

Comparative Study of Legal Protection for Women Workers on Night Shifts (Between Indonesia and Germany)

Silvia Ratna Anzani, Ratih Damayanti 

Faculty of Law, State University of Semarang, Semarang, Indonesia

First Author Email: silviaratna02@students.unnes.ac.id

Second Author Email: ratihdamayanti@mail.unnes.ac.id

ORCID ID Profile: <https://orcid.org/0000-0002-6225-7077>

Abstract

The increasing participation of women in the workforce, including night shifts, demands adequate legal protection. This study compares legal protections for female night shift workers in Indonesia and Germany using normative legal research with statutory and comparative approaches. Indonesian regulations, including Law No. 13 of 2003 and Ministerial Decree No. 224/MEN/2003, provide protection through limitations on night work, provision of nutritious food, and mandatory transportation. In Germany, laws such as the Mutterschutzgesetz, Arbeitszeitgesetz, and Arbeitsschutzgesetz emphasize preventive measures like medical assessments, work hour restrictions, and risk evaluations. The findings indicate that Germany offers more

structured protection, particularly for pregnant or breastfeeding women, while Indonesia's implementation often faces challenges. Both countries have ratified CEDAW, but Germany has integrated international standards more comprehensively into national law. This study highlights the need for stronger enforcement and legal reform in Indonesia to ensure the rights and safety of female workers on night shifts are effectively protected.

Keywords *Female workers, night shift, labor law, Indonesia, Germany*

I. Introduction

The role of women in the world of work is increasingly significant, including in sectors that require working night shifts. However, working at night brings its own challenges, especially for women who have domestic and social responsibilities. Legal protection of female workers who work night shifts is an important issue that needs to be considered by countries around the world.

Globally, the CEDAW Convention (Convention on the Elimination of All Forms of Discrimination Against Women), which has been ratified by Law No. 7 of 1984, affirms the responsibility of the state to eliminate discrimination against women. The Convention serves as an international reference to ensure equal rights between men and women, including access to employment and the opportunity to occupy certain positions based on their

competence.¹

Based on data from the Central Statistics Agency (BPS), the Female Labor Force Participation Rate (TPAK) in Indonesia in February 2024 will reach 55.41%, showing a trend that continues to increase from year to year. If traced back, the TPAK of women in February 2020 was recorded at 54.48%, then decreased slightly in 2021 to 54.03%, and rose again in 2022 by 54.27%, and 54.42% in 2023. This positive trend shows that women are increasingly active and play an important role in the dynamics of the national labor market.² This increase in TPAK is an indication that women are no longer only seen as complements in economic development, but have become the main actors that contribute to encouraging the nation's economic growth. Women's increasing participation in the workforce also reflects more inclusive social change, while reinforcing the importance of legal protection and equality guarantees so that women can work in safe, decent and fair conditions.

Women are often seen as a more vulnerable group than men, especially in the context of the world of work. Therefore, legal protection for women workers is very necessary, especially in guaranteeing their reproductive rights. Reproductive rights are special rights related to women's biological functions, such as menstruation, pregnancy, and childbirth. However, these rights are still often ignored in

¹ Ahyar Dinda Harahap Harahap, Krisnanto Aditya Rizky, and Khairul Imran, "A Legal Review of Corporate Responsibility for the Safety of Women Workers at Night" 2, no. 1 (2025): 162–69, www.hukumonline.com.

² Putri Monica, "DATA: Participation Rate of the Women's Labor Force in Indonesia 2020-2024," 2024, <https://www.inilah.com/tingkat-partisipasi-angkatan-kerja-perempuan>.

employment practice.³ To ensure the fulfillment of these rights, various regulations have been established to prohibit forms of work that can endanger women's physical and moral health, especially for those who work at night or in certain conditions such as pregnancy.

This legal provision includes the right to menstrual leave, maternity leave, and miscarriage leave. This is important because pregnant women have a higher level of vulnerability to health risks, so they are entitled to adequate legal protection to protect themselves and their fetus.⁴

In an effort to guarantee the rights of workers, especially women workers, ratification of the International Labour Organization (ILO) conventions is one of the indicators of a country's commitment to creating a fair and safe work environment. Indonesia and Germany, as ILO member states, have differences in the scope and number of conventions that have been ratified, particularly with regard to the protection of women in the workplace.

Indonesia has ratified ILO Convention No. 100 on Equal Pay ratified in 1958 and Convention No. 111 on the elimination of discrimination in employment ratified in 1999.⁵ However, until now, Indonesia has not ratified Convention

³ Jolanda M Korua et al., "Legal Protection of Female Labor Related to Reproductive Rights in Manado City" 9, no. 2 (2024): 601–10.

⁴ Muhammad Ridho Hidayat and Nikmah Dalimunthe, "The Law on the Protection of Women's Labor in the Perspective of the Law," *SIBATIK JOURNAL: Scientific Journal in the Fields of Social, Economic, Cultural, Technological, and Educational* 2, no. 1 (2022): 233–50, <https://doi.org/10.54443/sibatik.v2i1.536>.

⁵ Cheryl Michelia Japian, "The Existence of the International Labour Organization (ILO) in Providing Protection of Workers' Rights Based on ILO Convention Number 111 of 1958 concerning Discrimination in Employment and Position and Its Implementation in the United States," *Lex Privatum* 9, no. 2 (2021): 28–39.

