

GOVERNMENT RESPONSIBILITY FOR THE FREE NUTRITIONAL MEAL PROGRAM POLICY BASED ON THE PRINCIPLE OF LIABILITY IN CASES OF STUDENT POISONING

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Abstract

The Free Nutritious Meal Program (MBG) is an affirmative action policy implemented by the government within the framework of a welfare state. Its purpose is to fulfill children's constitutional rights to nutrition, health, and protection, as guaranteed in the 1945 Constitution of the Republic of Indonesia. This program aims to improve the quality of the workforce by providing nutritious food to students, toddlers, pregnant women, and breastfeeding mothers. However, in 2025, during its implementation, several cases of mass poisoning occurred in several areas, causing thousands of students to experience health problems. These incidents have raised legal issues related to the application of the principle of responsibility, in determining the form and scope of government responsibility as a direct provider of public services.

This research uses a normative legal approach with statutory, conceptual, and case studies methods. The legal materials analyzed include Law Number 30 of 2014 concerning Government Administration, Law Number 18 of 2012 concerning Food, Law Number 8 of 1999 concerning



Consumer Protection, the Civil Code, and regulations governing food safety and the management of food safety products. This analysis examines the application of fault-based and absolute liability in situations where government action is taken.

This research shows that the government cannot avoid responsibility simply by involving third parties, as MBG is a form of public authority. However, obstacles remain, including inconsistent regulations and a lack of clear compensation for affected individuals. Therefore, legal regulations need to be harmonized and improved to ensure legal certainty and adequate protection for children, the most vulnerable group.

KEYWORDS

government responsibility, liability, Free Nutritional Meal Program, student poisoning, state administrative law.

I. Introduction

The modern state is no longer merely seen as a mere guardian of order (*nachtwachterstaat*), but has instead evolved into a state actively responsible for realizing the welfare of its citizens (*welfare state*). Within the concept of a welfare state, the state not only carries out the task of regulating and enforcing laws, but also has a constitutional obligation to fulfill the basic rights of citizens, such as the right to health, nutrition, and the right to live in decent conditions. This approach makes the state the primary party in providing quality, safe, and equitable public services for all citizens. Indonesia has implemented the concept of a welfare state in its legal basis, as stated in the preamble to the 1945 Constitution.¹

The welfare state concept stems from the government's efforts to manage all available resources to achieve one of the nation's goals: improving the well-being of its citizens. This idea was then transformed into a policy that was previously discussed with the public, allowing for a clear

¹ Marsudi Putra, "Welfare State in Pancasila Perspective," *Likhitaprajna Scientific Journal* 23 (December 31, 2021): 139–51, <https://doi.org/10.37303/likhitaprajna.v23i2.199>.

understanding of whether a country is truly successful in providing well-being to its citizens. Poverty and public health are among the many issues that governments must urgently address when developing welfare policies.²

This is explicitly reflected in the Preamble to the 1945 Constitution of the Republic of Indonesia, particularly the fourth paragraph which affirms the state's objective to "protect all the Indonesian people and all of Indonesia's homeland" and "advance general welfare." This affirmation is then reinforced in various other constitutional provisions, including Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia which guarantees the right of every person to live in physical and spiritual prosperity and to receive health services, and Article 34 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which requires the state to develop a social security system and empower the weak and underprivileged.

The implementation of nutritious meal programs in schools still faces various difficulties, such as limited operational funds, lack of understanding about nutrition among students and parents, and the lack of use of local food ingredients in preparing nutritious menus.³ Nutritional issues remain a significant concern in Indonesia, particularly for children, pregnant women, and other vulnerable groups. One major challenge is stunting, a condition of stunted growth resulting from prolonged malnutrition from pregnancy until the child is two years old, which affects the child's physical, cognitive, and social development. The state has a legal obligation to provide public services that are not only formal and administrative, but also meaningful and focused on protecting human rights. Public services in the field of health and nutrition, particularly for children, are crucial because they are directly related to the quality of the future workforce. Children as a vulnerable group

² Aniken Syahnaz, "The Correlation of the Welfare State with the Democratization of Community Life as a Form of a Complete State," *SPECTRUM HUKUM* 18 (April 30, 2021), <https://doi.org/10.35973/sh.v18i1.1624>.

³ Rifiy Qomarrullah et al., "Long-Term Impact of the Free Nutritional Meal Program on Health and Educational Sustainability," *Indonesian Journal of Intellectual Publication* 5, no. 2 (2025): 130–37, <https://doi.org/10.51577/ijpublication.v5i2.660>.

have a constitutional right to receive special protection, as regulated in Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that every child has the right to live, develop, and grow and has the right to be protected from violence and discrimination.

