

## CHAPTER EIGHT

### DATA ANALYSIS: Crystallising the events of the journey

#### 8.1 INTRODUCTION

In the previous two chapters I analysed and interpreted the data to test my two premises. In chapter six, I interpreted the findings of the exploratory or first phase in relation to my first premise. The findings in regard to my premise that some learners have limited knowledge of their right to freedom of expression, was found to be valid. Almost all the respondents are aware that they can speak their mind under the right to freedom of expression, but only a few know that the right to freedom of expression entails a wide spectrum of modes of expression. In chapter seven I investigated my second premise, i.e. that some learners do not know how to exercise their right to freedom of expression. Once again, the assumptions were not fully substantiated, but the interpreted findings indicate that some learners do not know how to exercise their right to freedom of expression.

In this chapter I interpret the data from phase 3. As my premises have already been addressed by the findings from the first two phases, my intention is to use the data from phase 3 (an in-depth interview), to crystallise the data from the previous two chapters in order to enhance the validity of the data and findings. It is similar to reflecting on and appreciating the journey after arriving at the destination, and deciding whether the journey was worth the effort. It also includes reflecting on important (in)sights possibly missed along the way.

The *Antonie* case ("Antonie", 2002) was the single most important reason I chose to write on this topic, as it was the first South African school-related case that addressed freedom of expression. I conducted an in-depth interview with the plaintiff in order to determine whether a learner who actually sued the school governing body for infringing her right, has a clear understanding of what the right entails. In addition, I also wanted to determine whether her understanding of the right correlates with the understanding of other learners (see § 5.4.1 for background on this case). I shall interpret the data according to the three categories that arose during the data-coding phase. Firstly, I shall consider the importance of filing a court case. Secondly I shall investigate whether the data crystallises the notions of absolutising and limitation as deduced from the first two phases.

Before continuing, I need to define my understanding of the term "crystallisation". When crystallising one uses multi-dimensionality and angles of approach as a process of validation (Richardson, 2000; Tobin & Begley, 2004). Crystallisation recognises that any given approach to study the social world has many facets (Denzin & Lincoln, 2000; Janesick, 2000). Borkan (2000) refers to this notion as "immersion/crystallization". He points out that crystallisation is a process "emerging after concerned reflection with intuitive crystallizations, until reportable interpretations are reached" (Borkan, 2000, p. 180). It is in other words, an intuitive realisation of patterns evolving through the entire research process. The pattern starts to evolve after the literature review. One recognises it again when

collecting data and it emerges once more when the data is analysed. Furthermore, the data interpreted by using different data collection instruments indicates the same pattern. In other words, the pattern crystallised throughout all the phases of the research validates the research process. I simultaneously acknowledge the fact that there is not a single truth and that I am investigating people's perceptions. The fact that all the respondents verified the raw data and that the three phases of data collection in which three data collection instruments were used resulted in the same findings (patterns), was my main method used to crystallise the data. The data from phase 3 was therefore used to confirm the patterns previously identified.

## 8.2 THE IMPORTANCE OF FILING A LAW SUIT

When I asked the plaintiff how she experienced the importance of taking the issue to court, she answered that she felt so strongly about the case and the right to freedom of religious expression that she believed that she would have the courage to follow through. She indicated that the culture of not differing from, speaking out, or questioning authority is ingrained in South African society (see § 1.5 and § 3.2.7):

*Yes. I just felt either our parents contacted the officer saying [sic]. They asked that I redo it because their children would not be able to handle that type of publicity and that type of reaction from the school. So our parents felt that we needed to express them but the children would not allow them to interfere in their school 1:4 (58:63).*

Many learners shared her sentiments, but were not prepared to follow the same legal route. First they contacted her to offer support and later to congratulate and support her:

*But most people were very supportive. I had people at Row's school calling me, saying "well done for doing it", you know 1:19 (330:332).*

The fact that many felt the same, but were hesitant to act on it echoes the fact that South African culture is still to some extent influenced by authoritarianism. South African learners and the broader South African community will still rather be controlled by the authorities than cause disputes by asserting themselves or challenging authority, since they fear the consequences of such actions. (see § 1.2.1).

