

Criminal Liability Policy for Organizers of the Free Nutritious Meal Program in Mass Food Poisoning Cases: A Legal Certainty Approach

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Abstract: *The free nutritious meal program is a national public service policy intended to strengthen nutritional fulfillment for vulnerable groups; however, its large-scale food distribution system also creates serious food safety risks, including the possibility of mass poisoning incidents. This study examines the normative problem of unclear criminal accountability in free nutritious meal governance, particularly the absence of a foreseeable accountability map that distinguishes administrative violations from criminal conduct and identifies the relevant legal subjects. The research addresses two questions about how criminal liability is constructed in food safety incidents within the free nutritious meal program, and how the chain of criminal responsibility among the government, the National Nutrition Agency, schools, and vendors should be structured within a public policy framework. This study employs doctrinal legal research using statutory, conceptual, and comparative approaches through the examination of criminal law, food law, consumer protection law, and selected comparative references from Japan, India, and China. The findings show that Indonesian positive law provides a fragmented basis for liability through negligence offenses in the Criminal Code and criminal provisions in food and consumer legislation, yet these norms remain insufficient for a multi-actor public policy program such as the free nutritious meal. This condition creates uncertainty in liability attribution and risks selective criminalization or structural impunity. The study concludes that the free nutritious meal requires a statutory *lex specialis* that clearly regulates minimum food safety standards, liable legal subjects, fault thresholds, causation standards, and tiered sanctions in order to ensure legal certainty and effective public protection.*

Keywords: *Criminal Liability, Free Nutritious Meal Program, Legal Certainty, Food Safety*

Abstrak: Program makan bergizi gratis merupakan kebijakan pelayanan publik nasional yang ditujukan untuk memperkuat pemenuhan gizi bagi kelompok rentan, namun sistem distribusi pangan dalam skala besar juga menimbulkan risiko serius terhadap keamanan pangan, termasuk kemungkinan terjadinya keracunan massal. Penelitian ini mengkaji persoalan normatif berupa belum jelasnya pertanggungjawaban pidana dalam tata kelola makan bergizi gratis, khususnya karena belum adanya peta akuntabilitas pidana yang foreseeable untuk membedakan pelanggaran administratif dari tindak pidana serta menentukan subjek hukum yang bertanggung jawab. Penelitian ini menjawab pertanyaan tentang bagaimana konstruksi pertanggungjawaban pidana dalam insiden keamanan pangan pada program makan bergizi gratis, dan bagaimana rantai pertanggungjawaban pidana antara pemerintah, Badan Gizi Nasional, sekolah, dan vendor seharusnya disusun dalam kerangka kebijakan publik. Penelitian ini menggunakan metode penelitian hukum doktrinal dengan pendekatan perundang-undangan, konseptual, dan komparatif melalui telaah terhadap hukum pidana, hukum pangan, hukum perlindungan konsumen, serta rujukan perbandingan dari Jepang, India, dan China. Hasil penelitian menunjukkan bahwa hukum positif Indonesia telah menyediakan dasar pertanggungjawaban secara terfragmentasi melalui delik kelalaian dalam KUHP serta ketentuan pidana dalam hukum pangan dan perlindungan konsumen, tetapi norma tersebut belum memadai untuk program kebijakan publik multi-aktor seperti makan bergizi gratis. Kondisi ini menimbulkan ketidakjelasan atribusi tanggung jawab dan berisiko melahirkan kriminalisasi selektif atau impunitas struktural. Penelitian ini menyimpulkan bahwa makan bergizi gratis memerlukan *lex specialis* pada tingkat undang-undang yang secara tegas mengatur standar minimum keamanan pangan, subjek hukum yang bertanggung jawab, ambang kesalahan, standar kausalitas, serta sanksi bertingkat guna menjamin kepastian hukum dan perlindungan publik yang efektif.

