



## School Transfer to Support Reintegration of Juveniles Involved in Inappropriate Photo-Sharing

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### Abstract

This study aims to analyze and find a possible solution to safely reintegrate juveniles who are involved in inappropriate photo-sharing. This problem stems from the mass adaptation of digital technology and how the utility values have been deviated to facilitate negative and dangerous behaviors among teenagers, including the act of inappropriate photo-sharing. The issue with the reintegration of juveniles who are involved in this is further complicated by the dangers of social media and digital technologies in general, where people can easily be doxed and unlawfully identified to propagate dangerous acts like bullying. Analysis of this study, supported by the normative legal research method and statutory approach, highlight the normative gaps within the Juvenile Justice, Pornography, and Education Laws that hinder the reintegration of juveniles involved in online sexual offenses. To tackle this problem, this study proposes school transfer as a mitigative strategy against bullying and harassment. It emphasizes the need for further research to address implementation challenges, underscoring the importance of a holistic restorative justice approach.

**Keywords:** diversion, inappropriate photos, juvenile sexual offense

## I. Introduction

Sexual offense is a heinous crime that deeply scars the long-term mental well-being of victims.<sup>1</sup> As the perception against sexual offense and the concerns for the victims continue to rise,<sup>2</sup> It's important to analyze the many different methods of recovery for victims, not just from within medical institutions, but also the criminal justice system. This is important to make sure that victims can open up on their horrifying experiences, so that the court can punish the criminals involved with the punishment that they truly deserve. Unfortunately, sexual offenses are not committed only by adults. With a terrible environment, poor parenting, and other unidentified issues, children, particularly those in the age of juvenile, can easily fall into sexually

<sup>1</sup> Janine Natalya Clark, "A Crime of Identity: Rape and Its Neglected Victims," *Journal of Human Rights* 13, no. 2 (2014): 146-69, <https://doi.org/10.1080/14754835.2014.886952>.

<sup>2</sup> Laura L. King, "Perceptions About Sexual Offenses: Misconceptions, Punitiveness, and Public Sentiment," *Criminal Justice Policy Review* 30, no. 2 (March 2019): 254-73, <https://doi.org/10.1177/0887403416660150>.

deviant behavior.<sup>3</sup> This can eventually lead to the rising potential of those children being involved in the crime of sexual offense. While it's easy for the public at general to jump on the train of hate and push for the worst possible punitive punishments for those children, restorative justice might actually offer more to the betterment of society and the recovery of victims, along with the reintegration of juvenile perpetrators.

Due to the rise of social media in this digitalization era, more people are integrating their daily lives with the internet, posting photos, stories, and communicating on social media. Like other crimes, social media can also be infiltrated and abused by people with bad intentions. Online sexual abuse can take many forms, and their damages can have long-term consequences for the victims. A study conducted by Villacampa in 2017 showed that about 33.5% of adolescents aged 14-18 have engaged in some form of sexting.<sup>4</sup> Furthermore, inappropriate photo-sharing between adolescents can also create two ways of victimization, leaving both the victim and perpetrators at risk of being victimized through acts like bullying and many forms of social repercussions.<sup>5</sup> Meaning, it can be done by perpetrators who aren't really aware that they might face consequences, especially because the nature of internet usage often leaves users feeling like they can get away with whatever it is that they do online. This can be even more problematic when done by juveniles, who are cognitively more impulsive, especially when they have a rather tough upbringing.<sup>6</sup>

However, restorative justice is not only a method of pursuing justice focused on the reintegration of victims, which is often the first thing that comes into the public mind, especially when the perpetrators are in a privileged position.<sup>7</sup> Restorative justice is a path of justice carefully delivered by taking every bit of precaution regarding the well-being of the victims, and the perpetrators, particularly when one or both are of juvenile age. Therefore, the will to apply restorative justice should never be perverted in a way that only benefits the perpetrators who can use their juvenile age as a defense for their own wicked behavior. Furthermore, it's important to look at restorative justice from the viewpoint of those who support it and those who oppose it. From the supportive viewpoint restorative justice gives more freedom to the stakeholders to come to terms exactly how they want the terms to be. From the viewpoint against it, human beings are seen as brutal retributivists, making restorative justice an invitation to chaotic fights between offenders and perpetrators.<sup>8</sup>

Diversion as one of the methods of pursuing restorative justice is facilitated through Indonesia's Law No. 11 of 2012 on Juvenile Justice System (Juvenile Justice System Law). However, this method isn't always necessarily supported by enough norms within the same law, which can cause the lack of synergies between the court and the organizations or institutions responsible for delivering many of the agreed clauses as a result of the diversion. School, in particular, is not always involved, despite being the one of the most familiar environments of juvenile perpetrators and their juvenile victims. However, perpetrators can also develop trauma when they face consequences and stigmatization from their environments, particularly when they're in the developing stage.

