

# Legal Uncertainty in the Protection of Workers' Rights at Retirement Age: A Normative–Empirical Study Within Indonesia's Pancasila Welfare State Framework

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## ABSTRACT

This study examines legal uncertainty concerning the protection of workers' rights upon reaching retirement age within Indonesia's labor law regime. The research is motivated by inconsistencies in regulatory norms, ambiguities in legal provisions, and disparities in judicial interpretations regarding retirement entitlements. Employing a normative–empirical methodology, the study analyzes statutory regulations, court decisions, and empirical data obtained from interviews with stakeholders, including labor authorities, employers, and workers. The findings reveal that legal uncertainty primarily stems from incomplete regulatory formulations in Government Regulation No. 35 of 2021, particularly regarding procedures for retirement-related termination, calculation mechanisms for retirement benefits, and the legal status of pension fund contributions. Moreover, the regulation disproportionately positions employers as the dominant party in retirement decisions, thereby generating procedural injustice and weakening workers' bargaining power. Judicial practices further demonstrate interpretative variations that contribute to inconsistent legal outcomes. The study argues that legal reconstruction is necessary to ensure certainty, fairness, and balance in retirement-related employment termination. It proposes strengthening normative clarity, recognizing workers' rights to initiate retirement, and enhancing tripartite synergy among government, employers, and labor unions. The research contributes to the discourse on labor protection by advancing a justice-oriented framework aligned with the principles of the Pancasila Welfare State.

## INTRODUCTION

The protection of workers' rights constitutes a central pillar of a constitutional state founded upon the rule of law (Andrias, 2023; Engelmann, 2023; Mahmutovic, 2024). In Indonesia, this principle is firmly embedded in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which declares Indonesia as a state based on law (negara hukum) (The 1945 Constitution of the Republic of Indonesia). Within this framework, all legal relationships, including employment relations, must be governed by legal norms designed to ensure justice, certainty, and protection. Employment termination, therefore, cannot be

understood solely as an administrative or contractual act but must be interpreted as a juridical event that directly engages constitutional guarantees and statutory safeguards (Khakim, 2014).

The constitutional foundation of labor rights is further articulated in Article 27 paragraph (2) of the Constitution, which affirms that every citizen has the right to work and to a decent living for humanity (Republic of Indonesia, 1945). This provision establishes labor not merely as an economic activity but as an essential dimension of human dignity, social justice, and the responsibility of the welfare state (Asshiddiqie, 2010). Consequently, labor law assumes a protective function aimed at correcting structural imbalances inherent in employment relationships, where workers often occupy a weaker bargaining position relative to employers (Hadjon et al., 2001). Such protection becomes particularly crucial in the context of employment termination, including termination resulting from reaching retirement age.

Despite these constitutional and normative commitments, empirical developments reveal persistent challenges concerning legal certainty in the protection of workers approaching retirement age. Legal uncertainty has increasingly emerged as a structural problem within Indonesia's labor law regime, particularly in cases of termination of employment due to retirement (*pemutusan hubungan kerja karena pensiun*). Rather than providing clarity and predictability, regulatory frameworks often generate ambiguity, interpretative divergence, and disputes regarding workers' rights and entitlements (Wijayanti, 2009). This phenomenon raises fundamental concerns about the effectiveness of legal regulation in safeguarding the socio-economic rights guaranteed by the Constitution.

Legal certainty (*rechtszekerheid*) represents one of the fundamental elements of the rule of law. Radbruch emphasizes that law must deliver predictability and stability to ensure fairness and justice in social relations. In the domain of labor law, legal certainty is indispensable because employment termination directly affects workers' economic security, pension entitlements, and livelihood continuity. When regulatory norms governing retirement lack clarity, workers become vulnerable to inconsistent interpretations, unequal treatment, and procedural injustice. This condition undermines the essential objectives of labor law, which include the protection of workers' rights and the establishment of balanced industrial relations.

Government Regulation No. 35 of 2021, enacted as an implementing regulation under Indonesia's labor law reform following the Job Creation Law, was intended to regulate fixed-term employment agreements, outsourcing arrangements, working hours, and termination mechanisms (Government Regulation No. 35 of 2021). However, critical examination indicates that the regulation contains incomplete formulations and ambiguous provisions regarding retirement-related termination. Normative gaps remain visible in the regulation of retirement procedures, calculation mechanisms for retirement benefits, and the legal characterization of pension fund contributions (Wijayanti, 2009). These ambiguities potentially weaken legal certainty and diminish workers' protection at a critical stage of employment.

Ambiguity within legal norms inevitably produces uncertainty in implementation. Fuller argues that clarity and consistency constitute essential principles of legality, without which law fails to function effectively as a normative guide. In retirement-related termination disputes, legal uncertainty often manifests through disagreements over severance compensation, pension benefits, and recognition of retirement rights. Furthermore, regulatory structures that disproportionately empower employers risk generating procedural injustice by limiting workers' participation in decisions affecting their economic future (Rawls, 2001).

The issue of employment termination has long attracted scholarly attention within Indonesian legal research. Several doctoral dissertations have examined various dimensions of termination disputes. Neni Vesna Madjid, for instance, investigated legal protection for workers in employment termination disputes, focusing primarily on mechanisms of dispute resolution and workers' legal remedies (Madjid, 2019). Similarly, Hadi Noor analyzed the reconstruction of labor protection politics in termination disputes, emphasizing justice-based legal reform (Hadi, 2020). While these studies significantly contribute to labor law discourse, they predominantly address termination disputes in general terms and do not specifically examine legal uncertainty arising from retirement-related termination.

Research focusing explicitly on retirement-related employment termination has also been conducted in Indonesian legal scholarship, primarily in journal publications. Akhmad Soleh examined legal protection of retirement-age workers' rights concerning severance pay, long-service awards, and compensation of rights, drawing upon case studies in East Java (Soleh, 2018). Habib Iiftighar Wibowo analyzed employers' actions in retaining workers beyond retirement age, highlighting regulatory compliance issues (Wibowo, 2020). Although these studies provide valuable insights into retirement-related labor disputes, they tend to concentrate on specific cases or compliance aspects rather than systematically addressing the broader structural problem of legal uncertainty within retirement termination norms.

The existing body of scholarship thus reveals a discernible research gap. Prior studies predominantly focus on general termination disputes, dispute resolution mechanisms, or isolated aspects of retirement-related cases. Limited attention has been directed toward analyzing legal uncertainty as a structural phenomenon emerging from regulatory ambiguities, normative inconsistencies, and interpretative divergence specifically within retirement-related employment termination. Moreover, few studies integrate normative legal analysis with empirical inquiry while situating the discussion within the theoretical framework of legal certainty and the philosophical foundations of the Pancasila Welfare State.