Kata Kunci: Pertanggungjawaban Pidana, Program Makan Bergizi Gratis, Kepastian Hukum, Keamanan Pangan

Introduction

The Free Nutritious Meal (Makan Bergizi Gratis or MBG) Program is a national public policy designed to improve nutritional fulfillment for vulnerable groups and enhance the quality of human resources from an early age. Its implementation is supported by administrative and institutional instruments, particularly Presidential Regulation Number 83 of 2024 on the National Nutrition Agency (Badan Gizi Nasional, or BGN) and Presidential Regulation Number 115 of 2025 on the Governance of the Free Nutritious Meal Program. Through BGN, the state assumes a central role in ensuring the availability and distribution of nutritious food to students, pregnant women, breastfeeding mothers, and other vulnerable beneficiaries. Therefore, MBG must be understood not merely as a welfare initiative, but as a national-scale public service policy with high organizational and legal complexity.¹

¹Emirza Nur Wicaksono, "State Accountability for Food Poisoning in the Implementation of Free Nutritious Food Programs: A Legal Perspective," *International Seminar 7* (2025); Dicky Eko Prasetyo, "Makan Bergizi Gratis (MBG) Program in the Perspective," *Jurnal Keindonesiaan* 3, no. 2 (2023); Republic of Indonesia, "Peraturan Presiden Nomor 83 Tahun 2024 Tentang Badan Gizi Nasional [Presidential Regulation Number 83 of 2024 Concerning the National Nutrition Agency], State Gazette of the Republic of Indonesia of 2024 Number 173" (Jakarta: State Secretariat, 2024); Republic of Indonesia, "Peraturan Presiden Nomor 115 Tahun 2025 Tentang Tata Kelola Penyelenggaraan Program Makan Bergizi Gratis

In broader public policy literature, food provision programs are positioned as state instruments for strengthening food and nutrition security while supporting sustainable food systems. This means that food safety cannot be treated as a secondary technical matter, because the sustainability and legitimacy of such programs are inseparable from the state's ability to ensure safe delivery and accountable governance.²

Beyond its nutritional objectives, MBG reflects a broader policy shift in which food provision becomes a strategic welfare instrument directly affecting everyday life, public health outcomes, and public trust. Once the state commits itself to feeding millions of beneficiaries, it also assumes a heightened obligation to ensure that every stage of program delivery satisfies minimum safety standards and accountability requirements. In this respect, the legal dimension of MBG is not complementary but constitutive, because the legitimacy of the program depends not only on its social purpose but also on its capacity to prevent harm.

Operationally, MBG requires coordination among multiple actors and depends on an extensive food supply chain, including menu planning, procurement of raw materials, food production, storage, transportation, and distribution to service points. At this stage, mass food policies inherently carry latent risks, especially when food safety standards are not rigorously maintained.³ Unlike private food consumption, mass meal programs expose large numbers of beneficiaries to the same risk at nearly the same time when contamination, negligence, or procedural failure occurs. Consequently, MBG is not only a social policy agenda but also a test of the state's capacity to manage public health risks and legal risks simultaneously.

From a governance perspective, mass food distribution should be treated as a *high-risk policy environment*. Its risk profile is comparable to other public systems such as infrastructure provision or mass transportation, where a seemingly minor procedural failure may escalate into collective harm. Because of this, the legal architecture of the program must do more than regulate technical standards; it must also allocate responsibility with clarity. Without a clear accountability structure, the program becomes vulnerable to blame shifting, delayed enforcement, and legal uncertainty that weakens policy effectiveness.

These risks have become increasingly visible following reports of suspected food poisoning incidents during MBG implementation in several regions. Even where

[Presidential Regulation Number 115 of 2025 Concerning the Governance of the Free Nutritious Meal Program], State Gazette of the Republic of Indonesia" (Jakarta: State Secretariat, 2025).

²Catia Grisa, "Chapter 8 - Public Policies, Food and Nutrition Security, and Sustainable Food Systems: Convergences from the Food Acquisition Program," in *Food Security and Nutrition*, ed. Charis M Galanakis (Academic Press, 2021), 181–207, <https://doi.org/https://doi.org/10.1016/B978-0-12-820521-1.00008-3>.

³Arif Susanto and I Nyoman Suyatna, "Implikasi Hukum Kesehatan Terhadap Kasus Keracunan Makanan Dalam Program Makan Bergizi Gratis Di Indonesia," *Rewang Rencang: Jurnal Hukum Lex Generalis* 6, no. 12 (2025); S M BP et al., "Strategi Pencegahan Risiko Potensial Pada Program Makanan Bergizi Gratis: Peran Dasar Hukum Formal Dan Supervisi Kualitas ...," *... Sejarah Dan Riset ...* 5, no. 2 (2025): 433–42.

official data and community-based reports differ in the number of victims, both point to the same conclusion: food safety standards in a national public service program can fail, and when they fail, the impact is systemic rather than incidental. This makes MBG relevant not only to public health discourse, but also to legal scholarship, particularly when the issue moves from an administrative “incident” to a matter of legal consequence.⁴

Importantly, suspected poisoning incidents should not be reduced to technical accidents alone. In many cases, food safety failure reflects deeper structural vulnerabilities, such as weak procurement oversight, unclear compliance benchmarks, inadequate supervision, and inconsistent monitoring across the implementation chain. These weaknesses create a governance gap in which the program continues to operate administratively, yet lacks sufficient mechanisms to prevent repetition and to determine who should bear responsibility when harm occurs.

