




Redesigning the Provision of Aggravation in Property Crime during the Pandemic

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Abstract

One of the things that has been potentially overlooked in the development of criminal law during the Covid-19 pandemic is how the Prosecutor's Office and the Courts view the seriousness of property crimes. Every state has set up a social safety net to ensure that individuals are able to live without hunger despite the economic slowdown, and this initiative also comes along with a more intense social concern from the social environment. This article seeks to uncover the patterns of prosecution and imprisonment by judges for property crimes during the pandemic, which are inappropriate as everyone experiences family loss and economic hardship. The primary data in this article uses interviews with prosecutors and judges, then validates it in data on the length of prison charges and prison sentences recorded in the Case Tracking Information System (SIPP) in the Semarang District Court, Banyumas District Court, and Purwokerto District Court. The results of this research reveal two important things. First, prosecutors and judges in Indonesia during the Covid-19 pandemic did not aggravate prison charges and prison sanctions, even the Penitentiary tended to accelerate the assimilation process or shorten the duration of imprisonment. Second, property crimes committed during the pandemic are relevant to aggravate the threats and penalties, because they make life difficult for people who are financially and psychologically weak. Indonesia should consider revising the sentencing guidelines in the National Criminal Code before it becomes effective in 2026.

Keywords: Imprisonment, Property Crimes, Prosecution.

A. INTRODUCTION

In national criminal law policy, certain criminal offenses can be aggravated if committed in a disaster situation. The Criminal Code, as a product of this policy, is designed to accommodate multi-aspect values, such as religion, humanity, and socio-culture (Adhari, 2020, p. 197). The reflection of these values is formulated in Article 363 of the Criminal Code, which states that theft committed during natural disasters such as floods, earthquakes, seaquakes, and volcanic eruptions is threatened by the aggravation of imprisonment from the previous maximum of five to seven years. The National Police Headquarters in the 19th week of Covid-19 declared a Pandemic (May 18, 2020), revealing that there was an increase in crime statistics by 7% from 3,481 to 3,726 cases consisting of street crime (robbery), cyber, and kidnapping (Media Indonesia, 2020). The national criminal law policy limits the criminal offense to only theft and natural disasters. whereas throughout 2019-2022, disasters faced nationally and globally are non-natural disasters or pandemics. Covid-19 is an example of a crisis that has posed unprecedented challenges and tested a country's commitment to SDGs, such as poverty, inequality, and the environment (Fleetwood, 2020). Indonesia's macroeconomic loss in 2020 resulted in a 5.3% drop in GDP in the second quarter and was the worst economic downturn since 1998 (the reform period) (Sparrow et al., 2020). This economic slowdown has also resulted in unemployment, which has further reduced the quality of life related to health; therefore, it is a serious concern for national and global governments to provide financial assistance (Ikeda et al., 2022). There are many other social aspects of Covid-19 such as destroying household harmony (Pietromonaco & Overall, 2022) and causing prolonged grief when relatives

leave behind (Mortazavi et al., 2020). Thus, crimes against property committed during a pandemic should be an important issue in the reform of national criminal law policy.

Crimes against property are crimes that cause financial loss to the victim, such as theft, embezzlement, extortion, threat, fraud, and theft. The Indonesian Criminal Code is designed to protect the interests of the state, society, and individual, with a particular focus on the body (including life), dignity, and property (Frans Maramis, 2012). This crime is committed to possessing money or valuables belonging to another person through unauthorized means (I Made Ngurah Adi Kusumadewa et al., 2022). According to Felson et al. (2019), this crime is related to a hedonic lifestyle, in which hedonic activities lead to economic crimes, and economic crimes create opportunities for more frequent hedonic activities (Felson et al., 2019). Property crimes are more likely to occur because of opportunity rather than unemployment, as there is no long-term evidence that unemployment causes these crimes (Janko & Popli, 2015). When lockdowns occur, property crime tends to decrease and increase again after lockdowns are lifted by the government (Paramasivan et al., 2022). Another thing that has reduced crime is the government's presence in providing health and social services in informal settlements during the pandemic (Perez-Vincent et al., 2021). Thus, property crimes are a rare phenomenon during Covid-19, except when perpetrators exploit social hardship to gain unlawful financial benefits.

