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Distributive justice in employment tenure compensation caps: a rawlsian analysis of service award limitations

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ABSTRACT

This study examines the upper-tier limitation of the Long Service Award (Uang Penghargaan Masa Kerja/UPMK) for workers with 24 years of service or more under Article 40 paragraph (3) of Government Regulation Number 35 of 2021 through a Rawlsian distributive-justice framework. It employs normative legal research, so distributive justice is treated as a doctrinal analytical framework rather than an empirical dependent variable. Primary materials comprise the relevant Indonesian manpower legislation, while secondary materials consist mainly of peer-reviewed legal and labor-market scholarship selected using explicit relevance, recency, authority, and completeness criteria. The statute, conceptual, and philosophical approaches are integrated sequentially through norm identification, grammatical and systematic interpretation, reconstruction of the UPMK tenure structure, and Rawlsian evaluation. Justice as fairness is operationalized through three parameters: relevance and consistency of tenure as a distributive criterion, proportionality between tenure differentiation and benefit allocation, and balance between worker protection and predictable employer obligations. The analysis finds that the statutory schedule differentiates UPMK progressively through the 21-to-less-than-24-year category, then places all workers with 24 years of service or more in a single 10-month-wage category. The rule is legally calculable, while Article 40 paragraph (3) does not expressly state why tenure ceases to generate further differentiation after that threshold. Equal treatment of workers with materially different tenure is therefore not automatically inconsistent with distributive justice; the analytical question is whether the stopping point can be supported by relevant, rational, and proportionate reasons. The study does not measure employer compliance, actual payments, or worker perceptions.



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Introduction

Employment law is concerned not only with the creation and continuity of work relationships but also with the distribution of rights and risks when employment ends. Indonesian labor-law scholarship consistently emphasizes that the employment relationship contains an inherent bargaining-power asymmetry that justifies legal protection while still requiring legal certainty for employers (Hamid, 2021; Izzati, 2022; Tan, 2021). Studies on balance and legal awareness in employment relations likewise show that protection and predictability must be considered together rather than as mutually exclusive objectives (Noviana et al., 2022; Shalihah et al., 2022).

In the current Indonesian framework, termination-of-employment rights are regulated through Law Number 13 of 2003 on Manpower as amended within the Job Creation framework, including Law Number 6 of 2023, and through Government Regulation Number 35 of 2021. Government Regulation Number 35 of 2021 remains in force and expressly regulates severance pay, Long Service Award (Uang Penghargaan Masa

Kerja/UPMK), and compensation for rights arising from termination of employment (Republic of Indonesia, 2003, 2021, 2023).

Article 40 paragraph (3) of Government Regulation Number 35 of 2021 uses length of service as the explicit basis for differentiating UPMK. Workers with 3 to less than 6 years of service receive 2 months' wages; the award then rises by tenure category until workers with 21 to less than 24 years receive 8 months' wages. For workers with 24 years of service or more, UPMK is fixed at 10 months' wages. Consequently, workers with 24, 30, or substantially more years of service are placed in the same statutory upper category (Republic of Indonesia, 2021; Kusuma & Basniwati, 2022).

The legal issue is therefore narrower than a general debate about whether workers are entitled to UPMK. The entitlement exists and the amount is normatively identifiable. The problem concerns the distributive structure of the upper category: tenure is treated as a legally relevant differentiating criterion throughout the lower categories, but after the 24-year threshold additional tenure no longer changes the basic UPMK amount. This transition creates a need to distinguish legal certainty from the normative justification of the distribution rule.

International severance-pay research confirms that tenure-sensitive termination benefits are not merely nominal legal devices. Economic models identify an insurance function for severance pay when displacement creates persistent earnings losses, especially where losses are associated with the destruction of tenure-specific human capital (Cozzi & Fella, 2016). Other work shows that optimal or welfare-enhancing severance arrangements may depend on tenure, legal-system design, and the interaction between severance and other forms of displacement insurance (Boeri et al., 2017; Garcia-Louzao, 2022; Gerard & Naritomi, 2021; Schmieder & von Wachter, 2016). These findings do not determine Indonesian legal validity, but they demonstrate why the relationship between tenure and termination benefits is a substantively relevant analytical question.