Within the ideological and philosophical framework of Pancasila, labor protection must reflect principles of social justice, humanity, and collective welfare (Kaelan, 2016). The welfare state paradigm obliges the state to ensure not only formal legality but also substantive justice and equitable protection of socio-economic rights (Asshiddiqie, 2010). Legal uncertainty affecting workers at retirement age, therefore, represents not merely a technical regulatory issue but a normative challenge implicating constitutional commitments and welfare state ideals. The persistence of ambiguity and inconsistency in retirement-related termination norms risks eroding workers' trust in legal institutions and weakening the protective function of labor law.

The novelty of this research lies in its integrated approach. It moves beyond a purely doctrinal analysis by combining the examination of statutory regulations with an in-depth empirical investigation of judicial decisions and stakeholder perspectives. By analyzing four Industrial Relations Court decisions and their corresponding Supreme Court rulings, this study provides a granular understanding of how legal uncertainty manifests in practice. The inclusion of interviews with key actors—government officials, employers, workers' legal representatives, and trade unionists—adds a critical layer of contextual insight, revealing the lived experiences behind legal texts. This methodological integration allows for a more comprehensive diagnosis of the problem and the formulation of grounded, practical solutions.

This study addresses these conceptual and normative deficiencies by examining legal uncertainty in the protection of workers' rights at retirement age within Indonesia's labor law system. It seeks to analyze the structural sources of uncertainty, evaluate their implications for procedural justice and legal protection, and propose a justice-oriented legal reconstruction aligned with the principles of the Pancasila Welfare State. By bridging normative legal analysis with empirical investigation, this research contributes to a more comprehensive understanding of labor protection in retirement-related termination contexts.

## **METHOD**

This study employs a methodologically integrated normative–empirical legal design to align with its central objectives: examining legal uncertainty in the protection of workers' rights in retirement-related termination of employment, identifying regulatory weaknesses, and developing a justice-oriented framework for legal reconstruction within the Pancasila Welfare State paradigm. The research combines doctrinal legal analysis with empirical inquiry to capture both normative coherence and practical effectiveness.

The normative component consists of normative juridical research focusing on statutory regulations, legal principles, doctrines, and judicial decisions relevant to retirement-based termination. Primary legal materials include the 1945 Constitution of the Republic of Indonesia; Law Number 13 of 2003 concerning Manpower; Law Number 2 of 2004 concerning Industrial Relations Dispute Settlement; Law Number 24 of 2011 concerning Social Security Administering Bodies; Government Regulation Number 45 of 2015; Government Regulation Number 35 of 2021; Government Regulation in Lieu of Law Number 2 of 2022; Law Number 6 of 2023; and Presidential Regulation Number 1 of 2023. Normative analysis evaluates the clarity, consistency, and potential disharmony of legal norms that contribute to uncertainty. Judicial decisions from the Industrial Relations Courts and the Supreme Court are also analyzed to identify patterns of legal reasoning, interpretative consistency, and implications for legal certainty, thereby assessing how statutory provisions are applied in practice.

The empirical component applies empirical juridical research to evaluate regulatory effectiveness and stakeholder perspectives. Primary data are collected through unstructured, in-depth interviews with key informants, including officials from the Bekasi Regency Manpower Office, workers involved in retirement disputes, companies administering Financial Institution Pension Funds, employer associations, and labor unions. This approach provides contextual insights into implementation challenges, interpretative variation, and perceptions of fairness.

The research is both descriptive and prescriptive. The descriptive dimension maps the normative and empirical conditions underlying legal uncertainty, while the prescriptive dimension formulates recommendations for legal reconstruction. Data are gathered through document analysis and interviews and analyzed qualitatively using interpretative and argumentative techniques. The theoretical framework incorporates Welfare State Theory, Legal Certainty Theory, Legal System Theory, Justice Theory, and Pancasila Industrial Relations Theory to synthesize normative and empirical findings into prescriptive–analytical conclusions.

## RESULTS AND DISCUSSION

### Legal Aspects of Termination of Employment Due to Retirement Age

Legal certainty constitutes a fundamental element in the realization of a rule-of-law state grounded in Pancasila. Within the employment context, legal certainty ensures that workers' rights are not arbitrarily extinguished upon termination of employment. Through statutory instruments and implementing regulations, the State establishes that termination of employment due to retirement age must be conducted in accordance with lawful procedures. This reflects the principle that the rule of law functions not only to enforce norms but also to protect citizens from unjust treatment (Government Regulation No. 35 of 2021).

Post-enactment developments following the Job Creation Law and its derivative regulations, particularly Government Regulation No. 35 of 2021, reveal substantial changes in the regulation of workers' rights. These regulatory transformations have generated controversy and heightened legal uncertainty among workers, thereby increasing the potential for industrial relations disputes, especially where adequate protective mechanisms are lacking. Consequently, a deeper examination of how these legal norms are implemented by employers and workers becomes essential.

One critical area of labor regulation concerns termination of employment, including termination on the grounds of retirement age. Normatively, legal provisions should guarantee legal certainty for workers entering retirement. This study therefore required empirical and normative data addressing legal certainty in retirement-related termination of employment within private enterprises. To obtain such insights, the research employed judicial decision analysis and qualitative interviews with affected workers and their legal representatives.

Government Regulation No. 35 of 2021 is intended to provide legal certainty for both employers and workers in relation to termination of employment due to retirement age. However, empirical realities demonstrate the persistence of industrial relations disputes arising from divergent interpretations and applications of retirement provisions. Several disputes required adjudication through the Industrial Relations Court and the Supreme Court.

The first case analyzed was Industrial Relations Court Decision Number 157/Pdt.Sus-PHI/2023/PN.BDG dated 8 January 2023 and Supreme Court Decision Number 907 K/Pdt.Sus-PHI/2024 dated 6 August 2024. The dispute involved worker P and employer PT. GPGM, a private fiberglass manufacturing company domiciled in Bekasi City.

Worker P had been employed by PT. GPGM since 1 February 1991 as a production operator. On 26 February 2022, PT. GPGM informed P that the employment relationship would be terminated on the grounds of retirement. The employer further proposed that retirement compensation be paid in installments. Notably, Article 56 of Government Regulation No. 35 of 2021 does not explicitly regulate installment-based payment mechanisms for retirement compensation (Government Regulation No. 35 of 2021).

Additionally, PT. GPGM calculated retirement compensation based on P's last received wage, which was below the Bekasi City Minimum Wage. Article 40 of Government Regulation No. 35 of 2021 stipulates that termination compensation shall be calculated based on the wage received monthly by the worker. The discrepancy between wages below minimum wage standards and the worker's claim for calculation based on the applicable regional minimum wage became a central issue (Government Regulation No. 35 of 2021).

Due to objections regarding both the installment payment scheme and the wage calculation basis, P sought legal assistance from the Bekasi Branch Leadership Council of the Federation of Independent Indonesian Manufacturing Workers' Unions (DPC GSPMII Bekasi). Bipartite negotiations were conducted on 16 June 2022 but failed to reach an agreement.