The issue of property crime has been written about several times by national and international researchers. In Indonesian literature, this issue is written with a focus on theft, as in some of these articles. First, Triana and Fauzi (2020), that motorcycle theft in Surabaya is dominated by the difficult social and economic conditions during the pandemic (Triana & Fauzi, 2020). Second, Wicaksono et al. (2021) revealed that theft

with violence in Jambi City during Covid-19 was not handled effectively because the dominant victims refused to provide information and did not trust the police (Wicaksono et al., 2021). Third, Kurniadi (2022) emphasized Triana and Fauzi's research, with an increase in theft during the pandemic also increasing theft (Kurniadi, 2022). In the international literature, this issue has also been discussed several times. First, Chernov (2021) stated that the online learning policy on campus during the Pandemic in the United States has increased the number of cctv thefts in classrooms, and the installation of anti-theft signs in classrooms is quite effective in preventing theft (Chernoff, 2021). Second, Jiang et al. (2023) stated that theft in Hainang (China) is relatively common in tourist, culinary, shopping, and densely populated areas; however, throughout the pandemic, there has been a decline due to social restriction policies and increased police patrols (Jiang et al., 2023). Third, Kotlán (2023) states that the Czech Supreme Court rejected the automatic application of a state of emergency declared to combat a pandemic as fulfilling the elements of the crime of theft as "an event that seriously endangers human life or health, public order or property" (Kotlán, 2023).

Research in Indonesia on similar issues tends to find patterns of Covid-19 influence on crime statistics and its influence on law enforcement response. This issue also has similarities with research in other countries, except for research conducted by Kotlán in the Czech Republic. The novelty of this article is to find a pattern of how prosecutors and judges in Indonesia view property crimes that occur during the peak year of Covid-19 in 2020-2021. This article will provide an overview to the international community on how the criminal justice system in Indonesia responded to property crimes during the pandemic. The assumption built in this article is that the

adaptation of Indonesian criminal law to the pandemic is limited to the procedural aspects of examination and imprisonment, as it has recognized online trials and accelerated assimilation policies. The New Criminal Code effective in 2026 does not mention the pandemic in the formulation of its articles, although intense discussions took place during the pandemic and were passed in the year when Indonesia revoked its Covid-19 pandemic status in 2023 through Law Number 1 of 2023.

This article aims to uncover how Indonesian Prosecutors and Judges view the seriousness of property crimes that took place during the Covid-19 Pandemic, which caused economic hardship for both individuals and the state. This study determined the following issues.

1. What is the pattern of the range of charges and imprisonment in property crimes during the peak year of Covid-19?
2. What is the relevance of Covid-19 can aggravate criminal sanctions?

The perceptual patterns of prosecutors and judges in seeing the phenomenon of property crimes committed during the peak year of Covid-19 must be known to understand whether they view this crime as more serious than when it is committed under normal circumstances. This article adopts the concept of socio-legal research, which constructs law not only as a norm formulated in regulations but also as a social phenomenon. The primary data in this study were obtained from prosecutors and judges in Semarang (September 4, 2023), Purwokerto (November 8-9, 2023), and Banyumas (November 6 and 14, 2023). The data were obtained through interviews with open-ended questions regarding the length of prison charges from prosecutors and the length of prison sanctions from judges. Interviews were also conducted with

Correctional Officers at the Central Java Regional Office of Law and Human Rights with the main question of the implementation of the home assimilation policy. The criteria for the selected informants were the Head of the General Crimes Section (except for the Semarang District Attorney's Office), judges who have qualifications as Chair of the Panel, and Correctional Officers who carry out the monitoring and evaluation function at the Regional Office of Law and Human Rights.

The secondary data in this study utilized case profiles in the Case Tracking Information System (SIPP) available at the Semarang District Court, Purwokerto District Court, and Banyumas District Court. The profiles are limited to property cases (theft, embezzlement, extortion, threatening, fraud, and stolen goods), charge weights, and imprisonment weights. SIPP can accurately validate the results of interviews on the perceptions of prosecutors and judges. Other secondary data used were copies of the decisions and internal regulations. Copies of verdicts were used to reveal whether the motivation for crimes was due to emergency demands such as hunger and poverty or purely illegal profit-seeking motives. The internal regulations examined were those at the Attorney General's Office and the Supreme Court, which regulate mitigating and aggravating circumstances to determine charges and verdicts or regulations at the Ministry of Law and Human Rights that regulate home assimilation policies. The data were analyzed using a thematic analysis method to identify certain patterns in the three sub-issues to provide conclusions (descriptive) and suggestions (prescriptive) on the issue of the pattern of the weight of imprisonment and its relevance as a reform of certain circumstances that can aggravate the threat of property crime.

