

STATE ACCOUNTABILITY FOR FOOD POISONING IN THE IMPLEMENTATION OF FREE NUTRITIOUS FOOD PROGRAMS: A LEGAL PERSPECTIVE

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Abstract

This study aims to analyze the legal responsibility of the state in cases of food poisoning occurring within the Free Nutritious Meal Program (MBG) in Indonesia, and to examine the regulatory framework governing the state's obligation to ensure food safety in such public programs. The research employs a normative legal approach, focusing on the analysis of national legislation and relevant international legal instruments. The findings reveal a significant legal gap in the state accountability mechanism, particularly in terms of victim compensation and ineffective oversight of program implementation. Normative and practical constraints such as weak inter-agency coordination and limited victim access to complaint mechanisms are identified as major barriers to the enforcement of state legal responsibility. Therefore, the development of an ideal legal accountability model must integrate administrative, civil, and human rights dimensions, supported by strong law enforcement and regulatory harmonization between central and regional governments. This study provides recommendations for strengthening regulatory frameworks and accountability mechanisms to ensure the protection of citizens' rights to safe and nutritious food.

Keywords: State legal responsibility; food poisoning; free nutritious meal program; food safety; accountability; food regulation.

INTRODUCTION

The Government of the Republic of Indonesia, through the Free Nutritious Meal Program (Program Makan Bergizi Gratis, MBG), as part of its national health and nutrition policy, strives to ensure the fulfillment of nutritional needs among the population, particularly vulnerable groups such as children, pregnant women, and breastfeeding mothers. This program not only aims to reduce stunting rates but also emphasizes that the right to safe and healthy food constitutes a fundamental human right that must be upheld by the state in accordance with the constitution, health laws, food laws, and various international obligations. However, the occurrence of multiple food poisoning incidents during the implementation of MBG indicates that food safety has not been consistently guaranteed, raising critical questions about the extent to which the state can be held legally accountable for failures in safeguarding the program's beneficiaries (Vivano Emanuelle, 2025).

Previous studies have predominantly examined the liability of business actors in food poisoning cases under Consumer Protection Law No. 8 of 1999, encompassing

administrative, civil, and criminal responsibilities. For instance, Risma Duma Sari Lumban Batu (2016), in her study “Business Actors’ Liability to Consumers Harmed by Food Poisoning Based on Law No. 8 of 1999,” found that sanctions imposed on business actors are often limited to material compensation and business license revocation, with less attention paid to physical and non-material damages. Similarly, Rio Kurniawan (2015) investigated the criminal liability of business actors, concluding that evidentiary challenges and enforcement barriers often impede justice for victims. Conversely, Ontran Sumantri Riyanto & Mei Rianita Elfrida Sinaga (2025) specifically explored children’s rights to safe and nutritious food in MBG-related food poisoning cases, focusing on state responsibility. Their findings indicate that while normative regulations exist, implementation issues including supervision, resource allocation, technical capacity, and access to justice remain suboptimal. Nonetheless, most existing research has not thoroughly explored the normative dimensions of state responsibility from constitutional, administrative, social welfare, or international and national regulatory frameworks in relation to food poisoning incidents within the MBG program in a comprehensive manner.

Despite these contributions, significant legal gaps persist in the literature: first, many studies emphasize the liability of business actors and consumers, while the normative framework for state responsibility constitutionally, administratively, and under international obligations regarding food poisoning incidents in public programs like MBG remains insufficiently articulated. Second, mechanisms of state accountability (including implementing regulations, supervision standard operating procedures, state sanctions, and victim compensation procedures) in MBG food poisoning cases have not been thoroughly examined. Third, there is a paucity of comparative research on practices across regions or evaluations of the effectiveness of recent regulatory reforms and international legal instruments adopted in the MBG context following updates to relevant legislation.

This study’s novelty lies in its comprehensive normative analysis of state legal responsibility in food poisoning cases specifically within the MBG program, encompassing (a) an examination of national legislation (constitution, Food Law, Consumer Protection Law, and implementing regulations) alongside international instruments (Convention on the Rights of the Child, rights to health and food), (b) evaluation of supervisory mechanisms and compliance with food safety standards in MBG, and (c) identification of vulnerabilities in implementation at regional versus central government levels, including victims’ access to compensation, justice, and remediation. Furthermore, this research will assess the impact of administrative rulings, potential litigation, and the practices of supervisory bodies such as the National Agency of Drug and Food Control (BPOM), Health Offices, and the Ombudsman in addressing MBG food poisoning incidents.