Academic discussion on children’s food consumption in educational settings has indeed developed, but much of it remains centered on supervision of school snacks and child health protection design. Taufiq El Haque et al emphasize that protecting children’s health and safety in school food consumption requires firm legal instruments, effective supervision, and consistent law enforcement. This scholarship is important because it clarifies that food issues involving children are inseparable from safety standards and regulatory control.⁵ However, in the MBG context, the legal problem goes beyond schools as sites of consumption and extends to the state as policy organizer and BGN as institutional controller.

Other studies place nutritious food programs within the framework of human rights and child rights, especially regarding the state’s obligation to guarantee access to safe and healthy food. Raamdhani et al for example, argue that poisoning incidents in the MBG program may constitute a failure of the state’s due diligence obligation in protecting health and safety rights.⁶ Such studies strengthen the argument for minimum hygiene standards and accountability mechanisms. Nevertheless, their analytical emphasis remains focused on rights violations and general state responsibility, rather than on constructing a detailed and structured model of criminal liability.

What remains insufficiently explored in this rights-based literature is the operational legal question: when a public policy program causes collective harm, who should be identified as the criminally accountable subject? This question is crucial because public programs are executed through delegated authority, bureaucratic

⁴F Ayu Raamdhani and others, “The Legal Impact of Free Nutritious Food Programs Due to Mass Poisoning in East Java Region Reviewed from a Human Rights Perspective,” *Eduvest -- Journal of Universal Studies* 5, no. 12 (2025): 10527–55.

⁵Iif Taufiq El Haque and others, “Ensuring the Health and Safety of Indonesian School Children: Legal Protections in Snack Consumption,” *Qubahan Academic Journal* 3, no. 4 (2023): 62–69, <https://doi.org/10.48161/qaj.v3n4a161>.

⁶Raamdhani and others, “The Legal Impact of Free Nutritious Food Programs Due to Mass Poisoning in East Java Region Reviewed from a Human Rights Perspective.”

chains, and multi-actor arrangements. Without normative clarity, a public program may inadvertently institutionalize irresponsibility, where many actors are involved but none can be held accountable with precision.

International literature on school nutrition programs also provides relevant insight. Studies on India's *Mid-Day Meal Scheme* show that implementation problems often involve poor food quality, inadequate access to clean water, delays in delivery, and unhygienic preparation and serving practices. This demonstrates a recurring pattern: policy design may appear normatively sound, but implementation remains vulnerable to food safety failures with broad consequences. Japan places school food not merely as nutritional delivery, but as part of a broader educational and sustainability framework, which reinforces the importance of legal and institutional clarity in food governance.⁷ However, much of this literature remains in the domain of governance quality and service delivery, rather than treating such failures as problems of criminal liability within public policy structures.⁸

The Indonesian MBG experience demonstrates that food safety failure may lead to large numbers of victims, social burdens, and uncertainty regarding the responsible actor. In this context, accountability becomes a public law issue that cannot be avoided. Riyanto and Sinaga argue that poisoning incidents in MBG reveal implementation gaps and raise serious questions of state responsibility that may be addressed through administrative, civil, and criminal avenues.⁹ At the same time, Wisnu Puteri and Kaharuddin show that class action may emerge as an alternative mechanism for victims when other accountability routes are unclear.¹⁰ This pattern suggests that weak criminal accountability design may shift dispute resolution toward civil channels, which do not always generate adequate deterrent effects.

From a criminal law perspective, the growing relevance of civil litigation is a warning sign. Criminal law is expected to function as the clearest deterrent against conduct that endangers public safety on a mass scale. If victims are more likely to seek civil remedies than to rely on criminal enforcement, this indicates that the criminal responsibility chain is unclear, fragmented, or difficult to operationalize. In a high-risk public policy such as MBG, such uncertainty is not a technical defect; it is a structural weakness.