Subsequently, mediation was pursued through the Bekasi City Manpower Office on 26 October 2022. The worker's legal counsel rejected both the installment payment proposal and compensation calculated below minimum wage standards. Mediation failed, leading the mediator to issue Recommendation Number 567/167-Disnaker Hijamsostek dated 27 January 2023 and a Mediation Report dated 3 March 2023.

Following the rejection of the mediator's recommendation, P filed a claim before the Industrial Relations Court at the Bandung District Court (Number 157/Pdt.Sus-PHI/2023/PN.Bdg). The claimant requested that the Court declare termination due to retirement age, establish compensation calculation based on the Bekasi City Minimum Wage of 2022, and order PT. GPGM to pay retirement compensation in a lump-sum cash payment pursuant to Article 56 of Government Regulation No. 35 of 2021.

In its defense, PT. GPGM argued that P had not yet reached retirement age and declined to substantively address the compensation claims. The Industrial Relations Court, in its legal reasoning, determined that compensation calculations must refer to the West Java Governor's Decree on Regional Minimum Wages for 2022. The Court further held that fairness required retirement compensation to be paid in a lump sum. Accordingly, the Court declared the termination effective as of 1 March 2022 and ordered PT. GPGM to pay retirement compensation in full (Decision No. 157/Pdt.Sus-PHI/2023/PN.Bdg).

PT. GPGM filed a cassation appeal, which was rejected by the Supreme Court (Supreme Court Decision No. 907 K/Pdt.Sus-PHI/2024). The judicial findings demonstrate that disputes concerning retirement-related termination remain prevalent despite the existing regulatory framework. The case revealed a lack of legal certainty in Article 56 of Government Regulation No. 35 of 2021, particularly regarding (1) whether compensation must be paid in full at once or may be disbursed in stages, and (2) whether compensation calculations should rely on actual wages or regional minimum wage standards.

The second judicial analysis examined Industrial Relations Court Decision Number 215/Pdt.Sus-PHI/2023/PN.BDG dated 20 March 2024 and Supreme Court Decision Number 772 K/Pdt.Sus-PHI/2024 dated 17 July 2024. This dispute involved workers YFF and B and employer PT. MAPI, a private automotive components manufacturing company.

Workers YFF and B were terminated upon reaching the retirement age of 55 years. PT. MAPI had enrolled both workers in Pension Fund Program A, as governed by the Perjanjian Kerja Bersama (PKB). Contributions consisted of 3.2% deducted from the workers' wages and 6.4% paid by the employer.

The dispute arose when PT. MAPI classified employer-paid pension contributions as a component deductible from retirement compensation pursuant to Article 58 of Government Regulation No. 35 of 2021. Workers YFF and B contested this interpretation, arguing that the PKB did not stipulate pension contributions as a deduction factor.

Bipartite negotiations (24 October and 18 November 2022) and mediation (25 January and 1 February 2023) failed. The mediator issued Recommendation Number

TK.04.04/1235/Disnaker dated 20 February 2023, which was accepted by the workers but rejected by PT. MAPI.

PT. MAPI subsequently filed suit before the Industrial Relations Court. The Court declared the retirement-based termination lawful and held that employer-paid pension contributions could be considered valid fulfillment of compensation obligations (Decision No. 215/Pdt.Sus-PHI/2023/PN.Bdg). Cassation by workers YFF and B was rejected by the Supreme Court (Supreme Court Decision No. 772 K/Pdt.Sus-PHI/2024).

These decisions illustrate continued disputes arising from interpretative differences under Government Regulation No. 35 of 2021. Legal certainty was perceived as contingent upon Article 58, which permits further regulation through Collective Labor Agreements. However, not all employers and unions possess the capacity or willingness to regulate such matters, thereby perpetuating uncertainty.

Legal certainty for workers entering retirement implies normative protection ensuring the fulfillment of severance pay, long-service awards, and compensation of rights as mandated under Government Regulation No. 35 of 2021. Nevertheless, interviews revealed persistent discrepancies between regulatory expectations and practical realities.

An in-depth interview conducted on 19 February 2025 with Sumanto, SH., the legal representative of worker P, confirmed that P had not received retirement compensation despite favorable court rulings (S. Sumanto, 2025). The dispute centered on disagreements regarding compensation calculations based on sub-minimum wages versus the applicable Bekasi City Minimum Wage.

The informant emphasized that the prolonged dispute resolution process—extending from bipartite negotiations to Supreme Court cassation and prospective enforcement proceedings—reflected insufficient legal certainty. Workers were compelled to undertake extensive legal efforts to secure their statutory entitlements (S. Sumanto, 2025).

A second interview conducted on 21 February 2025 with Rudol, SH., the legal representative of workers YFF and B, similarly indicated that workers frequently incur significant procedural and financial burdens in retirement compensation disputes (R. Rudol, 2025). Although litigation outcomes were final and binding, the process itself was viewed as inconsistent with principles of efficiency, justice, and welfare protection.

Both informants asserted that legal certainty would be strengthened if retirement-related termination and compensation mechanisms operated automatically upon the fulfillment of statutory criteria. Ambiguities regarding installment payments, wage calculation standards, and pension fund contribution deductions were identified as recurring sources of conflict.

Collectively, Result 1 demonstrates that legal certainty in termination of employment due to retirement age remains inadequately realized. Despite Government Regulation No. 35 of 2021 providing a normative framework, disputes persist due to regulatory ambiguity, interpretative divergence, and enforcement challenges. From the workers' perspective, legal certainty is achieved only when retirement compensation is provided promptly, calculated transparently, and implemented without necessitating protracted litigation.

### **Implementation of Termination of Employment Due to Retirement Age**

Justice emerged as a normative benchmark for preventing discrimination and unequal treatment of workers approaching retirement. Within the Indonesian legal system, workers'

rights are codified as generally applicable norms irrespective of sectoral classification or occupational position. This reflects the egalitarian values embedded in Pancasila and reinforces workers' legal standing in navigating post-retirement socioeconomic realities. In this framework, justice functions as a balancing principle within the national labor law regime.

Under the Pancasila Welfare State paradigm, fairness in the protection of workers' rights constitutes an essential component of social welfare policy. One area generating persistent legal and social contestation concerns termination of employment (Pemutusan Hubungan Kerja/PHK) on the grounds of retirement age. Industrial relations justice presupposes parity of legal status between employers and employees, consistent with Article 28D(2) (The 1945 Constitution of the Republic of Indonesia). However, prevailing statutory instruments—notably Article 56 of Government Regulation No. 35 of 2021—were found to vest predominant discretion in employers regarding retirement-based termination. Article 56 does not explicitly grant employees equivalent standing to initiate termination on retirement grounds (Government Regulation No. 35 of 2021).