B. RESULT AND DISCUSSION

1. Pattern of the Range of Charges and Imprisonment in Property Crimes During the Peak Year of Covid-19

Non-natural disasters in the form of disease outbreaks have not been recognized as having a significant impact on the operation of the criminal justice system; therefore, the losses are only recognized as health losses. Interviews with Prosecutors and Judges showed that an important factor in not accommodating disease outbreaks as an aggravation of charges and punishments is that they have not been regulated in either the Criminal Code or the National Criminal Code. The regulations in the Prosecutor's Office have the same pattern as the two Criminal Codes, which do not explicitly mention non-natural disasters, while in the courts, the regulation is guided by the principle of judge independence (**table 1**). This interview corresponds with SIPP data, in which cases against property are prosecuted and sentenced to light weight. The average property case by aggregating the recorded cases (theft, embezzlement, extortion, threatening, fraud, and storing) is 6.05 years, while the prosecutor's sentence only reaches 1.68 years and the judge only sentences the defendant to 1.33 years in prison (**table 2**). Thus, law enforcement awareness in Indonesia has not considered that non-natural disasters such as Covid-19 as a *tempus delicti* exacerbate the impact of property crime experienced by victims.

Table 1. Interview with Prosecutors and Judges

	How Covid-19 affects the severity of charges and imprisonment	What affects the severity of charges and imprisonment
Semarang Prosecutors Office	aggravate the charges because they aggravate the difficulties of people who are being economically squeezed.	General Criminal Procedure Guidelines 2022, 10 cases: 1) interfering with the stability of national security; 2) containing the sentiment of sara; 3) the perpetrator does not regret; 4) causing public harassment; 5) causing the loss of the state; 6) suffering for the victims continuously; 7) destroying the young generation; 8) sadism; 9) enjoying the results of crime; and 10) Other things of a cashistic nature
Banyumas Prosecutors Office	Not aggravating because Article 363 of the Criminal Code does not specify as aggravation	
Purwokerto Prosecutors Office	Not aggravating the weight of the charges because it is not regulated in the General Criminal Case Handling Manual 2022	

Semarang District Court	This type of crime is punished lightly unless the property is not returned to the victim. There are concerns about the spread of Covid-19 in prisons if such cases are severely punished.	The first to affect is the type of crime, in general criminal matters, the type that tends to be severely punished is the crimes of humanity like murder and rape.
Banyumas District Court	We must first look at the legal facts that have been revealed about the motivation of the perpetrator, whether there are any economic difficulties that have caused him to commit a crime.	Looking from the legal facts, the judge digged the good and evil character of the perpetrator comprehensively. The judge also looked at the level of loss suffered by the victim, the cooperative nature of perpetrators, the repentance of offenders, the peace that occurred, the forgiveness of victims, residues.
Purwokerto District Court	Covid-19 doesn't affect the substance of the trial, its influence on procedures like online trials.	What affects is the legal facts, whether there are aspects such as residivis, planning, how to do, the initiative of the offender to return the goods

Table 2. Pattern of Charges and Imprisonment of Proerty Crimes in Semarang, Banyumas, dan Purwokerto

Court	Year	Cases	Average			Charges	Verdict	Verdict
			Threats	Charges	Verdict	↓↓↓ Threats	↓↓↓ Threats	↓↓↓ Charges
Semarang	2020	259	5.94	1.64	1.33	27.61%	22.33%	80.87%
Semarang	2021	250	5.87	1.64	1.30	27.87%	22.14%	79.43%
Banyumas	2020	29	5.90	1.94	1.39	32.85%	23.64%	71.96%
Banyumas	2021	16	6.53	1.83	1.53	28.06%	23.47%	83.64%
Purwokerto	2020	97	6.25	1.53	1.12	24.45%	17.93%	73.34%
Purwokerto	2021	92	5.79	1.49	1.28	25.75%	22.08%	85.73%
Agregat	2020	385	6.03	1.70	1.28	28.23%	21.24%	75.24%
Agregat	2021	358	6.07	1.65	1.37	27.26%	22.60%	82.88%
Agregat	2020 - 2021	743	6.05	1.68	1.33	27.77%	21.93%	79.00%

