Redressing Teacher Grievances in Higher Education Institutions: The Case of Teacher-Complainants

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Abstract: Legal consciousness is of paramount importance in the academe. However, limited studies exist on the teacher protection initiatives of educational institutions. This study employed a descriptive single case study design to describe the experiences of seven purposively chosen teacher-complainants from ten public higher education institutions in the Philippines. The data were gathered through in-depth interviews triangulated with reflective field notes and analysis of the documents and evidence presented by the participants. The answers were transcribed verbatim and thematically analyzed using NVivo qualitative data analysis software. Results imply that the implementation of grievance protocols in these institutions is relatively poor and subjective despite clear guidelines and the presentation of substantial evidence. The findings, likewise, suggest that the drawbacks experienced by teachers in lodging complaints may rouse a culture of apathy within the school community. The study recommends for institutions to establish an education law program incorporating grievance redressal sessions and to explore other teacher representation schemes in the proceedings. Further studies may also be done to identify intervention schemes to provide school heads, grievance committee members, and teachers with sufficient knowledge of applicable education laws.

Keywords: education law, teacher rights, teacher grievances, teacher protection, grievance redressal

1. Introduction

Education law has been comprehensively defined by Alexander and Alexander (2001) as a course of study which encompasses a wide range of law-related issues affecting the school. This encompasses the implementation and imposition of disciplinary measures to erring employees to policies involving the hiring and dismissal of teachers and other school personnel.

Studies of DiPaola and Tschannen-Moran (2003) and Dunklee and Shoop (2006) highlighted the importance of school administrators' education law literacy in the performance of their duties. Though admittedly important in their profession and beneficial for the school, several studies, however, found that the administrators' legal knowledge ranges from mediocre to moderate in several areas such as on concepts related to students' and teachers' rights, quasi-delicts, and on issues concerning the separation of church and the state (Brabrand, 2003; Caldwell, 1986; Eberwein, 2008; Militello, Schimmel, & Eberwein, 2009). Heads of academic institutions were also found to have inadequate knowledge of relevant laws and policies in the studies conducted by Gordon (1997), Redfield (2003), and Taylor (2001) hinting at an unsatisfactory leadership which falls short with the standards and expectations of the school and society. Rossow (1990, as cited in Stewart, 1996), also stressed the importance of literacy in the laws and policies affecting the school operations to correct practices, uphold justice, and ward off violations of rights.

Since education law is constantly evolving, school heads have to strive to be well-informed of the latest laws and policies in addition to their other professional demands. School administrators are expected to be able to respond to varied school situations. In acting thereto, they are expected to be cognizant of the potential litigation risks which might affect the institution, the school stakeholders, and themselves. Educational leaders should always be conscious of their duty and responsibility to protect the stakeholders' rights (Dunklee & Shoop, 2006; Hernandez & McKenzie, 2010; Theoharis, 2007).

Several studies have already highlighted teacher grievances in the workplace and their dissatisfaction with the grievance redressal procedure and decisions which may be ascribed to the inadequate legal knowledge of persons manning the grievance machinery in educational institutions. McNamara, Fitzpatrick, MacCurtain, and O'Brien

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(2018) presented the different bullying experiences of teachers in Ireland and how the redress processes left participants disenfranchised. Riley, Duncan, and Edwards (2012) also found that most of these bullying complaints were easily dismissed adding to the participants' feeling of helplessness. Tolentino (2016) had the same findings in her study involving public and private school teachers in the Philippines. She noted that teachers could suffer in the hands of their heads, colleagues, and even students but would most of the time choose not to file a complaint for fear of reprisals (Tolentino, 2016). This seems ironic since De Los Reyes (2017) pointed out that public teachers in the Philippines are well-informed of the Department of Education's (DepEd) grievance protocols involving its grounds, procedure, grievance committee's jurisdiction, and its responsibilities.