The urgency of this research is underscored by several factors. First, the MBG program involves substantial public funding and concerns fundamental citizen rights, thus failures in ensuring safety can lead to serious health consequences, public distrust, and socio-economic losses. Second, food poisoning incidents reported in various regions by media and authorities confirm the issue’s real and pressing nature. Third, recent regulations and policies (including

Presidential Regulations, Ministerial Circulars, and oversight policies) necessitate normative evaluation to ensure they transcend formalities and effectively uphold state accountability and victim protection. Fourth, from an international perspective, compliance with human rights standards and commitments to the Sustainable Development Goals (SDGs) obligates the state to prevent, address, and remediate the impacts of food poisoning in public programs such as MBG.

In addressing these gaps, this study aims to achieve a sharper normative understanding of the extent and conditions under which the state can be held legally accountable for food poisoning incidents in MBG, and to formulate regulatory and mechanism recommendations that ensure state responsibility is not merely conceptual but practically implemented to deliver justice to victims.

RESEARCH METHOD

This study employs a normative legal research methodology, grounded in both conceptual juridical and legislative juridical approaches, with the objective of analyzing the legal responsibility of the state concerning food poisoning incidents occurring during the implementation of the Free Nutritious Meal Program (Program Makanan Bergizi Gratis, MBG). Normative legal research is chosen because the primary focus of this study is to examine and critically analyze prevailing positive legal norms and assess their relevance and adequacy as a basis for state accountability. The conceptual juridical approach is utilized to dissect the concept of “state legal responsibility” within the framework of human rights-based public service, specifically the rights to safe food and health, under both national and international legal regimes. Meanwhile, the legislative juridical approach is employed to scrutinize various relevant statutory provisions, including the 1945 Constitution of the Republic of Indonesia, Law No. 18 of 2012 on Food, Law No. 8 of 1999 on Consumer Protection, as well as derivative regulations such as government regulations, ministerial regulations, and technical policies governing the MBG program (Soekanto, S., et al., 2018).

The legal materials utilized consist of primary, secondary, and tertiary sources. Primary legal materials include pertinent legislation and court decisions when available, whereas secondary materials encompass legal literature, academic journals, reports from state institutions, and official documents issued by ministries and supervisory agencies such as the National Agency of Drug and Food Control (BPOM), the Ombudsman, and the National Human Rights Commission (Komnas HAM). Tertiary sources involve legal dictionaries, legal encyclopedias, and other referential documents that support conceptual analysis. Data collection was conducted through library research and verified electronic legal document searches.

The analysis of legal materials was carried out using normative-qualitative methods aimed at interpreting legal norms and evaluating their sufficiency and suitability to meet the demands of justice and legal protection within the context of state responsibility for failures in ensuring food safety. This study also incorporates a limited comparative approach by

examining international standards and practices in other countries regarding state accountability in food poisoning cases within similar public programs. The findings from this analysis are expected to generate normative propositions and policy recommendations that are more just, implementable, and victim-oriented, particularly within the context of Indonesia's Free Nutritious Meal Program (Marzuki, P.M., 2015).

RESULT AND DISCUSSION

Forms of State Legal Responsibility for Food Poisoning Cases in the Free Nutritious Meal Program (MBG) from National and International Legal Perspectives

Within the Indonesian national legal system, state responsibility for food poisoning cases arising from the Free Nutritious Meal Program (Program Makanan Bergizi Gratis, MBG) can be analyzed across several dimensions: constitutional, administrative, civil, and criminal, although practical and normative obstacles impede full realization. From a constitutional perspective, the state, through the 1945 Constitution, holds a fundamental obligation to protect the right to life, the right to health, and to guarantee general welfare; Articles 28H and 34 affirm that the state must provide basic facilities and guarantees for its citizens, including safe and adequate food. If the MBG program results in food poisoning cases due to state failure in policy formulation, supervision, or adequate resource allocation, it can be argued that the state has violated its constitutional responsibility to uphold citizens' fundamental rights. In this context, the state acts not merely as a facilitator but assumes active responsibility to implement preventive and corrective measures to ensure that the MBG program does not pose health risks.

Administratively, state responsibility is manifested through central and regional government institutions mandated to regulate food management, oversee food quality, and enforce complaint mechanisms and administrative sanctions. Under the Food Law (Law No. 18 of 2012), the state is obligated to establish norms, standards, procedures, and criteria for food safety to ensure that food distributed including through public programs meets safety and quality requirements. However, this law does not explicitly stipulate that the state is liable to pay compensation or bear direct responsibility if food poisoning occurs due to public program failures. Administrative practice reveals supervisory weaknesses in the field, such as distribution failing to meet sanitation standards, insufficient technical capacity at regional levels, and sluggish corrective actions post-incident, which pose tangible challenges. Consequently, despite the regulatory framework, the state's administrative authority often lacks accompanying victim compensation instruments or clear accountability mechanisms within the MBG program (Sari, W., 2023; Kurniawan, R., 2015).