Providing good nutrition from an early stage is a vital foundation for developing quality human resources. According to information from the official website of the State Secretariat, the Free Nutritious Meals (MBG) program was introduced by President Prabowo's administration as a strategic step towards realizing the ideals of an advanced, independent, and just Indonesia. The MBG program is a concrete manifestation of the Indonesia Emas 2045 master plan and also supports the seventh of the eight Astra Cita missions, namely strengthening human resource development. This step demonstrates that nutrition issues are closely linked to the national development agenda. By focusing on vulnerable groups such as children and pregnant women, the MBG strives to reduce the prevalence of malnutrition while improving the quality of life of communities in remote and impoverished areas, which have often been excluded from access to basic state services.

In response to these needs, the government issued Presidential Regulation Number 83 of 2022 concerning the National Nutrition Agency. The National Nutrition Agency is mandated to design policies, regulate, and implement national nutrition programs, including the Free Nutritious Meals program (Herawati, 2024). Through Presidential Regulation Number 83 of 2024, the government appointed the National Nutrition Agency (BGN) as the primary institution tasked with realizing national nutritional needs. This program focuses on four main groups, namely: (1) Students currently studying from early childhood to secondary school; (2) Children under five years of age; (3) Pregnant women, to prevent complications and stunting in infants; and (4) Breastfeeding mothers, to help maintain the

quality of breast milk and support optimal infant growth.⁴The MBG program is defined as providing free nutritious food to students, with a focus on improving their health and motivation to learn. Data shows that approximately 41% of students in Indonesia experience hunger during the learning process, negatively impacting concentration and academic performance. The main objectives of this program are to improve students' nutritional intake, reduce stunting and malnutrition rates among children, and encourage student motivation and engagement in learning activities. Beneficiaries of this program include students at various levels of education, toddlers, pregnant women, and breastfeeding mothers.⁵

In order to implement the Free Nutritional Meal Program, which is one of the country's main agendas, the government then issued Presidential Regulation Number 115 of 2025 concerning the Management of the Free Nutritional Meal Program. Although this regulation offers clearer guidelines regarding implementation procedures, responsible organizational structures, procurement processes for goods and services, and regional government responsibilities, the existence of this Presidential Regulation does not fully resolve the fundamental problem of state legal accountability in the event of failures in its implementation, including food poisoning incidents. Reliance on regulations equivalent to the Presidential Regulation can result in gaps in norms, particularly in determining responsible parties, accountability models, and methods of restitution for affected communities.⁶The MBG program was launched by the government as a form of the state's spirit, "Social justice for all Indonesian people", with the noble goal of ensuring equal nutritional needs for all students, from remote areas such as the 3T (Disadvantaged, Frontier, Infected) to big cities,

⁴ Ministry of State Secretariat, "Presidential Decree of the Republic of Indonesia Number 83 of 2024 Concerning the National Nutrition Agency (Copy)," no. 106767 (2024): 1–22.

⁵ Merlinda Ajeng and Yusuf Yusmar, "Analysis of Prabowo Subianto's Free Meal Program on Increasing Student Learning Motivation in Schools: A Sociology of Education Perspective," *Ranah Research: Journal of Multidisciplinary Research and Development* 7, no. 2 (2025): 1364–73.

⁶ 2025 Presidential Decree No. 115, "President of the Republic of Indonesia Regulation of the President of the Republic of Indonesia," *Demographic Research*, no. 132447 (1996): 4–7.

regardless of their social and economic background.⁷

The government, as the state administrator, has the primary responsibility to ensure public welfare, including meeting basic needs such as nutritious food, especially for school-age children. In the context of national development, the policy of providing free nutritious meals in schools is a strategic effort to improve the quality of Indonesia's human resources. This policy is based on the understanding that children are the nation's future generation who must receive protection and fulfillment of their rights, one of which is the right to healthy and nutritious food. The policy of free nutritious meals in schools has been adopted by various countries as part of social protection programs and to improve the quality of education, as good nutrition has been proven to contribute significantly to children's physical, cognitive, and psychosocial development. In addition to technical issues, food safety issues are increasingly becoming a concern in the implementation of the MBG. It was revealed that the implementation of this program in several schools still does not meet the standards for quality assurance and halal food. Food delivered to schools does not have a halal label, does not include expiration date information, and some kitchens do not have official halal certification. These findings indicate a mismatch between applicable regulations and field practices, resulting in the risk of quality problems or contamination. The need for weak technical and administrative oversight indicates that food safety in MBG still requires serious improvement.⁸

The MBG program was originally initiated as an affirmative government policy to address nutritional disparities between regions. The Free Nutritious Meal Program, as an affirmative policy, should provide special protection for children as a vulnerable group. However, the

⁷ Saifuddin; Almunarizi. Firmansyah, Ricky; Hamzah, "PANCASILA: Journal of Indonesianness," *Pancasila: Journal of IndonesiannessKeindonesiaan* 05, no. 1 (2025): 2797–3018.

