



DBS (DATA BACKGROUND SEARCH) MODEL TO SUPPORT CHILD PROTECTION PRACTICES IN INDIA

Shubham Kumar, KIIT University, India, William Rivera Hernández, Laurea University of Applied Sciences, Finland, David Luigi Fuschi, Kokshetau State University, Republic of Kazakhstan

Rationale and background

Attending schools is the most usual experience that most children around the globe have in common. This is the regular way in which societies prepare them to be fully equipped for the future.

Nevertheless, schooling is not always a very happy experience for every child. In many cases, the physical conditions of the educational setting are not optimal; some children attend school feeling unwell, hungry or thirsty, or may be victims of domestic violence or of violence within their communities. In some cases, they may bear many types of abuse at school by teachers or peers.

These conditions not only jeopardize the learning development of the child, but also can produce long lasting symptoms of post-traumatic stress disorder (PTSD). According to a report by UNICEF, “The brain development of children who are victims of violence can be affected – with some [of them] showing similar brain activity to [those of] soldiers exposed to combat” (UNICEF, 2016).

Despite India’s recognition of the United Nation Convention of Child Rights in order to ensure that all children’s needs are met and that human rights are protected, there is still an existing gap for the implementation of the law in vulnerable areas of the country, which prevents many children from being able to enjoy their well-being.

The Juvenile Justice (care & protection of children) act – 2000 as well as 2015 classify the juvenile offenders in two categories. Firstly, the juvenile delinquent and the juvenile in conflict with law. Most of the children who are found in conflict with law are the children of rich families who break the law just for the reason of being misguided. The juvenile delinquents are the poor children who commit offence for the fulfilment of their basis needs like food, medicine, clothes etc. for themselves or their family members. None of these two offenders can be set on a right track just, by prescribing certain punishments and reformation. It requires a basic transformation.

The next challenging issue is the violence upon the children; which have been made punishable under the Indian Penal Code, Protection of Children from Sexual offences Act,

The child and adolescent labour (Prohibition and Regulation) Act, The Juvenile Justice (Care & Protection of Children) Act 2015 etc.

The statistics reveal that most of the cases are of the category, in which the child is known to the offender. The offender is relatives or family member of the offender or the offender is the master / custodian of the victim child. Owing to this factual situation most of the cases are not reported. Whatever, case is reported gets fail due to the lack of evidence which is attributed to the commanding position of the offenders.

In Delhi, the situation is best in India as “Delhi Commission of Protection of Child Rights” is active since many years but then to the rate of conviction is 25% in the child abuse cases; in Delhi. There is no specific data over the factum that on what percent of cases go unreported. The latest speculation is that almost 40% of the cases are not reported. It is expected that four years back only 40% of the cases were being reported.

In spite of the handicaps the protection of children from sexual offences Act & rules – 2012, the juvenile justice (Care & Protection of Children) Act – 2015 and the Juvenile Justice (Care & Protection of Children) Model Rules – 2016 are good legislation and a good result is expected from it in coming days.

Children growing in a country such as India, in which the gap between poor-rich is so big, determines the level of education, health, nutrition, protection and opportunities, which prevents the development of the most disadvantaged groups of the society in which children’s needs are many times forgotten or not even taken into consideration.

According to UNICEF’s Protective Environment Framework (Figure 1) for protecting children from maltreatment, there should be a synergy of different actors and sectors conformed by eight keys elements. In the case of the absence of one of them, children are more exposed to the vulnerability of their rights (FHI 360, 2012; p.8).

Figure 1.
Protective environment framework



Source: Enhanced Protection of Children Affected by AIDS. A Companion Paper to The Framework for the Protection, Care and Support of Orphans and Vulnerable Children Living in a World with HIV and AIDS. New York: The United Nations Children's Fund (UNICEF), March 2007.

Figure 1. Protective environment framework

Therefore, based on this Protective Environment Framework, the DBS will help to enhance the surveillance processes of reporting of child protection issues and build the capacity of professionals in contact with the children to identify and respond to all kind of abuses faced by children.

This loophole of the applicability of the law was confirmed by an assessment carried out for this proposal, based on the UNICEF's framework called Child Friendly School (CFS) in a village of India. A CFS assures children safe, protective and gender-sensitive spaces, free them from violence and abuse, and secures their health and well-being, raise teacher self-confidence as the main partner of the child, status and mobilise community support for education (UNICEF, 2014; p.32).

During the data collection, children spoke about physical and verbal punishment at the school, imparted in the form of slaps, hit with a cane, pulling the child by the clothes and/or shouting. Additionally, the participant mentioned that sanitary facilities were not fit to the needs of girls during the period time, forcing many of them staying at home and not attending class during those days.