The broader employment-protection literature also identifies recurring trade-offs between worker security, labor-market adjustment, firm behavior, and distributional effects. Changes in dismissal costs and employment protection can affect productivity, investment, job insecurity, earnings distribution, and the allocation of workers across firms (Balz, 2017; Caggese et al., 2019; Ciminelli et al., 2022; Cingano et al., 2016; Daruich et al., 2023; Dolado et al., 2016; Ghaly et al., 2020). Comparative studies additionally show that labor-market reforms can combine flexibility and protection in materially different ways, so the fairness of a compensation limit should not be inferred from its existence alone (Picot & Tassinari, 2017; Giupponi & Landais, 2023).

Indonesian scholarship after the Job Creation reforms has focused extensively on the protection of workers' normative rights, deregulation, fixed-term work, outsourcing, and termination disputes (Aryani et al., 2022; Hamid, 2021; Izzati, 2022; Palguna et al., 2023; Pramono, 2020; Shalihah, 2022; Tan, 2021; Tobing et al., 2023; Zubi et al., 2021). More specific studies address termination entitlements, unpaid severance or service awards, and the position of workers' claims (Kusuma & Basniwati, 2022; Pratomo et al., 2024; Sonhaji, 2018). However, these studies do not specifically reconstruct the 24-year upper-tier UPMK rule as a distributive boundary and test the justification for stopping tenure-based differentiation at that point.

This study uses John Rawls's justice as fairness as the principal philosophical framework. Rawls does not require identical outcomes in every distributive setting; rather, institutional arrangements require reasons that can be justified as fair terms of cooperation and must be evaluated in relation to the position of persons affected by the distribution (Rawls, 1999). Indonesian legal scholarship has applied Rawlsian reasoning to labor equality and distributive wage policy, reinforcing the relevance of a justice-based examination of worker entitlements (Atmari et al., 2023; Takdir, 2018). General organizational-justice research also shows that distributive fairness is analytically distinct from the mere existence of a formal rule, although such empirical literature is used here only as contextual support rather than as the legal test itself (Colquitt et al., 2013).

For doctrinal purposes, distributive justice is operationalized through three explicit analytical parameters. First, relevance and consistency of tenure: whether length of service remains a legally relevant basis for differentiating UPMK and whether the regulation uses that criterion consistently. Second, proportionality of distribution: whether the transition from differentiated categories to a single upper category has a reasonable relationship to the purpose of UPMK. Third, balance of interests: whether the rule can protect workers while preserving legal certainty and predictable employer obligations. These parameters convert the philosophical framework into a transparent legal-analysis protocol rather than an empirical measurement scale.

The novelty of the study lies in treating the 24-year threshold as a normative differentiation boundary. Instead of assuming that every additional year must automatically generate an additional award, the analysis asks why tenure generates progressively different benefits before the threshold but ceases to do so afterward. The focus is therefore on the justification of the stopping point, not on presuming that the existing rule is unlawful or unjust.

The research design is expressly doctrinal and normative. It does not measure the proportion of employers complying with UPMK rules, actual amounts paid in individual termination cases, worker perceptions, or firm-level financial effects. Accordingly, no empirical dependent variable or falsifiable statistical hypothesis is proposed. The unit of analysis is the legal norm and the justificatory structure produced by the interaction of statutory text, legal concepts, and the selected theory of justice.

Two research questions guide the study: (1) How does Indonesian law construct the upper-tier limitation of UPMK for workers with 24 years of service or more under Article 40 paragraph (3) of Government Regulation Number 35 of 2021? and (2) How can that limitation be evaluated through Rawlsian distributive justice, particularly with respect to the relevance of tenure, proportionality of benefit distribution, and the balance between worker protection and predictable employer obligations? By answering these questions, the study seeks to clarify both the positive-law construction and the normative grounds on which the upper threshold can be assessed under the selected justice framework.

Method

This study employs normative legal research (doctrinal legal research). The design places legal norms, principles, concepts, and authoritative legal materials as the primary objects of analysis and is appropriate because the research questions concern the construction and normative justification of the UPMK upper threshold rather than the measurement of employer behavior or worker perceptions (Fajar & Achmad, 2017; Ibrahim, 2007; Marzuki, 2017; Soekanto & Mamudji, 2015). Consequently, the study does not formulate empirical variables or statistical hypotheses; its analytical claims are legal and philosophical propositions that must be traceable to identified sources and interpretive steps.