To elucidate the scope of employees' rights to request retirement-based termination in private enterprises, this study analyzed judicial decisions and conducted stakeholder interviews. The results synthesize findings from (1) case law review and (2) semi-structured interviews with government labor officials and an employer administering a Financial Institution Pension Fund (Dana Pensiun Lembaga Keuangan/DPLK).

### **Judicial Decision Analysis**

#### **Case 1: S (alias G) v. PT. LMI**

The study examined Decision No. 37/G/2016/PHI.Sby issued by the Industrial Relations Court at the Surabaya District Court (13 June 2016) and the subsequent Supreme Court Decision No. 902 K/Pdt.Sus-PHI/2016 (10 November 2016). The dispute involved retirement-related termination between employee S (alias G) and employer PT. LMI, a private aluminum manufacturing company domiciled in Sidoarjo, Surabaya.

S (alias G) had been employed in the technical division since 26 August 1976. On 27 November 2015 and 8 December 2015, S submitted formal retirement requests to PT. LMI but received no response. At that time, S was nearly 64 years old, with approximately 40 years of service. Following the employer's non-response, S registered an industrial relations dispute with the Sidoarjo Regency Social and Manpower Office. The mediator's recommendation advised mutual termination effective 31 January 2016. S accepted the recommendation; PT. LMI rejected it.

Subsequently, S filed suit before the Industrial Relations Court (Decision No. 37/G/2016/PHI.Sby). The Court declared the employment relationship terminated due to retirement age as of 13 June 2016 and ordered PT. LMI to pay S's retirement entitlements in a lump-sum cash payment. PT. LMI filed a cassation appeal (30 June 2016), arguing that (a) the Perjanjian Kerja Bersama (PKB) did not stipulate a retirement age, and (b) statutory language indicating that "the employer may terminate employment due to retirement" conferred discretionary authority to determine retirement eligibility. PT. LMI emphasized organizational needs, skill considerations, efficiency factors, and S's continued satisfactory performance.

The Supreme Court rejected the cassation, noting S's nearly 40-year tenure and declining physical condition, and held that retirement rights not regulated internally must default to

prevailing legislation (Supreme Court Decision No. 902 K/Pdt.Sus-PHI/2016). Litigation costs at the cassation level were borne by the State.

The courts effectively recognized that employees may request retirement, notwithstanding the absence of explicit statutory provisions granting symmetrical initiation rights. The dispute revealed that retirement requests may arise not solely from chronological age but also from diminished physical capacity. The decisions underscore that even where an employee remains capable after reaching retirement age, the absence of a clearly defined right to initiate retirement may produce legal uncertainty and asymmetrical bargaining outcomes.

#### Case 2: RM v. PT. CIG

The study further analyzed Decision No. 62/Pdt.Sus-PHI/2023/PN.Sby (29 August 2023) and Supreme Court Decision No. 322 K/Pdt.Sus-PHI/2024 (19 March 2024). PT. CIG, a private garment manufacturer in Surabaya, disputed employee RM's retirement-based termination claim.

RM had been employed since 1999 and reached retirement age (56 years) in April 2022. RM submitted a first notification letter (1 June 2022) requesting termination with retirement benefits, followed by a second notification (7 July 2022) due to the employer's non-response. Bipartite negotiations (15 July 2022) reached an impasse. Mediation by the Surabaya Manpower Office produced Recommendation No. 93/PHI/IX/2022 (1 September 2022), advising PT. CIG to approve RM's retirement and provide statutory entitlements. RM accepted; PT. CIG rejected the recommendation, offering only *tali asih* (ex gratia compensation).

RM filed suit (registered 24 May 2023). PT. CIG contended that RM's request constituted resignation and asserted additional grounds relating to stock discrepancies during RM's tenure. The Industrial Relations Court held that RM satisfied the retirement criteria, declared termination effective 1 June 2022, and ordered PT. CIG to pay retirement compensation in a lump-sum cash payment (Decision No. 62/Pdt.Sus-PHI/2023/PN.Sby). The Supreme Court rejected PT. CIG's cassation, affirming that RM met the retirement requirements under Government Regulation No. 45 of 2015, despite the absence of an internally regulated retirement age (Supreme Court Decision No. 322 K/Pdt.Sus-PHI/2024). Costs were borne by the State.

The dispute illustrates recurrent patterns in which employee-initiated retirement is reframed by employers as resignation, accompanied by alternative justificatory grounds to deny retirement compensation. The decisions confirm judicial willingness to validate employee retirement requests, yet they also highlight regulatory ambiguity that prolongs dispute resolution.

Across the cases, industrial relations disputes were precipitated when employees sought to initiate retirement. Article 56 of Government Regulation No. 35 of 2021 has been interpreted in practice as constraining employee initiation rights, thereby generating procedural asymmetry. Employees frequently pursued protracted litigation to secure retirement entitlements. The findings suggest that balanced regulatory recognition of both employer- and employee-initiated retirement could mitigate avoidable disputes (Government Regulation No. 35 of 2021).

### **Stakeholder Interviews**

A semi-structured interview was conducted on 22 May 2025 with Agus Supriyadi, Head of the Working Conditions and Industrial Institutions Section at the Bekasi Regency Manpower Office. Bekasi Regency was selected due to Cikarang's designation as one of Southeast Asia's largest industrial zones (GoodNews, 2025). The informant confirmed familiarity with retirement-based termination provisions under Law No. 13 of 2003 and its derivative regulations, including Government Regulation No. 35 of 2021. Several retirement-related disputes (e.g., involving PT. MAPI and PT. KI) were acknowledged as unresolved at the mediation level (A. Supriyadi, 2025).

Regarding Article 56, the informant stated that employees may request early retirement where company policy permits. Retirement age thresholds, however, were described as more appropriately regulated through a *Perjanjian Kerja Bersama* (PKB), which may provide standards exceeding statutory minima (A. Supriyadi, 2025). The government's role was characterized as providing regulatory guidance rather than prescribing uniform retirement ages, citing variability in organizational needs, particularly at managerial levels.

On pension compensation certainty, the informant emphasized that legal predictability could be enhanced through bipartite agreements or PKB provisions. The Manpower Office's protective function was framed as encouraging bipartite deliberation to avoid escalation to judicial forums (A. Supriyadi, 2025).

An interview with Arfiyanto Adisastra, Director of PT. FI, was conducted on 22 May 2025. Karawang was selected due to its status as a major industrial hub (KNIC, 2025). PT. FI regulates the retirement age at 56 years through its Company Regulation. No disputes regarding retirement-based termination were reported. Employment relationships generally terminate automatically upon reaching retirement age, except for specified levels where fixed-term contracts (*Perjanjian Kerja Waktu Tertentu/PKWTT*) may be offered post-retirement (A. Adisastra, 2025).