⁸ Muhammad Rayhan and Zulham, "Implementation of Halal Assurance in the Free Nutritious Meal Program (MBG) in East Medan District," *Al-Sulthaniyah* 14, no. 2 (2025): 370–80, <https://doi.org/10.37567/al-sulthaniyah.v14i2.4154>.

occurrence of food poisoning demonstrates the state's failure to fulfill its affirmative obligations, particularly in the areas of monitoring and protecting children's rights. This failure has legal consequences in the form of state liability. Repeated cases of mass poisoning demonstrate weak oversight and the absence of legal instruments guaranteeing compensation for victims and accountability for food providers. The integration of criminal, civil, and administrative legal systems related to consumer protection in the free lunch program needs to be strengthened to ensure that food providers are legally responsible for the products they provide.⁹

This situation demonstrates a discrepancy between expectations in the implementation of MBG and the actual situation. MBG is supposed to aim to improve health and the quality of learning, but the reality on the ground shows that food safety is still not fully guaranteed. This misalignment between expectations and reality indicates a research gap that needs further exploration. Most previous studies have focused on the positive impacts of MBG on nutrition, the MSME economy, and learning enthusiasm, but few studies have clearly addressed how weak food quality monitoring during MBG implementation can lead to health risks that can reduce learning effectiveness.¹⁰ In its implementation practice, the Free Nutritious Meal Program (MBG) is not free from various food poisoning incidents that have caused significant numbers of victims in several regions in Indonesia. Since the beginning of the program in 2025, various reports have shown that thousands of students from various levels of education have experienced health problems after consuming food provided through MBG. Monitoring data until the end of October 2025 recorded that the number of poisoning victims nationally had reached more than 11,000 students, with an increase in certain periods showing an increase of more than 1000 cases in a 1-week

⁹ Irwan and Kamarudin, "Basicedu Journal. Basicedu Journal," *Basicedu Journal* 5, no. 5 (2021): 3(2), 524–32, <https://journal.uii.ac.id/ajie/article/view/971>.

¹⁰ Untung Makbul, Widi Yanti, and Rina Pebriana, "Public Perception of the Reporting of the Free Nutritional Meal Program Poisoning Case Through TikTok Content," *Journal of Innovative and Creativity (Joecy)* 6, no. 1 (2026): 2070–80, <https://doi.org/10.31004/joecy.v6i1.6769>.

period. The largest concentration of cases was reported to have occurred in the Java Island region, although similar incidents were also found outside Java.

In West Bandung Regency, an Extraordinary Event (KLB) status was declared after approximately 364 students reported experiencing symptoms such as nausea, vomiting, and diarrhea after consuming MBG food. In Central Java and West Java, several schools reported that dozens to hundreds of students required medical attention for allegedly consuming food that did not meet hygiene standards. Meanwhile, in several areas in South Sumatra and North Kalimantan, dozens of elementary and middle school students reported experiencing digestive system disorders after participating in the communal meal program. In one incident in South Sumatra, more than one hundred students from various levels of education reported experiencing signs of poisoning simultaneously.

This phenomenon demonstrates that food safety issues in the implementation of the MBG (Based on Food Safety Governance) are not isolated incidents, occurring only once or in one region, but are recurring and widespread. The number of victims, reaching thousands of students, suggests that the risks are not solely due to individual technical errors, but rather to broader problems in the supervision, distribution, and food safety standards within the program. In the context of a welfare state, this situation becomes a constitutional issue because it relates to children's rights to health and safety protection when using public services directly managed by the government. Lack of oversight is the primary cause of these poisoning incidents. Structural imperfections were also found (Herniati & Idawati, 2025), who stated that local government oversight remains formal and has not yet penetrated the technical aspects of food quality.¹¹ From a child rights regulatory perspective, providing unsafe food is a violation of children's basic rights to a healthy and protected educational

¹¹ Najwa Herniati and Idawati, "The Effectiveness of the MBG (Free Nutritious Meals) Government Program on Early Childhood Learning Interest," June 6, no. 1 (2025): 88–98, <https://doi.org/10.37216/aura.v6i1.2484>.

environment.¹²

In the implementation of the Free Nutritional Meals Program (MBG), as a form of direct public service, the state bears not only moral and political responsibility but also legal responsibility for any losses arising from the failure to implement the program. The principle of liability in state administrative law emphasizes that any government action or omission in exercising public authority that causes harm to citizens can give rise to accountability obligations, either in the form of state liability. In the case of student poisoning due to consumption of MBG Program food, the losses experienced by service recipients cannot be viewed solely as a technical risk, but rather as an indication of the state's failure to fulfill its legal obligation to guarantee the safety, suitability, and protection of children's rights as a vulnerable group. Therefore, this incident raises fundamental legal issues regarding who should be held accountable, what the appropriate form of liability is, and the extent to which government responsibility can be absolved by reason of the involvement of third parties such as catering service providers. This unclear framework of accountability demonstrates the urgency of strictly applying the principle of liability in assessing government accountability for losses arising from the implementation of the MBG Program.