In the civil domain, state liability becomes more problematic. Typically, civil compensation claims in food poisoning cases target business actors (producers, distributors) under the previous Food Law (Law No. 7 of 1996) and consumer protection regulations. The 1996 Food Law stipulates that "any person producing food for distribution ... if the food produced causes health damage ... is responsible for providing compensation" (civil liability

provision). However, within the MBG context, since the state (through government agencies) may act as the primary organizer or coordinator, questions arise as to whether the state can be considered a “producer” or provider liable under civil law. Given the absence of explicit norms imposing a civil compensation obligation on the state for MBG-related food poisoning, victims often face significant litigation hurdles when seeking redress against the state or government agencies. Practically, civil claims against the state remain exceedingly rare due to procedural barriers, state immunity doctrines, and the lack of clear legal grounds.

Criminally, state responsibility emerges when public officials or government agencies are proven negligent or abusive of authority causing food poisoning. For example, manipulating sanitation standards, allowing the distribution of hazardous food, or neglecting mandatory inspections under regulatory frameworks can form the basis for criminal liability of regional or central officials. Nonetheless, criminal prosecution of state officials in public program contexts such as MBG remains infrequent in court decisions, reflecting enforcement challenges related to proving negligence, limitations of criminal law targeting public administration, and immunities or exceptions afforded to state officials.

Internationally, Indonesia, as a party to the International Covenant on Economic, Social, and Cultural Rights (ICESCR), recognizes the right to adequate food under Article 11, which obliges states to take measures to ensure access to safe and adequate food. This instrument requires states to “respect, protect, and fulfill” the right to food including ensuring that public food programs do not pose health risks. Indonesia’s ratification of ICESCR via Law No. 11 of 2005 integrates these international norms into the national human rights framework. The National Human Rights Commission (Komnas HAM) underscores that the state is responsible not only for food provision but also for ensuring food safety and protecting the public from risks arising from public food sources. At the international level, principles of state responsibility for violations of economic, social, and cultural rights provide normative benchmarks for assessing state failures in the MBG program (Patel, M., & D’Souza, R., 2018; Vivano Emmanuelle, et al., 2025).

Thus, forms of state legal responsibility in MBG food poisoning cases can be understood as a composite of constitutional obligations, administrative authority, potential civil liability, and possible criminal sanctions against officials. However, among these elements, the lack of explicit regulatory provisions and gaps in practical implementation constitute major barriers to effective enforcement of state responsibility. Moreover, the state’s engagement with international legal instruments reinforces the demand that government action should be proactive rather than reactive, establishing accountability mechanisms, compensation frameworks, and victim remediation measures to ensure the protection of citizens’ rights to food and health.

Legal Provisions and Implementation Effectiveness in Ensuring Food Safety in Public Programs

Within the national legal framework, the state's obligation to guarantee food safety in public programs such as the Free Nutritious Meal Program (Program Makanan Bergizi Gratis, MBG) is primarily governed by Law Number 18 of 2012 on Food ("Food Law"). This law mandates that the national food system encompass aspects of food safety, quality, and nutrition, while requiring the establishment of norms, procedures, standards, and safety criteria as obligations of both central and regional governments. Specific provisions in the Food Law assign oversight responsibilities for the production, distribution, processing, and circulation of food to prevent contamination from biological, chemical, and other hazardous substances. Additionally, the law regulates the authority of supervisory agencies, mandates truthful labeling and advertising, certification requirements, as well as administrative actions and criminal sanctions in cases of violations of food safety and quality standards.

Further implementing regulations, including Government Regulations (Peraturan Pemerintah, PP) and Ministerial Regulations, provide technical details to support the execution of these obligations. For instance, Minister of Agriculture Regulation Number 12 of 2022 governs the supervision of food safety concerning the importation of fresh animal and plant-based food with respect to radioactive contamination, reflecting the state's efforts to protect consumers from external risks that may not be fully controllable at the source of import or across borders. This exemplifies the ongoing update of technical regulations to address emerging risks, whether domestic or international in origin. Moreover, National Food Agency Regulation Number 2 of 2024 on the Supervision of Compliance with Food Safety, Quality, Nutrition, Labeling, and Advertising Requirements reinforces supervisory authority over fresh food products, including labeling and advertising aspects, which are essential for ensuring that the public receives accurate information and safe, nutritious food.

