemplation, but the committee members were aroused that the problem had already been deeply debated by the committee, and it is not good as a sovereign body if to drop the formal decision just upon the complaint by the foreign powers. The expert of DOJ, C.S. Kim, now responsible for the affairs of international law, commented, "The proposal has been worked to model after the precedent of Singapore." The country had opened their legal service market progressively through three stages, 2000, 2008, 2012 by means of share ceiling. He also adverted that the expert professors of trade law had been consulted that received a positive opinion not in conflict with the norms of FTAs. The other point in controversy has been reported about the qualification of foreign firms about three years standing operation. The diplomats had argued that it should be shortened or must be omitted. The response was reported with the voice of big law firm managers, "Such aggressive practice implies of a definite strategy that the foreign law firms will exploit the domestic market once the liberalization process completes." Given its passage by the NA, the EU law firms will likely invest to employ the domestic and foreign lawyers by means of joint incorporation with the domestic firms. The domestic nature of litigation and legal counseling, then, can be profited by this very meta-capital of international character.

[Analyzed Notes]

1. The separation of powers principle is one concept that the data hints on the passivity of judiciary in terms of policy making. Given many experts involved to explicate the issue, the judges or voice of court has not appeared implicating that the public policy is friendlier with other branches. The intervention or participation in the policy making process is seldom despite the nature of issue being concerned of national judicial system. It was seldom except for the issues or agendas of organizing or budgeting, considered immediate and essentially related. Therefore, the past attention and care to respond with the controversy of Judicial Exam by the Supreme Court is fairly remarkable. The public conference held in the auspice or participation of Supreme Court also is seldom, which is otherwise in the case of Korean constitutional court or Supreme Court of United states. I have witnessed only one incident recently over the decade that the Supreme Court justices participated to audit the expert testimonies and discussions of no fault divorce in the last fall. This seems partly because the constitutional court is more policy oriented than the jurisdiction of Korean Supreme Court, whose function is carried by the US SC in terms of comparative law.
2. The policy network will engineer policy process that PAKJS is no exception. The national congress formally would be a supreme authority to decide on the policy agenda and related controversies. The policy initiative, however, is generally exercised by the DOJ, an important collaborator to shape the public policy relating with the KJS. Since it is active with an initiative and proposals other than review, debate and approval, the organ is fairly powerful in terms of PAKJS. The concept of learning in view of policy diffusion theory is an important and traditional element that even the news reporters are patterned to practice their duty. The experts from the trade law will be contacted that gives a comment about

the implications and values. The policy addresses, a law firm manager or attorneys in this concept, also could be recruited to advert on their views, meanings and impacts, or the kinds. Therefore, the data itself can be sensed as the kind of mini-discourse analysis in some aspect.

3. The three stages of market liberalization would be distinct in terms of PET that the revolutionary policy change occurs with moderation and adjustment. Therefore, we can know that the PET theory can be applied in variants or different terms, in which one time moment might be characteristic with the speech of national heads or historical lessons and momentum. Nevertheless, the PET can attest some distinctively that the practical platform could be contemplated against the sudden impact or policy embarrassment by incorporating the three-staged reform into the international agreement.
4. The field data generally convince our assumption that the economic factors are stronger for the policy makers than cultural value. The four diplomats can well be viewed as trade diplomats in this sense than the classic imagery of comity or attitude to know and share the cultures of host country. Any mediate element can be said of the public value for a nation, which is arguably contestable in view of concerned parties. The public value may be based on the concept of law or moral requirements of nations, in which case the international trade law is arguably a final yardstick to resolve the controversy. It can be viewed politically if the diplomats are based on the countries of major international influence. Then, the case implies that the policy process in this area is very exponential as involved with various factors. The policy process generally will be engineered by the concerned bureaucrats in their responsible jurisdiction. The modern view of congress and executive could come as precise that a triad of policy making authorities, say, the committee of NA, executive agency and interested group had collaborated. Nevertheless, it could not effect that we have to include the kind of actors in the context of this scenario, say, trade diplomats. Now that the commerce state is arrogant than warrior state in this age, the role of trade diplomats are demanded and WTO might symbolize the tendency. Historically, the commercial issues among the nations have been notorious to fuel the contest of major powers and exploitation of colonial states. WTO generally is considered a most idealistic epithet to settle this conundrum. Nevertheless, the policy process can be seen, in some aspect, would be the kind of ritual for the bureaucrats, and they often concede that the judicial control is unique to check and balance. In fact, the policy effect, *a posterior* by the judiciary, is fairly determinative as we see the agricultural policy area in the US. Therefore, the policy actors need to be versatile to adapt with the specific policy areas of interest.
5. In this consideration, the learning is an important concept that concerned actors have to share with the national or international ideal and values. The Weberian concept of bureaucrats and their morality can guide on implications and lessons that the policy makers in the international capitalism shall have recourse properly as the actors of rational authority. An allegation about the potential violation of FTAs by the trade diplomats simply exposes this dimension of moral virtue as a policy maker. On the other, the courtesy or other general protocols for the decency of diplomacy may be the kind of knowledge and ethics in the Weberian assumptions concerning modern ambassadors given their visit was made neither to the diplomatic agencies of Korea nor executive branch, perhaps DOJ in this case. It can be probable to be misinterpreted by the observers as the kind of incident likely if Machiavelli's concept of politics and rule had serenaded to prevail over the past centuries. Both views may not reach a consensus, perhaps because of this power politics enshrined in the Machiavelli. Also we can chart the evolution of theory according to the progress of society and capitalism. A learning importantly held by the policy diffusion theorist may be one kind of war requiring the time and energy for the policy makers, but never with any tangible arms or weapons. It can be costly, but generally sustain the policy process as the kind of *habitus* that the contemporary community relies on. Through the data and my notes, the power relations can be identified distinctly with