Retirement compensation is paid promptly upon cessation of employment, calculated in accordance with prevailing legislation. The informant supported the introduction of supplementary rules to accommodate employee-initiated retirement, noting corporate cost-efficiency imperatives and the need for procedural safeguards against bargaining imbalances (A. Adisastra, 2025).

PT. FI administers a *Dana Pensiun Lembaga Keuangan* (DPLK) managed by Manulife. Contributions are fully employer-funded and structured primarily to stabilize company cash flow. The DPLK was described as distinct from statutory severance components and not an additive factor in pension compensation calculations (A. Adisastra, 2025).

The reduction of severance multipliers under Government Regulation No. 35 of 2021—from two times to 1.75 times the statutory provisions—was positively received as aligning with contemporary industrial sustainability considerations (A. Adisastra, 2025).

### **Empirical Integration**

Interview data corroborate judicial findings. Government representatives emphasized regulatory flexibility and bipartite governance through PKB, while employer perspectives highlighted administrative certainty via DPLK mechanisms. Nonetheless, both sources

acknowledged that the absence of explicit statutory recognition of employee-initiated retirement contributes to disputes, uncertainty in retirement planning, and potential inequities.

### **Realization of Workers' Retirement Welfare in the Pancasila Welfare State**

The Unitary State of the Republic of Indonesia, founded upon Pancasila and the 1945 Constitution of the Republic of Indonesia, upholds the welfare state principle. The State bears a constitutional obligation to guarantee citizens' welfare, including within the domain of employment. Article 28D(2) of the UUD 1945 explicitly affirms that every person has the right to work and to receive fair and decent remuneration and treatment in employment relationships. Within this constitutional framework, the protection of workers' rights upon entering retirement constitutes a critical legal and social concern. One of the most contested issues concerns termination of employment due to retirement age following the enactment of Government Regulation Number 35 of 2021, an implementing regulation of the Job Creation Law (Government Regulation No. 35 of 2021).

Normative analysis identified significant regulatory shifts affecting retirement compensation. Under Law Number 13 of 2003, retirement-related severance compensation was calculated at two times the statutory provisions. Government Regulation Number 35 of 2021 reduced this multiplier to 1.75 times the statutory provisions. In addition, supplementary entitlements, including compensation for housing and medical treatment amounting to 15% of severance pay and/or long-service awards, were eliminated. Article 56 of Government Regulation Number 35 of 2021, governing termination of employment due to retirement age, was widely perceived as inconsistent with principles of justice, balance, and welfare protection in employment relations.

To assess the fairness and legal certainty of retirement compensation protection within the Pancasila Welfare State paradigm, this study examined judicial decisions and conducted stakeholder interviews with employer associations and trade unions.

Judicial review focused first on Industrial Relations Court Decision Number 96/Pdt.Sus-PHI/2022/PN.Bdg dated 11 July 2022 and Supreme Court Decision Number 1503 K/Pdt.Sus-PHI/2022 dated 13 October 2022. The dispute involved worker Z and employer PT. KI, a private aluminum manufacturing company located in Bekasi Regency. PT. KI terminated Z's employment effective 26 May 2021 on retirement grounds and calculated retirement compensation based on Government Regulation Number 35 of 2021, applying the 1.75 multiplier and excluding the 15% housing and medical compensation component.

Worker Z argued that the Perjanjian Kerja Bersama (PKB) of PT. KI remained valid, thereby requiring compensation calculation under Article 167 of Law Number 13 of 2003 with a two-times multiplier and inclusion of the 15% entitlement. The dispute centered on differing compensation calculations. Z claimed entitlement totaling IDR 268,962,448, whereas PT. KI asserted that Z was entitled only to IDR 212,722,346, resulting in a contested difference of IDR 56,240,102.

After unsuccessful bipartite negotiations and mediation by the Bekasi Regency Manpower Office, Z filed suit before the Industrial Relations Court at the Bandung District Court. The Court granted Z's claim and ordered PT. KI to pay the shortfall of IDR 56,240,102 while rejecting PT. KI's counterclaim (Decision No. 96/Pdt.Sus-PHI/2022/PN.Bdg). PT. KI's

cassation appeal was rejected by the Supreme Court (Supreme Court Decision No. 1503 K/Pdt.Sus-PHI/2022), with litigation costs borne by the State.

The judicial findings revealed that workers' retirement rights were not automatically protected, as enforcement required litigation through both the Industrial Relations Court and the Supreme Court. Legal protection was considered incomplete when compensation calculations lacked clarity, particularly following the reduction from two times to 1.75 times the statutory provisions (Government Regulation No. 35 of 2021). The regulatory reduction created opportunities for employers to adopt lower compensation standards despite previously negotiated PKB provisions.

Comparative judicial analysis examined Industrial Relations Court Decision Number 322/Pdt.Sus-PHI/2021/PN.Bdg dated 13 April 2022 and Supreme Court Decision Number 1169 K/Pdt.Sus-PHI/2022 dated 8 August 2022. The dispute involved multiple workers (S, REL, SP, LM, NI, S, and RN) and employer PT. SPTT, a textile company domiciled in West Bandung. The workers, each with more than 25 years of service, submitted retirement requests pursuant to Article 31(1) of the applicable PKB, which permitted retirement upon reaching 57 years of age and/or 25 years of service.

PT. SPTT interpreted the PKB provision as requiring employer approval for retirement requests. The Industrial Relations Court upheld the employer's interpretation, holding that employment relationships had not terminated due to the absence of employer consent (Decision No. 322/Pdt.Sus-PHI/2021/PN.Bdg). On cassation, however, the Supreme Court rejected this interpretation, holding that "submitting a retirement request" did not require employer approval. The Supreme Court affirmed that workers meeting the criteria possessed the right to request retirement or to continue working (Supreme Court Decision No. 1169 K/Pdt.Sus-PHI/2022).

Nevertheless, the Supreme Court calculated retirement compensation based on Government Regulation Number 35 of 2021 and rejected claims relating to housing and medical compensation due to a lack of evidentiary support and the absence of a regulatory basis. These rulings highlighted the elimination of the 15% entitlement previously recognized under Law Number 13 of 2003, reinforcing perceptions of diminished retirement welfare protection.

Empirical findings from stakeholder interviews supported the judicial analysis. The APINDO Bekasi representative acknowledged that employers complied with prevailing legislation but expressed limited awareness regarding the government's rationale for reducing retirement severance multipliers (E. Martono, 2025). Documentary review of the Academic Draft of the Job Creation Bill indicated that severance obligations were perceived as burdensome for employers (BPHN, 2020).

Trade union perspectives emphasized that Government Regulation Number 35 of 2021 reduced retirement welfare standards and conflicted with constitutional guarantees of fair and decent treatment (J. Sudrajat, 2025). Interview data indicated that ambiguities concerning retirement age, pension disbursement timing, and the classification of retirement requests continued to generate disputes.