The plaintiff also felt at the time, that some people were intent on belittling her right. They acted as if she was exaggerating the issue, and in the process they ignored or violated her right:

- *Nobody really took notice of the whole thing. Through the case it was not really important to anybody 1:11 (27:29).*
- *I felt maybe they thought it was just a phase but they had no right of thinking it was just a phase 1:12 (18:20).*

People singled her out because she had the audacity to take the matter to court. Some educators even violated her fundamental rights because she went to court:

- *There were a lot of people who did not agree with what I said. Teachers put me out of their classes because of what I was doing. So it was quite something for some people that made comments and remarks. You know ... 1:5 (67:70).*
- *Yes. A girl my brother was seeing at the same school. She was in matric<sup>155</sup> and then she actually said that I was taking away the limelight from the matriculants.<sup>156</sup> And I did not. It*

<sup>155</sup> Final year of secondary school.

<sup>156</sup> Learner in final year of secondary school.

*was not meant to be like that you know. It's the school. They didn't ... It's not been me [sic] that blew it out of proportion. The school just had to see what I wanted and what my rights were. That's all and I said yes go on with it. That would have been it 1:7 (82:89).*

The school exaggerated the importance of a minor issue, but was ignorant regarding many more important issues:

- *But if most of the people do these things, it is not to the extent as what [sic] schools make it out to be 1:30 (534:535).*
- *This was probably a big extent to them, the dreadlocks and the head coverings but this is my right 1:31 (529:540).*

She indicated that schools tend to distort issues. To them, for instance, the wearing of dreadlocks is a big issue. When considering the literature (Alston, 2002; Bray, 2000a; Sachs, 1992), one would expect school authorities to be informed and to be able to balance rights by applying the appropriate principles and values that guide the process. Yet, in applying the principles determined by case law to limit the right to freedom of expression, it becomes difficult to understand the reason the school went to such extremes: the wearing of the dreadlocks did not substantially disrupt the school, nor did it oppose the educational purpose of the school, and it did not violate any stakeholders' rights. Also, the issue was not addressed according to the value system that underpins the South African democracy<sup>157</sup> and which expects tolerance toward other cultures and religions. This phenomenon also resonates with the notion that people are entrenched in their own habits. They are not accustomed to taking the views of others into account. People also lack tolerance for different opinions that differ from their own. It seems that school authorities are reluctant to change their habits and to implement their management style according to the values that underpin the new democracy. The issue has been emphasised to such an extent, that when I asked the plaintiff whether she, in hindsight, would have gone to court again, she felt that she would have followed the same route:

*No. I would not change a thing. Really I would not. It made me see that some people often are very ignorant. I cannot use the word ignorant. Just some people are. They do not realise so much more. Yes blindfolded 1:18 (315:318).*

In retrospect, as I realised the importance of this issue to the plaintiff, it became of paramount importance to analyse the third set of data in terms of absolutising the right to freedom of expression.

### 8.3 ABSOLUTISING THE RIGHT TO FREEDOM OF EXPRESSION

It was clear that the plaintiff understood the concept that rights are not absolute and may be limited but, in her opinion, the right to freedom of religious expression is absolute. This is in agreement with the views elicited from the majority of respondents during the first two phases of the research. The code assigned most often during the analysis of the plaintiff's interview was: "no limitation if religion":

- *I do not know how far freedom of expression goes, but for us it is about religion and the way we do it and our way of life and how we express yourself [sic] so it falls under religion. I do not know if it falls under religion 1:23 (416:419).*
- *And that is why it is so close to freedom of expression. Freedom of expression ... I think that it is on its own. There could probably be a difference in opinion, but because it was my religion I stood with that 1:24 (552:554).*
- *Because there is only a certain extent that they can use it [sic] and that is their religious freedom and the school cannot deny them that 1:35 (693:695).*

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<sup>157</sup> Section 1 and 7 of the Constitution.