Despite the comprehensiveness of these legal provisions on paper, implementation reveals several weaknesses. Monitoring reports of the 2012 Food Law identify an urgent issue regarding the non-establishment of a dedicated government body responsible for food affairs as mandated by Article 151 of the Food Law such an institution was supposed to be established no later than three years post-enactment, i.e., by 2015, but remains unestablished years later. The delay in forming this food agency has hindered policy coordination from upstream to downstream and between central and regional governments, resulting in uneven food safety supervision nationwide. Operationally, significant disparities exist between central and remote regions concerning human resources, laboratory testing facilities, sanitation control instruments, and standardized public food handling procedures. Some regions lack adequate local regulations or standard operating procedures (SOPs) to manage MBG program operations related to hygiene, storage, transportation, and distribution of nutritious meals, all of which impact food safety. While technical regulations such as Minister of Agriculture Regulation No. 12/2022 and National Food Agency Regulation No. 2/2024 demonstrate commitment to strengthening oversight, implementation reports indicate that supervision of fresh food ingredients and labeling/advertising remains lax, particularly in traditional markets and local distribution channels that are insufficiently monitored.

Regarding public participation and transparency, the Food Law and its implementing regulations have established complaint mechanisms and defined the public's role in the food safety oversight system. However, in practice, public awareness of the right to food safety remains uneven; information dissemination and public education on food safety standards and poisoning risks are still inadequate, and victims' access to voice complaints or seek state accountability remains limited (Sari, W., 2023).

Overall, national legal provisions indicate that the state's obligation to ensure food safety in public programs such as MBG is comprehensively regulated through the Food Law and supporting technical regulations, which are progressively updated to address contemporary risks. Nevertheless, the effectiveness of implementation remains suboptimal due to institutional shortcomings, capacity disparities across regions, unsynchronized local regulations, and insufficient routine supervision and compensation mechanisms for victims in cases of poisoning incidents.

Normative and Implementation Challenges in State Accountability for Victims of Food Poisoning in the MBG Program

Although national regulations such as Law No. 18 of 2012 on Food ("Food Law") establish the state's obligation to ensure food safety through standards of quality, safety, and oversight, several normative barriers continue to impede effective state accountability for victims of food poisoning under the Free Nutritious Meal Program (MBG). First, the law does not explicitly stipulate the state's obligation to provide civil compensation or reparations to victims in cases of food poisoning arising from government programs particularly when the state or a governmental agency serves as the direct provider of food. Second, key legal terms and concepts such as "service failure," "government negligence," and "state/institutional liability" remain ambiguous within the regulatory framework, making them difficult to operationalize as the basis for litigation or administrative claims. Due to the general nature of existing norms, critical aspects such as the burden of proof, causality, and mechanisms for compensation remain inadequately defined (Qomarrullah, R., et al., 2025).

From an implementation standpoint, a range of practical constraints further limits state accountability. One major issue is the limited oversight capacity at the regional level: local government agencies often lack laboratory testing facilities, adequately trained personnel in food safety, and proper sanitation infrastructure. This uneven distribution of resources results in inconsistent implementation of national standards across different regions. Additionally, coordination among supervisory bodies such as the Food and Drug Authority (BPOM), Health Offices, Fisheries and Agriculture Departments, and relevant ministries is often fragmented. Consequently, enforcement of food safety regulations and responses to negligence in MBG implementation vary widely between central and local levels. Bureaucratic inertia, regulatory gaps (such as the absence of local implementation rules or technical MBG guidelines), and delays in regulatory response further exacerbate issues in managing food poisoning incidents particularly in areas such as incident investigation, victim access to complaint mechanisms, and the transparency of public reporting.

Another critical barrier is the doctrine of state immunity and legal protections afforded to public officials, which hinder victims from directly pursuing legal accountability against the state or individual government actors. Furthermore, existing legal norms are more focused on regulating the liability of private sector actors such as producers or food distributors rather than delineating the government's liability as a public program organizer. As a result, victims are often forced to initiate litigation against third-party providers or food vendors, rather than the state. The burden of proving fault and establishing causality is particularly onerous for victims, both factually and financially especially when documentation related to standard operating procedures, inspections, and food safety reports is incomplete or inaccessible. Lastly, socio-cultural factors also present implementation challenges: public awareness of the right to safe food and the legal complaint procedures remains low; there is insufficient education provided to program participants and the wider public on food safety standards; and victims often lack access to legal advice or assistance from legal aid organizations (Yastrebova, A. Y., et al., 2021). Together, these normative and implementation challenges contribute to a situation in which state accountability for harm suffered by victims of MBG-related food poisoning remains suboptimal despite the existence of a foundational legal framework at the national level.