Collectively, the findings demonstrate that regulatory amendments reducing retirement compensation and eliminating supplementary entitlements have contributed to legal uncertainty, litigation burdens, and perceptions of injustice among workers. These findings

underscore the necessity of regulatory harmonization, strengthened legal certainty, and tripartite synergy among government, employers, and workers to ensure equitable retirement welfare protection within the Pancasila Welfare State framework.

#### Legal Certainty Represents a Foundational Principle of a Rule-of-Law State

Within the employment sector, legal certainty is indispensable for both workers and employers, as it governs the predictability, enforceability, and fairness of rights and obligations arising from the employment relationship. Ideally, legal certainty is jointly constructed through mutual agreement, particularly via employment contracts concluded prior to the commencement of work. Article 54(f) of Law No. 13 of 2003 stipulates that employment agreements must contain working conditions defining the rights and obligations of both parties, including provisions regarding termination of employment. Among the matters that may be regulated is termination due to retirement age (Law No. 13 of 2003).

In practice, however, both employers and workers remain highly dependent on the State. Employers require legal protection to sustain business continuity, while workers rely on State intervention to secure fulfillment of normative labor rights. The State's regulatory function must therefore balance these interests by ensuring business viability without undermining workers' entitlements. Business continuity is influenced not only by market conditions but also by compliance with labor standards, including the proper discharge of obligations toward workers.

Workers' rights are intrinsically linked to their livelihood and that of their families. Employers fulfill these rights as a consequence of the worker's performance of contractual duties. Consequently, clarity regarding reciprocal rights and obligations becomes essential. Such clarity must be codified within binding legal instruments. The State fulfills this role through statutory regulation governing labor relations across all phases of employment: pre-employment, during employment, and upon termination. Termination due to retirement age, as a legally recognized ground for ending the employment relationship, should thus be regulated in a manner that guarantees legal certainty for both parties.

Retirement-related termination was originally governed by Article 167 of Law No. 13 of 2003. The subsequent enactment of the Job Creation Law restructured several labor provisions, rendering Article 167 inapplicable. The legal framework governing termination due to retirement age was then relocated to Government Regulation No. 35 of 2021, particularly Article 56, which authorizes employers to terminate employment on the grounds of retirement. Article 56 further prescribes workers' entitlements upon such termination: severance pay at 1.75 times the statutory formula, long-service awards at one time the statutory formula, and compensation of rights in accordance with prevailing regulations (Government Regulation No. 35 of 2021).

Complementarily, Article 58 regulates the interaction between employer-sponsored pension programs and statutory termination benefits. Paragraph (1) provides that employer contributions to pension programs may be calculated as part of the employer's obligations for severance pay and long-service awards. Paragraph (2) requires employers to pay any shortfall where pension benefits are lower than statutory entitlements. However, paragraph (3) delegates implementation details to internal regulatory instruments, namely employment agreements, company regulations, or collective labor agreements (Government Regulation No. 35 of 2021).

Normatively, Articles 56 and 58 should enhance legal certainty. Empirical evidence, nevertheless, reveals persistent disputes arising from interpretative ambiguities. Two industrial relations disputes examined in this study illustrate this phenomenon.

The first dispute, adjudicated in Industrial Relations Court Decision No. 157/Pdt.Sus-PHI/2023/PN.BDG and affirmed by Supreme Court Decision No. 907 K/Pdt.Sus-PHI/2024, involved disagreement over the basis for calculating retirement compensation. The central legal issue concerned whether compensation should be calculated based on the worker's last wage or the applicable regional minimum wage. Government Regulation No. 35 of 2021 does not explicitly clarify this matter, thereby generating a normative lacuna. The dispute also extended to the method of payment, specifically whether compensation could be disbursed in installments. The absence of explicit regulation regarding lump-sum versus staged payments further contributed to legal uncertainty.

This dispute exemplifies the category of industrial relations conflicts identified by Anwar Budiman, namely disputes concerning rights already established as well as matters not yet normatively determined. Where regulatory provisions fail to articulate clear standards, divergent interpretations become inevitable. Although judicial resolution ultimately favored the worker, the necessity of litigation through multiple levels of adjudication undermined the practical realization of legal certainty (Budiman, 2018).

The second dispute, reflected in Industrial Relations Court Decision No. 215/Pdt.Sus-PHI/2023/PN.BDG and Supreme Court Decision No. 772 K/Pdt.Sus-PHI/2024, concerned whether employer-paid pension contributions could function as a deduction factor in calculating retirement compensation absent explicit regulation within a collective labor agreement. Workers argued that Article 58(3) requires prior internal regulation. The courts, however, concluded that employer contributions could be considered deductible regardless of explicit PKB provisions. This interpretative divergence illustrates how delegated regulatory space may inadvertently weaken legal certainty.

These findings resonate with Welfare State theory. R. Kranenburg posits that the State's function extends beyond maintaining legal order toward actively promoting citizens' welfare (Kranenburg, 1989). Legal order constitutes a prerequisite for welfare realization. Applied to retirement-related termination, Government Regulation No. 35 of 2021 should first establish normative clarity before facilitating welfare outcomes. The persistence of disputes indicates that legal order has not been fully achieved.

Similarly, Pound's conception of law as a tool of social engineering underscores the transformative capacity of legal norms. Retirement regulations should shape employer behavior to ensure the timely fulfillment of pension rights. Empirical observations, however, suggest that employers may prioritize cost-efficiency considerations, including installment-based payments or sub-minimum wage calculations, thereby attenuating the regulation's intended social impact (Pound, 1940).

Friedman's Legal System Theory provides further analytical insight. From a substantive perspective, Government Regulation No. 35 of 2021 prescribes workers' rights. Structurally, enforcement and supervision mechanisms remain limited, as implementation is largely entrusted to employers and workers. From a legal culture standpoint, workers frequently depend on trade unions to negotiate or litigate disputes. Effective legal certainty thus requires synergy among all three components: substance, structure, and culture (Friedman, 1975).

Philosophically, Aristotelian principles of virtue and corrective justice emphasize fairness and the restoration of imbalance. Disputes concerning pension rights frequently arise where workers perceive inequitable treatment. Legal certainty becomes attainable only when justice is substantively realized. Cooperative deliberation—analogue to *musyawarah* and *gotong royong*—offers a normative pathway toward dispute prevention.

Within Indonesia's doctrinal context, the Pancasila Industrial Relations framework accentuates deliberation and cooperation as core values (Soepomo, 1975); (Djumala & Rurit, 2024). The continuation of disputes into protracted litigation suggests that retirement regulations have not fully aligned with these principles. Ideally, disputes should be resolved at the deliberative level without necessitating extended judicial processes.

Organizational Justice Theory further elucidates workers' perceptions. Folger and Cropanzano define organizational justice as employees' evaluation of fairness within employment conditions (Folger & Cropanzano, 1998). Procedural justice, as elaborated by Colquitt, depends upon consistency, impartiality, accuracy, and ethicality (Colquitt, 2001). Disputes over calculation standards, payment mechanisms, and deduction factors reveal deficiencies in perceived procedural fairness, thereby triggering legal conflict.