- *Negotiate this and not that you know, but they are allowed - the people, to wear something stating their religion or their personal religion and their feelings 1:32 (552:554).*
- *That is the difference, because it is religious and the others are not. You can wear a badge if you want to then, you know. That is not religious, you get it from the expression of freedom. So there is definitely a barrier there 1:33 (574:577).*

The first three quotations (1:23; 1:24 and 1:35) spell out clearly that if the right to freedom of expression is linked to religion, the right is absolute and may not be limited. When I asked her about the wearing of jewellery to school, she stated in quotation 1:32 that it may be negotiated, but again, if it is a form of religious expression, it should be allowed. This is echoed in quotation 1:33 where she states that there is a difference between expression and religion, indicating that the right to freedom of religion and freedom of expression are linked and that the right to freedom of expression may be limited, but not if it is a form of religious expression.

Another point the plaintiff made, that other respondents did not make, relates to the literature, i.e. schools (people) cannot limit a person's right only because their opinions differ or they disagree with that person's point of view ("Brown v. Louisiana", 1966; "Cox", 1969; "Edwards", 1963; "Garner", 1961; "Taylor", 1975; "Thornhill", 1940) (see Table 5.1):

*The reasons what they said about it [sic] and how they went about doing it definitely show they had no grounds to stand on. They just did not want it. If they had something more to say about it or something more argumentative about it ... Not saying "this is what she did and it was wrong". There had to be a reason why they said it was wrong because it was not in the schoolbook that what I did was wrong 1:41 (816:823).*

Another quotation to consider concerns the fact that the issue was not addressed according to the value of tolerance that underpins the Constitution. The school suspended her for "serious misconduct". Even if she had acted against the code of conduct (and that is debatable (see § 5.4.1)) she would not be guilty of serious misconduct and suspension (as punishment) would definitely not be commensurate with the offence. The value of tolerance was not considered in dealing with the matter:

*So that was it. They placed it under that and I could not understand how can you [sic] place me under that. I did not do any of those things, but that was the only category they could find to place me under 1:11 (171:174).*

#### **8.4 LIMITING THE RIGHT TO FREEDOM OF EXPRESSION**

*That is the difference, because it is religious, and the others are not. You can wear a badge if you want to then, you know. That is not religious, you get it from the expression "freedom". So there is definitely a barrier there 1:33 (574:577).*

In this quotation, the plaintiff implies that there certainly are barriers or limitations. Although she differentiates between religion and expression, she refers to freedom of expression by means of freedom of religious expression and states clearly that she understands that rights are not absolute and can be limited:

- *Yes, but then anybody can also come and say I have this and that right. So somewhere we needed to draw that line 1:39 (793:795).*
- *I definitely think they do have a boundary because there are such a lot more things that people do want to say and want to do, but they do not because the boundaries are there. I think people do see why the boundaries are there. You know. If somebody just explains and lets them know why many other people feel the same, but not the majority 1:44 (870:876).*

One could argue that this is in line with what the other respondents mentioned as a limitation in terms of control (see § 7.4.1). If everyone exercised their human rights as absolute, it would result in chaos. Therefore certain inherent limitations as well as a limitation clause<sup>158</sup> apply, to ensure order and harmony in society. The plaintiff's data will now be interpreted in terms of limitation according to figure 8.1, a network display generated by Atlas.ti™.