On the other hand, an assessment about the legal framework for child protection in India was conducted in order to detect the problems stemming from the lack of applicability of the law preventing children to be fully protected in every region of India. We got to know that there is no central database which keeps record of Convicts of crime against Children (Violence, Child Punishments such as beating in School and Sexual Abuse). Here, the local police station keeps the record of accused and convicted persons in the abovementioned category.

Aim

Renovating the conventional education system by:

- Developing a verification system to check for serial offenders of crimes against children with special emphasis on education sector, for selecting professionals who are free from any stain stemming from either conviction or accusation.
- Training professionals dealing with children in child protection practices and inclusion of diversity in broader sense of term (from gender, social-cultural background, differently able pupils and religion).

Problem statement

Despite India's recognition of the United Nation Convention of Child Rights in order to ensure that all children's needs are met and that human rights are protected, there is still an existing gap for the implementation of the law at different levels, which prevent many children from being able to enjoy their well-being in remote areas of India.

Despite of the presence of prevention of Atrocities act, 1989 for schedule Caste and Schedule Tribe, as act of Indian parliament to prevent atrocities to Schedule Caste and Tribe, the situation on the ground is very diversify with pots of excellence in areas of utter lack of application.

In India still offenders can re-locate to different places and join an educational institute without any hindrance. This creates the malice of repeated incidents of crimes against children (sexual abuse, child punishment...) by the same person without the system knowing that they are offenders and prosecution.

The problem in terms of diversity lies in:

- Basic difference between upbringing of a boy and girl; gender inequality that still exist after years of work towards promoting the "girl child".
- Caste system – low caste people are kept away from mixing with general public; causes hindrance in learning.
- Colossal difference between rich and poor both in monetary and resources terms.

Methodology

We used an ethnography approach to assess the current status of education and wellbeing and Child Friendly School experiences of children in rural India.

As subject for this study, 20 children (13 girls, 7 boys) between 10-16 years old, were invited to talk about their school experiences and participate voluntarily in the discussion and by using participatory methods such as a playful tasks and semi structured interviews to hear children's point of view and ascertain the main vulnerabilities of the children at schools (perceived and actual).

The adopted approach will have required a systemic sampling to be used for treating a sample population fully representative of the present India society. However, KIIT is presently caring (Education, accommodation and nourishment) for over 25,000 children which provide a significant cross-societal sample of the India population.

A legal expert in the area was interviewed to ascertain the present provision for child protection and its implementation. To this extent the lack of a centralized search facility comparable to the UK DBS system is perceived as a major impediment for India to develop a proper scrutiny approach in the recruitment of teaching staff.

Work carried out

A random sample of children was selected by inviting them to participate freely in the drawing and playing activities. The facilitator introduced the aim of the session and told the children that we wanted to hear and learn about their school's experiences.

There was a pilot carried out in order to identify which participatory tools worked better with the participants. Children were requested to draw a map of the school in order to identify the physical settings of the institution, safe/unsafe places, which activities they like the most doing at school and the people they trust the most and don't trust at all (CFS elements).

During the process the children took the task as an assignment and were not able to draw freely as it was expected. Nevertheless, despite this situation, they shared stories of physical punishment and were able to identify the elements of CFS that were requested.

During a second session the mapping tool was changed for a Lego playing session, which consisted in building freely with blocks whatever they wanted and the facilitator carried out the interview about CFS elements. Also they were requested to answer a semi-structured questionnaire after playing. This activity turned out to be the best option because children appeared more relaxed and engaged.

During the activities with the children, active observation was adopted in order to detect perceived and actual vulnerabilities, as well as child's involvement in the activities.

- The following guidelines were adopted during the observation:- Child's involvement in doing or saying something, such as answering a question, making a drawing to explain herself or himself, interacting and communicating with others in the development of the activities.
- Child's mastering of a skill, such as dancing, singing, drawing, expressing feelings, giving evidence of confidence and ownership of the space.
- Child demonstrating evidence of dispositions or attitudes of mind that promote ongoing learning and participation. For instance, child's capacity to persist in doing a drawing or telling a story that is difficult or child's disappointment when unable to fulfil a task.

- A child telling or showing you by their words and/or behaviour that they are deeply engaged and that this is important learning for them.
- A child demonstrating higher order thinking. For instance, reflecting on past experiences and integrating it in the dialogue.
- A child demonstrating learning which shows that body, mind and wellbeing are all actively engaged.
- A child trying to communicate difficult experiences or looks for the attention of the facilitators in order to express something that cannot be articulated.

Also, one girl and a boy were trusted with a camera each in order to photograph whatever they wanted from the school and their homes. The next day the children were requested to explain the pictures to the facilitator and this exchange helped to re-confirm the data that was previously collected.

The collected data was contrasted with current legal framework by interviewing an expert lawyer.

