

A Legal Analysis of Changes to the Severance Pay Calculation Formula

Chifa Aznaya Adly Meknesya¹ Muhammad Arif²

¹Sidi Mohamed Ben Abdellah University

²State Islamic University of North Sumatra

E-mail: chifaazyanaadly19@gmail.com m.arif250905@gmail.com

Info Article	Abstract
<p>Article History Received: 2025-09-05 Revised: 2025-09-15 Published: 2025-09-30</p> <p>Keywords: <i>Severance Pay; Job Creation Law; Worker Protection; Constitutional Court; Legal Certainty</i></p>	<p>Fundamental changes in the termination compensation scheme following the enactment of the omnibus law have triggered a reorientation of workers' rights protection in Indonesia. This study aims to examine the legal transformation of the severance pay calculation formula from Law Number 13 of 2003 to Law Number 6 of 2023 concerning Job Creation. Using normative legal research methods with a statute approach and a conceptual approach, this study analyzes the implications of this shift in norms for the certainty of workers' rights. The results show that this transformation not only changes the nominal value by reducing the multiplier but also shifts the protection paradigm from job security to flexibility. The correlation between the decline in severance pay and the certainty of workers' rights indicates a degradation of economic value that has not been fully compensated by the job loss insurance program. Furthermore, an analysis of the Constitutional Court's ruling emphasizes the importance of the constitutionality of norms that must balance investment facilitation with the right to a decent living. This study concludes that regulatory synchronization following the Constitutional Court's ruling is crucial to prevent legal uncertainty that harms industrial stability and worker welfare.</p>

I. INTRODUCTION

Indonesia, a constitutional state, as mandated by the 1945 Constitution, has a fundamental obligation to protect its citizens, including in the realm of industrial relations. Employment is not merely a means of exchanging services and wages, but rather a manifestation of the human right to a decent living. Within the employment ecosystem, severance pay serves as a crucial social safety net in the event of termination of employment (PHK). However, the stability of this protection has experienced a paradigmatic shakeup since the birth of the Omnibus Law concept, which crystallized in Law Number 6 of 2023 concerning the Establishment of Regulations.

The Government in Lieu of Law Number 2 of 2022 concerning Job Creation has enacted Law.

For nearly two decades, Law No. 13 of 2003 concerning Manpower was viewed as a "bible" providing rigid protections for workers. One of the most crucial points was the severance pay calculation formula, which used a high multiplier to compensate for job losses. However, the

government argued that this rigidity stifled investment and reduced the competitiveness of the national labor market. Consequently, the enactment of the Job Creation Law brought about a radical legal transformation by reducing the severance pay multiplier.

This change has sparked heated debate in the public and academic spheres: is this a step towards legal modernization towards labor market flexibility, or is it a regression of labor rights standards?

This phenomenon of decreasing severance pay multipliers creates a disconnect between workers' hopes for economic certainty and the need for corporate efficiency (Putriani et al., 2025). Legally, this reduction is claimed to be offset by the Job Loss Guarantee Program (JKP). However, the effectiveness of JKP as a complement or substitute for reduced severance pay still leaves significant legal doubt. The problem becomes increasingly complex when the Constitutional Court, through various decisions, provides interpretations of the employment

cluster in the Job Creation Law. The Constitutional Court's decisions are not only final and binding but also serve as a constitutional moral compass in determining whether changes to the severance pay formula violate the right to fair legal protection.

Legal uncertainty has worsened following the Constitutional Court's ruling that declared the Job Creation Law conditionally unconstitutional, which was subsequently enacted as Law No. 6 of 2023. This dynamic shift in norms has created confusion for legal practitioners, businesses, and labor unions in implementing post-employment rights. Ambiguity in the transitional rules and the application of new formulas creates vulnerability to exploitation on the one hand, and the risk of litigation on the other. Therefore, a comprehensive legal analysis is needed to examine the extent to which this transformation impacts the substance of worker protections.