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<sup>3</sup> David Burton, Sophia Demuyne, and Jamie R. Yoder, "Executive Dysfunction Predicts Delinquency But Not Characteristics of Sexual Aggression Among Adolescent Sexual Offenders," *Sexual Abuse: Journal of Research and Treatment* 28, no. 8 (2016): 707-21, <https://doi.org/10.1177/1079063214556357>.

<sup>4</sup> Carolina Villacampa, "Teen Sexting: Prevalence, Characteristics and Legal Treatment," *International Journal of Law, Crime and Justice* 49 (2017): 10-21, <https://doi.org/https://doi.org/10.1016/j.ijlcj.2017.01.002>.

<sup>5</sup> Aina M. Gassó et al., "Sexting, Mental Health, and Victimization among Adolescents: A Literature Review," *International Journal of Environmental Research and Public Health* 16, no. 13 (2019): 1-14, <https://doi.org/10.3390/ijerph16132364>.

<sup>6</sup> Richard J. Tunney, "Economic and Social Deprivation Predicts Impulsive Choice in Children," *Scientific Reports* 12, no. 1 (2022): 1-8, <https://doi.org/10.1038/s41598-022-12872-4>.

<sup>7</sup> Dorothy Vaandering and Kristin Reimer, "Listening Deeply to Public Perceptions of Restorative Justice," *The International Journal of Restorative Justice* 2, no. 2 (2019): 186-208, <https://doi.org/10.5553/ijrj/258908912019002002002>.

<sup>8</sup> Victoria McGeer and Philip Pettit, "The Desirability and Feasibility of Restorative Justice," *Raisons Politiques* 59, no. 3 (2015): 17-33, <https://doi.org/10.3917/rai.059.0017>.

As teenagers face different emotional and physical changes during their development stage, facing a lot of emotional damages such as guilt, shame, and regret over their past mistakes can stunt or even damage their perspectives regarding the world. Staying in the same school that they've been attending might leave them in a vulnerable state where they could be the target of bullying. School transfer can be a way for the juvenile online sex offender who unlawfully shares inappropriate photos, to try to get back into society without the constant fear of not being able to make friends and socialize like normal kids around their age. As inappropriate photo-sharing can involve two parties, the perpetrator who shares this photo can also face severe societal judgements and bullying from their educational environments. However, school transfer as a diversion method must be met with adequate support to ensure the reintegration of juveniles into society, with synergies from the education system and the juvenile justice system, to make sure that school, a place that is supposed to be a safe environment for children, doesn't turn into living hell of bullying.

Sexually deviant behavior is a topic that has been constantly being debated within the literature. A study carried out by Klein and Cooper in 2019 highlights that sexually deviant behavior consists of phases that are increasingly more and more unacceptable in the view of the public.<sup>9</sup> The study also underscores "sexting" as a phenomenon causing rising concerns, especially when one party sends an inappropriate picture of him/herself to the other without being asked to. Another study, conducted by Korkmazer, Bauwel, and De Ridder in 2019, also highlights sexually deviant behavior, particularly among children in the age of adolescence.<sup>10</sup> The study focuses more on the causes leading up to sexually deviant behaviors, underscoring peer pressure, which is eventually taken advantage of by the print media to cause panic, oftentimes eliminating the agency of the youth in their actions. This shows that the discourse regarding sexually deviant behavior needs to be carefully treated in academic literature, rather than relying on the media to create a narrative which might be necessarily accurate or even morally acceptable.

There's a wealth of literature analyzing the issue of online sexual abuses, analyzing the development of understanding regarding it and how it negatively impacts society. A study done by Maddocks in 2018 recognizes the importance of mapping out the differences of the types of online sexual abuse, while also underscores that image-based sexual abuse, along with the sharing of private photos and videos, are some of the most common types of online sex abuse.<sup>11</sup> The study also called on the responsibility of social media companies to be more sensitive, particularly on the usage of the term "revenge porn" which is extremely offensive to the victims. The opposite of this is the act of inappropriate photo-sharing, which is often called "cyber-flashing", as noted by a study conducted by Setty, Ringrose, and Regehehr in 2018.<sup>12</sup> The study also highlights the danger of this act which can be seen as a sexual offense against children, especially when they legally lack the ability to consent.