This situation further demonstrates the importance of considering the government's legal responsibility for the losses incurred. When a public service that should improve nutritional quality actually creates health problems for thousands of beneficiaries, questions about the form and extent of government responsibility are inevitable. Therefore, data on the number of MBG poisoning victims in various regions of Indonesia is not only important as a factual basis but also serves as a basis for considering the application of the liability principle in state administrative law.

From the perspective of state administrative law, failure to provide

¹² Rayhan and Zulham, "Implementation of Halal Guarantee in the Free Nutritious Meal Program (MBG) in East Medan District."

public services that results in losses for citizens can give rise to accountability obligations based on the principle of liability. This principle emphasizes that the state cannot abdicate its responsibility by reason of the involvement of a third party, if the loss arises from the exercise of public authority. Therefore, the case of student poisoning in the Free Nutritional Meal Program raises fundamental legal issues regarding the application of the liability principle in determining government accountability, both in the form of state liability and other relevant forms of accountability, as well as the mechanism for restoring the rights of victims as recipients of public services.

The novelty of this research lies in its critical approach to the government's view of the Free Nutritional Meal Program (MBG), which has been positioned as an affirmative policy within the framework of a welfare state and a symbol of the state's commitment to improving public welfare. This approach tends to emphasize the program's social benefits, but has not been accompanied by the formulation of a clear legal accountability system when the policy fails to protect the community as beneficiaries. Unlike previous studies, which generally only evaluate the program's effectiveness or highlight technical errors in its implementation, this study positions the student poisoning incident as an indication of the state's failure to fulfill its public responsibilities, rather than simply an operational error on the part of a third-party food provider.

Using a state administrative law approach utilizing the principle of liability, this study demonstrates that the reliance on the regulation of the Free Nutritional Meal Program at the Presidential Regulation level has created a normative gap in the accountability system. This situation allows the government to shift or limit its responsibilities by citing the involvement of third parties as food providers. This study also highlights that the absence of clear regulations regarding compensation mechanisms, victim rights restoration, and forms of government administrative accountability has placed children as beneficiaries in a legally vulnerable position. Therefore,

this study not only offers a new perspective on the failure of national nutrition policy implementation but also critiques the welfare development paradigm that tends to focus on policy expansion without being accompanied by a strengthening of the state's legal accountability framework in the provision of public services, particularly those directly related to the protection of children's nutrition and health.

II. Methods

This research takes a normative legal approach, focusing on the analysis of statutory regulations and principles of state administrative law related to government accountability. Several approaches used in this research include a statute-based approach, a conceptual approach, and a case-based approach. The statutory approach is used to analyze the legal basis for implementing the MBG Program, the authority of the National Nutrition Agency, and regulations related to food safety. Meanwhile, the conceptual approach is used to explore theories of state accountability and liability principles, which are relevant in evaluating administrative actions.

III. Results and Discussion

1. How is the principle of liability applied in the government in determining government responsibility for cases of student poisoning in the free nutritious meal program?

The Free Nutritious Meals (MBG) Program, implemented in Indonesia since early 2025, is a key government policy aimed at reducing stunting and improving public health, particularly among schoolchildren, pregnant women, and groups vulnerable to malnutrition. However, the widespread occurrence of mass food poisoning caused by MBG in various regions has

drawn public and political attention, raising questions about the government's responsibility when the food provided can actually endanger citizens' health. Handling the food poisoning crisis during the MBG Program requires strong collaboration between the health, food safety, regulatory, and public communication sectors. Success in overcoming the crisis depends on the speed of medical treatment and inter-agency cooperation in reporting, investigating, and monitoring food distribution.¹³

Indonesia's legal framework regarding food and health is quite comprehensive in terms of existing regulations. For example, Law Number 18 of 2012 concerning Food outlines the government's role in ensuring food safety and states that the central and regional governments are responsible for ensuring food quality and safety in an integrated manner throughout the production and distribution process. This involves establishing rules, standards, procedures, and criteria for food safety and overseeing their implementation.