This research focuses on three main pillars: norm transformation, the correlation between economic decline and rights protection, and the legal implications of the Constitutional Court's ruling. Using normative legal research methods, the author seeks to find a balance between national investment needs and the protection of workers' dignity through severance pay. This analysis is expected to contribute to the discourse on equitable labor law reform in Indonesia.

The problem formulation of this research based on our title is:

1. How is the Legal Transformation of the Severance Pay Scheme from Law No. 13 of 2003 to Law No. 6 of 2023 (Job Creation Law)?
2. What is the correlation between the decrease in the severance pay multiplier and the certainty of workers' rights protection?
3. What are the implications of the Constitutional Court's decision on the validity of severance pay norms in the employment cluster?

From this problem formulation, we also define the objectives of this research, namely:

1. To find out and learn about the Legal Transformation of the Severance Pay Scheme from Law No. 13 of 2003 to Law No. 6 of 2023 (Job Creation Law).
2. To explain the correlation between the decrease in the severance pay multiplier and the certainty of protection of workers' rights.
3. And to examine the implications of the Constitutional Court's decision on the validity of severance pay norms in the employment cluster.
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II. RESEARCH METHODS

The method I used in this research is a normative legal research method with a statutory and conceptual approach. The data sources used come from primary and secondary legal materials collected through library research and online journal access.

III. RESULTS AND DISCUSSION

A. Research result

This study found that the changes to severance pay regulations in Law Number 6 of 2023 cannot be understood merely as technical adjustments to compensation calculations, but rather as a fundamental restructuring of the post-termination worker protection system. While severance pay was previously positioned as the primary instrument for ensuring workers' economic sustainability, under the new legal regime, its function has been narrowed by a reduction in the multiplier value and restrictions on acceptable compensation components. This change has a direct impact on the reduced capacity of severance pay to act as a medium-term economic cushion for workers who lose their jobs.

Research also shows that the introduction of the Job Loss Guarantee program shifts the configuration of social protection responsibilities from employer dominance to active state involvement through the social insurance system.

However, JKP does not have the same normative characteristics as severance pay, as its validity depends on meeting certain administrative requirements, such as membership and contribution period. Consequently, not all laid-off workers receive equal benefits, potentially creating disparities in protection between long-tenured workers and those with relatively short employment relationships.

Furthermore, this study found that expanding the legal basis for termination of employment strengthens employers' legal position in restructuring their workforce. This provision operates simultaneously with a reduction in severance pay obligations, thereby reducing the financial consequences that previously served as a driving factor in layoff decisions. In normative practice, this situation has the potential to increase the frequency of layoffs, primarily for preventative or efficiency reasons, without adequate guarantees for workers' economic recovery.

From a constitutional rights protection perspective, this study identifies a weakening of the certainty of the right to a decent living for workers who lose their jobs. Reductions in severance pay, if not offset by an effective social security system, have the potential to undermine the economic resilience of workers' households during the transition to new employment. This situation demonstrates a shift in the burden of social risk from the state and employers to individual workers.

Finally, this study confirms that the Constitutional Court's ruling has a corrective function in preventing labor reform from moving too far toward labor market liberalization that ignores the principle of protection. The Constitutional Court's affirmation of the public dimension of employment relations demonstrates that the state remains under a constitutional obligation to ensure that economic flexibility does

not develop into a mechanism that systematically reduces workers' dignity and social security.

B. Discussion

Legal Transformation of the Severance Pay Scheme from Law No. 13 of 2003 to Law No. 6 of 2023 (Job Creation Law)

Fundamental shifts in the global employment landscape have reshaped the structure of work while simultaneously threatening its protection systems. Globalization and digital integration have fueled the proliferation of flexible, informal work patterns, ultimately degrading job stability and worker security. The gig economy is a clear example of this trend, where employment relationships are personal, temporary, and lack legal guarantees. Consequently, basic workers' rights, such as severance pay or compensation after layoffs, are vulnerable to neglect. The Global Rights Index report highlights this situation by highlighting the widespread violations of the right to access justice and social security. This demonstrates that normative regulations will lose their relevance without the support of a credible judicial mechanism. Furthermore, synchronizing international protection standards is increasingly difficult due to legal disparities between countries and the dominance of global corporate interests. Therefore, a responsive legal system reform is needed to mitigate unilateral layoffs amidst current labor market changes.

