



## THE IMPLEMENTATION OF CONSTITUTIONAL COURT DECISION NUMBER 13/PUU-XV/2017 ON INTER-EMPLOYEE MARRIAGE POLICIES AT LION PARCEL MEDAN

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### ABSTRACT

*The right to form a family through marriage is a human right that is constitutionally guaranteed in Article 28B paragraph (1) of the 1945 Constitution of the Republic of Indonesia. However, in private sector employment practices, this right is still often restricted through internal company policies that prohibit marriage between employees. This study aims to analyze the implementation of Constitutional Court Decision Number 13/PUU-XV/2017 in employment practices at Lion Parcel Medan and identify obstacles that hinder its implementation. This study uses an empirical juridical approach with data collection methods through literature studies and in-depth interviews with employees and company management. The results of the study indicate that although the Constitutional Court Decision is final and binding and expressly prohibits termination of employment due to marriage between employees, its implementation at Lion Parcel Medan has not been optimal. The main obstacles include the company's internal policies not being revised, the low understanding of the law among management and workers, and weak supervision from employment agencies. This study emphasizes the importance of harmonization between constitutional norms and company policies to ensure the protection of workers' rights without neglecting professionalism and organizational governance.*

**Keywords:** Human Rights, Constitutional Court Decisions, Inter-Employee Marriage, Employment, Lion Parcel.

## 1. INTRODUCTION

The right to form a family through marriage is a fundamental and universally recognized human right. In the context of Indonesian national law, this right is explicitly guaranteed in Article 28B paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which affirms that everyone has the right to form a family and continue their lineage through legal marriage. This constitutional guarantee not only reflects the state's recognition of individual autonomy but also implies the state's obligation to ensure that

this right is protected from all forms of disproportionate restrictions, including in employment relationships (Siregar & Lubis, 2022).

However, in private sector employment practices, the constitutional right to marry often clashes with internal company policies that restrict or prohibit marriage between employees. Such policies are generally based on considerations of professionalism, preventing conflicts of interest, and organizational stability. While these reasons are often viewed as rational from a managerial perspective, several studies indicate that such restrictions potentially violate the principle of non-discrimination and ignore workers' human rights guaranteed by the constitution (Rahayu & Fauzi, 2020; Ningsih & Setiawan, 2021).

The conflict between workers' constitutional rights and internal company regulations gained significant legal emphasis through Constitutional Court Decision Number 13/PUU-XV/2017. In this decision, the Constitutional Court declared that Article 153 paragraph (1) letter f of Law Number 13 of 2003 concerning Manpower is inconsistent with the 1945 Constitution and has no binding legal force. This provision previously provided legal legitimacy for companies to terminate the employment of workers married to co-workers within the same company. This decision affirmed that marital status cannot be used as a valid reason to terminate an employment relationship (Siadari, 2021; Sari et al., 2022).

Although the Constitutional Court Decision is final and binding *erga omnes*, various studies indicate that its implementation in the private sector workplace still faces serious challenges. Many companies have not revised their internal regulations, whether in the form of Company Regulations (PP), Collective Labor Agreements (PKB), or standard operating procedures. This situation indicates a gap between constitutional legal norms and managerial practices on the ground, ultimately creating legal uncertainty for workers (Hadi & Susanto, 2023; Sitanggang, 2022).

Previous studies generally place Constitutional Court Decision No. 13/PUU-XV/2017 within a normative and conceptual framework, focusing on its legal implications for the protection of workers' rights in general. However, empirical studies specifically exploring how this decision is implemented at the company level, particularly in specific local and sectoral contexts, are relatively limited. The effectiveness of a constitutional decision depends largely on the extent to which it is internalized and implemented in everyday industrial relations practices (Pratama & Wulandari, 2021; Nova, 2023).

In this context, Lion Parcel Medan is a relevant and strategic object of study. As a logistics services company operating in the private sector, Lion Parcel Medan has internal policies regarding labor relations that have the potential to directly impact the substance of Constitutional Court Decision No. 13/PUU-XV/2017. This study of labor practices in this company allows researchers to empirically uncover the dynamics of the implementation of the Constitutional Court's ruling, while simultaneously identifying structural and cultural obstacles that influence the effectiveness of workers' rights protection.