The government, as the primary organizer of this program, must ensure that the food provided is safe for school children. This is because the MBG program aims to fulfill children's constitutional rights to nutrition and health in accordance with Article 28H of the 1945 Constitution and Law Number 18 of 2012 concerning Food. The principle of government responsibility, or liability, is the state's obligation to be responsible for losses incurred due to actions or omissions in implementing public programs. This is clearly regulated in Law Number 30 of 2014 concerning Government Administration (UUAP), Article 18 paragraph (1), which states that the government is responsible for unlawful acts committed by its employees. In addition, Article 1365 of the Civil Code (BW) also outlines this responsibility into two types: liability based on fault and absolute liability. In an Indonesian government still influenced by a paternalistic culture, this

¹³ Desi Sri Rejeki and Djunaedi Djunaedi, "Implementation of Handling Actions for Health Problems Regarding Food Poisoning," *International Journal of Health Sciences* 2, no. 3 (2024): 1234–43, <https://doi.org/10.59585/ijhs.v2i3.500>.

concept aims not only to encourage voluntary compliance with the law and increase public awareness, but also to provide more effective protection for victims.

The main legal basis for implementing responsibility in Indonesia is increasingly strengthened based on Consumer Protection Law No. 8 of 1999, especially Article 19 paragraph (1) which requires strict responsibility for business actors, including the government as a provider of public services in the MBG program, where the state is considered a producer or distributor of nutritious food.¹⁴In the food sector, Article 111 paragraph (2) of the Food Law clearly requires the government to ensure that available food is safe, of high quality, and has sufficient nutritional value. If mass poisoning occurs, the guilty party will receive multiple legal sanctions. Meanwhile, criminal acts are regulated in Articles 359 and 360 of the Criminal Code, especially for negligence resulting in death or serious injury. In addition, there are administrative sanctions in the form of revocation of distribution permits managed by the Food and Drug Monitoring Agency (BPOM). The poisoning case in the MBG program, which was launched as a presidential measure to address stunting and increase access to education through free lunches for elementary and junior high school students, shows that the government cannot completely hand over responsibility to private vendors. This is because the constitution (Article 31 paragraph 1 of the 1945 Constitution) stipulates that the government has a primary obligation to ensure the right to education for citizens. The free school lunch program is a policy that has been implemented in various countries, including Indonesia, with the main goal of improving and maintaining children's nutrition and supporting their intellectual growth and development.¹⁵In addition, the Convention on the Rights of the Child (which has been ratified

¹⁴ Government Regulation of the Republic of Indonesia, "Government Regulation of the Republic of Indonesia Concerning Consumer Protection (PP Number 8 of 1999)," Government Regulation of the Republic of Indonesia 2003, no. 1 (1999): 1–46.

¹⁵ Fadilah nisa Kholifatun and May Ayu Purbaningrum, "Triwikrama: Jurnal Ilmu Sosial," Triwikrama: Jurnal Ilmu Sosial 01, no. 11 (2023): 40–50.

through Law No. 23 of 2002) states that the government has an obligation to ensure that children receive safe food, so that food poisoning is considered a violation of human rights that can give rise to overall responsibility.

Legally, state responsibility can be explained through two approaches: the concept of state responsibility in international law and the concept of liability in national law. States essentially have an obligation to protect children's rights, which requires them to prevent third parties, such as catering providers or program implementers, from engaging in actions that could violate these rights. Furthermore, states also have an obligation to fulfill by providing adequate food programs for children. If food poisoning occurs during the implementation of these programs, this could indicate a failure by the government to fulfill its obligation to fulfill and protect children's rights. Theoretically, the state's inability to prevent food poisoning incidents can be viewed as a violation of its obligation to protect children's rights to health and adequate nutrition. In practice, the most frequently applied form of accountability is administrative accountability. Findings indicate that food poisoning incidents are usually responded to with internal audits and evaluations of program implementation procedures. This step represents a form of administrative accountability undertaken by the government to reassess the implementation system and prevent similar incidents from recurring in the future. However, these administrative accountability mechanisms are generally internal and do not always provide adequate redress for victims, especially in the form of direct compensation or real justice.