The fundamental changes in Indonesian labor law following the enactment of Law No. 6 of 2023 concerning Job Creation mark the end of the era of absolute job security. For nearly two decades, Law No. 13 of 2003 served as a pillar, positioning severance pay as a "punishment" instrument for employers who lay off employees and as a guarantee of future employment for workers. Legally, this transformation does not eliminate the severance pay structure consisting of Severance Pay (UP), Long Service Award Pay (UPMK), and Entitlement Compensation (UPH),

but it radically changes the substance of the calculation through a multiplier. (Law No. 6 of 2023)

Under Law No. 13/2003, there is certainty of value through Article 156, which provides maximum protection. For example, layoffs for efficiency reasons require companies to pay severance pay twice the statutory requirement (a 2x multiplier). This creates a high financial burden for companies (high exit costs), but provides a very strong economic cushion for workers to start new lives or become entrepreneurs. The transformation towards the Job Creation Law eliminates this high multiplier. Through derivative instruments such as Government Regulation No. 35 of 2021, the multiplier is reduced to 0.5 to 0.75 times for most layoff reasons (Government Regulation No. 35 of 2021). Legally, this represents a shift from a Severance Pay-heavy system to a Social Security-heavy one, where the role of financial protection is gradually shifted from the shoulders of employers to the state social insurance system (Job Loss Guarantee).

The Legal Transformation of the Severance Pay Scheme from Law No. 13 of 2003 to Law No. 6 of 2023 (Job Creation Law) is as follows:

1. Calculation Formula Changes

The change in the severance pay calculation formula is the most crucial aspect of the transition from Law No. 13 of 2003 to Law No. 6 of 2023 (the Job Creation Law). Central to this transformation is the removal of the multiplier (time factor) that previously provided greater economic protection for workers in certain layoff situations.

In the old regulation, Article 156 paragraph (1) stipulates the standards for severance pay, long service award money (UPMK), and compensation for rights (UPH). The advantage of this regulation for workers lies in the multiplication pattern: "In the event of termination of employment, employers are required to pay severance pay

and/or long service award money and compensation for rights that should be received."

Legally, this article serves as an instrument for protecting the economic rights of workers who lose their jobs. This article imposes an absolute obligation on employers (employer liability) to pay financial compensation as a logical consequence of the termination of the employment relationship. The amount received is regulated in Article 156, which is divided into several sections, namely:

1) Severance Pay (UP)

This is a gift in the form of money from the employer to the worker as a result of layoffs. The amount is regulated based on the accumulated length of service (in accordance with Article 156 paragraph 2) which states, "The calculation of severance pay as referred to in paragraph (1) is at least as follows:

- a. work period of less than 1 (one) year, 1 (one) month's wages;
- b. work period of 1 (one) year or more but less than 2 (two) years, 2 (two) months' wages;
- c. work period of 2 (two) years or more but less than 3 (three) years, 3 (two) months' wages;
- d. work period of 3 (three) years or more but less than 4 (four) years, 4 (four) months wages;
- e. work period of 4 (four) years or more but less than 5 (five) years, 5 (five) months wages;
- f. work period of 5 (five) years or more but less than 6 (six) years, 6 (six) months wages;
- g. work period of 6 (six) years or more but less than 7 (seven) years, 7 (seven) months wages;
- h. work period of 7 (seven) years or more but less than 8 (eight) years, 8 (eight) months wages;
- i. work period of 8 (eight) years or more, 9 (nine) months wages."

Although the length of service table for calculating severance pay still uses a maximum ceiling of 9 months' wages for 8 years or more of service, the Job Creation Law changes the "multiplier" behind the reason for layoffs. For example, while previously workers laid off due to

downsizing were entitled to double the severance pay, the new regulation has reduced that number to 0.5 times or a maximum of 1 time, depending on the specific reason. This automatically significantly reduces the nominal value workers receive, even if their length of service is the same as the old standard.