The unit of analysis is Article 40 of Government Regulation Number 35 of 2021, especially paragraph (3), read within the broader Indonesian manpower-law framework. Primary legal materials include Law Number 13 of 2003 on Manpower, its amendments and Job Creation framework including Law Number 6 of 2023, and Government Regulation Number 35 of 2021. The regulation is examined together with provisions governing termination of employment and workers' monetary rights so that the UPMK rule is not interpreted in isolation (Republic of Indonesia, 2003, 2021, 2023).

Secondary legal materials consist of peer-reviewed journal articles, research-based legal scholarship, and a limited number of authoritative theoretical and methodological works. Literature searches were updated for this revision through official Indonesian legal databases and scholarly search platforms, including JDIH/BPK sources, Google Scholar, OpenAlex, and publisher databases. Search terms combined concepts such as 'uang penghargaan masa kerja', 'UPMK', 'severance pay', 'employment protection', 'job tenure', 'termination of employment', 'distributive justice', 'Rawls', 'proportionality', and 'Indonesian labor law'.

Legal and scholarly materials were included when they met at least one of the following criteria: (a) they constituted currently relevant primary legislation governing employment termination or UPMK; (b) they directly examined Indonesian termination rights, employment protection, industrial relations, or Job Creation reforms; (c) they provided peer-reviewed empirical or theoretical evidence on severance pay, tenure, dismissal costs, or employment protection; or (d) they were seminal works required to define the Rawlsian or doctrinal legal framework. For secondary literature, priority was given to peer-reviewed publications from 2016-2026, while older works were retained only when they were foundational to the analytical framework.

Materials were excluded if they were duplicates, news reports, blogs or non-academic opinion pieces, lacked identifiable authorship or publication information, had no direct relevance to the research questions, or discussed superseded legal provisions without a historical or interpretive function. This screening protocol was used to make source selection reproducible and to prevent the analysis from relying on loosely related literature. Statutes and seminal books are not required to have DOIs because DOI identifiers are not ordinarily assigned to those source types.

Three approaches are integrated sequentially. The statute approach first identifies the positive-law rule and reconstructs the full tenure schedule in Article 40 paragraph (3). The conceptual approach then clarifies

UPMK, tenure, legal certainty, equality, proportionality, employment protection, and the balance of interests. Finally, the philosophical approach evaluates the reconstructed legal structure through Rawlsian justice as fairness. The approaches therefore perform different but connected functions rather than operating as three independent descriptions.

The statute approach applies grammatical and systematic interpretation. Grammatical interpretation determines the ordinary legal meaning of the tenure categories and the 10-month-wage upper category. Systematic interpretation places that provision within the regulation of termination rights and the amended manpower-law framework. This stage answers the first research question by identifying what the law requires and where normative differentiation begins and ends (Marzuki, 2017).

The conceptual approach constructs the legal relationship between length of service and the distribution of UPMK. It distinguishes UPMK from ordinary wages and treats tenure as a criterion selected by the regulation itself. Proportionality is used as a supporting concept to test whether the legal consequence attached to the upper category maintains a reasonable connection with the purpose and structure of the award, while the principle of balance helps identify the competing interests of worker protection and predictable employer obligations (Noviana et al., 2022).

The philosophical approach operationalizes Rawls's justice as fairness through three doctrinal parameters: (1) relevance and consistency of tenure as a distributive criterion; (2) proportionality between materially different tenure periods and the benefit structure created by the rule; and (3) balance of interests, including whether the upper threshold can be justified as a fair and publicly defensible term of cooperation between workers and employers. The framework does not presume that every additional year of service must generate a larger UPMK; it tests whether the stopping point is supported by relevant and rational reasons (Rawls, 1999; Takdir, 2018).

The analytical procedure consists of six stages: identification of the governing legal norm; screening and classification of legal and scholarly materials; grammatical and systematic interpretation; reconstruction of the statutory tenure-benefit schedule; application of the three distributive-justice parameters through an analytical matrix; and deductive synthesis answering the two research questions. Comparative and empirical studies from other jurisdictions are used only to illuminate the contextual significance of severance, tenure, and employment-protection trade-offs; they are not treated as direct evidence of the validity or invalidity of Indonesian law.

Intercoder or inter-rater reliability is not reported because this study does not employ qualitative coding of interviews, survey responses, or a multi-coder empirical dataset. Reproducibility is instead strengthened through explicit source-selection criteria, identification of the controlling provisions, a stated interpretive sequence, and a transparent analytical matrix that allows readers to trace each normative conclusion to the legal construction being evaluated.