No. 183 on maternity protection and Convention No. 190 on the prevention of violence and harassment in the world of work. Although some aspects of the protection of women workers have been regulated in national legislation, such as in Law Number 13 of 2003 on Manpower, the ratification of international conventions remains important to strengthen the national legal position in guaranteeing the rights of women workers.

Meanwhile, Germany has demonstrated a broader commitment by ratifying more than 80 ILO conventions, including Conventions No. 100, No. 111, and No. 190.⁶ Although Germany has not ratified Convention No. 183 either, the country already has strong national regulations, such as the Mutterschutzgesetz (Maternal Protection Act) and the Arbeitszeitgesetz (Working Hours Act), which substantially provide protection to female workers, particularly those who work night shifts or in pregnancy conditions. In Indonesia, legal protection for female workers who work night has been regulated in Law No. 13/2003 concerning Manpower and Ministerial Regulation No. Kep.224/MEN/2003. Based on Article 76 paragraphs (3) to (4) of the law, employers who employ women between 23.00 WIB and 07.00 WIB are required to provide nutritious food and drinks, as well as ensure decency and safety in the workplace. In addition, for female employees who start or finish work between 23.00 WIB to 05.00 WIB, employers must also provide shuttle transportation facilities.⁷

⁶ International Labour Organization, "No Title," n.d., https://normlex.ilo.org/dyn/nrmlx_en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102938.

⁷ Mohammad Ilham, "Legal Protection of Women Workers in the Karaoke Business Sector," *Insani 2* (2025): 66–74.

However, the implementation of such regulations is often ineffective. Actions that violate women's labor rights occurred at PT. Anugrah Energitama, which is located in East Kutai, where the company allegedly does not provide reproductive rights to its female workers, such as menstrual leave, maternity leave, and maternity leave. This action is clearly contrary to the provisions of Law No. 13 of 2003 concerning Manpower, especially Article 81 and Article 82, which regulate the right of female workers to receive menstrual leave and leave during pregnancy and childbirth.⁸ Many female workers still face unsafe working conditions, such as lack of adequate facilities and potential health risks due to night work. In addition, the patriarchal cultural stigma that still exists in society contributes to this condition, by considering women as a weaker and more vulnerable group than men.

Meanwhile, in Germany, legal protection for female workers working night shifts is regulated in the Mutterschutzgesetz (MuSchG) and Arbeitszeitgesetz (ArbZG). The MuSchG stipulates that pregnant or lactating female workers are prohibited from working between 20:00 and 06:00, except with the written consent of the worker, a medical certificate, and permission from the local supervisory authority. The ArbZG stipulates that the night time is between 23:00 to 06:00, and workers who work at night are routinely entitled to special protections, including free medical examinations and the right to be transferred to day work if there are health or family reasons.

⁸ Febri Jaya and Andy Sanjaya, "Comparison of Women's Labor Legal Protection in Indonesia and Singapore," *Rule of Law : Journal of Legal Research* 31, no. 2 (2023): 85–98, <https://doi.org/10.33369/jsh.31.2.85-98>.

This phenomenon reflects the dynamics in the application of the law that are not only influenced by written norms, but also by judicial interpretations and the social context that surrounds them. In practice, the differences in the handling of similar cases in different jurisdictions indicate the need for a more critical understanding of the principles of justice and legal certainty. In addition, there have not been many studies that specifically compare legal approaches in two different contexts systematically and in-depth. In fact, comparative studies can be a means to assess the effectiveness, efficiency, and fairness of a legal system in dealing with similar problems.

It is therefore important to conduct a comparative study between Indonesia and Germany to understand the extent of legal protection for night workers in both countries, as well as to identify best practices that can be used as a reference in efforts to improve labor protection in Indonesia. Based on the background that has been described above, the following problems can be formulated: What is the Legal Protection for Night Shift Women Workers in Indonesia and Germany? What are the Similarities and Differences in Legal Protection for Night Shift Women Workers in Indonesia and Germany?

II. Methods

This research is a normative legal research (normative juridical), which is research conducted by examining applicable

legal materials and laws and regulations.⁹ This research uses a normative juridical approach through the statute approach and the comparative law approach. The legislative approach is applied by studying and reviewing the applicable legal provisions in Indonesia and Germany, including laws and policies related to labor protection. Meanwhile, a comparative legal approach was used to examine the similarities and differences in the legal systems of the two countries in providing protection to female night shift workers.¹⁰

The data sources in this study were obtained from primary and secondary legal materials. Primary legal materials include national laws and regulations such as Law No. 13 of 2003 concerning Manpower, Decree of the Minister of Manpower and Transmigration Number Kep.224/MEN/2003, as well as regulations applicable in Germany such as Mutterschutzgesetz, Arbeitszeitgesetz, and Arbeitsschutzgesetz. In addition, international documents such as the CEDAW Convention and ILO conventions are also used as the basis for analysis. Secondary legal materials are in the form of scientific literature, journal articles, and relevant previous research results.

III. Result and Discussion

A. Second-Level Heading in Italics (Sub-discussion)

⁹ Dwi Nanda Rizkia and Hardi Fardiansyah, *Legal Research Methods (Normative and Empirical)* (Bandung: Widina Media Utama Publisher, 2023).

¹⁰ Suyanto, *Legal Research Methods Introduction to Normative, Empirical and Combined Research* (Gresik: UNIGRES PRESS, 2023).