2) Long Service Award Money (UPMK)

As the name suggests, this is a form of appreciation or "reward" for the employee's loyalty over many years at the company (in accordance with Article 156 paragraph 3), "Long Service Award Money as referred to in paragraph (1) is given with the following provisions:"

The amount of the Long Service Award (UPMK) varies depending on the employee's length of service, ranging from 2 months' wages for 3 or more years but less than 6 years of service, to 10 months' wages for 24 or more years of service. Full details regarding the UPMK amount based on length of service can be found in the aforementioned article.

The most striking change is in the UPH component. While Law No. 13 of 2003 previously required companies to pay 15% of total severance pay and the UPMK (Unclear Compensation for Workers) for housing and medical treatment, the Job Creation Law has completely eliminated this 15% component. Currently, the UPH only covers the remainder of unused annual leave, travel expenses for workers and their families, and other items stipulated in the employment agreement. This elimination directly reduces the total "take-home pay" received by workers upon leaving the company.

2. The emergence of JKP (Job Loss Guarantee)

The legal transformation of the severance pay scheme in Law No. 6 of 2023 is inextricably linked to the introduction of the Job Loss Guarantee (JKP) program as a new protection regime for workers experiencing termination of employment. This program is normatively regulated in Articles 46A to 46E of Law No. 6 of

2023, which amend the previous employment social security framework.

Under the old legal framework (Law No. 13 of 2003), post-termination protection rested entirely on the employer's direct liability mechanism through severance pay, the UPMK (Workers' Compensation) and the UPH (Workers' Compensation Unit). The state played a minimal role, limited to regulatory and law enforcement. As a result, the sustainability of workers' economic protection depended heavily on the company's financial capacity.

In contrast, the Job Creation Law establishes a new paradigm by positioning the state as an active actor in protecting against the risk of job loss. Through JKP, laid-off workers are entitled to:

- 1) Cash benefits for a certain period of time.
- 2) Access to labor market information; and
- 3) Job training for competency enhancement and reintegration into the labor market.

Legally, the introduction of the Job Loss Guarantee (JKP) program demonstrates a shift in the orientation of employment protection, moving from the old pattern that placed severance pay as the primary burden on employers to a new system that relies on state-managed social insurance mechanisms, so that the responsibility for post-layoff workers' economic protection no longer rests exclusively with employers. Consequently, severance pay has shifted in function, from a right to full compensation provided in a large lump sum to an additional benefit that complements the social security scheme and is distributed in a limited and gradual manner. This change also reflects a paradigm shift in employment law, from an approach that focuses on the stability of employment relationships to one that places greater emphasis on workers' readiness and ability to re-enter the labor market after losing their jobs.

3. Expanded Layoff Reasons

The transformation of the severance pay scheme is also closely related to changes in the normative regime regarding the reasons for termination of employment. In Law No. 13 of 2003, the reasons for termination of employment were relatively strictly limited and had to meet high legal standards, with the principle that termination of employment was the *ultimum remedium* (last resort). Through Law No. 6 of 2023, the provisions regarding termination of employment were expanded and simplified, particularly as reflected in the amendments to Article 151 and Article 154A of the Manpower Law. Article 154A of the Job Creation Law introduced a broader list of reasons for termination of employment, including:

1. The company suffered losses;
2. Business efficiency;
3. The company closed due to circumstances *force majeure*
4. Corporate restructuring;
5. Workers are absent;
6. Violation of employment agreement;
7. Bankrupt company;
8. Change of ownership status or Company merger
9. Digitalization and changing business models

Legally, this expansion of grounds for layoffs has two major implications for severance pay schemes. First, it increases employers' flexibility in legally terminating employment relationships. This lowers structural barriers for companies to restructure or reduce labor costs.