Still, education law is an under-researched area of study in the Philippines (Sanchez-Danday, 2021), more so in higher education institutions (HEIs). The available studies on the subject point to a poor overall legal knowledge of school heads and classroom teachers (Danday & Sanchez-Danday, 2019); Sanchez-Danday & Danday, 2019). Limited studies were also done on the different school initiatives of higher education institutions in protecting the rights of their stakeholders, particularly, the teachers. In a study conducted by Sanchez-Danday (2019), it was found that teachers may not be adequately protected in schools due to the attendant prejudice and misconceptions in the grievance procedure. Studies focusing on teacher-complainants' plight in lodging their complaints before their grievance committees are also found wanting. This premise led to the conduct of this study by the researcher who is a practicing lawyer teaching in a higher education institution.

1.1 Research Questions

The study revolved around these two questions:

- 1. What are the experiences of the teachers in lodging their complaints?
- 2. How do the teacher-complainants view the grievance machinery in higher education institutions?

2. Theoretical Framework

Leonardo's (2004) critical social theory serves as the theoretical groundwork of the study. This theory points out the need to confront realities of social inequality and to empower individuals to voice out ideas after digging beneath the surface and uncovering the assumptions that mask the truth (Leonardo, 2004). Quality service can be obtained only after uncovering the reality and working from these truths. Teachers need to reflect and be candid with their experience to correct the inconsistencies and mistakes in the institutions' grievance practice.

3. Methodology

The study used the single case study design (Baxter & Jack, 2008) to describe the experiences of seven purposively chosen teachers from the 10 public higher education institutions in the eighth Region of the Philippines who lodged complaints within their institution's grievance and disciplinary committee. They were assigned with the codes Complainant 1 [C1] to Complainant 7 [C7] to ensure anonymity of responses gathered through individual in-depth interviews. In choosing the participants, the following inclusion criteria were utilized: 1) temporary or permanent teachers of higher education institutions; 2) teachers who formally complained before the schools grievance committee; 3) teacher who were willing to show documents and other evidence to clarify the issue; and 4) teachers who accepted the interview and follow-up interviews to be audio-recorded. The exclusion criteria included participants who lodged their complaints elsewhere and those who did not file a formal complaint before the grievance committee of the institution.

The assistance of faculty organization presidents and officers assigned to the grievance committee of each higher education institution were sought in identifying the possible participants. Only seven teachers coming from six institutions were referred to the researcher and all seven of them accepted the invitation to join the study. Four higher education institutions reported zero incidences on record.

An interview guide was employed focusing on the experiences and views of the participants with key research questions and probe questions to exhaustively elicit responses. This was content-validated by three experts including one lawyer who is also teaching in the academe. The interview lasted between 30 minutes to one hour taking into consideration the saturation of data to determine the extent of the interview (Glaser, Strauss, & Strutzel, 1968). The participants were, likewise, asked as to their preferred mode for follow-up and clarificatory interviews. The reflective field notes and the documents and evidence shown by the participants were considered in the triangulation. Methodological triangulation was used to test validity (Guion, Deihl, & McDonald, 2011) through convergence of information from multiple sources as suggested in the study of Carter, Bryant-Lukosius, DiCenso, Blythe, and Neville (2014).

The audio-recorded interviews were transcribed verbatim and were shown to participants for confirmation. These transcriptions were then imported to the NVivo qualitative data analysis software to assist in the thematic analysis of responses provided. In addition, data saturation was considered, rich quotes were used, and the findings were verified by seeking concurrence of interpretation with another researcher to establish the trustworthiness of the study as suggested by Cope (2014).

3.1 Ethical Considerations

Because of the possible sensitivity of the questions and answers in the interview, an ethical approval was sought before an accredited ethics review committee in the region. Data gathering commenced only upon approval and the issuance of the ethical clearance. The participants were also asked to affirm their participation by affixing their signature in the informed consent forms where the purpose of the study and risks were fully explained. They were assured of the anonymity of their participation and the confidentiality of the responses they shared. Interviews were held in a place chosen by the participants inside the campus premises with minimal interruption and privacy risks.

4. Findings

Several categories and themes emerged based on the responses of the teachers as to their experiences before their respective grievance committees and their views on their institutions' grievance machinery.