Based on this description, this study aims to analyze the implementation of Constitutional Court Decision No. 13/PUU-XV/2017 in labor practices at Lion Parcel Medan and identify the obstacles encountered in its implementation. This research is expected to provide academic contributions by strengthening empirical studies on the effectiveness of constitutional decisions, as well as practical contributions in the form of policy recommendations for companies and the government to realize fair, non-discriminatory industrial relations that align with human rights principles.

## 2. RESEARCH METHOD

This research uses an empirical legal research method with a sociological legal approach. This approach was chosen because the research focuses not only on written legal norms but also examines how the law works and is implemented in real-life employment relations. Empirical legal research views law as social behavior (law in action), allowing researchers to examine the gap between the normative provisions of Constitutional Court Decision Number 13/PUU-XV/2017 and the reality of its implementation in the Lion Parcel Medan workplace (Muhamimin, 2020).

This research is descriptive qualitative, with the aim of in-depth and systematically describing the implementation of the Constitutional Court decision regarding the prohibition on termination of employment due to marriage between employees. A qualitative approach was chosen because the issues studied relate to the perceptions, legal understanding, and experiences of research subjects regarding company policies and their implications for workers' constitutional rights. Qualitative descriptive research allows researchers to capture the complexity of socio-legal phenomena that cannot be reduced to mere statistics (Mukti Fajar & Achmad, 2010).

The data sources in this study consist of primary and secondary data. Primary data was obtained through in-depth interviews with Lion Parcel Medan employees directly affected by the company's policy regarding inter-employee marriage, as well as with management or human resources personnel involved in the formulation and implementation of the policy. The interviews were semi-structured to allow researchers the flexibility to gather relevant empirical information while maintaining focus on the research problem. Meanwhile, secondary data was obtained through a literature review, covering laws and regulations, Constitutional Court Decision No. 13/PUU-XV/2017, Law No. 13 of 2003 concerning Manpower, the 1945 Constitution of the Republic of Indonesia, as well as scientific literature and legal journals relevant to human rights and employment issues (Asyhadie & Kusuma, 2019; Siadari, 2021).

Data collection techniques included a combination of interviews, document studies, and limited observation. Interviews were used to obtain factual data and the research subjects' perspectives on the implementation of the company's policy following the Constitutional Court Decision. A document study was conducted by reviewing internal company policies, employment contracts, and legal documents related to industrial relations. Observations were conducted to understand the social and cultural context of work within Lion Parcel Medan that influences the implementation of these policies. The use of various data collection techniques was intended to increase the validity of the findings through triangulation of sources and methods (Creswell, 2014).

Data analysis in this study was conducted using qualitative descriptive analysis techniques. Data obtained from interviews, documents, and observations were analyzed through the stages of data reduction, data presentation, and conclusion drawing. In the data reduction stage, the researcher selected and focused on data relevant to the problem formulation. Next, the data was presented narratively and analytically to demonstrate the relationship between legal norms and empirical practice. The final stage, drawing conclusions, was conducted by critically interpreting the data to assess the extent to which Constitutional Court Decision No. 13/PUU-XV/2017 has been implemented and the

factors hindering its effectiveness. This approach enabled the researcher to provide both legal assessments and prescriptive recommendations based on empirical findings (Mukti Fajar & Achmad, 2010).

### 3. RESULT AND ANALYSIS

#### **Implementation of Constitutional Court Decision No. 13/PUU-XV/2017 in Employment Practice**

Constitutional Court Decision No. 13/PUU-XV/2017 is a constitutional legal instrument that affirms that the right to marry is a fundamental right that cannot be used as a basis for termination of employment. This decision is final and binding *erga omnes*, thus applying to all legal entities, including private companies. Normatively, this decision reflects the principle of constitutional supremacy, which places human rights as the highest norm in the Indonesian labor law system (Asshiddiqie, 2016; Siregar & Lubis, 2022). However, this normative validity does not automatically guarantee compliance in daily employment practices.

Empirical findings at Lion Parcel Medan demonstrate a clear gap between constitutional norms and company managerial practices. Despite no longer having a valid legal basis, restrictions on marriage between employees persist through informal policies and structural pressures. This situation indicates that companies tend to maintain outdated human resource management practices, even though they conflict with developments in constitutional law. This phenomenon reinforces the view that legal effectiveness is determined not only by normative enforcement but also by the level of acceptance and internalization of legal norms by the actors involved (Soekanto, 2014; Sitanggang, 2022).