some kind of hierarchy, which corroborates with the assumption of discursive structure by Foucault, ideals, perhaps very contentious, and through the identity politics or self reflexivity of policy makers.

A Concluding Insight

Three strategies came into play in my case, say, importance of concept map, and a data accounting log as well as case analysis meeting or time of reflection. The data gleaned from the source would be recorded to correspond with the classification and categories of map. In this process, the raw material would be field notes, recordings, and site documents. In my case, we can regard it as a written transcription or site documents given that it would be the newspaper article. It could be seen a partially processed data if it is from Korean source and the interpreter is knowledgeable to transcribe with some intellectual implications, which fall within the data category of write-ups, transcriptions, initial versions, and subsequent corrected, cleaned, commented-on versions (Miles & Huberman, 1994). It could accompany memos or other analytic materials, such as researcher's reflections on the conceptual meaning of the data. The main issue in my case is how to incorporate them into the mapped concepts in the explorative, descriptive, explanatory, orderly and predictive way, perhaps, on much of memos and interpretations.

The strong conceptual framework could allow the data and analyzed results into the categories. The strategy to develop and store the data and documents can be dealt in typology. My strategy is to utilize directly the main themes, impressions and summary statements, which require probing what is going in the case, and I may add comments about the general state of the planning and implementation system (1994). The other ways can be feasible depending on the preference of researchers that we may use the typology of data management categorized as explanations, speculations, hypotheses, propositions, and assertions. Such categories can be complemented with the corresponding ones, including alternative interpretations, explanations, and disagreements. With respect to the data and analyzed result as above, I can manage seven categories as the main themes, according to which they are incorporated into the computerized storage within the NVivo (Bazeley, 2007). A strategy on the case analysis or time of reflection has been used to link the data and analyzed results according to each main theme.

1. Learning
2. Economic/Socio-cultural (Meta-capital and Habitus)
3. Bureaucracy/Nationalists/Internationalists
4. Policy actors/Policy process/Policy network
5. Political Realism/Law/Institutions

6. Judicial System/Judiciary/A Priori or A Posterior
7. Power Relations -- the Strong and Weak Influence or Normative and Law-kind duty/Ideals/Value Discourse

My strategy also is to use a data accounting log, which enables the qualitative studies as good record keeping and management. This strategy is particularly useful when there are large numbers of participants or sites. The unattended field work can cause a loss of data, which could damage the research work more profoundly than just have “missing data” as in a quantitative survey. The field data in the qualitative studies are the kind of evidential bricks, which verifies an explanation or tests an emerging hypothesis or conclusion. Therefore, I highly recommend the use of a data accounting log although it may look laborious and even overzealous. In use, we could enter dates, supplemental notes, and researcher generated confirmation marks for at-a-glance documentation of the corpus.

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