In Indonesia, this issue is unfortunately not well-analyzed, particularly within the academic world. This research gap is what this study aims to clear, by mapping the normative pathways to help juveniles who share their inappropriate photos without being asked to, recover from their mistakes through restorative justice. This study focuses on the identification of associated risks faced by youth inappropriate photo-sharers, as they reintegrate back into society through the education system, after going through legal proceedings such as sentencing or

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<sup>9</sup> Jennifer L Klein and Danielle Tolson Cooper, "Deviant Cyber-Sexual Activities in Young Adults: Exploring Prevalence and Predictions Using In-Person Sexual Activities and Social Learning Theory," *Archives of Sexual Behavior* 48, no. 2 (2019): 619-30, <https://doi.org/10.1007/s10508-018-1251-2>.

<sup>10</sup> Burcu Korkmazer, Sofie Van Bauwel, and Sander De Ridder, "'Who Does Not Dare, Is a Pussy.' A Textual Analysis of Media Panics, Youth, and Sexting in Print Media," *Observatorio* 13, no. 1 (2019): 53-69, <https://doi.org/10.15847/obsOBS13120191218>.

<sup>11</sup> Sophie Maddocks, "From Non-Consensual Pornography to Image-Based Sexual Abuse: Charting the Course of a Problem with Many Names," *Australian Feminist Studies* 33, no. 97 (2018): 345-61, <https://doi.org/10.1080/08164649.2018.1542592>.

<sup>12</sup> Emily Setty, Jessica Ringrose, and Kaitlyn Regehr, "Digital Sexual Violence and the Gendered Constraints of Consent in Youth Image Sharing," in *Rape: Challenging Contemporary Thinking - 10 Years On*, 2022, 45-61, <https://doi.org/10.4324/9781003163800-6>.

diversion. After identifying these, this study then aims to justify school transfer as a possible solution to mitigate the identified risks, along with the normative potentials and challenges related to it.

## II. Research Problems

This research focuses on addressing three critical problems related to juvenile offenses under the lens of restorative justice. First, the associated risks and challenges faced by juveniles within the framework of restorative justice highlight the delicate balance between accountability and rehabilitation, often undermined by societal stigma and systemic gaps. Second, the potentials and challenges in existing laws, such as Juvenile Justice, Education, and Pornography Laws, reveal inconsistencies and limitations in supporting the reintegration of juveniles involved in offenses like inappropriate photo-sharing. Lastly, the normative construction of school transfer as a possible solution to mitigate bullying and harassment in the aftermath of such offenses requires careful consideration of legal, social, and psychological factors, ensuring the approach aligns with restorative justice principles while promoting the juvenile's development and reintegration.

## III. Research Methods

This study utilizes the normative legal research method, by analyzing the norms that exist within the positive laws.<sup>13</sup> Normative legal research is a methodological approach employed in legal studies to analyze and interpret existing legal norms, principles, and doctrines.<sup>14</sup> Unlike empirical research that relies on factual data and observations, normative legal research focuses on normative analysis, seeking to understand the underlying principles and values that shape legal rules and systems. Normative legal studies critically examine legal texts, precedents, and jurisprudential theories to derive normative conclusions, often with the aim of proposing legal reforms or evaluating the coherence and justifiability of existing legal frameworks. This method provides a theoretical foundation for understanding the normative aspects of law, exploring its moral and ethical dimensions, and contributing to the ongoing discourse on the development and improvement of legal systems. Data employed in this research are Law No. 20 of 2003 on the National Education System, Law No. 44 of 2008 on Pornography, and Law No. 11 of 2012 on Juvenile Justice System.

## IV. Result And Discussion

### 1. Associated Risks and Challenges in Juvenile Under the Conceptualization of Restorative Justice

Youth development plays a key role in the development of a nation. This is also the case with Indonesia, as it has a steady number of youth while some countries are already deep within the aging population crisis. One of the key aspects of youth development is the prevention of crimes among youth, to ensure that many young persons can develop in a suitable environment without persistent influence of crimes, particularly young persons under the age of 18. Persons under the age of 18 are considered 'child', as governed by Article 150 of the new Criminal Law Code (Law No. 1 of 2023). Children can also face legal consequences if they commit something illegal, as long as they're older than the age of 12. This is the range where Indonesia's juvenile justice system is applied for children who commit crimes.