From a constitutional hierarchy perspective, Article 28D(1) of the 1945 Constitution guarantees the right to fair legal certainty. Subordinate regulations must therefore operate consistently with constitutional mandates. The necessity for workers to pursue extended litigation to secure pension rights signals a gap between normative guarantees and empirical realities.

Interview findings reinforce this conclusion. Workers' representatives emphasized that legal certainty is realized when retirement compensation is received promptly without protracted dispute resolution (S. Sumanto, 2025); (R. Rudol, 2025). Both informants highlighted that the reduction of compensation multipliers does not automatically enhance legal certainty or welfare protection.

Collectively, the discussion indicates that legal certainty in retirement-related termination remains constrained by regulatory ambiguity, interpretative divergence, and enforcement limitations. An ideal regulatory framework should embody simplicity, certainty, and mandatory enforceability. Specifically, clearer provisions are required concerning retirement age determination, compensation calculation standards, payment modalities, and the treatment of employer pension contributions. Legal certainty, in this context, emerges not solely from normative articulation but from effective compliance, supervision, and tripartite cooperation among government, employers, and workers.

### **Workers' Rights to Initiate Retirement in Light of Pancasila Values**

Private enterprises are institutions established and operated by employers, yet their existence intrinsically involves workers as a constitutive element. Employers depend on workers to sustain business operations, while workers rely on employers for wages as the primary means of livelihood for themselves and their families. This reciprocal dependency forms the foundation of the employment relationship, which is grounded in mutual agreement and executed through work as its central object. Such a relationship encompasses rights and obligations that arise not only during the employment period but also upon its termination.

One lawful ground for the termination of employment is a worker's entry into retirement age. Upon retirement, workers acquire specific entitlements, and employers assume corresponding obligations. These rights and duties are governed by prevailing labor regulations, which function as binding legal norms for both parties. Within Indonesia's legal hierarchy, Pancasila serves as the ultimate source of all legal norms. Consequently, all legislation—including labor law—must reflect Pancasila's philosophical values, particularly those relating to justice and humanity.

The Fifth Principle of Pancasila, social justice for all Indonesian people, mandates that fairness be substantively embedded in labor regulations. Likewise, the Second Principle, just and civilized humanity, underscores equal human dignity and humane treatment (Kaelan, 2016). In the context of retirement, these principles require that legal norms ensure both equitable treatment and adequate economic protection for workers transitioning out of employment.

Article 56 of Government Regulation No. 35 of 2021 (GR 35/2021), which replaced Article 167 of Law No. 13 of 2003, authorizes employers to terminate employment on the ground that a worker has reached retirement age (Government Regulation No. 35 of 2021; Law No. 13 of 2003). While both provisions share the essential element of employer authority to effectuate retirement-based termination, Article 56 does not explicitly recognize a worker's right to initiate termination due to retirement. This asymmetry raises a normative question: whether workers possess legal standing to request retirement upon reaching retirement age.

A literal interpretation of Article 56 suggests that retirement-based termination constitutes an exclusive employer prerogative. Such exclusivity potentially undermines procedural justice by denying workers equal agency in determining the end of their working life. From a Pancasila perspective, the absence of worker-initiated retirement rights may be viewed as inconsistent with social justice, as it creates an imbalance in legal capacity between employers and workers.

Empirical evidence reinforces this concern. Disputes adjudicated in Industrial Relations Court Decision No. 37/G/2016/PHI.Sby and Supreme Court Decision No. 902 K/Pdt.Sus-PHI/2016 demonstrate conflicts in which workers sought recognition of their retirement status, while employers contested the absence of an explicit legal basis for such requests. Similarly, Decision No. 62/Pdt.Sus-PHI/2023/PN.Sby and Supreme Court Decision No. 322 K/Pdt.Sus-PHI/2024 illustrate disputes arising from employers' non-responsiveness to workers' retirement applications. These cases reveal that regulatory silence can generate divergent interpretations, prolong litigation, and delay workers' access to pension compensation.

The persistence of such disputes challenges the welfare state ideal. Kranenburg posits that the State must not only maintain legal order but also actively promote citizens' welfare. Legal order presupposes the minimization of recurrent conflicts. Where ambiguity in retirement norms produces sustained disputes, the State's regulatory function requires reassessment to better secure justice and certainty (Kranenburg, 1989).

Roscoe Pound's theory of law as a tool of social engineering further suggests that legal norms should shape predictable and harmonious social behavior. If retirement regulations fail to prevent conflict or provide clear guidance, their capacity as instruments of social coordination is diminished. Complementarily, Friedman's legal system theory highlights that effectiveness depends on the alignment of legal substance, structure, and culture. Substantive

gaps, limited enforcement authority, and evolving worker expectations collectively impede legal certainty.

Organizational justice theory emphasizes that fairness perceptions arise from both procedural and interactional dimensions (Folger & Cropanzano, 1998; Colquitt, 2001). The denial of explicit recognition of workers' rights to initiate retirement may erode perceived fairness, particularly when employers respond without transparency or sensitivity. Such perceptions contribute to adversarial dynamics and institutional distrust.

Constitutionally, Articles 27(1) and 28D(1) of the 1945 Constitution guarantee equality before the law and the right to fair legal certainty. Regulations governing retirement should therefore ensure balanced legal standing. Interviews with labor officials and employer representatives reveal divergent practical views: while early retirement may be permitted under specific corporate policies, the absence of explicit statutory recognition leaves outcomes contingent upon employer discretion (A. Supriyadi, 2025; A. Adisastra, 2025).

Synthesizing doctrinal, empirical, and theoretical insights, this study underscores the need for clearer regulation. An ideal framework would expressly acknowledge workers' rights to initiate retirement-based termination, define minimum retirement standards, mandate timely pension compensation, and establish enforceable sanctions for non-compliance. Such reforms would better reflect Pancasila's principles of humanity and social justice, strengthen legal certainty, and reduce industrial relations disputes.

### **Legal Protection of Workers' Rights in Just Retirement**

Workers and employers constitute two interdependent parties bound by an employment relationship established through mutual agreement. Such agreements define reciprocal rights and obligations that, ideally, should be regulated in a balanced manner. In practice, however, disparities in bargaining position and economic power frequently impede the equitable realization of these rights and obligations. Workers are commonly perceived as the more vulnerable party relative to employers, who possess superior financial and economic resources. This structural imbalance necessitates state intervention to ensure legal protection, particularly for workers whose rights are constitutionally guaranteed.

Legal protection provided by the State operates through statutory regulation applicable across all phases of employment—prior to, during, and after the employment relationship. Comprehensive protection is expected to foster legal certainty for both parties, yet legal certainty cannot be achieved without substantive justice. Justice thus functions as a normative cornerstone of labor protection. Both workers and employers seek fairness not only in the execution of work but also in the processes governing termination, including retirement.