In many cases, administrative actions are limited to evaluating and improving internal systems, without touching on aspects of individual accountability or providing compensation to injured parties.¹⁶The MBG

¹⁶ Kasmianti et al 2023, "ENFORCEMENT OF CHILDREN'S RIGHTS TO SAFE AND HEALTHY FOOD: A CASE STUDY OF POISONING IN THE FREE NUTRITIONAL MEAL PROGRAM AS SEEN FROM THE STATE'S RESPONSIBILITY" 32, no. 3 (2021): 167–86.

program, which aims to provide assistance to millions of students across Indonesia with trillions of rupiah in funding from the central government, often faces obstacles due to mass food poisoning caused by food contaminated with bacteria such as Salmonella, pesticide residue on vegetables, or poor storage by local vendors that do not meet HACCP standards. In 2025, reports occurred in several regions such as Central Java, North Sumatra, and East Nusa Tenggara, with hundreds of people experiencing symptoms such as vomiting, diarrhea, and even requiring hospitalization. Responsibility is often unclear between the central government (the Ministry of Education and Culture and the Coordinating Ministry for Human Development), local governments, school principals as field supervisors, and private food providers, making it difficult for parents to seek compensation for medical costs, psychological problems, or lost school days. However, the government, as the primary organizer, must provide comprehensive compensation and system improvements, such as mandatory certification of food vendors. In some cases, the poisoning incidents were not entirely caused by negligence on the part of the program implementers, such as providing food that was unfit for consumption. Another contributing factor is the differences in students' physical conditions and ability to fight disease (immunity), resulting in some children being unable to properly tolerate the types or amounts of food provided. These differences in conditions make food poisoning a complex phenomenon that cannot simply be attributed to technical errors. This situation creates a polemic and policy dilemma for local governments. While the MBG program aims to improve the nutritional intake and health of schoolchildren, it also faces challenges in maintaining food safety standards and menu suitability for each individual.¹⁷

¹⁷ Justitia Adysti and Feni Rosalia, "Implementation of Good Governance Principles in Planning the Free Nutritional Meal Program in North Lampung Regency, South Kotabumi Regency," *RIGGS: Journal of Artificial Intelligence and Digital Business* 4, no. 4 (2025): 2913–20, <https://doi.org/10.31004/riggs.v4i4.3902>.

In applying the concept of liability in cases like this, there are two main complementary approaches. The first is liability based on fault, where the party suing, such as parents or legal counsel, must prove four things as stipulated in Article 1365 of the Civil Code: an unlawful act, a mistake (either intentional or negligent), actual loss, and a causal relationship. For food providers who are direct perpetrators, the theory of strict liability applies, where the perpetrator can still be punished even if there is no evidence of fault, because the activity of providing public food poses a high risk to human safety. For government officials who are negligent in carrying out supervision, the theory of vicarious liability applies, where responsibility is placed on the party with the authority to supervise the direct perpetrator.¹⁸This is similar to the provisions of the Consumer Protection Act, which has proven effective in resolving industrial pollution cases.¹⁹

The enforcement mechanism for liability begins with an investigation by the Food and Drug Monitoring Agency (BPOM), the Ministry of Health, and the Indonesian National Police (Polri) to identify specific causes, such as bacterial contamination, chemical residues, or imperfections in the supply chain, that led to the food poisoning. This is followed by a civil lawsuit filed with the State Administrative Court (PTUN) seeking compensation, including medical expenses, transportation, and psychological trauma for children. Administrative liability proved to be the most frequently sought and used. Findings indicate that poisoning incidents trigger internal audits and evaluations of program procedures, which constitute a form of administrative liability. This reflects the government's efforts to improve the system and prevent recurrence. However, this form of liability is often only carried out internally and does not always provide

¹⁸ Hari Sandi Atmaja and Wahyudi Ilham, "CRIMINAL LEGAL RESPONSIBILITY IN CASES OF MASS POISONING IN THE FREE NUTRITIONAL FOOD PROGRAM IN WEST BANDUNG REGENCY BASED ON POSITIVE LAW IN INDONESIA" 4, no. 8 (2025): 5511–18.

¹⁹ CISDI, "Fnm-Policy-Paper-Free-Nutritious-Meals---A Look-at-the-Goals-of-the-Budget-and-Program-Governance-CISDIpdf-1723609579793-Fnm," Policy Paper Series: Reviewing the Free Nutritious Meals Program 2023, no. 17 (2024): 1–16.

direct compensation or adequate justice for victims. Administrative actions often involve evaluation and improvement within the organization, but do not address the root cause of the problem, leading to individual liability or compensation payments for those affected.

The comparison of types of liability can be explained as follows: liability due to fault requires complete evidence of the act, fault, loss, and causal relationship, usually applied to cases of vendor supervision negligence based on Article 1365 of the Civil Code and often takes a long time in court; strict liability only requires evidence of loss and causal relationship to expedite the recovery of losses due to direct poisoning from MBG food based on Article 19 of the Consumer Protection Law, which is more beneficial to consumers; and criminal liability targets negligence or intentionally causing harm such as the use of hazardous materials by vendors based on Article 359 of the Criminal Code, with the aim of deterring the perpetrator.²⁰

2. What are the normative barriers in statutory regulations that cause the government's liability for food poisoning in the Free Nutritious Meals program to be unclear?