These distinctions are important to ensure that despite committing mistakes that cause them to face criminal consequences, children still have access to the right to grow and reintegrate back into society as productive and functional persons. The juvenile justice system ultimately

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<sup>13</sup> Hari Sutra Disemadi, "Lenses of Legal Research: A Descriptive Essay on Legal Research Methodologies," *Journal of Judicial Review* 24, no. 2 (2022): 289–304, <https://doi.org/10.37253/jjr.v24i2.7280>.

<sup>14</sup> David Tan, "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum," *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial* 8, no. 5 (2021): 2463–78, <https://jurnal.um-tapsel.ac.id/index.php/nusantara/article/view/5601>.

aims to strike a balance between accountability and reintegration for young offenders. By providing tailored interventions and support systems, the juvenile justice system seeks to address the underlying factors contributing to delinquent behaviors of juveniles, while holding them accountable for their actions within a framework that prioritizes their best interests and the importance of their future for long-term reintegration into society. Through a holistic approach that encompasses education, counseling, and community-based programs, it endeavors to foster positive behavioral changes and empower youth to make constructive choices, thereby contributing to the overall well-being and safety of both the individual and society at large.

Diversion is the method often utilized within the juvenile justice system to deal with juvenile offenders. The core concept behind diversion is child protection. Child protection in diversion concept involves non-penal criminal prevention efforts by influencing public view toward crimes and punishment through media. It is an alternate form of criminal case solving aiming for informal solutions by involving all parties in the criminal justice system. Diversion is a growing solution in several countries, avoiding formal justice system involvement to provide protection and rehabilitation for offenders, preventing children from becoming adult criminals. The main principle is persuasive action and providing opportunities for offenders to change for the better, without ignoring law and justice but upholding justice in society.<sup>15</sup> However, after the diversion method is applied and the juvenile involved in the crime is set to go back into society, they often face realities that are different than when they left normal life for their criminal proceedings. This is where the support for post-diversion is needed to ensure that restorative justice isn't just about criminal proceedings, but also about reintegrating juveniles back into society after restoring their moral values.

There are many potentials and challenges in applying restorative justice within the juvenile justice system. This is not only because restorative justice is often the preferred method in dealing with juvenile crimes, but also because a juvenile's mental health and future prospects hold significant importance in their future, along with the future of society. Treating juvenile offenders in the wrong way might threaten their developments and mental health, along with increasing the risk of recidivism. However, like many other systems, the juvenile justice system can't cover all dimensions of challenges that juveniles face. One such dimension is the process of reintegration, where juveniles are expected to reintegrate back into society. The education system plays an integral role here as it's one of the most common environments and social settings for juveniles and children at general. Therefore, the role that the education system plays for restorative justice and the juvenile justice system overall can't be overstated.

The education system, despite being one of the most common environments and social settings for juveniles and children at general, can still harbor risks for them, particularly concerning their safety and well-being during crucial developmental stages. This happens when an education institution can't provide adequate support for juveniles to reintegrate back into society. One of the common underlying and perhaps the most prevalent problems in these environments is bullying. Bullying can be a big threat to the effort to the main goal of juvenile justice system and restorative justice, which is full reintegration of juveniles into society. As bullying is already common among non-juveniles in many primary educational institutions,<sup>16</sup> juvenile's dark history can fuel this terribly concerning trend to happen more often and worse, to come in harsher forms.

The integration of juvenile diversion programs into the framework of restorative justice heavily relies on the support and capabilities of educational institutions, particularly primary schools, which play a crucial role in the reintegration phase for juveniles. However, disparities in the availability and quality of educational resources across regions pose significant challenges. In areas where schools lack adequate resources, including trained personnel and supportive

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<sup>15</sup> Dyah Listyarini, "Juvenile Justice System Through Diversion and Restorative Justice Policy," *Diponegoro Law Review* 2, no. 1 (2017): 168-84, <https://doi.org/10.14710/dilrev.2.1.2017.168-184>.