According to Satjipto Rahardjo, legal protection is a form of effort to protect the interests of individuals through the granting of power or authority derived from Human Rights, so that the individual can act to protect his interests.¹¹

Legal protection is a form of effort to maintain the value and dignity of every individual, as well as a form of recognition of the human rights possessed by legal subjects in accordance with the provisions of applicable regulations, in order to protect them from arbitrary actions. This protection can also be understood as a set of rules or norms that serve to protect one thing from another.¹²

Workers, especially women, have the right to legal protection to ensure they get decent work. In this context, the human rights set out in the 1945 Constitution, in particular Article 28, provide a solid foundation. Article 28A states that "Everyone has the right to live and has the right to defend his life and livelihood." Furthermore, Article 28 D paragraph (1) emphasizes that every individual has the right to fair legal recognition, guarantee, protection, and certainty, as well as equal treatment before the law. Paragraph (2) of the same article also affirms the right of everyone to work and receive fair and appropriate remuneration and treatment in employment relations.¹³

In the context of women workers who work at night, this legal protection is very important. They often face greater challenges compared to male workers, including higher health

¹¹ Thahir et al., *Introduction to Indonesian Law Textbook* (Jambi: PT. Sonpedi publishing Indonesia, 2024).

¹² Amalia Mia et al., *Criminal Law: Theory and Its Application in Indonesia*, ed. Sepriano (Jambi: PT. Sonpedi publishing Indonesia, 2024).

¹³ Monicha; Bagus Sarnawa Widyasputri, "Legal Protection of the Special Rights of Women Workers (Comparison of the Job Creation Law and the Manpower Law)," *Media of Law and Sharia* 5, no. 2 (2024): 141–54.

and safety risks, for example women who work at night are vulnerable to crimes such as sexual violence. Therefore, it is important for the state to ensure that these rights are recognized and protected, so that women workers can work in safe and decent conditions, as well as be fairly compensated for their contributions. Strong legal protections will help create a more inclusive and fair work environment, where women can actively participate in the world of work without feeling threatened or discriminated against.

The CEDAW Convention (Convention on the Elimination of All Forms of Discrimination Against Women) is one of the most important international human rights instruments in promoting the elimination of discrimination against women in various fields, including employment, education, health, and political life.¹⁴ Both countries, Indonesia and Germany, have been parties to the convention, despite differences in the context of its implementation and effectiveness.

Indonesia ratified the CEDAW Convention through Law No. 7 of 1984, which is an official recognition of the importance of gender equality and the elimination of discrimination against women.¹⁵ Through this ratification, Indonesia is bound to take legislative and policy steps to ensure

¹⁴ Enik Setyowati, "Cedaw International Convention: UN Work in Eliminating Discrimination against Women & Indonesia's Support through Ratification," *Artifact Journal* 8, no. 2 (2021): 127–35, <https://doi.org/10.25157/ja.v8i2.6277>.

¹⁵ Ade Yuliany Siahaan and Fitriani Fitriani, "Government Policy on the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on Women's Rights in Indonesia.," *Darma Agung Journal* 29, no. 2 (2021): 193, <https://doi.org/10.46930/ojsuda.v29i2.1060>.

that women have the right to equal treatment with men in all aspects of life, including in the employment sector

However, despite formally ratifying CEDAW, the implementation of the convention's principles still faces various obstacles. Strong patriarchal cultures, lack of law enforcement, and lack of protection for female workers, especially those working in the informal sector or on night shifts, are major challenges in realizing substantive equality.¹⁶ Female workers' reproductive rights, such as menstrual leave, maternity leave, and protection when working at night, are still often ignored by some employers.¹⁷

Germany also ratified the CEDAW Convention on July 10, 1985, which marked the country's commitment to eliminate discrimination against women in various fields, including employment. With this ratification, Germany seeks to ensure that women have equal rights with men in every area of life, including in the world of work.¹⁸

Some of the key regulations that reflect the implementation of CEDAW in Germany include:

- a) Mutterschutzgesetz (Maternal Protection Act), which guarantees protection for pregnant female workers;

¹⁶ Ida Ayu Intan Surya Dewi, Ni Komang Arini Styawati, and I Wayan Arthanaya, "Legal Protection of Women Workers at Anantara Uluwatu Bali Resort," *Journal of Legal Preferences* 3, no. 2 (2022): 364–69, <https://doi.org/10.55637/jph.3.2.4945.364-369>.

¹⁷ Herawati, "Legal Protection for Women Workers Reviewed Based on Law Number 13 of 2003 concerning Manpower in the Sampoerna Bojonegoro Cigarette Factory Company," *Journal of Law, Volume 2 No. 2 2020 Faculty of Law, Bojonegoro University* 2, no. 2 (2020): 12–21.

¹⁸ Jillian M. Duquaine-Watson, "Convention on the Elimination of All Forms of Discrimination Against Women," *Women's Health: Understanding Issues and Influences: Volumes 1-2* 1, no. May (2022): 172–73, <https://doi.org/10.32380/alrj.v0i0.1343>.

- b) Allgemeines Gleichbehandlungsgesetz (AGG), which is the General Equal Treatment Act that regulates the prohibition of gender-based discrimination in the workplace;
- c) Regulations regarding working hours, occupational health, and night work safety that prioritize the protection of working women.

Through these measures, Germany demonstrated its commitment to creating a fair and safe working environment for female workers, including those working night shifts, thereby creating more substantial gender equality in society.