4.1 Experiences of Teacher-Complainants in Lodging Complaints

Varied issues and experiences were shared by the teacher-complainants arranged into several themes. These include grievances they have with the administration, particularly their school heads, conflicts with colleagues caused by miscommunication [C5] and insensitive pranks [C7], and issues involving students [C6]. These issues involving students were usually transferred to the jurisdiction of the student affairs office.

4.1.1 Manifestations of Partiality

Some participants disclosed about the propensity of some school heads to misuse or abuse their power. One recounted his experience when his superior, who he was not on good terms with, purposely delayed the giving of a recommendation needed for his training abroad.

"I and my previous superior would constantly have a clash of personalities and viewpoints. When I was a grantee of a Commission on Higher Education-funded (CHED) training in Singapore, I requested for an endorsement from my superior as required by CHED but she deliberately delayed giving me the endorsement until it lapsed. I had to request several times until she issued one which was full of negative criticisms on me. I decided not to attend the training which surprised the head of our institution. I explained to our school head that it would be embarrassing for the university if I submit such endorsement letter. We were called thereafter to settle the matter and then my superior changed the tenor of her endorsement. I told her to retain her comments since I respect her personal opinions as my superior but I could always file for grievance. Fortunately, though late, CHED accepted the endorsement and I was able to leave for the training." [C1]

Another case with the same tenor was the case of a Dean who gave a grade to a graduate school student not enrolled in any of his classes.

"I was a complainant for the Dean of the Graduate School because I had a student with whom I gave a grade of Incomplete (INC) but this Dean submitted a passing grade to the registrar with a lone entry in a grade sheet for this particular student. This Masteral student happened to be a member of the Dean's staff. Perhaps this person thought that he needs to take action fast because of the forthcoming change of administration in the school and, most likely, designations will also change. I immediately wrote a letter to the grievance committee and the Vice-President for Academic Services upon learning about it. I presented my class list, records, and the grade sheet showing that the student is really INC and was enrolled in my class." [C2]

4.1.2 Misconception between a Grievance Matter and an Administrative Offense

A serious administrative infraction was settled by the grievance committee concerning the tampering of a public document by a supervisor who had a long-term conflict with the participant.

"My attention was called by our cashier's office asking why my Daily Time Record (DTR) has erasures. I was surprised since it does not have any when I submitted it to my immediate head. When I inquired from her, she justified that she doubts about my entries in the DTR so she decided to cross them out. I told her that she should call my attention first if she has questions or if she is in doubt as she has no right to alter entries in my DTR no matter how furious she is with me." [C1]

4.1.3 School's Vicarious Liability

A unique issue was about a case shared by the participant as a complainant on behalf of her daughter who was a Veterinary Medicine student in the same school where she is teaching. She gave a vivid description of the case which is a patent breach of Republic Act No. 11053 or the Anti-Hazing Act of 2018. This law prohibits hazing and regulates initiation rites conducted by sororities, fraternities, and other organizations.

"This club applied as an academic organization. They lied to the students during the orientation that there will be no physical violence and that promise persuaded my daughter to join this organization. However, she was subjected to physical and emotional violence during their initiation rites for an entire afternoon which was considered as their semi-finals. She was also ordered to eat sand and chili pepper while on blindfold, slapped, and was asked to kiss someone when she refused to remove her clothes. As a result of this torture, she is now having hypochondrias is which is a psychosomatic disorder caused by internal conflict or stress. She has the symptoms of mental depression and is currently undergoing treatment. We are opting to let her drop from school this semester." [C3]

This case aptly describes the overarching effect of law and policy violations not only on the part of the students whose rights were violated but, on their families, as well. This also emphasizes the vicarious liability of schools entrusted with the safety of the students.

4.2 Teacher-Complainants Views on the Grievance Machinery of HEIs

The teacher-complainants shared different perspectives on their institution's protocols in resolving conflicts.