From the perspective of legal effectiveness theory, the law will function optimally if supported by legal awareness, compliance, and adequate enforcement mechanisms. In the case of Lion Parcel Medan, low compliance with the Constitutional Court Decision reflects the weak social dimension of legal enforcement. The Constitutional Court Decision is still positioned as law on the books, that is, law that is written and formally valid, but has not yet fully become law in action, regulating concrete behavior in the workplace (Friedman, 2011; Hadi & Susanto, 2023). This suggests that transforming constitutional norms into managerial practices requires a more complex process than simply changing regulations.

The degree of compliance of private companies with the Constitutional Court Decision is influenced by power relations within industrial relations. Workers' relatively weak bargaining position tends to make them accept company policies even if they conflict with their constitutional rights. In this context, internal company policies function as a form of private regulation that *de facto* dominates over state constitutional norms. This situation demonstrates that without effective state intervention, constitutional supremacy has the potential to be undermined by managerial interests and the logic of corporate efficiency (Rahayu & Fauzi, 2020; Ningsih & Setiawan, 2021).

Thus, the implementation of Constitutional Court Decision No. 13/PUU-XV/2017 in employment practices at Lion Parcel Medan demonstrates that the validity of constitutional law has not been fully realized empirically. The Constitutional Court's decision still faces challenges in bridging the gap between norms and practice, between the principles of constitutional justice and the reality of employment relations. These

findings confirm that the effectiveness of constitutional decisions depends heavily on the synergy between internal company legal awareness, strengthened state oversight, and workers' courage to assert their legal rights (Sari et al., 2022; Nova, 2023).

### **Internal Company Policies and Resistance to Legal Change**

Internal company policies play a central role in determining the extent to which external legal norms, including Constitutional Court rulings, are implemented in employment practices. In the context of Lion Parcel Medan, the prohibition on inter-employee marriage is still maintained as an unwritten policy that functions as a private regulation. This type of policy demonstrates how companies establish internal rules that *de facto* govern employee behavior, even though these rules have lost legal legitimacy following Constitutional Court Ruling No. 13/PUU-XV/2017 (Rahayu & Fauzi, 2020; Sitanggang, 2022).

From an industrial relations theory perspective, internal company policies are the result of an unequal power relationship between employers and employees. Employers have structural authority to determine terms and conditions of employment, while workers are in a subordinate position, often forced to accept company regulations in order to maintain their jobs. This situation causes internal company policies to function as effective instruments of social control, even when they conflict with higher legal norms (Asyhadie & Kusuma, 2019; Ningsih & Setiawan, 2021).

Corporate resistance to legal change is also inextricably linked to the use of the principle of freedom of contract as normative justification. Companies often view employment agreements and company regulations as the result of legally valid agreements between parties. However, in labor law doctrine, freedom of contract is not absolute and must be subject to limitations established by public law, particularly when it concerns the protection of workers' human rights (Siadari, 2021; Kartika & Hidayat, 2024). Therefore, prohibitions on marriage between employees cannot be justified solely on the basis of contractual agreements.

Managerial rationales often used to defend prohibitions on marriage between employees, such as maintaining professionalism, preventing conflicts of interest, and maintaining organizational stability, require critical examination. Several studies have shown that potential conflicts arising from personal relationships in the workplace cannot automatically be used as a basis for restricting constitutional rights. A more proportional approach, such as job placement arrangements or internal oversight mechanisms, is considered more in line with the principles of justice and non-discrimination than a total ban on the right to marry (Pratama & Wulandari, 2021; Sari et al., 2022).

Thus, internal company policies that maintain a ban on marriage between employees reflect a form of structural resistance to constitutional law changes. Such policies place managerial efficiency above the protection of workers' human rights, potentially eroding constitutional supremacy in industrial relations practices. These findings confirm that without strict restrictions on private company regulation and a strengthening of the state's role as a guarantor of constitutional rights, the implementation of Constitutional Court Decision No. 13/PUU-XV/2017 will continue to face systemic obstacles (Hadi & Susanto, 2023; Nova, 2023).