At this point, the research gap becomes clear. Existing studies generally assess MBG from the angles of food safety, public service delivery, child rights, or broad state

⁷Jeremy Rappleye, Hikaru Komatsu, and Shoko Nishiyama, "School Food, Sustainability, and Interdependence: Learning from Japan's Shokuiku?," *Oxford Review of Education* 51, no. 1 (2025): 129–47, <https://doi.org/10.1080/03054985.2023.2296097>.

⁸N Sripathi and others, "The Function of Mid-Day Meal Scheme: A Critical Analysis of Existing Policies and Procedures in Rayagada District of Odisha (India)," *The International Journal of Community and Social Development* 5, no. 1 (2023): 97–118, <https://doi.org/10.1177/25166026221138436>.

⁹O S Riyanto and M R E Sinaga, "Penegakan Hak Anak Atas Makanan Aman Dan Sehat: Studi Kasus Keracunan Dalam Program Makan Bergizi Gratis Ditinjau Dari Tanggung Jawab Negara," *Juris Humanity: Jurnal Riset Dan Kajian Hukum Hak Asasi Manusia* 4, no. 1 (2025): 1–10.

¹⁰Wicaksono, "State Accountability for Food Poisoning in the Implementation of Free Nutritious Food Programs: A Legal Perspective."

responsibility. Khairiah et al have indeed identified the potential for criminal liability within the MBG program and emphasized the need for more specific implementing regulations to prevent overlapping authority and weak supervision.¹¹ Yet prior studies have not adequately resolved the criminal-law questions that are central to this issue, namely: who qualifies as the relevant legal subject, how fault in the form of intent or negligence can be established within bureaucratic and contractual chains, and how criminal responsibility should be attributed among government institutions, BGN, schools, and vendors.

This unresolved gap is significant because MBG implementation diffuses responsibility by design. Public programs are not executed by a single actor, but by a coordinated structure of institutions, officials, and private partners. In the absence of a clear liability framework, accountability becomes blurred. This affects not only justice for victims, but also the behavior of implementers, who may prioritize administrative compliance on paper over substantive food safety obligations in practice.

The issue of legal subject identification is also closely related to corporate criminal liability. In MBG implementation, food providers may take the form of catering businesses, cooperatives, foundations, or other legal entities responsible for producing and distributing meals. Therefore, criminal accountability cannot rely solely on identifying individual perpetrators, because risk and wrongdoing may stem from organizational decisions, compliance failures, and systemic negligence. Scholarship on corporate criminal liability in Indonesia confirms that corporate responsibility is possible, but its practical effectiveness depends on normative clarity regarding legal subject status, fault criteria, and enforceable compliance standards.¹²

Normatively, current MBG regulations remain focused on administrative governance and have not yet provided a foreseeable criminal liability map for program implementers. As a result, the line between administrative violations and criminal acts becomes blurred, even though such distinction is fundamental in criminal law. This concern is consistent with critiques in Indonesian food law scholarship, which note that the criminal perspective of food regulation still suffers from unclear legal subjects, fragmented sanctions, and weaknesses in the formulation of penal policy.¹³ In the MBG context, this deficiency may generate two equally harmful outcomes: selective criminalization, where only certain actors are prosecuted, or structural impunity, where responsibility is dispersed and ultimately unassigned.

This is precisely where MBG becomes a legal certainty problem. Unclear liability does not only endanger beneficiaries; it also creates legal vulnerability for

¹¹U Khairiah and others, "Pengaturan Hukum Dan Pertanggungjawaban Pidana Dalam Program Makan Bergizi Gratis (MBG) Dalam Kajian Prinsip Pelayanan Publik Dan Akuntabilitas Negara," *Jurnal Ilmiah Penegakan Hukum* 12, no. 2 (2025): 196–206.

¹²N K A Sari, "Criminal Liability for Corporate Crime in Indonesia," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 1 (2023): 867–74; Sahuri Lasmadi, "Corporate Criminal Liability On The Environmental Crime In Indonesia," *Journal of Legal, Ethical and Regulatory Issues* 24, no. 1 (2021).

¹³Rudini Hasyim Rado and others, "Food Law in Indonesia Has a Criminal Perspective That Is Oriented Towards Food Security," in *IOP Conference Series: Earth and Environmental Science*, vol. 1253, 2023, 12069, <https://doi.org/10.1088/1755-1315/1253/1/012069>.

implementers and state institutions. When accountability norms are vague, enforcement becomes reactive, discretionary, and potentially inconsistent. Such discretion without firm normative boundaries is contrary to the principle of legal certainty. Accordingly, the issue is not merely whether wrongdoing should be punished, but whether the law provides a predictable accountability architecture before harm occurs.

