



## **MEANING THE PHRASE “OWN DEMAND” IN LEADERSHIP IN EAST JAVA**

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### **Abstract:**

*This study uses normative legal research that uses legislation and current conditions to carry out legal interpretation. In this case, the phrase "self-request" is defined as a request that originates from his own awareness that his actions have harmed the community. This means that there is no conflict preceded by the act of resigning oneself. Self-awareness of actions is important to understand the meaning of "self-demand". The Governor of East Java is better off resigning at his own request because this action will make the state focus on legal certainty.*

### **Keywords:**

Leadership; Phrase “Own Demand”; East Java

## **1. Introduction**

In handling Covid-19, compliance with the law is absolute. This means that the public interest is the main goal. An interesting thing happened in Indonesia when the handling of Covid-19, which was from the central government, became a conflict of norms. Referring to the Instruction of the Minister of Home Affairs of the Republic of Indonesia Number 6 of 2020 concerning Enforcement of Health Protocols for Controlling the Spread of Corona Virus Disease 2019 (Covid-19) where in the fourth decree the reference is Law of the Republic of Indonesia Number 23 of 2014 concerning Regional Government (Law No. 23-2014) that the regional head may resign due to death, at his own request and dismissed. The meaning of the sound of the article should be interpreted fairly in order to achieve legal certainty. In this case the researcher doesn't focus on legal justice because legal justice is something that can be achieved if other goals are met.

Denial of these rights means denying human dignity. Therefore, any state, government or organization has an obligation to recognize and protect human rights for every human being without exception. This means that human rights must always be the starting point, and goals in the implementation of community, national and state life. This explanation invites all humans to understand their freedom with a sense of responsibility. When freedom is done not paying attention to other humans, freedom is not justified. From this perspective, elections are born of the great conceptions and ideas of Democracy, which means they refer to John Locke and Rousseau, who guarantee freedom, justice and equality for individuals in all fields. In a democracy, these are participatory values and sovereignty that are upheld and must be carried out by citizens and state instruments both at the legislative, judicial and executive levels.(W. L. S. Tomy Michael, n.d.)

The concept of civil rights in the civil law system is basically related to the state and the idea of citizenship. Where the government's role is to protect the people.(Díaz Gude & Navarro Papic, 2020) This study focuses on the interpretation of the phrase “self-request” which is associated with the case in East Java by Governor Khofifah Indar Parawansa.

## **2. Research Method**

This study uses normative legal research that uses legislation and current conditions to carry out legal interpretation.(R. D. A. D. and Tomy Michael, 2021)

### **3. Research Results and Discussion**

#### **3.1. Mistakes Made by the Governor of East Java**

The form of state law in a legal perspective is the existence of a state and a government based on law. When based on law, everything must be normative even if there are unwritten rules but have binding enforcement.

On May 19, 2021, the Governor held a 56th anniversary celebration which included general events such as musical entertainment. This event took place at the official residence, namely the Grahadi State Building Complex. (Nurdiyanto, 2021) This activity is actually a violation in the legal context. In the rule of law, differences in responding to international problems that also occur nationally are implications for understanding the law. The birthday activities carried out by the Governor resulted in legal problems in East Java. (Coggon & Gostin, 2020)

Leaders in this case don't make maximum efforts to recognize the Covid-19 crisis, this tends to manipulate people's wishes into personal desires. The response given by the Governor was simply to act casually by offering an apology and clarification. Referring to the thoughts of Gemma D'auria and Aaron De Smet it's said that they don't understand the various actions in responding to Covid-19. Temporary relocation is doing public work from a private residence or there is no collaboration on what will be done. (D'Auria & De Smet, 2020) Meaning that the habit before Covid-19 was carried out on Covid-19, this is not in line with the meaning of the leader.

#### **3.2. Implications of the Separation of Powers in Covid-19**

In theory, Indonesia adheres to the separation of powers originating from Montesquieu. Where the separation of pure power is no longer carried out but continues with the distribution of power. The important question is whether the separation of powers in Indonesia is the reason for the emergence of events such as the Governor of East Java? The separation of powers is closely related to the rule of law where when everything is based on the law, arbitrariness will arise. The second definition of the rule of law is the law based on the respective regional autonomy. The existence of a separation of legislative, executive and judicial powers makes the state carry out good governance of state institutions. (Waldron, 2020)

The implications of the separation of powers also raise the principle of de facto immunity. De facto immunity from punishment can run with class status, kinship, wealth, ethnicity, or status as a political elite. For people who are above the law, no increase in the size of the formal sanction for committing a crime or corrupt act, and no increase in detection efforts by the government, will alter their propensity to engage in criminal or corrupt behavior, because the probability of being punished if caught is too low for legal enforcement to affect their behavior. An important question is how elites respond to de facto immunity and to changes in the probability of being punished if caught for a criminal act. Such changes may occur more often than we might think: Civil wars end and relative power shifts between groups; constitutional amendments are passed, resulting in less-favored groups being given formal equality; the presidency changes hands and with it one family rises while another falls. (Jensenius & Wood, 2010)