<sup>16</sup> Daniel Muijs, "Can Schools Reduce Bullying? The Relationship between School Characteristics and the Prevalence of Bullying Behaviours," *British Journal of Educational Psychology* 87, no. 2 (2017): 255-72, <https://doi.org/10.1111/bjep.12148>.

services, the effectiveness of these institutions in aiding the reintegration of juvenile offenders is compromised. This situation is exacerbated by issues such as bullying, which further alienates vulnerable juveniles attempting to reintegrate into society. School bullying is already addressed many times and is also associated with restorative justice.<sup>17</sup> However, the discourse regarding former youth offenders against bullying in school as they're trying to reintegrate back into society is rather scarce. Without a conducive educational environment, the potential for successful reintegration diminishes, and in turn, increasing the risk of future crime involvements among former youth offenders.

The case of inappropriate photo-sharing adds to the complexity of this issue. It has been identified that inappropriate photo-sharing can lead to bullying, particularly cyberbullying. However, a risk can be identified by the fact that the huge portion of persons behind these incidents of cyber-bullying are students still attending primary schools.<sup>18</sup> Furthermore, some schools also apply the expulsion policy, which has been to have a significant negative impact on children's perception of justice and fairness, as they're given almost no chance to make up for their mistakes.<sup>19</sup> Therefore, the government must acknowledge this associated risk to ensure that the process of reintegration can go smoothly and doesn't instead turn juveniles to even darker paths. Although the relationship between inappropriate photo-sharing of what is often called 'sexting' is not always consistent, the interplay between school dynamics and sexting is pretty clear, which can substantially increase the risk of cyberbullying as a possible outcome of inappropriate photo-sharing.<sup>20</sup>

Labeling Theory, as developed by Howard Becker (1963), suggests that deviance is not inherent in an individual's actions, but rather, it is a consequence of society's response to those actions.<sup>21</sup> Becker argues that once someone is labeled as "deviant" or "criminal," they are subject to societal rejection and stigmatization, which can lead to a cycle of continued deviance.<sup>22</sup> This process is particularly significant for juveniles, whose behavior is often subject to exaggerated social judgment. In the case of inappropriate photo-sharing (sexting), juveniles who engage in these behaviors can be labeled as "perpetrators" or "sex offenders." Such labels, when amplified by social media exposure, perpetuate the stigma, leading to increased social exclusion and bullying. Importantly, once a juvenile is publicly identified as deviant, whether or not they fully internalize the label, society's rejection further alienates them. This rejection often leads to victimization, as the juvenile becomes an outcast in their peer group, suffering from continuous harassment and ostracization. Consequently, the very act of labeling them as a "criminal" for their sexting behavior can ironically transform them into a victim of both social stigma and psychological harm.

## 2. Potentials and Challenges in Existing Laws

Indonesia's main legal framework for the juvenile justice system is Law No. 11 of 2012 on Juvenile Justice System (Juvenile Justice System Law). This law defines the juvenile justice system

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<sup>17</sup> Martha Frias-Armenta et al., "Restorative Justice: A Model of School Violence Prevention," *Science Journal of Education* 6, no. 1 (2018): 39-45, <https://doi.org/10.11648/j.sjedu.20180601.15>.

<sup>18</sup> Tahirah Binti Mt Tahir and Mohd Heikal Bin Husin, "Online Social Media and Risks: An Exploration into Existing Children Practice," in *Proceedings - 2017 International Conference on Electrical Engineering and Informatics: Advancing Knowledge, Research, and Technology for Humanity, ICELTICS 2017*, vol. 2018-January, 2017, 195-200, <https://doi.org/10.1109/ICELTICS.2017.8253250>.

<sup>19</sup> Abigail Novak and Abigail Fagan, "Expanding Research on the School-to-Prison Pipeline: Examining the Relationships between Suspension, Expulsion, and Recidivism among Justice-Involved Youth," *Crime and Delinquency* 68, no. 1 (2022): 3-27, <https://doi.org/10.1177/0011128721999334>.

<sup>20</sup> Kristína Bielčíková, "The Relationship Between Cyberbullying and Sexting," in *13th International Conference on Education and New Learning Technologies (EDULEARN21)* (Palma: International Academy of Technology, Education and Development (IATED), 2021), 439-47, <https://doi.org/10.21125/edulearn.2021.0130>.

<sup>21</sup> Jack S Damico, Nicole Müller, and Martin J Ball, "Labeling as a Sociocultural Process in Communicative Disorders," in *The Handbook of Language and Speech Disorders*, 2021, 5-32, <https://doi.org/https://doi.org/10.1002/9781119606987.ch1>.

