APPLICABILITY OF CONTENT ANALYSIS IN LEGAL RESEARCH

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THE TECHNIQUE of content analysis was till 1930 mainly used by journalists, the only exception being a few sociologists. The growth and development of mass media made this technique popular. After the Second World War more and more social scientists started making use of this technique with the result that there are a few disciplines today where this technique has not made any mark. Legal research is a notable exception. The main object of this paper is to discuss its applicability in legal research.

Before going into the details of its applicability it would be advisable to discuss the meaning and enunciate a brief history of the technique. Bernard Berelson, after reviewing a number of definitions of content analysis, defined it as "a research technique for the objective, systematic and quantitative description of the manifest content of communication."[1] The technique is objective in the sense that different people agree on the categories developed and get similar results. The term "systematic" in the definition means that content analysis is not used haphazardly. Like any other survey research it also needs specific problems or hypotheses. Quantification of content analysis means that the frequencies of analytical categories can be counted and their interrelationship can be worked out. The term "manifest content of communication" implies that it deals with the intended part of communication. On the basis of manifest analysis scholars may interpret latent intentions also. However, in most cases it may become difficult, if not impossible, to discern latent intentions

In the early decades of the twentieth century there were hardly two studies a year based on content analysis. During 1921-25, there were 10 studies, and the number increased to 130 between 1946-50. This shows that gradually the technique is becoming popular.

The content analysis technique has been used for various purposes. Berelson has classified its uses into three categories. These are:
  (1) Characteristics of communication content;
  (2) the causes of content; and
  (3) the consequences of content.

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   1. "Content Analysis", in Gardner Lindzey (Ed.), *Handbook of Social Psychology,* Vol. I at 489 (1954) (Addison Wesley Publishing Company).

(1) Under the first category, *i.e.*, characteristics of communication content, Berelson has listed seven uses as follows:

(*a*) Description of trends in communication content;

(*b*) tracing the development of scholarship;

(*c*) description of international differences in communication content;

(*d*) auditing communication content against objectives;

(*e*) comparison of media or levels of communication;

(*f*) construction and application of communication standard; and

(*g*) aid in technical research operations.

(2) The causes of content analysis include:

(*a*) Exposition of propaganda technique;

(*b*) measurement of readability; and

(*c*) discovery of stylistic features.

(3) The consequences of content analysis include:

(*a*) Identification of the intentions and other characteristics of communications;

(*b*) determination of the psychological state of persons and groups; and

(*c*) detection of the existence of propaganda (primarily for legal purposes).

In legal research, there are various aspects where one can make use of this technique. But to illustrate its applicability in legal research I would confine myself to the judgment part of the legal process only. Judgments are passed on various subjects such as criminal, revenue and civil cases, but for illustration I would adddress myself to one particular type of cases and take the judgments of various judges in one court regarding that particular type.

In content analysis also, like any other survey research, one has to start with some research questions. In the case under examination the following questions may be asked:

(1) What is the length of the judgments?

(2) What different types of symbols or terms have been used in them? How has the trend in use of symbols changed? What are the similarities and differences in the use of symbols by various judges?

(3) How has the trend in judgement changed with the change in the legislation?

(1) Space devoted to content analysis can be worked out in different ways. We can measure the space in inches, columns, paragraphs, number of lines or words, and so on, depending upon the nature of the content. For instance I analysed ten articles published in an English daily to discover the prevailing climate of opinion among the top leadership. Here space was measured in terms of number of lines in each article. The distribution was as follows:

Space devoted to various themes

Parties	No. of lines	Denuncia-tion %	Self-appraisal %	Policies and prog-rammes %	Anticipation of election outcome %
Congress	344	39.9	28.6	26.7	4.7
PSP	298	60.7	10.4	20.8	8.0
Republican	141	9.2	21.4	57.2	12.1
Jan Sangh	272	45.2	30.8	23.8	—
CPI (M)	356	39.0	55.5	5.3	—
BKD	226	56.6	30.9	8.8	3.5
INDF	113	53.0	39.8	—	7.0
Swatantra	466	35.3	8.7	36.5	19.3
SSP	409	54.2	18.8	21.7	5.1
Lok Dal	298	34.6	9.0	38.9	17.2

(2) For the quantification of data the content has to be divided into various units. The units of analysis can be words, themes, characters and items. The unit of analysis will depend on the nature of problem as well as the type of data available. While writing about the unit of anylysis Berelson has made a distinction between the recording unit and the context unit, between the unit of classification and the unit of enumeration, and between the levels of analysis.