The pattern of formulating criminal acts in the Indonesian Criminal Code regulates aggravation provisions and the threat of criminal acts can be aggravated

under certain circumstances. This pattern is formulated not only in the Criminal Code, but also in the National Criminal Code (Law Number 1 of 2023). In Book Two of the Criminal Code, criminal acts related to property are regulated in Chapter XXII Theft, Chapter XXIII Extortion and Threats, Chapter XXIV Embezzlement, Chapter XXV Fraudulent Acts, Chapter XXVI Acts that Harm Debtors or Entitled Persons, Chapter XVII Damage to Goods, and Chapter XXX Detention ((Dading), 1986, p. 16). The regulation of aggravation due to disasters is contained in Chapter XXII Theft, Article 363 paragraph (1) number 2 of the Criminal Code regulates that theft, which was originally regulated in Article 362, carries a maximum prison sentence of five years, but the threat can be increased to a maximum of seven years when committed in circumstances *"when there is a fire, eruption, flood, earthquake or sea earthquake, volcanic eruption, shipwreck, stranded ship, train accident, riot, rebellion or danger of war"*. According to Sudrajat Bassar (1998), the reason for this burden is "the atmosphere that occurs is a chaotic atmosphere (full of commotion and worry), in which other people should help or provide assistance, not add to the problem by stealing" (Bassar, 1998, p. 56). Similar provisions are formulated using the same pattern in the National Criminal Code as in Article 477 paragraph (1) letter d, even though the National Criminal Code is formulated for situations of non-natural disasters or when the spread of Covid-19 is massive. The Criminal Code was passed in 1915 during the colonial era and has been effective since 1918. History records that from to 1918-1920 there was a pandemic of polio and cholera on the European continent (Bramanti et al., 2019, p. 2). Thus, the history of global and national criminal law reform has not considered non-natural disasters as an aspect that can aggravate the blameworthiness of criminal acts.

The low severity pattern in prosecutions and imprisonment shows that this type of criminal offense is, in principle, considered a mild offense (Shanahan, 2015). The use of criminal law for economic crimes is relatively insignificant because its formulation does not take into account the perspective of economic analysis but tends to be oriented towards the mental attitude of the perpetrator (Junaidi Gunawan, 2022). The model for formulating the weight of punishment in the Criminal Code uses a maximum, as there are no specific restrictions to determine the minimum weight of imprisonment for various criminal acts because what is regulated is general in nature (Insani, 2023). According to Purnama and Akub (2023), punishment for criminal acts that occur during a disaster can only be overcome if it is motivated by an urgent need, and not because of the opportunity or momentum that occurred when the disaster occurred (Purnama & Akub, 2020). Thus, the formulation of criminal acts against property and the practice of law enforcement carried out by prosecutors and judges generalizes non-natural disasters as normal or peaceful conditions.

The low severity of prosecution and imprisonment reflects the incomplete development of the criminal theory in law enforcement in Indonesia. Various studies by Indonesian researchers generally suggest that the theory of punishment develops in three phases: absolute theory, goal theory, and combined theory. Muladi and Barda Nawawi Arief were the two main figures in Indonesia who popularized the development of this theory and greatly influenced Indonesian writers, both of whom outlined the following developments (Muladi & Arief, 1992):

In absolute theory, punishment initially represents retaliation against criminals so that punishment is a logical consequence of the crime, and then punishment develops as proportional retaliation or adjusted to the error. In objective theory, crime aims to protect the interests of society by reducing its frequency. This theory introduces the concepts of special prevention (guiding perpetrators so

that they do not become recidivists) and society through general prevention (scaring and educating the public). In the combined theory, crime has various objectives in both theories, and then produces another objective, namely an educational process for the perpetrator to be accepted again by society (resocialization).