<sup>22</sup> Jón Gunnar Bernburg, "Labeling Theory," in *Handbook on Crime and Deviance*, ed. Marvin D Krohn et al. (Cham: Springer International Publishing, 2019), 179-96, [https://doi.org/10.1007/978-3-030-20779-3\\_10](https://doi.org/10.1007/978-3-030-20779-3_10).

as the overall process of resolving cases of children in conflict with the law, from the investigation stage to the guidance stage after serving the sentence. The latter part of the definition must be highlighted here, where it says that the juvenile justice system includes guidance after sentence. This is crucial because part of the reasons why and how the juvenile justice system is designed is to help juveniles reintegrate back into society to become productive individuals with a future ahead of them. Therefore, this norm provided by the juvenile justice system must be further accommodated by the Indonesian legal system, to ensure that juveniles are not only acknowledging and learning from their mistakes, but also fully capable and supported all the way as they reintegrate back into society.

This law later reiterates this in Article 5 paragraph (2) letter b, by stating that (The Juvenile Criminal Justice System as referred to in paragraph (1) includes:) coaching, mentoring, supervision, and/or assistance during the process of implementing the punishment or action and after serving the punishment or action. However, there's no further provision regarding this important aspect of the juvenile justice system. Judging from the fact this issue covers a huge part of what defines the juvenile justice system as provided by Article 1 number 1, this issue should've been covered more extensively to ensure that the Indonesian juvenile justice system provides adequate support that is entirely based on its very definition as provided by the same law.

Diversion is defined by the Juvenile Justice System Law as the transfer of the settlement of children's cases from the criminal justice process to a process outside criminal justice.<sup>23</sup> The spirit behind this is to protect the fragile development of children in conflict with law,<sup>24</sup> to ensure that they're not further pressured or worse, influenced by criminal activities, particularly from other juvenile offenders in many correctional facilities, which has been found to be a significant precursor to recidivism or future criminal involvement.<sup>25</sup> The risk is even higher when the crimes committed by other juveniles are of higher severity and the juveniles themselves inhabit antisocial behaviors.<sup>26</sup> These risks are what diversion is supposedly trying to avoid, to at the very least lower the chance of possible future crime involvement as a result of bad influence from peers and environments among juveniles.

However, this spirit is not prolonged throughout the juvenile justice system, as already highlighted with the lack of provisions regarding support for post-conviction. The same can also be said when it comes to diversion, where the Juvenile Justice System doesn't provide further support for post-diversion monitoring. Article 66 letter e governs that (community supervisor is in charge of) e. providing assistance, guidance, and supervision to children who receive assimilation, parole, pre-release leave, and conditional leave. However, these provisions only apply when restorative justice isn't employed and diversion wasn't the choice taken by the appropriate court in dealing with a juvenile crime. Furthermore, there's also no further provision as to what kind of support and monitoring is done by community supervisor as governed by Article 66, be it for post-conviction or post-diversion.

In the context of inappropriate photo-sharing, the prohibition is abundantly clear in Article 4 paragraph (1) of Law Number 44 of 2008 on Pornography (Pornography Law), which governs that every person is prohibited from producing, making, reproducing, duplicating, disseminating, broadcasting, importing, exporting, offering, trading, renting, or providing pornography that explicitly contains: intercourse, including deviant intercourse; sexual violence; masturbation; nudity or the appearance of nudity; genitals, or child pornography. There is an emphasis on the protection of victims of this crime in Article 16 paragraph (1) which governs that

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<sup>23</sup> Louisa Yesami Krisnalita, "Diversi Pada Tindak Pidana Yang Dilakukan Oleh Anak," *Binamulia Hukum* 8, no. 1 (March 15, 2023): 93-106, <https://doi.org/10.37893/jbh.v8i1.342>.

<sup>24</sup> Junimart Girsang and Ninne Zahara Silviani, "Progressive and Diversion Process: Protection Rule and Enforcement of the Juvenile Justice," *Jurnal Komunikasi Hukum (JKH)* 8, no. 1 (2022): 481-92, <https://doi.org/10.23887/jkh.v8i1.47832>.

<sup>25</sup> Zachary A. Powell et al., "Delinquent Youth Concentration and Juvenile Recidivism," *Deviant Behavior* 42, no. 7 (2021): 821-36, <https://doi.org/10.1080/01639625.2019.1701622>.