The implementation of the Free Nutritious Meal Program (MBG), which aims to improve the nutritional quality of Indonesian children, is essentially a manifestation of the state's obligation to fulfill the right to food and health. This right is guaranteed in Article 28H paragraph (1) and Article 34 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that everyone has the right to receive health services and the state is

²⁰ Afrija Khoirun Nissa et al., "Free Nutritious Food Policy: Political Economy Analysis and Its Impact on Community Welfare Case Study: SMP Negeri 4 Tanjungpinang," *Socius: Journal of Social Sciences Research* 2, no. 11 (2025): 33–37, <https://doi.org/10.5281/zenodo.15521260>.

obliged to care for the poor and neglected children. However, in practice, the emergence of various cases of food poisoning on a fairly large scale indicates a serious problem in the provision of public services by the state. From the perspective of state administrative law, every provision of public services by the government must guarantee the security and safety of the community as service recipients. In implementing the MBG program, the government has legal responsibilities as regulated in Law Number 23 of 2014 concerning Regional Government. Article 12 of the law explains that the obligatory affairs of regional governments include basic services in the health sector, including the provision of adequate and safe food for the community. When poisoning occurs, responsibility lies not only with the technical implementers but also with policymakers at the central and regional levels who are negligent in their oversight functions. Ethically, this negligence reflects the government's weak sense of moral responsibility for public safety, as the program's primary goal is to protect and improve the well-being of citizens.²¹ Therefore, when food poisoning incidents occur in the program, fundamental issues arise regarding the clarity of the legal basis for government accountability, both at the central government level and at the implementing units in the regions. This problem is exacerbated by the existence of normative obstacles in the applicable legal regulatory system, where the regulations are still sectoral, not fully integrated, and create unclear division of responsibilities between the National Nutrition Agency (BGN), local governments, and Nutrition Fulfillment Service Units (SPPG) as food providers who often come from micro, small, and medium enterprises (MSMEs).

The first normative obstacle can be traced to the provisions of Presidential Regulation Number 83 of 2024 concerning the National Nutrition Agency (BGN) and its implementing regulations, namely Presidential Regulation

²¹ Arafanditama Najim Hidayat et al., "Forms of Legal and Ethical Violations: A Case Study of Poisoning in the Implementation of the Free Nutritional Meal Program," *Indonesian Journal of Legal Scholars* 2, no. 1 (2025): 275–81, <https://doi.org/10.71417/jchi.v2i1.124>.

Number 115 of 2025 concerning the Governance of the Free Nutritional Meal Program. In these provisions, BGN is indeed designated as the agency with national responsibility for implementing the MBG program. However, in operational practice, program implementation involves various parties, such as SPPGs, regionally-owned enterprises (BUMDs), and MSMEs acting as food providers. The involvement of these many actors creates a complex accountability structure and often results in the transfer of responsibility to the food provider as a third party. As a result, when cases of food poisoning occur, the resulting responsibility is more often positioned as civil liability of the catering service provider, rather than as a form of state administrative accountability for the government's failure to carry out supervision. In many cases, BGN tends to direct responsibility to implementing units such as SPPGs, even though, within the framework of state administrative law, the functions of supervision, guidance, and granting health permits are inherent obligations of the government as a public service provider. In addition, Presidential Regulation Number 115 of 2025 does not comprehensively regulate the mechanism for providing fast and direct compensation from the state to victims, so victims often have to go through a long and complex civil lawsuit process.

The next normative obstacle relates to overlapping regulations regarding food safety supervision, as stipulated in Law No. 18 of 2012 concerning Food and Government Regulation No. 86 of 2019 concerning Food Safety. Both regulations essentially affirm the obligation to ensure the safety of food consumed by the public.²² Although the draft Presidential Regulation specifically for the MBG is still under discussion by various ministries and has not yet been ratified, the program has been implemented without a clear legal basis, resulting in many regions lacking technical guidance for

²² PP, "Government Regulation of the Republic of Indonesia Number 86 of 2019 Concerning Food Safety," Government Regulation Concerning Food Safety 2019, no. 86 (2019): 1–102.

implementing the program in the field.²³ However, in practice, enforcement of administrative sanctions for food safety violations is often slow and ineffective. Nutrition Service Units (SPPG) found to have served food that causes food poisoning should be subject to severe administrative sanctions, such as revocation of their operating permits or suspension of business activities. However, in reality, case handling is often directed at civil liability in the form of compensation or even criminal sanctions against business actors, without any evaluation of the administrative responsibilities of government agencies with oversight authority, such as local health offices or institutions authorized to oversee nutrition programs. Weak oversight of the quality of the food provided presents an additional challenge to this program. In some places, the food provided does not always meet the required nutritional standards. Providing an unbalanced or insufficiently varied diet can reduce the benefits of this program. Therefore, authorities must implement stricter oversight to ensure that the food provided is truly healthy and safe for children.²⁴ This condition indicates a lack of clear norms regarding the form of joint responsibility between the government as regulator and supervisor and food providers as technical implementers in cases of mass food poisoning.