4.2.1 Fluidity of Composition and Representation Issue

One participant emphasized the inexistence of a fixed grievance committee and the creation only of ad hoc committees to resolve their issues. Others question the composition of this committee who they believe have members not adept with their protocols or who lack the moral conviction to study the case impartially. One participant shared:

"I went immediately to the president to complain about my dean because we didn't have a grievance committee yet and our vice-president for academic affairs refused to act on my complaint. The president created a committee composed only of the vice-president for research as the chairman, the vice-president for academic affairs, and the board secretary. The faculty regent was not even included to represent me." [C1]

One participant stressed the need to establish a fixed and empowered grievance committee composition [C7]. He opposes the discretionary power of the president in choosing its members claiming that this leads to prejudice in the resolution of cases.

Other complainants also mentioned that they were not called to a joint hearing as specified in their manual or that no one represents them in the conduct of investigations [C1, C2, C5]. This emphasizes that though the faculty handbooks are readily available in some institutions, the processes stipulated are, more often than not, disregarded.

4.2.2 Dissatisfaction with Grievance Procedure and Outcomes

Most participants were dismayed with the process and the results of the investigations. They felt that their rights were prejudiced despite the overwhelming pieces of evidence they presented pointing to the culpability of the persons complained of. This snippet below describes a participant's account of his experience.

"We only had one hearing. When I came back from the training, I asked for updates and persistently asked for a copy of the grievance committee's resolution from the chairman. They furnished me a copy after a month stating that they have not found any probable cause that the dean committed any violation. That's just basically the content of their report [laughs]. It is very absurd since I attached all my tampered DTRs. No further explanations were offered. How can they say that they had a thorough investigation in the report when I was not even called? Moreover, there is a clear evidence because my tampered DTRs were presented before the committee. How come there was no cause of action?" [C1]

4.2.3 Preference for Settlement Over Resolution

Most often, issues involving teachers are settled within the university through compromises and amicable settlements. Others grudgingly resorted to settlement convinced that pursuing the issue will tarnish the reputation of the school.

All the participants shared how the offenders attempted to make peace with them so as to withdraw their complaints and how members of the grievance committees tried their best to reconcile both parties.

"I was called before the Dean for possible settlement. I even met some of the offenders and their parents. They were trying to talk me out from filing a case but I have made up my mind. I was livid to see no remorse on the faces of these student-offenders". [C3]

"The grievance committee pushed for reconciliation but I was adamant that they should resolve the issue. The person I complained of tried to approach me several times in my office. Thereafter, I learned that the committee insinuated this. There was no clear resolution. We were just asked to shake hands and that's it, it ended before them. They did not even consider my feelings. I got tired following up. Now, I am trying to just forgive and forget." [C7]

4.2.4 Acclimatization Towards a Culture of Apathy

Some teacher-complainants [C2, C4] chose to abandon their complaints because of political power play within the school and their frustrations with the grievance process. One participant said:

"I gave up on my complaint. I received a response from the grievance committee that they could not act on my complaint because it's a mere scrap of paper! They required me to have my complaint subscribed before a notary public for the investigation to continue. I attached all pieces of evidence already and it can be seen at the registrar's office or in our system that the class belongs to me and not to the dean who gave a grade to my student. My point is, it's up to them if they felt bound to correct the act. Anyway, they are the ones in higher positions." [C2]

4.2.5 Conflict between Personal and Professional Interests

The teacher who complained on behalf of her daughter who suffered trauma and mental depression because of the hazing activity was also dismayed with the turn-out of the investigation process and the apparent lack of interest of the concerned people in initiating action. She said:

"When I complained to the school head, he said that they will respond to this within 72 hours. A week passed already yet no action was done. I just heard that a grievance committee will be established for this. I inquired from the dean and I received a very impassioned reply saying that he feels to be the one on trial instead." [C3]

This snippet justifies the need for third persons or disinterested individuals with no private interests on the issue at hand or of the parties themselves to join the grievance committee for objective assessment of facts and unbiased resolutions.