Second, the expansion of the reasons for layoffs runs parallel to the reduction in the severance pay multiplier, thereby simultaneously reducing the financial risk of layoffs for companies (lower exit costs).

Correlation between the Decrease in Severance Pay Multiplier and the Certainty of Workers' Rights Protection

The correlation between the decline in the multiplier value and the certainty of rights

protection can be analyzed through the lens of distributive justice. The decline in the economic value of severance pay directly negatively correlates with the economic resilience of workers' households after being laid off. Empirically, the severance pay value in the Job Creation Law, which is only around half of the previous standard, creates a disconnection from the fulfillment of the right to a decent living as stipulated in Article 27 paragraph (2) of the 1945 Constitution. This reduction is considered a regressive measure in the standard of human rights protection in the employment sector.

The problem becomes even more complex when we examine the correlation between the reduction in severance pay and the introduction of Job Loss Insurance (JKP). The government positions JKP as a complement to cover the difference in severance pay reductions. However, legally, there is an imbalance in rights. Severance pay is a civil right that arises directly from the employment relationship without any additional conditions other than the occurrence of layoffs as stipulated in the regulations. Meanwhile, JKP is an insurance system with minimum participation requirements and contribution periods. Workers with short tenure who are laid off under the new scheme will likely receive a lower total benefit (severance pay + JKP) than if they used the formula under Law No. 13/2003. This indicates that the certainty of workers' rights protection has shifted from civil legal certainty to administrative uncertainty in social security.

The transformation of employment regulations from Law No. 13 of 2003 to the Job Creation Law regime has created a fundamental paradigm shift in understanding workers' rights protection in Indonesia. The reduction in the severance pay multiplier is not simply a technical change, but rather reflects a weakening of the correlation between length of service and post-employment financial security. Substantially, when the state reduces the maximum multiplier

(for example, from two times the stipulated amount to one or even half), severance pay's function as a "penalty" instrument for companies to discourage indiscriminate layoffs is blunted. This makes job security more vulnerable, as the costs to employers of terminating employment become much lower and more predictable.

From an economic protection perspective, the decline in the absolute value of severance pay creates uncertainty for workers facing the transition to unemployment. Although the government introduced the Job Loss Guarantee (JKP) as a buffer, its protection is conditional and administrative. Certainty of rights is no longer automatically tied to the employer's direct obligations, but rather depends on the administrative compliance of BPJS Ketenagakerjaan membership. For workers employed by companies with low administrative compliance, this reduction in the multiplier represents a double loss: they lose substantial severance pay on the one hand, but are denied access to social security on the other.

Furthermore, this policy shifts the orientation of protection from one previously based on past-service rewards to one based on future flexibility. The systematic reduction in the severance pay multiplier reduces workers' bargaining power vis-à-vis capital, as the financial instruments that once served as a self-sustaining safety net have now shrunk. In the context of distributive justice, this correlation suggests that the risk of business failure or the need for corporate efficiency is now greater.

burdened on the shoulders of workers through the reduction of their compensation rights, so that claims regarding increased protection through the new scheme still leave a long debate regarding the reality of workers' welfare in the field.

Implications of the Constitutional Court's Decision on the Applicability of

Severance Pay Norms in the Employment Cluster

The latest Constitutional Court (MK) ruling, particularly its interpretation of the constitutionality of the Job Creation Law, has significant implications for the applicability of severance pay norms. In its deliberations, the Constitutional Court emphasized that although the state has the authority to create jobs through investment, it must not disregard the principle of fair legal protection. The first implication is the restoration of norms deemed too "flexible." The Constitutional Court provides guidance that derivative regulations (Government Regulations) must not diminish the substantial rights of workers, which have become international minimum standards.

Furthermore, the implications of the Constitutional Court's ruling require a re-harmonization of the employment cluster. The Constitutional Court's ruling emphasized that employment relations should not be viewed solely as private contractual relationships, but rather as having a public dimension in which the state is obligated to provide protection (Constitutional Court Decision No. 168/PUU-XXI/2023). This implies that the government must review Government Regulation No. 35 of 2021. If these legal implications are ignored, a protection vacuum will occur, leading to increased industrial conflict. The Constitutional Court's ruling acts as a constitutional brake to ensure that the transformation towards labor market flexibility does not turn into exploitation that legalizes the systematic impoverishment of workers through regulation.