The low severity of charges and imprisonment have not been seen as the resocialization efforts desired by prosecutors and judges. Law Enforcement Officials tended to view property crimes that occurred during the peak year of Covid-19 as a normal phenomenon, except for the Semarang District Court Judge Informant, who saw it as an effort to anticipate and worry about the uncontrolled spread of Covid-19 in prisons. This information is consistent with an informant from the Central Java Kanwilukumham Corrections Division that *"The Director General of Corrections' policy is flexible in the assimilation of inmates through the Home Assimilation (Asrum) policy. This aims to mitigate the risk of the spread of Covid-19"*. This policy has succeeded in significantly reducing the inmate population in prisons, although not to the point of freeing prisons from overcapacity status." The combined theory, as the most recent theory by Roeslan Saleh, produces the concept of a double-track system, where punishment accommodates and balances the interests of the perpetrator, society, and the victim, meaning that punishment avoids the dominance of criminal individualization, which focuses on the perpetrator's rights and ignores his obligations (Rivanie et al., 2022). This shows that the pattern of low prosecution and imprisonment places law enforcement in Indonesia as stagnant in objective theory.

In the construction of punishment, non-natural disasters should have the same position as natural disasters as an aggravation of criminal threats. Covid-19 is a non-natural disaster on a global scale or pandemic, because it has shocked the world with

a high death rate, rapid spread throughout the world, and deep socio-economic impacts throughout society (Pratama et al., 2023). Destructive effects, such as high mortality, a decline in the function of health services, and the economic slowdown caused by Covid-19 have resulted in increased unemployment and poverty (Aeni, 2021). The economic slowdown began with the impact of the tourism and transportation industries due to social restriction policies and then reached the processing industry, trade, and various other industrial sectors (Budastra, 2020). Barford et al (2022) revealed that the increasing unemployment and reduced access to social protection experienced by the people of Indonesia and Nepal resulted in them being forced into debt, so that young people chose to leave education and choose risky jobs (Barford et al., 2024). Based on Article 8, paragraph (2) of the Judicial Power Law, the weight of punishment is determined by the good and bad characteristics of the defendant. In this case, non-natural disasters deserve to be considered evil because perpetrators commit crimes when society experiences a multidimensional social crisis.

2. The Relevance of Covid-19 for Aggravate Criminal Sanctions

Law enforcement in Indonesia is based on the legal paradigm, prioritizing clarity and explicit rules to achieve legal certainty and justice. This paradigm gives rise to a dominant pattern of using deductive reasoning in the Supreme Court of the Republic of Indonesia, with the result that judges' decisions appear to be based only on the law, both in general criminal cases but also in special criminal cases (Jailani Tanjung et al., 2019). This paradigm not only dominates the reasoning of judges, but also academics and other law enforcers due to the lack of dialogue between the interests of victims, witnesses, the community, and public prosecutors (Helmi, 2020).

The summary of interviews with all Prosecutor Informants agrees that Covid-19 increases the blameworthiness of property crimes, while all Judge Informants in determining blameworthiness must first look at legal facts. This interview also showed the agreement of all informants that Covid-19 should be the content of national criminal law policy reform, although all of them also agreed that the reform should not be too mathematical by formulating a special minimum sentence (Table 3). Thus, to make Covid-19 relevant as an aggravation, the legalism paradigm can also be used, explicitly regulating that property crimes can have heavier penalties when committed during the Covid-19 period.

Table 3. Interview with Prosecutors and Judges

	Has the pandemic increased the blameworthiness of crime?	Do you agree that the pandemic is considered a burdensome matter in regulations?	Are special minimum provisions required for the weight of the sentence?
Semarang Prosecutors Office	Yes, because this struggle has no social empathy	Agreed, to provide clearer prosecution guidelines	It is not necessary, because it will make it difficult to provide justice, even though it can provide certainty
Banyumas Prosecutors Office	Yes, because this action makes things difficult for people who are facing Covid	Agree, so that the prosecution guidelines become more complete	No, because it is more appropriate for special crimes
Purwokerto Prosecutors Office	Yes, because it is not appropriate when done during difficult economic times	Agree to provide legal certainty for the community	There is no need, because the prosecutor needs to be free to construct the severity
Semarang District Court	Relatively, it is necessary to look at the case in detail	Agree, as a guide for judges responding to crimes that occur during non-natural disasters	There is no need, because in practice it is very difficult if punishment is formulated mathematically
Banyumas District Court	Relatively speaking, it is necessary to first determine what is behind the action	Agree, because the Judge does not need to use an analogical interpretation that equates non-natural disasters with natural disasters	Don't answer, because this should be the policy of the legislators
Purwokerto District Court	Relatively, it is necessary to look at the real circumstances that accompany the action	Agree, because it will also function as an institutional direction for the Judge to observe	It is not necessary, in general criminal cases, the maximum is enough so that the judge can be more creative