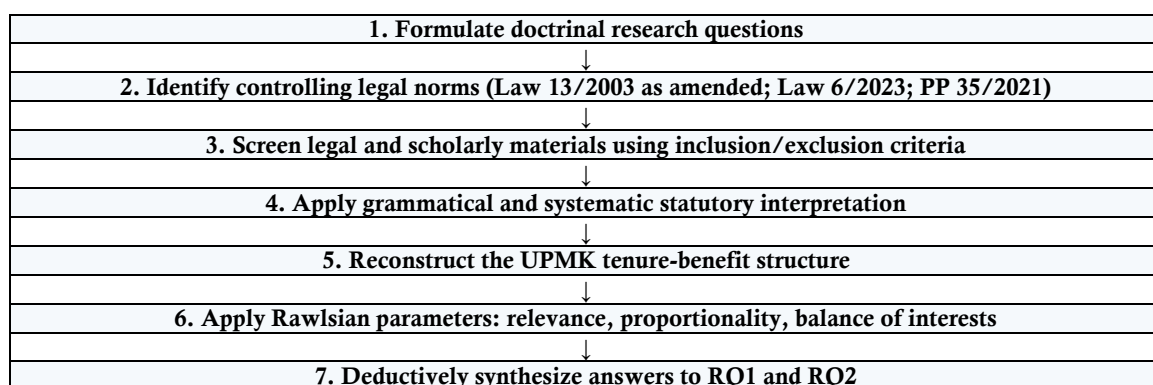


Figure 1. Doctrinal research and analytical flow

Results and Discussions

Statutory Construction of the UPMK Upper-Tier Limitation

The first research question concerns the legal construction of the upper-tier UPMK limitation. The doctrinal finding is that Article 40 paragraph (3) adopts a stepped tenure model and then creates a single terminal category. The relevant positive-law structure is therefore not a flat award from the outset; it is a progressive

classification that stops producing new categories once service reaches 24 years (Republic of Indonesia, 2021).

The statutory schedule is set out in Table 1. Reconstructing the full schedule is analytically important because it demonstrates that length of service is not an external criterion introduced by the researcher. It is the criterion expressly selected by the regulation to differentiate UPMK. The legal question begins at the point where the regulation changes from repeated differentiation to a single open-ended category.

Table 1. Statutory UPMK schedule under Article 40 paragraph (3) of Government Regulation Number 35 of 2021

Length of service	UPMK (months of wages)	Doctrinal significance
3 years to < 6 years	2	Tenure begins to differentiate the award
6 years to < 9 years	3	Higher tenure category, higher award
9 years to < 12 years	4	Progressive tenure differentiation
12 years to < 15 years	5	Progressive tenure differentiation
15 years to < 18 years	6	Progressive tenure differentiation
18 years to < 21 years	7	Progressive tenure differentiation
21 years to < 24 years	8	Last closed tenure band
24 years or more	10	Open-ended terminal category; further tenure does not create a new UPMK band

The table shows a clear structural break. From 3 years through less than 24 years, movement into a higher tenure band produces a higher UPMK. At 24 years or more, however, the category is open-ended and remains fixed at 10 months' wages. This creates a legally certain upper entitlement but simultaneously equalizes workers whose service may differ substantially within the same category.

This construction is consistent with the function of positive law in providing a calculable obligation at termination. Indonesian studies on termination rights emphasize the importance of clear entitlement rules, enforceability, and protection against non-payment (Kusuma & Basniwati, 2022; Pramono, 2020; Pratomo et al., 2024; Sonhaji, 2018). In that sense, the 24-years-or-more category performs a legal-certainty function by allowing the parties to identify the basic statutory amount without further calculation of tenure bands.

Legal certainty, however, does not resolve the separate question of distributive justification. The fact that a rule is clear does not by itself explain why the chosen upper threshold is 24 years or why service beyond that point no longer generates a differentiated UPMK category. Article 40 paragraph (3) states the schedule but does not expressly state the normative rationale for the stopping point. This observation does not invalidate the provision; it identifies the precise issue that requires philosophical analysis.

The distinction is especially important in the post-Job Creation labor-law context. Indonesian scholarship has documented a broader regulatory movement toward labor-market flexibility together with continuing debates about worker protection, legal certainty, and bargaining asymmetry (Aryani et al., 2022; Hamid, 2021; Izzati, 2022; Palguna et al., 2023; Santosa et al., 2021; Shalihah, 2022; Tan, 2021; Tobing et al., 2023). The UPMK cap should therefore be understood as part of a wider design problem: how to make termination obligations predictable without obscuring the distributive basis on which different groups of workers receive different benefits.