4.2.6 Poor Implementation of Grievance Policies

One participant disclosed that there is nothing wrong with their student and faculty manual and their grievance protocol in general. With regard to the members of the grievance committee, she shared this insight:

"They know the law but they do not want to give sanctions. What we lack is implementation." [C4]

These interview snippets illustrate the impact of case proceedings on complainants' trust in their grievance system. It has been observed that doubt in the system breeds disrespect. Hence, teachers and administrators, especially those charged with enforcing the policies and resolving problems arising therefrom, should be fully equipped with the substantive and procedural know-how to prevent and manage institutional conflicts.

5. Discussion

In the Philippines, Memorandum Circular No. 02, series of 2001 was issued by the Civil Service Commission (CSC) to promote harmony in the workplace. CSC is the central personnel agency of the government tasked to oversee all governmental policies, plans, and programs (Official Gazette, n.d.). The Memorandum Circular mandated all heads of governments including higher education institutions to follow the revised policies on settlement of grievances in the public sector. It highlighted the establishment of a grievance machinery in each institution, the resolution of grievances expeditiously, and the assurance that the aggrieved party should be free from coercion, discrimination, reprisal, and biased actions. It stressed that legal rules and technicalities do not apply, hence, even verbal complaints should be accepted (Civil Service Guide, n.d.).

Higher education institutions set up their own grievance machinery following the mandate from the Civil Service Commission. The answers given by the participants, however, indicate inconsistencies in the implementation. For instance, the requirement to have the complaints of aggrieved parties subscribed before the notary public is a clear contravention to the CSC-Memorandum Circular. Requiring a formal written complaint and its subscription under oath may impede the speedy resolution of teacher grievances and will subject the aggrieved party to additional expenses before his concern is even heard. This was clearly not the intent of the policy.

Another issue which turned up was the absence of records on the cases handled by most grievance committees. These records may have helped these committees in improving their grievance procedure. Members could also easily refer to precedents in resolving similar cases ensuring fairness in their decision. Needless to say, these cases were likewise not recorded in their Human Resource and Management Offices as most of these cases were settled between parties with no disciplinary measures imposed on erring employees. This may manifest the Filipino culture of mercy (Sanchez-Danday, 2019) prodding aggrieved parties to withdraw complaints and members of the grievance committees to exert utmost effort in settling issues amicably without issuing a final resolution. This, in one end, could be viewed positively reflecting an organizational culture of peace and harmony. On the other hand, it is noteworthy that no one from the seven participants got satisfied with the results and on how their grievance was dealt with pointing to a multifaceted concern that needs to be unraveled and addressed by higher education institutions.

It can also be observed that only grievances between colleagues and between teachers and heads are within the authority of these grievance committees. As shared by the participants, issues between teachers and students are usually under the jurisdiction of the student affairs office with a separate grievance committee composition. However, some participants are not fully aware where to file their complaints and had to ask around. One participant even experienced having his complaint sent back to him. This shows an apparent lack of information dissemination within the system. Contrary to this, De Los Reyes (2017) found that public secondary school teachers are aware of DepEd's grievance protocols including grievance committee's jurisdiction, responsibilities, procedure, and grounds for grievance. Higher education institutions should also step up to improve their own grievance policy dissemination.

Further gaps were revealed in the knowledge and implementation of grievance proceedings which may be attributed to the poor education law literacy of teachers and school heads as found in several studies (Eberwein, 2008; Danday & Sanchez-Danday, 2019; Gordon, 1997; Militello, Schimmel, & Eberwein, 2009; Redfield 2003; Sanchez-Danday & Danday, 2019; Taylor, 2001). Grievance committee members need to be aware of their responsibilities and the neutrality of the investigation. A semblance of prejudice in the composition of the grievance committee will undermine its outcome and the committee's integrity. Hence, a fixed membership as stipulated in the grievance protocol is needed with at least one member to represent the faculty members. All those with conflicts of interest should be excluded from the composition. McNamara, Fitzpatrick, MacCurtain, and O'Brien (2018) emphasized that removing conflict of interest is a crucial step in diffusing abuse of authority and power play in a grievance machinery.