The global spread of the Covid-19 disease outbreak has resulted in multi-aspect impacts, not only on health but also on the economy. The decline in health can be seen in the emergence of chronic diseases, sleep disorders, and depression due to strict

regional quarantine-based anti-infection policies (Su & Zhou, 2023). This policy resulted in a decrease in mobility, which negatively impacted overall economic activity (Khoirunurrofik et al., 2022). As of January 21, 2024, it was recorded that in Indonesia there have been 6,825,402 cases with deaths reaching 161,954 with a total of successful recoveries reaching 6,647,104, the highest daily cases occurred at the two times momentum namely 15 July 2021 (56,757) and 17 February 2022 (63.956) (Worldometer, 2024). The economic impact of Covid-19 includes an economic slowdown, decreased investment and inflation, and an increase in unemployment rates due to the slowing economy (Sabran et al., 2023). Referring to East Java, the increase in unemployment during Covid-19 occurred spatially in areas where the number of COVID-19 cases increased, surrounded by areas where the number of unemployed increased (Amin et al., 2024). In this difficult economic atmosphere, the dark side of thinking that crime is a solution has the potential to occur or the phenomenon of the absence of morally based life choices (Wahyuddin et al., 2023). The Covid-19 pandemic ultimately created a moral crisis that led to a drastic increase in theft crimes in Indonesia, exacerbating economic instability. Several crime cases have often been related to robbery or theft with violence, such as the robbery of a motorbike in Bandung in 2020 (Republika, 2020) the robbery of a bicycle in Jakarta in 2020 (Kumparan, 2020) and the robbery of an ambulance in Bengkulu in 2021 (Kompas, 2021). Thus, property crimes that occurred during Covid-19 19 has a higher level of blameworthiness compared to normal circumstances.

The low weight of prosecution and imprisonment shows that prosecutors and judges during the pandemic worked by adjusting the assimilation policy of the Ministry of Law and Human Rights. The assimilation carried out during the pandemic

was Home Assimilation (Asrum), a process of assimilating prisoners into community life more flexibly to prevent the spread of Covid-19 in prisons (Gautama & Subroto, 2022). The flexibility of this policy requires things that are easier than regular assimilation, namely having served half the sentence, for six months of good behavior, not receiving disciplinary punishment, and carrying out the correctional program well (Hartono & Subroto, 2022). A Central Java KanwilKumham informant said that "the linear boarding house policy with short prisons (1-2 years), this policy not only mitigates the spread of Covid-19 but also saves the budget, although it is not very effective in the coaching aspect because skills training is not carried out completely for prisoners". It can be seen that the low severity of prosecution and imprisonment is oriented towards reducing the length of time criminals are restricted from their freedom in prison.

Short prison terms arising from the low severity of charges and imprisonment reveal that the Indonesian criminal justice system has difficulty adopting alternatives to imprisonment. Short prison terms do not have a deterrent effect; they even worsen the stigma and make inmates more violent after leaving prison, so that their presence is rejected by society (Zakiyah, 2016). The main problem with imprisonment in Indonesia is the phenomenon of overcapacity in prisons, and training programs find it difficult to achieve resocialization goals and actually lead to prisonization through the transfer of knowledge between prisoners (Larasati, 2018). Short imprisonment also has no evidence of reducing criminal statistics, even further proving that criminal law is not developing because it does not recognize alternative forms of punishment, such as judges' forgiveness or social work punishment (Hakim, 2019). Hartono and Subroto (2022) revealed that the housing assimilation policy did not support efforts to

significantly reduce overcapacity, while in the Kediri prison study, overcapacity in 2021 was only reduced from 108% to 73.5% (Hartono & Subroto, 2022). Wermink et al. (2023) researched this in the Netherlands and found that short prison terms from 2012-2018 in the Netherlands resulted in an increase in recidivism and prison costs paid by each member of society by 45 euros or the equivalent of 400 million euros when aggregated nationally (Wermink et al., 2023). Using data from a similar period (2012), Stam et al. (2023) also revealed that the effect of preventing recidivism rates was specifically achieved by longer education, although it did not affect the reduction in crime statistics (Stam et al., 2023). Based on this comparison, short prison terms are not an ideal solution for the Indonesian criminal justice system in responding to concerns about overcapacity and the spread of Covid-19 at the same time.