Rawlsian Distributive-Justice Analysis

The second research question is addressed through the three parameters stated in the method. Table 2 presents the analytical matrix linking each legal feature to the interpretive finding and its distributive-justice implication. The matrix replaces a purely narrative description with a traceable protocol: each normative conclusion is tied to a specific feature of the statutory structure.

Table 2. Analytical matrix for the distributive-justice assessment of the UPMK upper threshold

Analytical dimension	Observed legal construction	Doctrinal finding	Distributive-justice implication
Basis of differentiation	UPMK rises across tenure bands before 24 years	Tenure is an express statutory distributive criterion	Differences in tenure are legally relevant within the scheme

Analytical dimension	Observed legal construction	Doctrinal finding	Distributive-justice implication
Upper category	All service periods of 24 years or more receive 10 months' wages	Normative differentiation stops at 24 years	Equal treatment of materially different tenure requires an intelligible justification, but is not per se unjust
Legal certainty	A single terminal category fixes the basic maximum UPMK amount	Workers and employers can identify the statutory obligation	Legal certainty and distributive fairness are treated as analytically distinct dimensions
Proportionality	No additional UPMK band exists after 24 years	The rule changes from progressive differentiation to an open-ended cap	The analysis tests the connection between the stopping point, the objective of the award, and the regulatory burden created
Balance of interests	The cap preserves a worker entitlement while limiting further statutory growth of employer liability	The scheme protects both entitlement and calculability	The analysis compares how the scheme accommodates protection, predictability, and business sustainability
Rawlsian assessment	The regulation distributes benefits through tenure categories but gives no express rationale in Article 40(3) for the final threshold	Validity and fairness are separate questions	The Rawlsian inquiry focuses on the public and rational justification of the boundary, without presuming unlimited increases

First, the relevance-and-consistency parameter supports the conclusion that tenure is a legally relevant distributive criterion because the regulation repeatedly uses it to increase UPMK before the terminal category. The significance of tenure is also consistent with wider severance-pay research. Boeri et al. (2017) identify conditions under which optimal severance increases with tenure, while Cozzi and Fella (2016) show that severance can insure persistent earnings losses associated with displacement and loss of tenure. These studies do not require Indonesia to adopt a particular formula, but they reinforce the rationality of treating tenure as a potentially meaningful basis of differentiation.

Second, proportionality focuses on the transition from progressive differentiation to the open-ended upper category. Proportionality does not require a linear increase for every additional year. A cap can serve objectives such as administrability, certainty, and control of termination liabilities. The proportionality inquiry is narrower: once the law itself has made tenure relevant, the analysis tests whether the cessation of differentiation is connected to an intelligible objective. Equal treatment of workers with 24 and 30 years of service is therefore not treated as automatically fair or unfair; under the selected framework, the issue is the stated or reconstructable rationale for the stopping point.

Comparative empirical literature illustrates why this balance cannot be reduced to worker benefit maximization. Employment protection and dismissal costs may affect capital intensity, productivity, job insecurity, labor shares, hiring and firing decisions, and earnings distribution (Balz, 2017; Caggese et al., 2019; Ciminelli et al., 2022; Cingano et al., 2016; Daruich et al., 2023; Dolado et al., 2016). Employment-support policies can also generate both insurance benefits and reallocation costs (Giupponi & Landais, 2023). These studies are contextual rather than controlling legal authorities; in this study they are used to identify both protective and economic consequences that are relevant to the proportionality analysis.

Third, the balance-of-interests parameter recognizes that UPMK is simultaneously a worker entitlement and an employer obligation. Indonesian employment-law research emphasizes the need to address bargaining inequality without eliminating the requirements of certainty and sustainable industrial relations (Noviana et al., 2022; Shalihah et al., 2022; Zubi et al., 2021). A fixed upper category can serve the regulatory functions of calculability and limiting further statutory growth of liability. Under the Rawlsian framework, the analytical question is how the distribution is justified to affected parties, rather than assuming that either the employer's or worker's interest categorically prevails.