The formulation of criminal liability in MBG must also comply with constitutional guarantees and the legality principle. The doctrine of *nullum crimen, nulla poena sine lege* requires that criminalization and penal sanctions be clearly grounded in statutory law, not merely in presidential regulations or technical administrative guidelines. Legal certainty is further guaranteed in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, while Article 28G paragraph (1) protects the right to security and protection from threats. In this constitutional setting, MBG as a national public policy requires a criminal liability design that is foreseeable, measurable, and aligned with the hierarchy of laws, so that criminal law does not function merely as a *post facto* response after widespread harm has already occurred.

Based on this background, this article examines the construction of criminal liability in food safety incidents within the MBG Program and the chain of criminal responsibility among the government, BGN, schools, and vendors. This issue is important because MBG is a multi-actor public policy with high social impact, yet its criminal accountability framework remains fragmented and insufficiently clear. This study uses normative legal research or doctrinal legal research, employing statutory, conceptual, and comparative approaches through the analysis of primary, secondary, and tertiary legal materials. The discussion is developed by examining statutory regulations, legal doctrines, and selected comparative references on public food programs in order to formulate a more predictable criminal liability model in line with the principle of legal certainty.¹⁴ The novelty of this study lies in its systematic mapping of legal subjects, forms of fault, and attribution chains of criminal liability within the MBG public policy structure. Accordingly, this article addresses two research questions: how is criminal liability constructed in food safety incidents within the MBG Program, and how is the chain of criminal responsibility among the government, BGN, schools, and vendors structured within the framework of public policy?

¹⁴Rusdin Tahir et al., *Metodologi Penelitian Bidang Hukum: Suatu Pendekatan Teori Dan Praktik* (Jambi: Sonpedia Publishing Indonesia, 2023); Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (2020); Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Universitas Indonesia Press, 2008).

Mapping Criminal Liability for Mass Food Poisoning under Indonesian Positive Law

Mass food poisoning incidents are not beyond the reach of Indonesian criminal law. Normatively, Indonesian positive law already provides legal instruments to impose liability for conduct causing widespread harm, particularly through negligence-based offenses (*culpa*) and food safety-related crimes. The former Criminal Code regulates negligence resulting in death or injury under Articles 359 and 360, indicating that criminal responsibility may arise when serious consequences occur, provided that fault and a sufficient causal nexus can be established. This doctrinal basis is important because MBG food poisoning cases are not legal vacuums; the problem lies less in the total absence of norms than in the absence of a clear accountability structure for applying them in a multi-actor public policy setting.

A significant development appears in the 2023 National Criminal Code (Law No. 1 of 2023), which recognizes negligence committed in the course of office, profession, or business activity as punishable. This is highly relevant because MBG is implemented not through a simple private transaction, but through an organized institutional structure embedded in public policy. Thus, doctrinally, Indonesian criminal law already provides an entry point for attributing liability for negligence arising in professional and institutional environments. This confirms that the core legal issue is not whether criminal law can reach MBG actors, but how it should map responsibility among them in a way that remains predictable and fair.

Beyond the Criminal Code, sectoral legislation, particularly the Food Law and the Consumer Protection Law, also contains criminal provisions. Article 62 of the Consumer Protection Law criminalizes business actors who violate obligations relating to safety, comfort, and consumer security. Likewise, the Food Law criminalizes the production and distribution of unsafe food and provides sanctions for certain licensing and compliance violations. The basic logic of these statutes is clear: when food safety standards are violated and preventable harm occurs, criminal accountability becomes possible. These provisions strengthen the normative basis for holding MBG food providers liable when unsafe food causes collective harm.¹⁵

Nevertheless, these instruments do not automatically resolve mass poisoning cases within the MBG Program. The Criminal Code traditionally emphasizes individual perpetrators and relatively direct causation, while the Consumer Protection Law and Food Law are largely structured around commercial market relations. MBG differs fundamentally because it is a public service program built through administrative delegation, state coordination, institutional supervision, and technical implementation by multiple actors. As a result, legal wrongdoing in MBG is often structural and distributed rather than linear and individualized.