The clash between the personal and professional ideals of the members also matters in resolving conflicts. The internal struggle of the members along with this conflict of interest may cause delay and partiality. Conforming to the findings of Sanchez-Danday (2019), the committee members' preconceived intent to protect the school's reputation may hinder them from discharging their function in line with the grievance protocols. Corollary to this, conflicts that are not within the ambit of grievable matters are even settled within the institution foiling the application of the appropriate administrative and penal laws. Thirwall (2015) even found that instead of promptly resolving issues and ending the cause of these problems, human resource representatives prolong it instead through "organizational sequestering". However, treating these cases as "classified" matters does not equate to cessation.

The findings, likewise, suggest that the implementation of grievance protocols in these higher education institutions is relatively poor and subjective. Even in the face of substantial evidence and clear guidelines, the truth may still be deflected to protect the schools' interest. Studies noted how other organizations portray the lodging of complaints to be an "unprofessional behavior" and a "culturally unacceptable" one (D'Cruz, 2016; D'Cruz & Noronha, 2010). These disappointments of aggrieved parties experienced in their grievance machinery may rouse a culture of apathy and indifference within the community. Hence, very few employees have the courage to lodge complaints for redressal in their organization (McNamara, Fitzpatrick, MacCurtain, & O'Brien, 2018). The experience of the aggrieved parties to have the complaints dismissed without justifiable reason and of being tagged as a "whistle-blower" in the institution amplify their feeling of powerlessness (Fahie, 2010; Riley, Duncan, & Edwards, 2012) and their belief in the futility of seeking redress for grievances suffered. Following the critical social theory (Leonardo, 2004), the teachers' passivity and inaction will make it hard to correct the social inequalities and injustices. The teachers need to be empowered to point out the inconsistencies and errors in the grievance practice.

6. Research Restrictions

This is a small-scale study focusing on the teachers who formally lodged complaints in their institutions' grievance committee. Being a case study, this has been viewed only from the lens of these teacher-complainants who were identified via referrals from the 10 public higher education institutions in Region 8, Philippines. The teachers who have had their issues settled at the lowest level of their grievance machinery structure and which did not reach the grievance committee level were excluded. A large-scale study may be done extending to other higher education institutions using a mixed-method approach for a comprehensive analysis. Moreover, cases of aggrieved parties settled and resolved before the department or unit level up to the grievance committee may be considered as well as those who informally lodged their complaints.

7. Implications and Recommendations

The findings of this study have an overarching implication in the educational system. The different experiences of the teacher-complainants give the impression that institutions' grievance protocols may lack empathy on the plight of teacher-complainants. This may be reflective of the relatively poor knowledge of heads in the area of education law leading to careless actions and decisions which disregard their moral obligation of safeguarding teachers' rights. (Brabrand, 2003; Eberwein, 2008, Militello, Schimmel, & Eberwein, 2009; Redfield, 2003; Theoharis, 2007).

Though the education sector is said to be the main developer of human resources, findings suggest that human resources and human relation management are found to be wanting in the academe. It seems ironic that educational institutions advocating for excellence and integrity of service cannot "walk the talk" even within the community. It is also peculiar that teachers campaigning for quality education, empowerment, and change easily give in to a culture of apathy after a few upsetting incidents. There is a need, then, to re-visit the institutions' core values and start the transformation with this in mind.

Establishing an education law program for the teachers and school heads, especially those who are part of the school's grievance machinery, will help improve the management of institutional conflicts. This may incorporate grievance redressal sessions aside from a regular evaluation of the institutions' grievance protocols. Regular symposia on applicable laws and provision of electronic and printed education law materials may also help instill theoretical and practical knowledge. Other avenues and teacher representation schemes may also be explored to adequately protect teachers' rights. A support group for teacher-complainants may also be established.

Further studies on the experiences of schools' stakeholders and the initiatives of educational institutions in the area of education law may be done. Likewise, studies may be conducted to identify intervention schemes necessary to provide school heads and teachers with a working knowledge of education law.

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