Covid-19 emergency policies were inherently different from the austerity and work-related policies pursued in several countries in the decade before the beginning of the COVID-19 crisis. Yet, in a number of countries, we observe a continuation of the dual transformation of social protection that took place in recent decades which retrenched earnings-related benefits for long-term unemployed and atypically employed people on the one hand and expanded social security to so called “new social risks” on the other. (Béland et al., 2021)

This principle of de facto immunity seems to have become a legal habit at the East Java Governor's birthday party. When the act is carried out, there are consequences that can occur but cannot occur because it has a very large influence on law enforcement. The influencer means a reluctance to proceed further but informs the public through the media that the contract is being processed professionally. This means that when a declaration appears that it will be processed professionally, it will not actually happen. Such a meaning will be a bad legal understanding for the community. Communities are given space to play active roles and become part of the democratic process. Although substantially, their participation still tends to be procedural and momentum.

The separation of powers also makes the rule of law a welfare state. This paradigm shift actually strengthens the authority of a region within a country to provide good guarantees for its people. The complexity of the welfare state is defined as the fulfillment of both aspects in the same entity. The provision of public services, for example, provides satisfaction for users while users also seek to maintain the rights they obtain from the state based on laws and regulations. Emphasizing the vulnerability of the judicial system and justice standards, the authors support the

expansion of exchange of experience and cooperation not only at the state level but also at the level of professional communities.(Gorodovenko et al., 2021)

The provision of public services can be further divided into services such as education and childcare, which are primarily intended to open up opportunities for society and leaders.(Curtice, 2020) The assumption raised by the researcher is that understanding welfare is the duty of each region so that it's not the obligation of the central government but the local government. There are quite a few examples of the implications of the separation of powers in dealing with Covid-19, namely:

**Table 1. Various Types of Regulations in Handling Covid-19**

No.	Place of Origin	Rule Name
1.	Banten	Regional Regulation of Banten Province Number 1 of 2021 concerning Control of Corona virus Disease-19
2.	Medan	Medan Mayor Regulation Number 27 of 2020 concerning the Implementation of New Habits Adaptation to the Corona Virus Disease 2019 (Covid-19) Pandemic Conditions in the City of Medan
3.	Depok	Depok Mayor Circular Letter Number 451/203-HUK 2021 concerning the Implementation of Itikaf Activities, Eid Prayers and Eid Al-Fitr Celebrations 1442 H/2021 M During the Covid-19 Pandemic Period
4.	Jawa Barat	Circular Letter of the Governor of West Java Number 68/KS.01.01/HUKHAM of 2021 concerning the Sixth Extension of the Implementation of Restrictions on Community Activities in Handling Corona Virus Disease 2019 (Covid-19) IN West Java Province
5.	Jakarta	Decree of the Governor of DKI Jakarta Number 762 of 2021 concerning Locations of Isolation in the Context of Handling Corona Virus Disease 2019
6.	Gunungsitoli	Gunungsitoli Mayor's Circular Number 440/2679/ORG/2020 of 2020 concerning Amendments to the Circular Letter of the Mayor of Gunungsitoli Number 400/1517/ORG/2020 concerning Adjustment of the Work System of the State Civil Apparatus in Efforts to Prevent the Spread of Covid-19 in the Gunungsitoli City Government
7.	Tebing Tinggi	Decree of the Mayor of Tebing Tinggi Number 360/392 of 2020 concerning the Determination of the Emergency Status for Non-Natural Disasters for Covid-19 in the City of Tebing Tinggi in 2020
8.	Samosir	Samosir Regent Circular Number 7 of 2020 concerning Precautions

		Against the Transmission of Corona Virus Disease (Covid-19) Infection in Samosir Regency
9.	Bali	Circular Letter of the Governor of Bali Number 2 of 2021 concerning Extension of the Implementation of Restrictions on Community Activities in the New Era of Life Order in the Province of Bali
10.	Papua Barat	Decree of the Governor of West Papua Number 360/99/5/2020 concerning Amendments to the Attachment to the Decree of the Governor of West Papua Number 360/89/4/2020 concerning the Task Force for the Acceleration of Handling Corona Virus Disease 2019 in West Papua Province
11.	Makassar	Makassar Mayor Regulation Number 36 of 2020 concerning Acceleration of Control of Corona Virus Disease 2019 (Covid-19) in Makassar City
12.	Sulawesi Selatan	Decree of the Governor of South Sulawesi Number 1574/VI of 2020 concerning Extension of Time for the Granting of Incentives for Exemption of Motor Vehicle Taxes in 2020 During the Covid-19 Pandemic Period in South Sulawesi Province