A. Legal Protection for Women Workers on *Night Shifts* in Indonesia

1) Protection of Women's Workforce Regarding Night Working Hours

In Indonesia, legal protection for female workers who work at night is regulated through a number of laws and regulations, especially in Law No. 13 of 2003 concerning Manpower and *Kepmenakertrans No. 224 of 2003*. The provisions in Article 76 of the Law specifically provide guarantees of protection for workers or female workers, especially those related to the regulation of working hours. The content of Article 76 of Law Number 13 of 2003 is described as follows:

- (1) Female workers/laborers under the age of 18 (eighteen) years old are prohibited from working between 23.00 and 07.00.
- (2) Employers are prohibited from employing pregnant female workers, who according to the doctor's information endangers the health and safety of their

womb or themselves, if they work between 23.00 and 07.00.

- (3) Employers who employ female workers between 23.00 and 07.00 must:
 - a. maintaining decency and safety while at work,
 - b. maintain decency and safety while at work.
- (4) Employers are required to provide shuttle transportation for female workers/laborers who depart and return from work between 23.00 and 05.00.¹⁹

2) Legal Protection for Women Workers Reviewed from the Rights of Night Working Hours

In implementing night working hours for women workers, Indonesia also stipulates rights that must be fulfilled while they work at night. In addition, companies that employ female workers on night shifts are required to comply with a number of provisions listed in Kep.224/Men/2003, including:

- a. Providing nutritious food and beverage intake, at least meets 1,400 calories and should not be replaced with a certain amount of money.
- b. Ensure safety and decency while at work. This includes providing security personnel and decent workspaces and bathrooms with adequate lighting.
- c. Provide shuttle facilities, from your residence/pick-up stop to your workplace and vice versa.²⁰

¹⁹ I Gede Adi Putra, A.A Sagung Poetri Paraniti, and I.B Anggapurana Pidada, "Legal Protection for Women Workers in the Tourism Sector," *Yustitia Journal* 17, no. 2 (2023): 48–60, <https://doi.org/10.62279/yustitia.v17i2.1125>.

²⁰ Amriyati et al., "Protection of Women Workers in Family-Friendly Policies in the Workplace: Socialization in Trade Unions," *Journal of Organizational Structure* 4, no. 2 (2023): 1312–22, <https://www.osha.gov>.

3) Wage Protection for Female Workers on *Night* Shift

In terms of wage arrangements for night workers, there is a fundamental difference between Indonesia and Germany. In Indonesia, Law No. 13/2003 on Manpower and Kepmenakertrans No. Kep.224/MEN/2003 do not explicitly regulate the provision of additional wages (special compensation) for night workers. The provisions regarding night work focus more on physical protection and safety aspects, such as nutritious food and transportation, rather than on financial compensation. The practice of providing overtime wages or night work allowances generally depends on the company's internal policies or the results of collective bargaining agreements (PKB), so they are not uniform between sectors.²¹

4) Legal Protection for Female *Night Shift* Workers Reviewed from the Sanctions

If a company fails to fulfill the obligations stipulated in the Kepmenakertrans RI No. Kep.224/Men/2003 regarding employers who employ female workers during working hours between 23.00 and 07.00, then the company has the potential to be subject to criminal sanctions. The rules regarding this sanction are contained in Article 187 of Law No. 13/2003 on Manpower, which provides a legal basis for the

²¹ Irhammudin Irham and Ibrahim Fikma Edrisy, "Legal Implementation of Women Workers Working at Night (Study on Workers of Lee Hotel, Bandar Jaya, Central Lampung)," *Iblam Law Review* 2, no. 1 (2022): 92–109, <https://doi.org/10.52249/ilr.v2i1.58>.

imposition of criminal penalties against companies that violate these obligations, which reads:

- (1) Whoever violates the provisions as referred to in Article 37 paragraph (2), Article 44 paragraph (1), Article 45 paragraph (1), Article 67 paragraph (1), Article 71 paragraph (2), Article 76, Article 78 paragraph (2), Article 79 paragraph (1), and paragraph (2), Article 85 paragraph (3), and Article 144, shall be subject to criminal sanctions of imprisonment for a minimum of 1 (one) month and a maximum of 12 (twelve) months and/or a fine of at least Rp 10,000,000.00 (ten million rupiah) and a maximum of a lot of Rp 100,000,000.00 (one hundred million rupiah).
- (2) Criminal acts as intended in paragraph (1) are criminal offenses.²²

B. Legal Protection for Female Workers on the Night Shift In Germany

a) Protection of Women's Workforce Regarding Night Working Hours

In Germany, legal protection for female workers working night shifts is regulated through *the Mutterschutzgesetz*, the *Maternity Protection Act* (MuSchG) or the Maternity Protection Act (MuSchG):

The translation of Article 4 of *the Mutterschutzgesetz* is as follows

²² Tiara Selvia Putri, "Legal Protection of Women Workers Working at Night Hri Reviewed Based on Law Number 13 of 2003 concerning Manpower," *Journal of Law* 6, no. 2 (2020): 12–13.

Additional work bans; Rest Time

(1) An employer shall not employ a pregnant or lactating woman who is 18 years of age or older to perform work for more than eight and a half hours a day or more than 90 hours in two weeks. Employers may not hire pregnant or lactating women under the age of 18 to perform work for more than eight hours a day or more than 80 hours in two weeks. Sunday is included in those two weeks. Employers may not hire pregnant or lactating women to perform work beyond the weekly working hours agreed in the contract on average during the monthly period. If there are several entrepreneurs, the working hours must be summed.