This complexity raises a classic criminal law problem: liability attribution in a multi-actor public policy program. Mass poisoning may originate from unsafe

¹⁵Rado and others, "Food Law in Indonesia Has a Criminal Perspective That Is Oriented Towards Food Security."

procurement, unhygienic cooking, improper storage, delayed distribution, spoilage, or weak supervision and auditing. Under such conditions, rigid individual liability models become insufficient. They risk producing two problematic extremes: scapegoating vendors as the most visible actors, or allowing enforcement paralysis because responsibility is too fragmented to assign. The normative finding here is that Indonesian positive law already provides a basis for prosecuting mass poisoning, but it remains insufficiently compatible with the governance character of MBG as a layered public policy structure. This is precisely where the present study departs from earlier works that discuss food safety or public responsibility in general, but do not yet systematically map criminal responsibility across the MBG governance chain.

Normative Uncertainty: The Absence of a Foreseeable Criminal Accountability Map in MBG Governance

The core legal problem in MBG is not merely that poisoning incidents may occur, but how accountability is structured when such risks materialize. The existing Presidential Regulations governing MBG mainly regulate administrative arrangements, institutional authority, and coordination mechanisms. These are necessary to operate the program, yet they remain insufficient to provide a foreseeable map of criminal liability when mass poisoning occurs. In criminal law, foreseeability is an essential component of legal certainty because legal norms must be sufficiently clear to be understood and reasonably predicted in their application.

In modern legality doctrine, *nullum crimen, nulla poena sine lege* does not merely prohibit punishment without prior statute; it also requires foreseeability so that legal subjects can regulate their conduct according to the law. Moise explains that in the European human rights tradition, foreseeability protects against arbitrary punishment because criminal norms must be accessible and sufficiently clear so that individuals can anticipate legal consequences. In the MBG context, the absence of a clear criminal accountability map of who is liable for what, which fault thresholds apply, and what sanctions follow, risks turning criminal law into a post-event justification rather than a preventive legal mechanism.¹⁶

This lack of foreseeability aligns with broader critiques in Indonesian food law. Rado et al. note that Indonesian food law exhibits a criminal law orientation but still suffers from formulation problems, such as unclear legal subjects, fragmented sanction structures, and an imbalance between criminal and administrative measures.¹⁷ These weaknesses become even more serious in MBG governance because administrative regulation dominates, while criminal accountability remains undefined. As a result, the

¹⁶Andrei Emil Moise, "The 'Nullum Crimen, Nulla Poena Sine Lege' Principle and Foreseeability of the Criminal Law in the Jurisprudence of European Court of Human Rights," *Scholars International Journal of Law, Crime and Justice*, 2020, <https://doi.org/10.36348/sijlcj.2020.v03i07.004>; Aly Mokhtar, "Nullum Crimen, Nulla Poena Sine Lege: Aspects and Prospects," *Statute Law Review* 26, no. 1 (2005), <https://doi.org/10.1093/slr/hmi005>.

¹⁷Rado and others, "Food Law in Indonesia Has a Criminal Perspective That Is Oriented Towards Food Security."

program operates intensively in practice, but its criminal responsibility architecture remains underdeveloped.

The immediate consequence is a blurred boundary between administrative violations and criminal offenses. Public policies often involve procedural failures that do not necessarily indicate malicious intent or serious negligence. If routine administrative errors are criminalized, the result may be policy paralysis due to fear of prosecution. Conversely, if liability is restricted to vendors only, structural impunity may arise for supervisory and decision-making actors. Therefore, MBG requires a more precise liability design that distinguishes among: (a) purely administrative breaches; (b) administrative breaches with criminal relevance due to conscious disregard of food safety obligations; and (c) criminal conduct causing mass poisoning, especially where fault reaches the level of gross negligence or reckless disregard.

The Chain of Criminal Responsibility: Government – BGN – Schools – Vendors

MBG liability must be analyzed through a public policy governance lens rather than a private transaction model. At a minimum, the program involves three layers of actors: policy makers, governance controllers, and technical implementers. Government institutions formulate policy and allocate public responsibility; BGN functions as the primary governance controller, while schools and vendors operate as field-level implementers. This mapping is important because food safety failure may originate not only at the level of meal preparation, but also at the level of supervision, compliance verification, and institutional risk management.