From the table above, it's known that the separation of powers wasn't implemented properly because each region has its own laws and regulations. This cannot be used as an excuse when Covid-19 isn't known when it will occur in an area. We must try to protect the basic rights that we all enjoy because of our common humanity. They include the right to life, the right not to be tortured or subject to inhuman or degrading treatment or punishment, the right not to be enslaved, the right to a fair trial, freedom of thought, conscience and religion, freedom of expression, to respect personal and family life, the right to marry, the right to private ownership, to education, to take part in free and secret elections, and to enjoy these rights without discrimination.

### 3.3. Interpretation of the phrase “Self Request”

Referring to Article 78 of Law No. 23-2014 found conditions for the Governor to quit, namely death, own request or dismissed. In law, the phrase “dismissed” is defined as:

- a. end of his term of office;
- b. unable to carry out tasks continuously or permanently absent for 6 (six) months;
- c. declared to have violated the oath/promise of office of the regional head/deputy regional head;
- d. doesn't carry out the obligations of the regional head and deputy regional head;
- e. violating the prohibition for regional heads and deputy regional heads;
- f. commit a disgraceful act;
- g. given a task in a certain position by the President which is prohibited from being held concurrently by the provisions of the legislation;
- h. use false documents and/or information as requirements at the time of nomination of regional head/deputy regional head based on evidence from the institution authorized to issue documents;
- i. get a dismissal

Contents of Law No. 23-2014 which explains the meaning of the phrase “Dismissed” is actually very inappropriate because it can provide space for other meanings. If you see the letter f, which is committing a disgraceful act, then

what the Governor of East Java has done can be approved as a disgraceful act. Taking into account the meaning of disgraceful acts that are very possible, the definition can be interpreted as explained below.

Crimes are classified according to the nature of the crime, such as mala in se and mala prohibita. Crimes are also classified as felonies, misdemeanors, and treason. According to most authorities, crimes punishable by death or imprisonment in a state prison are felonies, while crimes not amounting to felonies are classified as misdemeanors. (Pollock, 2020)

The theory distinguishes between sanctions that are monetary and nonmonetary. The main difference between the two is that the magnitude of nonmonetary sanctions isn't limited by the offender's wealth. Nonmonetary sanctions are typically referred to as "imprisonment," though other forms of nonfinancial sanctions that can be imposed on an offender unable to pay a large fine surely exist. "Crime" is simply any offense that is punished by nonmonetary sanctions. It has no special meaning in the optimal deterrence theory. (Raskolnikov, 2020)

Disorderly conduct, public drunkenness, minor marijuana possession, driving with a license that has been suspended for failure to pay parking tickets, littering, and other low-level public order offenses can result in permanent criminal records and wildly disproportionate consequences for individuals and their families. (Roberts, 2018)

Furthermore, in letter i it's written that there is a dismissal sanction, meaning that when there is an error, the priority is the termination sanction. Sanctions can be imposed by several state institutions. The dismissal of regional heads and/or deputy regional heads is announced by the leadership of the Regional People's Representative Council in a plenary meeting and proposed by the leadership of the DPRD to the President through the Minister for governors and/or deputy governors and to the Minister through the governor as representatives of the Central Government for regents and/or deputy regents or the mayor and/or deputy mayor to obtain a dismissal determination. Returning to the phrase "own request" which isn't defined in the law, it shows that the mistake made must be resolved with a third party, namely there must be evidence to support it and a defense from the Governor. It's different when the request itself becomes a reference with an explanation. This means that when a governor commits an error that is considered by the public to be a bad thing, then the act of "own request" must be taken. In such a context, the phrase "self-request" can only be done when the awareness of the mistakes made has a detrimental impact on the community. The researcher interprets that the intended error in the phrase "self-request" is not an error made but tends to its effect. Whether the error caused turmoil or not. This attitude when moral goodness can be interpreted as eudaimonia. The basic happiness according to Aristotle is when humans are able to realize the best as humans. (Torres, 2020) Plato, in his idea for the creation of ideal State, couldn't avoid other societal activities. In this respect, he speaks about poetry with the greatest contempt, while about the poets he speaks as for destroyers, not only of the idea of establishing an ideal State, but also as destroyers of the youth. (AVDYLI, 2019)

#### 4. Conclusion

In this case, the phrase "self-request" is defined as a request that originates from his own awareness that his actions have harmed the community. This means that there is no conflict preceded by the act of resigning oneself. Self-awareness of actions is important to understand the meaning of "self-demand". The Governor of East Java is better off resigning at his own request because this action will make the state focus on legal certainty.

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