(2) Employers shall provide uninterrupted rest time to pregnant or lactating women for at least eleven hours after the end of the working day.²³

According to the *Maternity Protection Act* (MuSchG), a pregnant or breastfeeding woman may work a maximum of eight and a half hours per day and 90 hours per fortnight. For women under the age of 18, this is a maximum of eight hours per day and 80 hours per fortnight. Exceptions are only allowed in individual cases that are specifically justified with the approval of the supervisory authority. This means that the woman must expressly agree to this, there must be a doctor's certificate stating that no one prohibits work, and in the case of night work, there must be no undue risk to the pregnant woman or her child from working alone.

²³ "The Law on the Protection of Mothers in the Workplace, Education and Study (Mutterschutzgesetz/MuSchG)" (2017), https://www.gesetze-im-internet.de/muschg_2018/.

Article 5 of the *Mutterschutzlohn* is as follows:

(1) Employers may not employ pregnant or lactating women between 8 p.m. and 6 a.m. Employers may employ them until 10 p.m. provided that the requirements of Section 28 are met.

(2) The training organization shall not employ pregnant or lactating women within the meaning of Part 1 Paragraph 2 Sentence 2 Number 8 between 8 p.m. and 6 a.m. as part of its school or university education. The training organization may instruct him to attend the course until 10 p.m., if

1. the woman expressly expresses her willingness to do so;
2. attendance is required at that time for training purposes; and
3. In particular, there is no irresponsible risk for a pregnant woman or her child due to working alone.

Pregnant or lactating women can withdraw their statements under Sentence 1 Number 1 at any time with effect for the future.²⁴

Pregnant female workers are prohibited from working at night, which is between 20.00 and 06.00. Under certain conditions, pregnant female workers can still work until 22.00, but this is only allowed if there is written consent from the worker and permission from the labor supervisory authority. This provision aims to protect the health of the mother and fetus from biological and psychological risks that can arise from night work. There are

²⁴ Maternal Protection in the Workplace, Education and Study Act (Mutterschutzgesetz/MuSchG).

no rules regarding women who are not pregnant, but women who work at night are still closely monitored and must meet the occupational safety and health requirements set out in German labor law. Although there is no specific prohibition for non-pregnant women to work night shifts, companies are still required to conduct a risk assessment (*Gefährdungsbeurteilung*) related to the health and safety of workers. If night work is considered risky, companies should take steps to reduce or eliminate those risks. As stated in *Arbeitsschutzgesetz* or Occupational Safety and Health Act Article 5:

Article 5 of *Beurteilung der Arbeitsbedingungen* is as follows:

- (1) The employer establishes the necessary occupational safety and health measures based on the risk assessment related to the worker's work.
- (2) The assessment is carried out by the employer based on the nature of its activities. If the working conditions are similar, an assessment of one workplace or activity is sufficient.
- (3) Risks may arise in particular from
 1. design and furnishing of workplaces and workstations,
 2. physical, chemical and biological influences,
 3. design, selection and use of work equipment, in particular materials, machines, devices and systems, and their handling,

4. the design of the work and production process, the sequence of work and working time and their interaction,
5. inadequate qualification and training of employees,
6. Psychological stress at work.²⁵

Under Article 5 of the ArbSchG, employers have an obligation to assess work risks that may arise from various aspects, including from the regulation of working hours, psychological stress, and the design of work processes, as well as to take the necessary precautions. This assessment must be carried out thoroughly according to the type of activity, including night work, to ensure individual occupational safety and health. Thus, although the approaches are different, both Indonesia and Germany emphasize the importance of protection for women workers working night shifts through legal policies and preventive occupational safety practices.

Overall, despite the different forms of protection, the two countries are working to ensure that women workers, especially those who work at night, are guaranteed their basic rights, both in terms of health, safety, and work comfort.

b) Legal Protection for Women Workers Reviewed from the Rights of Night Working Hours

In Germany, workers who work night shifts get several rights, one of which is a medical examination, which is

²⁵ "Occupational Safety and Health Act (Arbeitsschutzgesetz/ArbSchG)" (1996), <https://www.gesetze-im-internet.de/arbschg/>.

regulated in *the Arbeitszeitgesetz* (ArbZG) or the Working Hours Law Article 6 paragraphs (1), (2) and (3), namely:

Arbeitszeitgesetz (ArbZG) or the Working Hours Law Article 6 paragraph (1), paragraph (2) and paragraph (3):

- (1) The working hours of night workers and shift workers are set based on the ergonomics provisions that have been established regarding humane work design.
- (2) The hours of night workers on weekdays do not exceed eight hours. An extension may only be made up to ten hours if, contrary to Section 3, an average of eight hours per workday is not exceeded in one calendar month or in four weeks. For periods where night workers as referred to in Article 2 Paragraph 5 No. 2 are not required to do night work, then Article 3 Sentence 2 will apply.
- (3) Night workers have the right to undergo occupational health checks before starting work and thereafter periodically for at least 3 (three) years. After reaching the age of 50, night workers are entitled to this right once a year. The cost of the examination is borne by the employer, unless the employer offers free examinations to night workers through the company doctor or through the services of a company doctor outside the company.²⁶

²⁶ "The Law of Working Hours (*Arbeitszeitgesetz*/ArbZG)" (1994), <https://www.gesetze-im-internet.de/arbzgf/>.

This provision shows that the state not only regulates the duration of work, but also ensures the sustainability of workers' health through continuous and structured medical interventions. Overall, this regulation shows that the German employment law system places the balance between work productivity and the protection of workers' rights as a key pillar in the arrangement of night shifts.