Rawls's justice as fairness is used here as a normative heuristic, not as a claim that the difference principle mechanically determines a particular number of wage-months. The relevant insight is that institutional distributions require fair justificatory reasons and cannot rely solely on formal equality when materially relevant differences have been selected by the institution itself (Rawls, 1999). In the UPMK structure, the

regulation first identifies tenure as relevant and then stops attaching additional benefit categories to it. The analytical burden is therefore to explain that transition, not to assume that all post-24-year service must be rewarded without limit.

The international evidence on severance and displacement further illustrates that termination-benefit design can produce multiple and sometimes competing effects. Severance generosity can influence worker mobility (Garcia-Louzao, 2022), displacement insurance can affect consumption smoothing (Gerard & Naritomi, 2021), and mass layoffs can create persistent local spillovers (Gathmann et al., 2020). Meanwhile, employers' labor-adjustment decisions are affected by financial and governance constraints (Caggese et al., 2019; Ghaly et al., 2020). These findings place termination-benefit design at the intersection of security, incentives, and adjustment. They are used here to contextualize the proportionality and balance inquiries without predetermining whether a higher or lower benefit level is preferable.

The analytical result is therefore twofold. As a matter of positive law, the 10-month-wage upper category is clear and provides calculability. Within the Rawlsian framework applied in this study, the absence of an express statutory rationale for selecting 24 years as the stopping point leaves the distributive justification to be reconstructed from the structure and objectives of the labor-law framework. The present analysis does not establish that the cap is unlawful or intrinsically unjust; it identifies the justification of the transition as the central analytical issue.

Several regulatory designs are conceptually possible without implying that one is preferred by this study: retaining the existing cap with an express rationale; creating additional long-tenure bands; using a bounded supplementary formula; or preserving the fixed upper category alongside other forms of termination protection. The three analytical parameters used here provide a neutral framework for comparing how each design would treat tenure, proportionality, worker protection, and predictability of employer obligations.

Taken together, the findings answer the second research question by showing that Rawlsian distributive justice does not automatically condemn the equal UPMK amount for all workers above 24 years. The resulting conclusion is that, because tenure is the regulation's own distributive criterion, the Rawlsian framework directs attention to whether the cessation of differentiation is supported by reasons addressing consistency, proportionality, worker protection, and predictable employer obligations. That justificatory inquiry is the principal normative contribution of this study.

Conclusions

The first research question is answered by the statutory construction of Article 40 paragraph (3) of Government Regulation Number 35 of 2021. Indonesian law uses length of service as the basis for a stepped UPMK schedule and places workers with 24 years of service or more in a single terminal category of 10 months' wages. The 24-year point is therefore the upper boundary of statutory tenure differentiation: additional service beyond that threshold does not create another UPMK band. This design provides a clear and calculable legal obligation for workers and employers. The second research question is answered through the three doctrinal parameters used to operationalize Rawlsian distributive justice. Tenure remains relevant because it is the regulation's own basis for differentiating UPMK before the upper category. Proportionality does not presuppose a linear or unlimited increase in benefits; the parameter examines the connection between the stopping point and the objectives served by the rule. Balance of interests examines how worker protection, legal certainty, and predictable employer obligations are accommodated within the same scheme. On that basis, the Rawlsian analysis does not classify equal UPMK for workers with 24 years and substantially longer service as automatically consistent or inconsistent with justice; it focuses on whether the 24-year stopping point is accompanied by, or can be reconstructed from, relevant and rational justificatory reasons. These conclusions are derived from normative legal analysis, not from an empirical test of employer compliance or worker outcomes. The analytical sequence combined statutory interpretation, conceptual clarification, and a Rawlsian matrix of relevance, proportionality, and balance. The study therefore makes a limited claim: it identifies the absence of an express statutory rationale for the upper-category stopping point as the central issue for the selected justice analysis, rather than proving that the rule is invalid or that a particular higher UPMK formula is economically optimal. The principal limitation is the doctrinal design itself. The study does not examine actual UPMK payments, enforcement rates, firm-level cost effects, sectoral differences, collective agreements, or workers' and employers' perceptions of fairness. It also does not conduct a cross-jurisdictional legal comparison of severance formulas. Future research can test the practical consequences of the upper threshold using case data, industrial-relations decisions, employer and worker

interviews, or comparative models. For future regulatory analysis, the rationale for retaining or modifying the 24-year threshold can be examined explicitly against the same criteria of tenure relevance, proportionality, worker protection, and predictability of employer obligations; this study does not select among those regulatory choices.

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