## **Theoretical and Practical Implications of the Constitutional Court Decision on Industrial Relations**

The discussion in this study demonstrates a consistent gap between the constitutional norms established through Constitutional Court Decision No. 13/PUU-XV/2017 and employment practices in the private sector. Normatively, the ruling provides legal certainty regarding the prohibition on termination of employment due to marriage between employees. However, empirical findings at Lion Parcel Medan indicate that this norm has not been fully internalized in the company's managerial policies and practices. This synthesis reinforces the theory of legal effectiveness, which states that the validity of law depends heavily on social, institutional, and cultural dimensions, not solely on its normative force (Soekanto, 2014; Friedman, 2011).

From a theoretical perspective, the findings of this study enrich the study of the relationship between constitutional supremacy and private regulations in industrial relations. Internal company policies have been shown to function as private regulations, which in practice can hinder the realization of workers' constitutional rights. This confirms that the relationship between public and private law in employment is not always harmonious, particularly when the interests of efficiency and managerial control directly clash with the principles of non-discrimination and human rights protection (Asyhadie & Kusuma, 2019; Rahayu & Fauzi, 2020).

Compared with previous research, this study fills a gap in research that has focused primarily on normative analysis of Constitutional Court Decision No. 13/PUU-XV/2017. Previous research has tended to emphasize the legal reasoning and general legal implications of the decision, without delving deeply into how the decision is implemented in employment practices at the company level. Using an empirical approach, this research provides a novel contribution in the form of a concrete mapping of the structural and cultural resistance encountered in the implementation of Constitutional Court decisions in the private sector (Sari et al., 2022; Sitanggang, 2022; Nova, 2023).

The empirical novelty of this research lies in its ability to uncover the dynamics of power relations between workers and management in the context of implementing constitutional decisions. The findings indicate that workers' weak bargaining position, low legal awareness, and the absence of effective state oversight mechanisms are the main factors preventing the Constitutional Court Decisions from fully transforming from law on the books to law in action. Thus, this research not only confirms previous findings but also broadens understanding of the non-juridical factors that influence the effectiveness of constitutional law (Hadi & Susanto, 2023; Ningsih & Setiawan, 2021).

Overall, the academic value of this research lies in the integration of normative analysis and empirical findings in discussing the implementation of Constitutional Court Decisions in the private sector. This study confirms that the effectiveness of constitutional decisions requires synergy between updating internal company policies, strengthening the state's role in labor oversight, and improving workers' legal literacy. Thus, this study contributes to enriching academic discourse on labor law and human rights, while also providing a conceptual foundation for further research focused on enforcement mechanisms and implementing policy design following the Constitutional Court's ruling (Asshiddiqie, 2016; Kartika & Hidayat, 2024).

#### 4. CONCLUSION

This research shows that Constitutional Court Decision No. 13/PUU-XV/2017 has not been fully implemented effectively in employment practices in the private sector, particularly at Lion Parcel Medan. Although the ruling explicitly stipulates that marriage between employees cannot be used as grounds for termination of employment, the reality on the ground shows that restrictions persist through informal or implicit internal company policies. This situation reflects a gap between binding constitutional norms and managerial practices that are still oriented towards internal company interests.

The research findings confirm that internal company policies are a major factor hindering the effectiveness of the Constitutional Court ruling. These policies function not only as an organizational management instrument but also as a control mechanism that indirectly restricts workers' constitutional rights. The use of professionalism and managerial efficiency to defend the prohibition on marriage between employees demonstrates that business rationality is still often placed above the principle of protecting human rights in industrial relations.

Furthermore, this research found that low legal awareness, both among workers and management, also weakens the implementation of the Constitutional Court ruling. Workers are in a weak bargaining position and tend to accept company policies even if they conflict with their constitutional rights. On the other hand, company management has not fully viewed Constitutional Court decisions as legal norms that must be adhered to in the formulation and implementation of employment policies.

This study also confirms that the state's role in ensuring the implementation of Constitutional Court decisions in the private sector remains suboptimal. Weak labor oversight and the absence of effective enforcement mechanisms mean that these final and binding decisions have been unable to drive real change at the company level. Without stronger state intervention, the supremacy of the constitution has the potential to be undermined by the dominance of private corporate regulations.

Overall, this study concludes that the effectiveness of Constitutional Court Decision No. 13/PUU-XV/2017 depends not only on its normative strength, but also on the synergy between updating internal company policies, increasing legal awareness among stakeholders, and strengthening the state's role in overseeing industrial relations. These findings underscore the importance of a more comprehensive implementation approach so that workers' rights protection does not stop at the normative level but is truly realized in fair and non-discriminatory employment practices.

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