According to the inputs provided by Mr. Sanjay Kumar Pandey, Advocate on Record, Patna High Court, India; there is no direct provision in the Constitution of India regarding Prevention of abuse of Children. But there are some articles which indirectly imply to the safety and protection of children, they are

- Article 24 (Prohibits employment of children in factories etc.), Article 23 (Prohibition of human trafficking and forced labour) & Article 39 (e) and Article 39 (f) (Protection against exploitation) of the Indian Constitution;
- Indian Penal Code : Sections 82 (it says “nothing is an offence, if committed by child of an age below 7 years”) and 83;
- Protection of Children from Sexual Abuses Act 2012: Under this act the cases are tried in special courts and classifies the accused in two categories namely *general* & *custodian type* (like teacher, priest, janitor, police officer, mentor etc.);
- Juvenile Justice Act 2015 : Sections 75 (Punishment for cruelty to a child), 76 (for Child beggars), 77 (giving liquor to child), 78 (using child for smuggling), 79 (exploitation of child employee), 80 (Adoption without formalities), 81 (sales and procurement of a child), 82 (Corporal punishment), 83 (use of child by militant group) and 84 (kidnapping);
- Child and Adolescence labour Act 1986;
- Right of Children to Free and Compulsory Education Act 2009;
- Factories Act (1948): defines hazardous/non-hazardous factories and regulates working hours;
- The Mines Act (1950).

It was observed by our legal expert that the success of conviction in child abuse cases depends upon the efficient investigation of the offence and quick collection of the incriminating evidences. It is not in dispute that there is a provision for the special courts in both the circumstances but the courts has its own limitations. Unless and until some Jermaine and

concrete evidence is brought on the record the courts cannot convict an offender. The investigation and collection of evidence part is also essential for the prevention of the misuse of the law. It has been found that very often false cases are being filed in the special provisions to take revenge from the persons. The good investigation would efficiently eliminate the misuse of these laws.

Comparing the data with the existing framework, it is evidently proved that protection of a child cannot be secured solely by a legal frame work; particularly in a country like India where the poverty rules. Many a relaxations has been provided in law itself for financial reasons.

In his opinion, the first and foremost stand of the Govt. should be the providing social security to the poor families, poor children and moral development to the people at large. He also inferred that the realistic situation is that an ideal situation is never achieved in the society. The grim reality is that most of the child abuse cases are not reported and a number of false cases are being filed in the special provision to take revenge from the private persons. An ideal situation cannot be attained only by implementing the child abuse law or gearing up the facilities for the rehabilitation of the abused or delinquent children. A social transformation is required to achieve the ideal situation.

Findings

61% of the participants reported being victims of physical or verbal punishment. 73% of the students mentioned that physical punishment was imparted due to their lack of attention at classrooms, wrong answers or misbehaviour. 89% said that they only spoke about the physical punishments only with their friends. 82% of the girls found the toilets being dirty and unsafe and 26% mentioned skipping school during their periods. 12% of the girls said that they wait until the recess in order to visit the toilet at their home. The total number of the boys said that the toilets are dirty, but didn't mention facing any major problem related to the sanitary facilities. Only 3% of them said that waiting for permission to visit the toilets was physically uncomfortable. 27% of the children gave evidences of lack of safety in the infrastructure of the school. 93% mentioned that the person(s) they trust the most at the school were their friends or a friend and 7% trust a particular teacher. 91% of the participants said that the playing ground or playing with their peers was the aspect they liked the most from their school. 9% enjoy spending time in the computer room.

Conclusion

After analysing the collected data and introspection of the Legal framework and its loopholes, it is hence concluded that there is a compelling need of a central database of Convicts of Child Abuse (Physical and Sexual). It could help the government keep a tab on regular offender to try to slip into jobs of teaching/day care to commit these harmonious crimes. This database (DBS) would ensure that a convict/accused of a serious crime against children is monitored irrespective of the state or city he lives in or in many cases, tries to relocate. It would be also helpful in catching and inspecting serial offenders who under the present rules, easily relocated and hide from the authorities. This would be a boon for the combined recruitment

drive of teachers in public schools as DBS can be used as a verification system to scrutinize the candidates.

Moreover, a module could be designed for the teachers which could help in dealing with children in child protection practices and inclusion of diversity in broader sense of term (from gender, social-cultural background, differently able pupils and religion). In this way the teachers would be more equipped in handling diversity related issues in Education precinct.

Future work

There is a vast scope for work for child protection in India especially in the field of monitoring Convicts of Child Abuses and building a training module for teacher dealing with children in child protection practices and inclusion of diversity in broader sense of term (from gender, social-cultural background, differently able pupils and religion). A team of Project FINDIgATE is currently working on building a prototype of the Data Background Search (DBS). The prototype would demonstrate how the central administration/ government of a country can keep track of all the Convicts of Child Abuse and use it for verification/detection of Serial offenders.

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