<sup>26</sup> JoAnn S. Lee and Jessie Patton, "The Social Exclusion of Dually-Involved Youth: Toward a Sense of Belonging," *The Journal of Sociology & Social Welfare* 44, no. 1 (January 2017): 41-64, <https://doi.org/10.15453/0191-5096.3856>.

the government, social institutions, educational institutions, religious institutions, families, and/or communities are obliged to provide guidance, assistance, and social, physical and mental health recovery for every child who is a victim or perpetrator of pornography.

The provisions mentioned are not enough to deal with the complexity of inappropriate photo-sharing, particularly when the sharing of the photo to public social media spaces aren't done intentionally. In this case, both of the people in an explicit picture or video can be considered victims, despite also being perpetrators in the production of such materials. Another issue that's not addressed by the Pornography Law is when both the sharing and the production involve only minors. In this case, everyone involved in this problem are at risk of being exposed to possible cyberbullying or even real or offline bullying. This bullying can also happen in educational institutions, particularly primary schools where the instance of inappropriate photo-sharing has led to actual cases of bullying among students in classrooms.<sup>27</sup> However, the provision of Article 16 can be further developed as a good direction to provide a good support for the victims under these circumstances, by developing the mechanisms of applying the term in a more flexible way.

Normatively, the legal norm provided by Article 66 of the Juvenile Justice System Law can also be a good basis for future legal developments, particularly in expanding the role of community supervisors. Another legal norm that can be used for future models of legal development is Article 5 paragraph (2) of Law No. 20 of 2003 on National Education System (Education Law), which governs that citizens with physical, emotional, mental, intellectual and/or social disabilities are entitled to special education. The term "social disability" can be interpreted in a few ways, but interpretation rooted in social strain theory can be used to show that it generally refers to limitations in an individual's ability to participate fully in society, due to their proneness to certain risk factors that can lead to crime,<sup>28</sup> which is the case with juveniles, particularly those trapped under societal pressure due to inappropriate photo-sharing. This connection is ultimately affected by a range of factors, including but not limited to, societal attitudes, cultural norms, and systemic barriers that affect individuals with certain conditions or backgrounds. In the context of education, recognizing social disabilities involves acknowledging that some individuals may face challenges that are not strictly physical or psychological but are related to their social environment and interactions.

### 3. Normative Construction for School Transfer as a Possible Solution

This paper proposes that school transfer can be a good solution in dealing with the problems that have been identified previously. Traditionally, school transfer is not an entirely common diversion method to begin with, although some have suggested that this could be utilized for the benefit of the victim.<sup>29</sup> However, as it is now understood that victimization can happen both ways, school transfer can also provide juveniles who are involved in inappropriate photo-sharing a safer and more conducive environment for them to continue their education, while also trying to reintegrate back into society. However, this solution must also be supported with adequate normative basis, to ensure that it remains an option for schools, as opposed to just a request made by the guardians of the relevant juveniles involved in inappropriate photo-sharing. Furthermore, the future of education for these juveniles after transfer must also be protected, at least to a degree where they can enjoy education without being harassed or bullied by their schoolmates.

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<sup>27</sup> Matt Gross, "Cyber Sexual Bullying, 'Sexting' in Schools, and the Growing Need to Educate the Youth," *The University of the Pacific Law Review* 48, no. 3 (2017): 555-74, <https://scholarlycommons.pacific.edu/uoplawreview/vol48/iss3/11/>.

<sup>28</sup> Priyanka Walter, "Relations Between Child Abuse and Juvenile Delinquency," *Indian Journal of Integrated Research in Law* 3, no. 2 (2023): 214-27, <https://ijirl.com/wp-content/uploads/2023/04/RELATIONS-BETWEEN-CHILD-ABUSE-AND-JUVENILE-DELINQUENCY.pdf>.

<sup>29</sup> Celine Endang Patricia Sitanggang et al., "Restitutio in Integrum in Criminal Regulation of Restitution for the Victims of Criminal Acts," *Journal of Law, Politic and Humanities* 5, no. 1 (November 12, 2024): 179-91, <https://doi.org/10.38035/jlph.v5i1.829>.