The recording unit is "the smallest body of content in which the appearance of a reference is counted" (a reference is a single occurrence of a content element). The context unit is the largest body of content that may be examined in characterising a recording unit.[2] If the recording unit is a word or a term, then sentence will be the context unit; and if sentence is the recording unit the paragraph will be the context unit.

While analysing the prevailing climate of opinion among the top leaders I have classified the article into four themes, *viz.*, denunciation, self-appraisal, policies and programmes, and anticipation of election outcome. Number of lines for each of the themes has also been worked out.[3]

Harold D. Lasswell and others, while analysing the changes in the trends of May day slogans in Russia from 1918-1943, took a symbol (or

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2. *Id.* at 507.
3. Surendra K. Gupta, "Party Statements on Eve of Mid-term Polls", IV *E.P.W.* 615-21 (1969).

word) as the recording unit of analysis. They classified the symbols into eleven categories as follows:

(a) The revolutionary symbols are the terms endorsing or predicting revolution such as "revolutionary" "socialism", and "toiling masses".

(b) The anti-revolutionary terms refer to those words which show the existence of enemies such as "capitalism", "fascism" and "imperialism".

(c) The national symbol includes those words which are used to speak of the USSR as a national entity such as "fatherland", "patriotism" and "Soviet frontiers".

(d) The universal symbols are those words which refer to the world as a whole such as "internationalism".

(e) The domestic policy symbols are those words which refer to internal conditions of the USSR.

(f) The foreign policy symbols are those words which endorse the official acts of the USSR in relation to other countries.

(g) The social group symbols are those words which refer to social formations inside the USSR and other countries. They include symbols like "peasants", "workers" and "intelligentsia".

(h) The list of persons includes the names singled out in the slogans.

(i) The old liberal symbols include the terms like "sons", "brethren" and "fraternity".

(j) The moral symbols include "solidarity", "opportunism" and "honesty".

(k) The action symbols are the verbs and expressions used in statements referring to, or demanding, audience participation.[4]

In the present case we can analyse content according to various symbols used by different judges. But to find out whether a particular symbol has been used favourably or unfavourably we may take sentence as the context unit.

(3) The categories of content analysis may deal with subject-matter, direction, standard, value, method, trait, actor, authority, origin and target. For instance, Lasswell and others, depending upon the style of symbols, classified them into six categories as follows:

(a) Expectation (description): "May first is a festival of labour."

(b) Endorsement: "Long live the Russian Communist Party."

(c) Denunciation: "Down with the Armies of Imperialism."

(d) Admonition: "Watch carefully the plots of our enemies."

(e) Address: "Workers, Peasants, Red Army men...."

(f) Self-identification: "...the Russian Communist Party, the party of the working class."[5]

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4. *Language of Politics* (1949) (George W. Stewart Publishers, New York).
5. *Ibid.*

Yogesh Atal, while analysing the pamphlets distributed during the 1967 elections, classified them according to (a) source, (b) addressee, (c) style and (d) content.[6] The content was further classified into the following themes: (*i*) merits of the party, (*ii*) merits of the candidates, (*iii*) demerits of other parties, (*iv*) plans of the party, and (*v*) the political system: its needs and invocation of the electorate which includes admonitions, warnings and role obligation.[7]

In the case under examination, we can classify the symbols according to the subject-matter. We can also find the traits and characteristics of persons mentioned in the judgment, authority or the source quoted and the target.

Instead of taking judgments of various judges we restrict to one judge only and can analyse the content of his judgments in different cases. A comparison can also be made between the judgments of two or more courts.

The content analysis, though a very useful technique, is time consuming and also requires a trained researcher.

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6. *Local Communities and National Politics : A Study in Communication Links and Political Involvement* 202 (1971) (National Publishing House, Delhi).

7. *Id.* at 204.