The Constitutional Court's (MK) ruling on the judicial review of the Job Creation Law provides a new direction in the discourse on protecting workers' rights, particularly regarding severance pay norms, which were previously considered to have been degraded.

The legal implications of this ruling emphasize that economic policies oriented toward facilitating investment cannot be based on the neglect of workers' constitutional rights. With the Constitutional Court's latest interpretation, severance pay has been reassigned to the realm of protective human rights, not merely a commodity in private contracts. The Court emphasized that the state is obligated to guarantee fair protection, so any attempt to reduce severance pay through derivative regulations must remain grounded in the principles of legal certainty and human dignity.

The direct consequence of this ruling is the government's need to resynchronize Government Regulation No. 35 of 2021, which has been the keystone for reducing severance pay multipliers. The Constitutional Court implicitly reminded that labor market flexibility should not be used as a shield to legalize low-cost layoffs that undermine distributive justice. This ruling serves as a constitutional safeguard, requiring the government to restore the bargaining balance between employers and workers. Without adjustments in line with the Constitutional Court's mandate, the enforcement of severance pay norms in the employment sector will continue to face a legitimacy crisis, potentially triggering an escalation of industrial disputes in the future.

Furthermore, these implications require a redefinition of the state's role, which must be integral in overseeing every termination process. Severance pay, from a constitutional perspective following the Constitutional Court ruling, is viewed as an instrument of redistributive justice that protects workers from systematic poverty. Therefore, future regulatory harmonization must no longer solely prioritize company operational cost efficiency but must also ensure that minimum protection standards are not exceeded. Restoring this norm is crucial to ensure that labor market transformation remains within the framework of a rule-of-law state, where economic growth goes

hand in hand with guaranteed protection for working citizens.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

First, there has been a significant paradigm shift in protection, shifting from the employer-based protection system in Law No. 13 of 2003 to the state-integrated protection system in Law No. 6 of 2023. Legally, the current severance pay scheme has experienced a decline in economic value due to the reduction in the multiplier and the elimination of the 15% Compensation Payment (UPH) component. This change shifts the burden of post-layoff financial protection, previously the sole responsibility of employers, to a social insurance scheme through the Job Loss Guarantee (JKP) program.

Second, there is a negative correlation between the reduction in the severance pay multiplier and the level of certainty of workers' rights protection. Systematic cuts in severance pay weaken its function as a disincentive for companies to lay off workers, making job security more vulnerable. Although JKP was introduced as a substitute economic cushion, this protection is administrative and conditional, creating uncertainty in practice for long-tenured workers or those employed by companies with low social security administrative compliance.

Third, the Constitutional Court's ruling serves as a constitutional correction instrument, affirming that labor market flexibility must not compromise fair legal protection. The legal implications of the Constitutional Court's ruling require the government to re-harmonize its derivative regulations, particularly Government Regulation No. 35 of 2021, to ensure that minimum protection standards for workers are maintained. The Court emphasized that severance pay is not merely private contractual compensation, but rather a human right with a public dimension to prevent the systematic

impoverishment of citizens following termination of employment.

B. Suggestion

The government needs to immediately synchronize regulations by revising Government Regulation No. 35 of 2021 to align with the protection mandate affirmed by the Constitutional Court, particularly in reviewing the severance pay multiplier and restoring the compensation component for lost rights. Furthermore, oversight of companies' compliance with worker enrollment in the Job Loss Insurance (JKP) program must be tightened to ensure the transition of protection from employers to the state does not create loopholes for workers' losses. Finally, for workers and labor unions, strengthening the agreement in the Collective Labor Agreement (PKB) is crucial as an independent protection instrument to establish fairer compensation standards above the minimum limits stipulated by law.

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