The criminal law policy in Indonesia has not yet explicitly regulated the relationship between non-natural disasters and the severity of imprisonment. The form of disaster in Article 363 of the Criminal Code only limits natural disasters as an aggravation for theft, considering that chaotic conditions mean that goods are not guarded by their owners, but that this condition is exploited by criminals (Lamintang & Samosir, 2019, p. 111). This article has not been significantly changed in the National Criminal Code (2023), but this regulation is supplemented by Sentencing Guidelines, as Article 54 paragraph (1), letter f states that punishment must take into account social conditions. According to the National Criminal Code Academic Text, these social conditions are in the context of "criminal individualization", meaning that the social conditions experienced by criminals are not experienced by society (Nurbaningsih, 2015, p. 37). Syamsudin et al (2021) revealed that there was a 42.65% increase in theft in Indonesia in residential areas in Makassar, not in business centers

which are centers of money circulation (Syamsuddin et al., 2020). Referring to the practice carried out by the Supreme Court of the Czech Republic in 2021, the aggravation of theft during Covid-19 is not automatic but is based on a causal relationship between the crime and the increased destructive effects of the pandemic (Kotlán, 2023). Garbatovich (2021) revealed that the severity of a sentence is more influenced by determining the qualifications rather than the legal facts that incriminate him (Garbatovich, 2021). As long as the motivation of property crime perpetrators when non-natural disasters occur is not to defend their lives, this crime should qualify as a crime with increased legal threats.

C. CONCLUSION

The pattern of determining the weight of charges and imprisonment in property crime cases during the peak year of Covid-19 shows the phenomenon that Public Prosecutors and Judges tend to use low-prison sentences, although not short prison sentences in the maximum range of one year. Quantitatively, 28% of the cases were prosecuted and punished for 22% of the maximum threat. These patterns are significantly influenced by the provisions in the Criminal Code, which limit the severity of property crimes during disasters to include only theft during floods, earthquakes, sea earthquakes, and volcanic eruptions. All informants from the Public Prosecutor and the Judge agreed that the consideration for making the criminal act more serious when it was committed during the pandemic was that it was regulated as a particular condition that could worsen the crime. The implication of this phenomenon is that prosecution patterns and imprisonment patterns did not change before and when the Covid-19 pandemic occurred. The Covid-19 pandemic as a *tempus delicti* is

relevant to certain circumstances that can increase criminal sanctions because there is an increase in the reprehensible nature of the evil nature of property crimes committed so that it becomes something that is truly inappropriate to do. This can be excluded if the perpetrator is motivated to experience hunger, which can only be resolved by seeking income through illegal means. The weighting patterns in prosecution and imprisonment should take into account how the social changes brought about by the Covid-19 pandemic have resulted in widespread economic hardship for every member of society.

The National Criminal Code needs to be revised in relation to certain circumstances that could aggravate criminal threats, which should be expanded to include social disasters, such as the Covid-19 pandemic. The potential implications of this revision are that it will change the model of technical regulations within the Prosecutor's Office or the Courts regarding the aggravation of property crimes. This is relevant because the paradigm of prosecutors and judges in Indonesia is predominantly influenced by legalism, and their social empathy is easier to form when it is recognized as a regulatory substance that binds law enforcement performance. The alternative to the concept of imprisonment can be integrated into the aggravation of property crimes because it was committed during the Covid-19 pandemic. Alternative punishments, such as replacing fines with criminal compensation for victims and relevant social work, are considered if there are concerns about uncontrolled mitigation of the spread of Covid-19 in prisons. This variation could use a cumulative model that allows imprisonment to be imposed simultaneously with compensation and social work, making it possible for prosecutors and judges to maintain patterns of prison weights close to the current short prison terms.

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