In Germany there are no regulations that specifically require nutritious food or transportation. In some sectors, collective bargaining or large corporate policies may stipulate dinner allowances, access to nighttime canteens, or even transportation subsidies, but these are optional and not regulated nationally. As implemented by one of the companies, namely Amazon, they provide transportation in the form of shuttle and shuttle buses for their workers but not only those who work night shifts but all shifts. And in Germany there is gender equality, so there is no difference between male and female workers.

c) Wage Protection for Female Workers on Night Shift

The regulation regarding wages for night workers is regulated in Article 6 paragraph (5) of the *Arbeitszeitgesetz* (ArbZG), which reads:

"Unless there is a collective bargaining agreement governing compensation, the employer must provide the night worker with a reasonable number of paid days off for hours worked at night or a reasonable supplement to the gross wages to which he is entitled".²⁷

It said that night workers are entitled to additional compensation, either in the form of

²⁷ The Law of Working Hours (*Arbeitszeitgesetz*/ArbZG).

additional rest time or higher wages. The form and amount of such compensation are usually regulated in collective bargaining agreements (Tarifverträge) or company policies. In practice, the additional wage for night work in Germany ranges from 15% to 30% of the normal wage, depending on the sector and the applicable agreement. This provision reflects the legal recognition of the health and social risks incurred by night workers.

d) Legal Protection for Women Workers Reviewed from the Sanctions

Witnesses for companies in Germany who fail to provide legal protection to female workers, especially those who are pregnant or breastfeeding, may be subject to strict legal sanctions in accordance with the provisions of Articles 32 and 33 Paragraph (1) numbers 1 to 3 of the Maternity Protection Act (*Mutterschutzgesetz/MuSchG*). It reads as follows:

Article 32 of the *Mutterschutzgesetz* (MuSchG) regarding fines is as follows:

Article 32

Fine

- (1) Any person who willfully or negligently:
 1. contrary to Article 3 Paragraph 1 Sentence 1, also in relation to Sentence 4, contrary to Article 3 Paragraph 2 Sentence 1, also in relation to Sentence 2 or 3, contrary to Article 3 Paragraph 3 Sentence 1, Article 4 Paragraph 1 Sentence 1, 2 or 4 or Article 5 Paragraph 1

- Sentence 1, Article 6 Paragraph 1 Sentence 1, Article 13 Paragraph 1 Number 3 or Article 16 employs a woman,
2. contrary to Article 4 Paragraph 2, rest time is not given, not given correctly or not given on time,
 3. allowing women to work contrary to Article 5 Paragraph 2 Sentence 1 or Article 6 Paragraph 2 Sentence 1,
- (2) In the matters referred to in numbers 1 to 5, number 8, number 16, and number 17 paragraph (1), administrative violations may be threatened with a fine of a maximum of €30,000 and a maximum of €5,000.²⁸

The translation of Article 33 of the Mutterschutzgesetz (MuSchG) is regarding the following criminal provisions:

Article 33

Criminal Provisions

"Whoever deliberately commits an act as referred to in Article 32 Paragraph 1 numbers 1 to 5, numbers 8, 16 and 17 that endanger the health of women and children shall be punished with imprisonment for a maximum of one year or a fine".²⁹

²⁸ Maternal Protection in the Workplace, Education and Study Act (Mutterschutzgesetz/MuSchG).

²⁹ Maternal Protection in the Workplace, Education and Study Act (Mutterschutzgesetz/MuSchG).

B. Similarities and Differences in the Protection of Women Workers on Night Shifts in Indonesia and Germany

Both countries have similar protection rules because both have ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as well as several conventions from the International Labour Organization (ILO). The protection of women workers on the night shift in Indonesia and Germany shows similarities in the spirit of protection of occupational health and safety, but differs in policy approaches and priorities.

Night shift working hours for female workers in Indonesia and Germany have striking similarities and differences. In common, both countries regulate night working hours to protect the health and safety of female workers, especially those who are pregnant or breastfeeding. In both countries, pregnant women are prohibited from working at night. In Indonesia, female workers are prohibited from working between 23.00 and 07.00 if they are under 18 years old or pregnant, as stipulated in Law No. 13 of 2003 and Kepmenakertrans No. 224 of 2003. Meanwhile, in Germany, according to the Mutterschutzgesetz (MuSchG), pregnant or lactating female workers are not allowed to work during the curfew from 8:00 p.m. to 6:00 a.m., except with special approval and medical assessment. The difference lies in its time constraints and flexibility. Indonesia sets stricter night working hours for young and pregnant workers, while Germany provides exceptions with strict conditions and sets maximum daily and weekly working hours in detail to maintain the health of female workers. In addition, Germany also regulates a minimum of 11 hours of rest after working hours, which is not specifically regulated in Indonesian labor law.

In Indonesia, regulations through the Decree of the Minister of Manpower and Transmigration No. Kep.224/Men/2003 emphasize the fulfillment of physical and security needs, such as providing nutritious food of at least 1,400 calories, ensuring safety and decency in the workplace, and providing shuttle facilities. Meanwhile, in Germany, protection for night workers, including women, is regulated in *Arbeitszeitgesetz* (ArbZG) Article 6 paragraph (3), which focuses more on long-term health aspects through regular occupational health check-ups financed by employers. The striking difference lies in the focus on protection while Indonesia focuses more on practical and logistical protection during night working hours, while Germany prioritizes preventive aspects and medical health monitoring. Although they differ in implementation, the two countries have the same goal, which is to ensure the safety and welfare of women workers who work at night. These two regulations reflect the state's efforts to guarantee the basic rights of workers, especially those who work in special conditions such as at night. Consistent implementation of this policy is essential to create a humane and sustainable work environment for all parties.