Retirement constitutes a lawful ground for termination of employment and triggers specific entitlements, notably pension-related compensation. The welfare of workers post-retirement depends significantly on the adequacy of such compensation. Within the framework of the Pancasila Welfare State, the government bears responsibility to advance citizens' welfare, including that of workers, through coherent policies and enforceable legal norms (Kranenburg, 1989; Kaelan, 2016).

Normative regulation of pension compensation has undergone significant modification. Law No. 13 of 2003 previously stipulated that workers retiring upon reaching pensionable age were entitled to severance pay calculated at two times the statutory formula, alongside long-

service awards and compensation of rights, including a 15% component for housing and medical care (Law No. 13 of 2003). Government Regulation No. 35 of 2021 subsequently revised this framework, reducing the severance multiplier to 1.75 and eliminating the 15% compensation-of-rights component (Government Regulation No. 35 of 2021). While both regimes recognize severance pay, long-service awards, and compensation of rights, these quantitative and qualitative adjustments represent a diminution of benefits.

Judicial practice illustrates the tensions arising from this regulatory shift. In Industrial Relations Court Decision No. 96/Pdt.Sus-PHI/2022/PN.Bdg and Supreme Court Decision No. 1503 K/Pdt.Sus-PHI/2022, disputes centered on the reduction of severance pay from two times to 1.75 times the statutory formula, notwithstanding the continued validity of a collective labor agreement providing more favorable terms. Similarly, Industrial Relations Court Decision No. 322/Pdt.Sus-PHI/2021/PN.Bdg and Supreme Court Decision No. 1169 K/Pdt.Sus-PHI/2022 addressed claims concerning the abolished 15% compensation-of-rights component. These decisions demonstrate that prolonged litigation may undermine the protective purpose of pension regulation by delaying the realization of workers' post-employment welfare.

From a Welfare State perspective, the State is obliged not merely to preserve legal order but to actively secure citizens' welfare (Kranenburg, 1989). Reductions in pension compensation appear inconsistent with this mandate. Roscoe Pound's conception of law as a tool of social engineering further implies that legal norms should guide harmonious social relations; where new rules generate recurrent disputes or diminish perceived fairness, their regulatory effectiveness warrants reassessment (Pound, 1940).

Lawrence M. Friedman's legal system theory provides an analytical lens encompassing legal substance, structure, and culture (Friedman, 1975). Substantively, Government Regulation No. 35 of 2021 establishes uniform standards yet insufficiently anticipates pre-existing collective agreements. Structurally, workers frequently resort to judicial mechanisms rather than administrative resolution, indicating potential gaps in preventive governance. Culturally, workers tend to uphold collectively negotiated norms, whereas employers may prioritize compliance with revised statutory minima, thereby producing divergent expectations.

Aristotelian conceptions of virtue and corrective justice emphasize proportional fairness and the reconciliation of competing interests (Aristotle, 1998). In the retirement context, justice for employers may involve cost efficiency, while justice for workers entails adequate compensation. A balanced regulatory design should therefore accommodate both economic sustainability and social equity.

Organizational justice theory reinforces the importance of distributive fairness. Distributive justice concerns the perceived equity of outcomes allocated among organizational members (Folger & Cropanzano, 1998; Cropanzano, 2007). Differential outcomes between cohorts retiring before and after the enactment of Government Regulation No. 35 of 2021 may engender perceptions of inequity, potentially affecting morale and productivity.

Empirical insights from stakeholder interviews contextualize these dynamics. Employer representatives from APINDO Bekasi reported that reductions in severance multipliers and elimination of the 15% component were not proposed by employer associations, attributing policy changes to governmental deliberation (E. Martono, 2025). Worker representatives from FPBI underscored disappointment regarding diminished pension benefits and highlighted cases

requiring adjudication to enforce collectively agreed terms (J. Sudrajat, 2025). Both perspectives converge on the need for regulatory clarity and fairness.

Scholarly analyses corroborate these concerns. Lauren Tanera observes that inadequate employer compliance and evolving regulatory complexity challenge effective pension protection (Tanera, 2003). Mawar Sitohang argues that the reduction of severance multipliers has materially impacted retirement benefits, potentially generating distributive injustice (Sitohang, 2024).

In normative synthesis, an ideal protective regime would avoid financial detriment to retiring workers by maintaining or enhancing compensation standards. Reconsideration of Government Regulation No. 35 of 2021—specifically restoring the severance multiplier to two times and reintroducing the 15% compensation-of-rights component—may strengthen both legal protection and legal certainty. Such reforms would align statutory substance with constitutional guarantees of fair and decent treatment in employment (Government of Indonesia, 1945) and with Pancasila’s principles of humanity and social justice (Kaelan, 2016).

Long-term preventive strategies also merit consideration. Gainsharing, defined as a productivity-linked compensation system distributing performance-based gains to workers, offers a prospective model for retirement savings and income continuity (Ghufron, 2011). Stakeholders acknowledge its potential yet emphasize implementation challenges and the necessity of regulatory underpinning (A. Supriyadi, 2025; E. Martono, 2025; S. Sumanto, 2025; J. Sudrajat, 2025). In the interim, short-term regulatory adjustments remain essential to ensure equitable pension outcomes.

Ultimately, effective legal protection of workers’ retirement rights requires tripartite synergy among government, employer organizations, and trade unions. Collaborative pension programs designed within a coherent legal framework can reconcile economic viability with social justice, thereby reducing disputes and safeguarding post-retirement welfare.

## CONCLUSION

This study, grounded in the analysis of two Industrial Relations Court decisions and two Supreme Court decisions as primary legal sources, concludes that legal uncertainty under Government Regulation Number 35 of 2021 primarily arises from procedural injustice and regulatory ambiguity in retirement-related termination of employment. The findings demonstrate that legal uncertainty is exacerbated by employer practices perceived as unfair in implementing retirement provisions. Specifically, the regulation does not clearly stipulate whether pension benefits must be paid in a lump sum or may be disbursed in installments, nor does it firmly determine whether pension calculations should be based on the worker’s wage or the applicable regional minimum wage. Furthermore, the regulation lacks explicit clarity regarding whether routine pension contributions made by employers constitute a deductive or additive factor in calculating pension entitlements.

Judicial and empirical evidence also reveals structural weaknesses in the procedural framework. A central deficiency concerns the imbalance of rights, whereby only employers are effectively positioned to initiate retirement-based termination. Workers are not explicitly granted equal authority to propose retirement. This procedural asymmetry has enabled practices in which employer rejection of retirement requests leads to the classification of

worker-initiated retirement as voluntary resignation, thereby obstructing access to pension compensation. Such conditions undermine procedural justice and weaken legal certainty.

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