Developing an Ideal and Equitable Model of State Legal Accountability in the Implementation of the Free Nutritious Meal (MBG) Program

To construct an ideal and equitable model of state accountability within the context of the Free Nutritious Meal Program (MBG), it is essential to formulate a composite framework that integrates normative, administrative, civil, and human rights-based dimensions, in accordance with the latest national legislation and international standards. Normatively, Law No. 18 of 2012 on Food ("Food Law") provides a foundational legal basis for the state's obligation to ensure food safety, quality, nutrition, availability, and affordability. The concept of "food security" under this law also encompasses the requirement that food consumed by the population must be safe and of acceptable quality. To reinforce the legal responsibility of the state, the Food Law should be complemented with explicit provisions regarding compensation mechanisms for victims of public programs in cases of food poisoning, along with clear legal standards related to the burden of proof and causality in instances of state negligence, particularly in oversight or operational failures in the implementation of MBG (Qomarrullah, R., et al., 2025).

An ideal administrative mechanism would include the establishment of an independent public food safety oversight body, equipped with investigative authority, audit functions, and a mandatory public reporting system for all food safety incidents in public programs such as MBG. This structure should also incorporate accessible community complaint units and a time-bound claims resolution process. Furthermore, the state must develop a robust monitoring and evaluation system encompassing all stages of the MBG supply chain—from food sourcing, storage sanitation, transportation, and food preparation practices, to distribution. These functions must be supported by consistent technical regulations and local-

level Standard Operating Procedures (SOPs) implemented uniformly across regions (Cates, S. C., & Ravelo, C. M., 2016).

From a civil law perspective, the concept of ideal state liability includes the provision of compensatory damages (both material and immaterial) to victims of foodborne illness directly attributable to the negligence of public institutions or systemic failure. These may include medical expenses, psychological harm, and broader socio-economic losses. Current national regulations do not explicitly authorize victims of public programs to hold the state directly liable. Accordingly, a regulatory revision or the enactment of specific implementing legislation is necessary to ensure a fair pathway to litigation and/or administrative resolution for victims. The principle of "non-retribution" toward victims and the adoption of restorative justice should be embedded in any compensation mechanism (Lumban Batu, R. D. S., 2016). In terms of human rights and international standards, the state must adopt the "respect, protect, fulfill" framework as articulated in instruments such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Indonesia is a party. National human rights institutions (such as Komnas HAM) and relevant international mechanisms can serve as accountability benchmarks when national regulations fail to adequately safeguard the right to safe food. Reporting mechanisms based on General Comment No. 12 on the Right to Adequate Food should be applied, providing victims with access to national and where applicable international human rights complaints procedures (Gundersen, C. et al., 2012).

To ensure distributive justice in implementation, the model must promote regulatory harmonization between central and regional governments. The state must issue uniform technical guidelines across governance levels, allocate sufficient financial and technical resources to remote regions, and ensure that local implementers are adequately equipped in terms of personnel, laboratory infrastructure, and sanitation facilities. Regional implementing regulations must align with national SOPs, and local governments must maintain transparent oversight systems, including active participation from civil society and local media in the monitoring and reporting processes. Finally, the ideal enforcement mechanism must encompass clear administrative and criminal sanctions for public officials or institutions found grossly negligent in managing MBG-related food safety, along with the application of civil liability to the state or responsible government agency. The existence of judicial precedents in this area is critical to affirm victims' right to pursue claims against the state. National regulations must explicitly codify such provisions to eliminate legal uncertainty (Kurniawan, 2015; Qomarrullah, R., et al., 2025).

CONCLUSION

This study concludes that the legal responsibility of the state in cases of food poisoning within the Free Nutritious Meal Program (MBG) is normatively regulated under Law No. 18 of 2012 on Food and its implementing regulations. However, a significant legal gap persists, particularly regarding the absence of clear mechanisms for compensation and the direct liability of the state toward victims of food poisoning resulting from negligence in program implementation. In practice, various obstacles including weak inter-agency coordination,

disparities in regional supervisory capacities, and the lack of accessible complaint mechanisms for victims have hindered the effective enforcement of these regulations.

Therefore, the development of an ideal and equitable model of state legal accountability is urgently required. Such a model must integrate normative, administrative, and civil law dimensions while aligning with human rights standards established by international instruments ratified by Indonesia. Key components include the establishment of an independent oversight body, the rigorous enforcement of food safety regulations, and the provision of fair compensation to victims as a means of reinforcing state accountability in the implementation of MBG. Additionally, harmonizing regulations between central and local governments, along with strengthening local implementation capacity, is essential to ensure that the program is executed effectively and safely.

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