The arrangement of compensation or night work wages in both countries has similarities and differences. The similarity is that the two countries allow for the provision of additional incentives or allowances for night workers, either through collective labor agreements (PKB) or company policies. However, these similarities are more practical in nature in the field and are not based on the equality of legally binding norms that are explicitly binding in both legal systems. The difference is that Indonesia does not have a special legal provision that expressly requires the payment of additional wages to night workers. The policy is optional and left to the company's internal affairs, so its implementation is uneven. In contrast, Germany clearly regulates the right to night work compensation in § 6 paragraph (5) of the *Arbeitszeitgesetz*

(ArbZG), which requires employers to provide additional rest time or financial compensation for night workers.

Indonesia and Germany both apply criminal sanctions and fines, but sanctions in Germany are more focused on administrative fines with high nominal nominals, namely fines of up to €30,000 and for a maximum sentence of 1 year, while in Indonesia it includes criminal penalties and fines. In Indonesia, according to article 127 of the Manpower Law, the penalty is a minimum of 1 (one) month and a maximum of 12 (twelve) months, a minimum fine of Rp 10,000,000.00 (ten fines of at least Rp 10,000,000.00 (ten million rupiah) and a maximum of Rp 100,000,000.00 (one hundred million rupiah).

Comparison Table.

Aspects	Indonesia	Germany
Legal Basis	<ul style="list-style-type: none"> - Law No. 13 of 2003 - Kepmenakertrans No. 224/MEN/2003 	<ul style="list-style-type: none"> - <i>Arbeitszeitgesetz</i> (ArbZG) article 6 - <i>Mutterschutzgesetz</i> (MuSchG) Articles 5 and 6 - <i>Arbeitsschutzgesetz</i> (ArbSchG) Article 5
Definition of Night Shift	Generally between 23.00 – 07.00	Generally between 23.00 – 06.00

Restrictions for certain ages	It is forbidden to employ women under 18 years old between 23.00 – 07.00	Employees under 18 years old are prohibited from working nights
Prohibitions for Pregnant Women	Prohibited if it endangers the mother or fetus (medical information must be provided)	It is forbidden to work nights between 20.00 – 06.00, unless there is written consent and without medical risk
Mandatory Facilities for Night Workers	- Nutritious food/beverages (min. 1,400 calories)- Guaranteed safety and decency- Shuttle facilities	It is not explicitly regulated in the law, but can be given based on the results of risk assessments or company policies.
Maximum Working Duration per Day	Generally 8 hours/day; Overtime is allowed to a certain extent	Max. 8 hours/day for pregnant/lactating women; 90 hours/2 weeks (adult), 80 hours/2 weeks (under 18 years old)
Penalty	- Article 187 of Law No. 13 of 2003 concerning Manpower: a minimum of 1 (one) month and a maximum of 12 (twelve) months.	- Article 32 of the MuSchG: Administrative fine of up to €30,000 Misdemeanor: fine of up to €5,000

	A minimum fine of IDR 10,000,000.00 (ten million rupiah) and a maximum of IDR 100,000,000.00 (one hundred million rupiah)	- Article 33 of the MuSchG: A maximum penalty of 1 (one) year if he endangers the health of women and children
Wages	Not explicitly regulated	Regulated in Article 6 paragraph (5) of the Arbeitszeitgesetz (ArbZG)

IV. Conclusion

Legal protection for women workers working night shifts is an urgent need in order to ensure basic rights and decent work safety. Both Indonesia and Germany have demonstrated their commitment to such protection through the ratification of international conventions such as CEDAW and a number of national regulations. However, the approach used by the two countries shows substantial differences.

Legal protection for female workers on the night shift is a tangible reflection of the state's responsibility to ensure the basic rights of every citizen to work safely, healthily, and with dignity. Although Indonesia and Germany both show a commitment to the principles of gender equality and worker protection, the regulatory

approaches of the two have significant differences. Indonesia focuses more on administrative and practical protections, such as the provision of nutritious food and shuttle facilities, a ban on night work for pregnant women or under the age of 18 without explicit provisions on night work compensation. Meanwhile, Germany implements a medical- and ergonomic-based preventive approach, including the right to night wage compensation expressly regulated in the *Arbeitszeitgesetz*, including restrictions on working hours, periodic medical examinations, occupational risk assessments, as listed in the *Arbeitsschutzgesetz*.

This gives an idea that legal protection requires not only the existence of norms, but also the effectiveness of implementation and a culture of legal compliance. Thus, Indonesia can strengthen the implementation of existing regulations and review policies to be more oriented towards the long-term safety of women workers, in line with international standards.