This problem is also related to the unclear concept of unlawful acts by the government in the context of state administrative law. In administrative law doctrine, the concept of *onrechtmatige overheidsdaad* is recognized, namely unlawful acts committed by the government in exercising its authority. In the context of the MBG program, questions arise regarding the extent to which negligence by food providers can be attributed to government responsibility. If SPPG carries out food provision activities based on a

²³ Ronaan Maulana Basuki, Nur Wahid Muharrom, and Nicholas Adi Kusuma, "Implementation of the Free Nutritious Meal Program: Evaluation of Implementation and Operational Challenges," 2026, 1413–23.

²⁴ Hana Afifah Rahmah et al., "Analysis of the Effectiveness of the Free Nutritional Meal Program in Indonesian Elementary Schools in 2025," *Integrative Perspectives of Social and Science Journal* 2, no. 2 (2025): 2855–66, <https://ipssj.com/index.php/ojs/article/download/380/349/1216>.

cooperation contract with the government, then in principle, this relationship creates a principal-agent relationship. Thus, negligence by food providers, for example in maintaining hygiene and sanitation standards, can in principle also give rise to responsibility for the government as the party providing the mandate and carrying out supervision. However, the absence of uniform and strict standard operating procedures (SOPs) regarding hygiene and sanitation in the National Nutrition Agency regulations often causes the government to hide behind clauses in cooperation contracts with third parties. As a result, the government's administrative responsibility in the supervisory aspect becomes less clear and difficult to enforce.

This regulatory ambiguity is further exacerbated by the slow implementation of administrative sanctions against food service providers found to be negligent. Inequality in regulations accounts for approximately 20% of the total obstacles, with weak inter-agency coordination due to a lack of operational regulations. These obstacles fundamentally impact the program's overall effectiveness.²⁵In practice, the government often places more emphasis on the sustainability of the MBG program than on firm law enforcement against violations. Consequently, victims of food poisoning often lack adequate legal protection due to the lack of a clear administrative mechanism for filing compensation claims. However, from the perspective of state administrative law, any losses arising from the provision of public services that do not meet safety standards should be the responsibility of the government. The state is obligated to provide redress in the form of medical expenses, compensation, or other forms of restitution to affected communities. The weakness of normative regulations regarding these

²⁵ Aris Sarjito, "Free Nutritious Meal Program as a Human Resource Development Strategy to Support National Defense," *International Journal Administration, Business & Organization* 5, no. 5 (2024): 129–41, <https://doi.org/10.61242/ijabo.24.454>.

redress mechanisms means that victims often have to fight independently through lengthy legal processes to obtain justice.

Overall, the normative barriers that contribute to the unclear basis for government accountability for food poisoning cases within the Free Nutritional Meal Program are rooted in several key issues. First, the various laws and regulations governing the implementation of nutrition and food safety programs have not been integrated. Second, the operational provisions in Presidential Regulation Number 115 of 2025 do not yet detail the division of responsibilities and compensation mechanisms for victims. Third, the food safety oversight standards stipulated in Government Regulation Number 86 of 2019 have not been optimally implemented in the context of the MBG program. Therefore, efforts are needed to harmonize regulations that emphasize that the government, as the program organizer, remains primarily responsible for the safety of beneficiaries. Within this framework, the government should be positioned as the party with direct responsibility through the principle of vicarious liability, so that food poisoning victims can obtain a swift and effective administrative compensation mechanism without first having to prove the fault of the food provider through a judicial process.

IV. Conclusion

The Free Nutritious Meal Program (MBG) is a form of government responsibility in fulfilling children's rights to good nutrition and health, in accordance with the provisions of the 1945 Constitution of the Republic of Indonesia. However, cases of mass poisoning have occurred, indicating that food safety supervision and protection are not running well.

Based on the principle of liability, the government remains liable for

any losses incurred because the program is a public service under the state's authority, even if its implementation involves a third party. However, the three regulations do not clearly state how the government is held accountable in such situations, leaving victims with legal uncertainty.

Therefore, it is necessary to improve and harmonize regulations so that state governance is clearer and legal protection for children as a vulnerable group can run effectively.

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