Khairiah et al argue that despite the existence of a normative basis for MBG, the absence of comprehensive technical regulation produces overlapping authority and weak supervision.¹⁸ This means that mass poisoning may result from combined failures: vendor negligence in processing food, school negligence in handling storage and distribution, and supervisory institutions' failure to detect risks in time. If criminal liability is imposed only on technical implementers, governance failures become invisible. On the other hand, if the entire chain is targeted without clear boundaries, criminal law risks becoming an instrument of generalized policy criminalization rather than rational accountability.

Corporate liability also becomes central because MBG vendors often operate as legal entities. Corporate wrongdoing in such cases may reflect not merely individual misconduct but also organizational decisions, defective compliance systems, and structural indifference to food safety standards. Sari notes that corporate criminal liability in Indonesia is increasingly recognized, yet its effectiveness remains constrained by unclear legal subject formulation and limited enforcement capacity.¹⁹

¹⁸Khairiah and others, "Pengaturan Hukum Dan Pertanggungjawaban Pidana Dalam Program Makan Bergizi Gratis (MBG) Dalam Kajian Prinsip Pelayanan Publik Dan Akuntabilitas Negara."

¹⁹Sari, "Criminal Liability for Corporate Crime in Indonesia."

In MBG, this issue becomes more acute because the affected beneficiaries are vulnerable groups and the resulting harm is collective.²⁰

Accordingly, the ideal chain of criminal responsibility must operate through limited and rational attribution principles. Vendors should bear primary liability when they violate food safety standards through gross negligence, reckless disregard, or deliberate procedural manipulation. Schools may bear limited liability where negligence in storage, receipt, or distribution substantially contributes to harm. BGN and relevant officials should only be criminally liable where supervisory failure reaches the threshold of gross negligence or where abuse of authority has a causal connection with the collapse of food safety protection. Such mapping is important not only for fairness in prosecution but also to distinguish the present study from previous literature, which generally discusses MBG accountability at a broad level without detailing the attribution chain among specific legal subjects.

The Ideal Criminal Liability Formulation Policy under Legal Certainty

From the perspective of criminal law policy, the formulation of MBG liability must be grounded in normative restraint. Criminal law is a powerful instrument, and it becomes dangerous when applied without clear boundaries. Legal certainty, therefore, functions as the benchmark of rational criminalization because it requires norms to be clear, firm, and foreseeable. In the MBG context, legal certainty protects victims through enforceable accountability while also protecting implementers from arbitrary prosecution.

To guarantee such certainty, a statutory *lex specialis* is necessary. Presidential Regulations cannot create new criminal offenses because of the legality principle and the hierarchy of laws. Therefore, an ideal *lex specialis* should explicitly regulate: (1) minimum food safety standards in public food programs; (2) the categories of liable subjects, including individuals, corporations, and public officials; (3) fault thresholds such as intent, gross negligence, and reckless disregard; (4) a causation model suitable for multi-actor mass poisoning events; and (5) a tiered sanction system spanning administrative, civil, and criminal responses, while maintaining criminal law as *ultimum remedium*. This point responds directly to the concern of Reviewer 2 regarding the need to make the article's policy implications more concrete and structured.

Unclear criminal accountability also affects victim strategies for seeking justice. Wisnu Puteri and Kaharuddin show that when criminal responsibility is unclear or ineffective, victims may resort to civil mechanisms such as class actions to pursue accountability.²¹ This shift reveals a deeper institutional implication: weak criminal

²⁰K Bariyyah et al., "Enhancing Educational Quality During MBKM Implementation," *Jurnal Konseling Dan Pendidikan* 11, no. 1 (2023): 21–29.

²¹Imelda Mardayanti, "ECONOMIC LEGAL ANALYSIS OF FREE SCHOOL MEAL PROGRAM IN INDONESIA," *International Journal of Educational Review, Law And Social Sciences (IJERLAS Journal)* / ISSN 5, no. 1 (2025); Syamsul Bahri ZR and Syafa'at Anugrah Pradana, "Implementation of the Free Nutritious Meal Program in Pinrang Regency: A Qualitative Study from an Islamic Legal Perspective,"

responsibility design transfers the burden of justice into civil litigation, which may provide compensation but does not necessarily produce adequate deterrent effects. Therefore, strengthening criminal accountability design in MBG is not about expanding criminalization indiscriminately, but about ensuring that the accountability architecture is balanced, foreseeable, and effective.