Labeling Theory offers valuable insight into how school transfer serves as an effective diversion method for juveniles involved in inappropriate photo-sharing. Given that labeling a juvenile as a "sexting offender" or any other derogatory terms can result in significant peer rejection and social isolation, school transfer can offer the individual an opportunity to escape the stigmatized environment. Moving to a new school provides a clean slate, enabling the juvenile to break free from the cycle of bullying, judgment, and the damaging effects of social media exposure. This fresh start mitigates the harmful consequences of the label, as it removes the constant reminders of their past behavior and provides a space for reintegration into a supportive peer group. Labeling Theory emphasizes that social reintegration is nearly impossible if the juvenile remains in an environment where they are continuously branded by their past mistakes. Thus, school transfer becomes not just an act of relocation, but a critical form of social and psychological rehabilitation, helping to reduce the negative effects of the deviant label and facilitating a smoother path to reintegration into society.

The proposed legal development would involve the expansion of existing legal norms to explicitly include provisions for school transfer as a rehabilitation measure for juveniles. This could be integrated within the framework of the Juvenile Justice System Law, specifically by extending the interpretation of support and monitoring outlined in Article 66, to encompass educational support and integration measures. This can significantly fill the normative gap that exists within the Juvenile Justice System Law, where post-sentencing or post-diversion isn't manifested by any concrete and readily applicable policy. The concept of "social disability" as governed by Article (5) paragraph (2) of the Education Law can be extended to encompass the social challenges faced by juveniles involved in inappropriate photo-sharing, thereby mandating educational institutions to accommodate their special needs. This must be analyzed carefully by integrating the social strain theory as already highlighted,<sup>30</sup> to then be connected with the dynamics of primary education, with academic performance in mind.

To operationalize this, the model would require the development of guidelines for schools, detailing the process for transferring students who are former youth offenders. These guidelines would need to emphasize confidentiality, to prevent stigmatization, and include mechanisms for closely monitoring the transferred student's integration into the new educational environment. Instead of generalized and complicated guideline, a concise and personalized one made by community supervisors, might be better to fit the unique needs of each juvenile and many aspects of their environments. These extra measures are important to be taken carefully and perhaps prioritized to some extent, due the already highlighted associated risks of bullying and harassment in the case of inappropriate photo-sharing.<sup>31</sup> Moreover, this model would necessitate the establishment of support systems within schools, such as counseling and monitoring, to aid the students' adjustment and mitigate the risk of bullying in new school. This can be facilitated by the relevant school to help monitor the reintegration process for a period of time until the community supervisor decides that such a thing is no longer needed.

To solidify the legal basis for this policy, amendments to the Juvenile Justice System Law and the Education Law could be proposed. These amendments would specifically mandate the provision of support for school transfer and reintegration of former youth offenders, establishing a clear legal framework that empowers educational institutions to act in the best interests of these juveniles. Furthermore, it's imperative to acknowledge the complexity of inappropriate photo-sharing, where the perpetrators can also both be victims, which is especially important when they are actually minors. This needs to be done by revising the existing legal norms in the Pornography Law. Through adopting this model of legal development, the Indonesian legal system would be taking a significant step towards ensuring that juveniles involved in inappropriate photo-sharing have the opportunity to continue their education in a supportive environment. This not only

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<sup>30</sup> Walter, "Relations Between Child Abuse and Juvenile Delinquency."

<sup>31</sup> Aaron Schubert and Gerald Wurf, "Adolescent Sexting in Schools: Criminalisation, Policy Imperatives, And Duty of Care," *Issues in Educational Research* 24, no. 2 (2014): 190-211, <https://eric.ed.gov/?id=EJ1042978>.

aligns with the rehabilitative goals of the juvenile justice system but also contributes to the broader societal aim of reintegrating former offenders as productive members of society.

## V. Conclusion

Conceptual analysis provides the baseline for analysis, by highlighting the vulnerability and the importance of a more holistic restorative justice for juvenile offenders, by ensuring that the process of reintegration after sentencing or after diversion is covered normatively. With these findings in mind, normative analysis is built upon, and crucially highlights many normative deficiencies not only in the Juvenile Justice System Law but also in the Pornography Law and the Education Law. These normative deficiencies make it difficult for young persons who were involved in inappropriate photo-sharing to fully reintegrate with adequate support from the government. School transfer is proposed as the main solution to this issue, to hopefully mitigate some of the risks faced by former youth inappropriate photo-sharers, to ensure that they are not unnecessarily disturbed by issues such as bullying and harassment due to their past mistakes. The limitation of this study is the lack of qualitative data to support the implementation of this policy to identify further issues of implementation, which can be accommodated by future research.

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