References

- Adi Putra, I Gede, A.A Sagung Poetri Paraniti, and I.B Anggapurana Pidada. "Legal Protection for Women Workers in the Tourism Sector." *Yustitia Journal* 17, no. 2 (2023): 48–60. <https://doi.org/10.62279/yustitia.v17i2.1125>.
- Amriyati, Siti Nurbaiti, Ning Adiasih, Septiyani, Meta Indah Budhianti, Arini Suliantari, and Fraya Layola Nainggolan. "Protection of Women Workers in Family-Friendly Policies in the Workplace: Socialization in Trade Unions." *Journal of Abdimas Bina Bangsa* 4, no. 2 (2023): 1312–22. <https://www.osha.gov>.
- Dewi, Ida Ayu Intan Surya, Ni Komang Arini Styawati, and I Wayan Arthanaya. "Legal Protection of Women Workers at

- Anantara Uluwatu Bali Resort." *Journal of Legal Preferences* 3, no. 2 (2022): 364–69.
<https://doi.org/10.55637/jph.3.2.4945.364-369>.
- Duquaine-Watson, Jillian M. "Convention on the Elimination of All Forms of Discrimination Against Women." *Women's Health: Understanding Issues and Influences: Volumes 1-2* 1, no. May (2022): 172–73.
<https://doi.org/10.32380/alrj.v0i0.1343>.
- Harahap, Ahyar Dinda Harahap, Krisnanto Aditya Rizky, and Khairul Imran. "A Legal Review of Corporate Responsibility for the Safety of Women Workers at Night" 2, no. 1 (2025): 162–69. www.hukumonline.com.
- Stuart. "Legal protection for female workers is reviewed based on Law Number 13 of 2003 concerning Manpower in the Sampoerna Bojonegoro Cigarette Factory Company." *Journal of Law, Volume 2 No. 2 2020 Faculty of Law, Bojonegoro University* 2, no. 2 (2020): 12–21.
- Inspiration, Mohammad. "Legal Protection of Women Workers in the Karaoke Business Sector." *Insane* 2 (2025): 66–74.
- Irham, Irhammudin, and Ibrahim Fikma Edrisy. "Implementation of the Law on Female Workers Working at Night (Study on Workers of Lee Hotel, Bandar Jaya, Central Lampung)." *Iblam Law Review* 2, no. 1 (2022): 92–109.
<https://doi.org/10.52249/ilr.v2i1.58>.
- Japian, Cheryl Michelia. "The existence of the International Labour Organization (ILO) in providing protection of workers' rights based on ILO Convention Number 111 of 1958 concerning Discrimination in Employment and Position and its Implementation in the United States." *Lex Privatum* 9, no. 2 (2021): 28–39.
- Jaya, Febri, and Andy Sanjaya. "Comparison of Women's Labor Legal Protection in Indonesia and Singapore." *Rule of Law : Journal of Legal Research* 31, no. 2 (2023): 85–98.

- <https://doi.org/10.33369/jsh.31.2.85-98>.
- Korua, Jolanda M, Feiby S Mewengkang, Royke A Tarore, Revy S M Korah, Presly Prayogo, and Muhammad Hero Soepeno. "Legal Protection of Female Labor Related to Reproductive Rights in Manado City" 9, no. 2 (2024): 601–10.
- Mia, Amalia, Rahma Melisha Fajrina, Nur Asmarani, A.Alfies Sihombing, and Yeni Nuraeni. *Criminal Law: Theory and Its Application in Indonesia*. Edited by Sepriano. Jambi: PT. Sonpedi publishing Indonesia, 2024.
- Monica, Princess. "DATA: Participation Rate of the Women's Labor Force in Indonesia 2020-2024," 2024. <https://www.inilah.com/tingkat-partisipasi-angkatan-kerja-perempuan>.
- Organization, International Labour. "No Title," n.d. https://normlex.ilo.org/dyn/nrmlx_en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102938.
- Daughter, Tiara Selvia. "The legal protection of female workers who work at night is reviewed based on Law Number 13 of 2003 concerning Manpower." *Journal of Law* 6, no. 2 (2020): 12–13.
- Ridho Hidayat, Muhammad, and Nikmah Dalimunthe. "Women's Labor Protection Law in a Legal Perspective." *SIBATIK JOURNAL: Scientific Journal of Social, Economic, Cultural, Technological, and Educational Fields* 2, no. 1 (2022): 233–50. <https://doi.org/10.54443/sibatik.v2i1.536>.
- Rizkia, Dwi Nanda, and Hardi Fardiansyah. *Legal Research Methods (Normative and Empirical)*. Bandung: Widina Media Utama Publishers, 2023.
- Setyowati, Enik. "Cedaw International Convention: UN Work in Eliminating Discrimination against Women & Indonesia's Support through Ratification." *Journal of Artifacts* 8, no. 2 (2021): 127–35. <https://doi.org/10.25157/ja.v8i2.6277>.
- Siahaan, Ade Yuliany, and Fitriani Fitriani. "Government Policy on

- the Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on Women's Rights in Indonesia." *Journal of Darma Agung* 29, no. 2 (2021): 193.
<https://doi.org/10.46930/ojsuda.v29i2.1060>.
- Suyanto. *Legal Research Methods Introduction to normative, empirical and combined research*. Gresik: UNIGRES PRESS, 2023.
- Thahir, Yang Meliana, Liani Sari, Suwito, Rollys Suriani, Darisalim Telaumbanua, Erham, et al. *An Introduction to Indonesian Law*. Jambi: PT. Sonpedi publishing Indonesia, 2024.
- The Working Hours Law (Arbeitszeitgesetz/ArbZG) (1994).
<https://www.gesetze-im-internet.de/arbzg/>.
- Occupational Safety and Health Act (Arbeitsschutzgesetz/ArbSchG) (1996).
<https://www.gesetze-im-internet.de/arbschg/>.
- Law on the Protection of Mothers in the Workplace, Education and Study (Mutterschutzgesetz/MuSchG) (2017).
https://www.gesetze-im-internet.de/muschg_2018/.
- Widyasputri, Monicha; Nice Sarnawa. "Legal Protection of the Special Rights of Women Workers (Comparison of the Job Creation Law and the Employment Law)." *Media of Law and Sharia* 5, no. 2 (2024): 141–54.