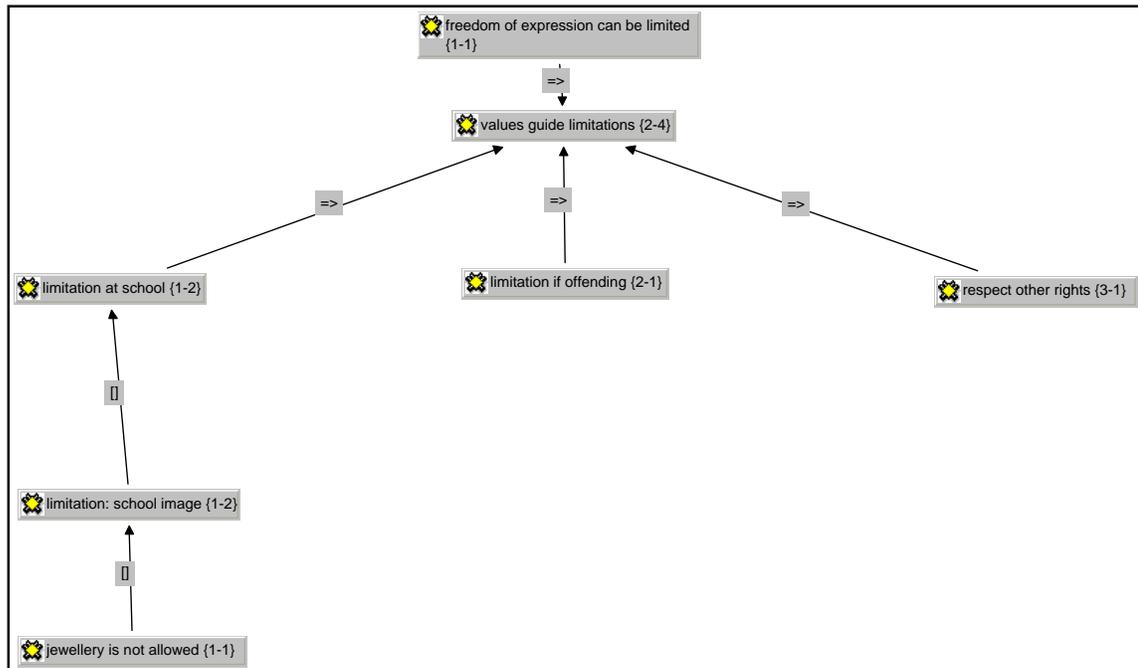


Figure 8.1 Plaintiff's criteria used to limit the right to freedom of expression<sup>159</sup>

The plaintiff acknowledged the fact that rights are not absolute and that the right to freedom of expression can be limited:

*That is the difference, because it is religious and the others are not. You can wear a badge you want to then, you know. That is not religious, you get it from the expression "freedom". So there is definitely a barrier there 1:33 (574:577).*

She also realised that there should be specific criteria to limit this right; otherwise it would result in discrimination. When I asked her how courts could limit constitutionally entrenched human rights, she indicated that they use values as criteria and she subsequently reflected on the values that underpin the Constitution,<sup>160</sup> as can be seen in the following quotations:

- *That is where values also come into play 1:40 (799).*
- *No, that is where values and boundaries come into play 1:43 (845:846).*

In South Africa every verdict, judgement, disciplinary action or decision, should be guided by these values. The plaintiff, in other words, understands that the right to freedom of expression can be limited by applying the values that underpin the Constitution in order to ensure a harmonious society. In the

<sup>158</sup> Section 36 of the Constitution.

<sup>159</sup> The legend to read the symbols in the Atlas.ti™ generated network displays is explained in figure 2.3 at § 2.15.2

<sup>160</sup> Section 1 and 7 of the Constitution.

quotation above she states three categories in which the right to freedom of expression can be limited, indicating the value as the cause of the limitation. The right to freedom of expression can be limited firstly at school, secondly if it offends someone, and thirdly, if it is disrespectful of other people or their rights (see figure 8.1).

#### 8.4.1 Limitation at school

*The nudity is the same thing as you bring nude magazines to school or to do nude painting [sic]. It is the same basis. It is a personal thing. No not at a school. I cannot say why not at school you know. Maybe if it is a private art class or culture or things like that, but not at school, because that is the word for it. I think you need to draw a line somewhere 1:38 (771:777).*

In this quotation the plaintiff indicates that she is aware of the fact that the right to freedom of expression can be limited at school. This is in line with the literature and what the other respondents said (see § 7.4.4). The right to freedom of expression can be limited in terms of place, e.g. the school ("Fraser", 1986; "Edwards", 1963; "Schenk", 1919). Interestingly, however, she states that she knows that the right to freedom of expression can be limited at school, but she is unable to explain why. This further emphasises the authoritarian indoctrination in South African schools and society. The plaintiff knows instinctively that the right to freedom of expression may be limited at school, yet she appears to lack the knowledge or understanding as to why that should be the case. In the quotation she offers two reasons in relation to the limitation at schools of the right to freedom. She notes, as some of the other respondents have, that the right to freedom of expression can be limited at school in regard to the respect and protection of the school's image. To my mind, this is a further indication of the influence of authoritarian indoctrination in schools. The question arises as to whether the emphasis on the school's image has not been exaggerated, since the image of the school does not ensure that the purpose and aim of the school will be attained. The school's image of uniformity was emphasised during the interview:

*Yes, so the school can say O.K. you can wear a small badge and maybe decide together with the school which one would be suitable or something like that, and then everybody can wear that specific one 1:29 (525:528).*

She indicated that the image of the school is important to her (as did other respondents), by stating that jewellery is not allowed at school: *But I think it is also because of jewellery and things like that. That is why the schools do say no 1:26 (494:495).* By disallowing jewellery because of their image and uniformity, schools limit the right to freedom of expression.

#### 8.4.2 Limitation when offending

In the following quotation the plaintiff indicates, as did other respondents (see § 7.4.5) that the right to freedom of expression can be limited if a person offends someone in the process of exercising their right:

- *Some schools, I doubt if most schools would allow that, but personally I do not think so. Maybe privately he would be able to do that but other people also do see [sic] that nude painting and some people may feel offended 1:36 (722:725).*
- *No, for me personally I think you would not do that. Go speak to the person. Do not announce it like that. That is also where it comes to borders. You must know right from wrong and so personally, I would go up to the person and say what I feel about him and*

*what he did wrong. You cannot say that person is bad and curse him, also not a teacher in the class. You cannot do something like that 1:45 (884:890).*

The above quotation also refers to a person's right to dignity, which leads to limitation in terms of other rights.

#### 8.4.3 Limitation in terms of other rights

The plaintiff also stated that a person should not, in the process of exercising their right to freedom of expression, violate or infringe any right of another person:

- *For me, the teacher would. I think he could take it further and say anything to that learner and go to the school governing body. Everybody needs also at the end of the day to respect each other. Accept each other's values and morals and don't degrade each other. It definitely plays a big role 1:46 (894:898).*
- *That is where the boundary is. Dignity is where the boundary is. Most schools say - personal values. You would know yourself you are doing wrong and treat people like you would like to be treated 1:47 (912:915).*
- *Freedom of religion is a big factor still in the community and in the world. People should know what they believe in. Be strong in what they believe in [sic] and act on that but also, they must do it with the values in what [sic] they believe in and go forward like that, and not infringe on other things as well 1:48 (932:937).*

One should respect other people's rights; therefore other rights may be used to limit or balance the right to freedom of expression. One may not violate other people's rights in the process of exercising one's own right.

#### 8.5 MAKING SENSE OF UNDERSTANDING

It is interesting to note that although I expected the plaintiff to consider her rights more carefully than the other respondents from the previous two phases, the same pattern emerged during the in-depth interview with her. Although she was not confronted with the full spectrum of the right to freedom of expression, she also argued that the right to freedom of religious expression is absolute. She knows, however, that rights are not absolute and can be limited. Yet, as with the other respondents, she knows instinctively when the rights should be limited, and is not aware of which principles to apply or how to apply them when limiting the right to freedom of expression:

- *Where do you draw the line with the badge issue like you said? I do not know. I never saw that bringing the school down or the look image of the school down, or anything like that 1:27 (499:502).*
- *I really do not know what would happen with something like that 1:51 (756:757).*

This is also evident from her reply to a question regarding the wearing of punk hairstyles to school:

*I do not know how far freedom of expression goes, but for us it is about religion and the way we do it and our way of life and how we express yourself [sic] so it falls under religion. I do not know if it falls under religion 1:23 (416:419).*

Furthermore, she was unable to differentiate between rights, and mentioned that for her, the case was about her battle to assert her own right to freedom of religion and she had not even considered the right to freedom of expression: *That is why I did not think of it as two separate things 1:50 (301).*

## **8.6 CONCLUSION**

This chapter is a reflection on the value of the experiences on the journey toward understanding. The data from the in-depth interview was crystallised with the data from the questionnaire and the focus group interviews and, despite minor differences, the findings echoed the same patterns. Respondents were found to be aware that the right to freedom of expression can be limited, but were unsure of how the limitations should be applied. The final chapter will contain a discussion of the findings and conclude with a number of recommendations.