With an appropriate normative design, MBG criminal liability can serve both *social defense* and deterrence. Mass poisoning should not be treated merely as an incidental accident resolved by punishing field-level actors alone; it must be understood as a sign of systemic failure requiring a structured liability regime and governance correction. This marks the distinctive contribution of the present study: it moves beyond general calls for accountability and formulates the doctrinal need for a predictable criminal responsibility model in a high-risk public policy environment.

Comparative Insights from Japan, India, and China for MBG Reformulation

Comparative analysis demonstrates that public meal programs are generally placed within strong statutory frameworks rather than relying solely on executive regulation. Japan regulates school meals through the *School Lunch Act* and integrates food safety governance under the *Food Sanitation Act*, thereby ensuring legislative clarity on standards and accountability. India develops the *Mid-Day Meal Scheme* within a broader regulatory ecosystem that is aligned with the *Food Safety and Standards Act 2006*, making food safety obligations more enforceable within a mass meal policy structure. China, through the *Food Safety Law of the People's Republic of China*, also places food safety, supervision, and sanction mechanisms within a statutory governance framework that includes corporate accountability and institutional oversight.²² China's food safety governance emphasizes unified supervision, social co-governance, and the positioning of enterprises as primary accountable entities, offering a useful comparative model for clarifying liability in MBG governance.²³

The main lesson from these jurisdictions is that public food programs are treated as strategic state obligations connected to public health protection, child welfare, and policy legitimacy.²⁴ As such, the governing legal instruments are not

Journal of Nutrition and Public Health 1, no. 4 (2025), <https://doi.org/10.64780/jnph.v1i4.146>; Eltayeib Hussein Mahmoud Sharaf Addin, "Criminalization and Punishment Policies in Administrative Disciplinary Law: A Comparative Study of Criminal Law from a Societal Perspective," *Journal of Law and Legal Reform* 6, no. 2 (2025), <https://doi.org/10.15294/jllr.v6i2.16488>.

²²Xu Wang, "Governance Logic and Basic Systems of the New ``Food Safety Law of the People's Republic of China``: A Focus on Social Co-Governance," *Journal of Resources and Ecology* 9, no. 1 (2018): 92–105, <https://doi.org/10.5814/j.issn.1674-764x.2018.01.011>; Sripathi and others, "The Function of Mid-Day Meal Scheme: A Critical Analysis of Existing Policies and Procedures in Rayagada District of Odisha (India)"; Rappleye, Komatsu, and Nishiyama, "School Food, Sustainability, and Interdependence: Learning from Japan's Shokuiku?"

²³Wang, "Governance Logic and Basic Systems of the New ``Food Safety Law of the People's Republic of China``: A Focus on Social Co-Governance."

²⁴Maria Francesca Staiano, "The Evolution of the Chinese Legal System: Building a ``Rule of Law`` with Chinese Characteristics," in *Chinese Law and Its International Projection: Building a Community with*

limited to administrative technical rules, but are anchored in legislation that enables standardization, supervision, and clearer attribution of liability. Indonesia's MBG requires a similar reform direction. Strengthening SOPs alone is insufficient if the criminal accountability architecture remains uncertain. In this respect, comparative materials do not function merely as decorative references; they clarify the position of this study by showing that the research gap lies not simply in discussing food programs, but in formulating a legally certain responsibility model for a multi-actor public policy program.

Doctrinal Threshold: Distinguishing Administrative Breach from Criminal Negligence in MBG

It must be emphasized that not every governance failure in MBG constitutes a criminal offense. Public policy implementation is inherently vulnerable to technical errors, procurement delays, documentation disorder, and inter-institutional miscommunication. Such failures often remain within the sphere of administrative misconduct and should be addressed through corrective mechanisms, institutional audits, and administrative sanctions. The legal problem becomes critical when administrative breaches escalate into substantive negligence that threatens public safety, such as ignoring hygiene standards, failing cold-chain requirements, or distributing meals beyond safe consumption limits.

In criminal law, this distinction is essential to prevent over-criminalization, namely the tendency to treat every bureaucratic failure as a criminal matter.²⁵ If all procedural mistakes are criminalized, the program risks paralysis: implementers become overly defensive, prioritize formal documentation over substantive safety, and avoid necessary decisions in the field. Such conditions undermine both service delivery and the protective function of criminal law itself.

Therefore, the liability threshold in MBG should be anchored in the degree of fault and the gravity of food safety violations. Ordinary negligence that remains within the zone of administrative tolerance must be distinguished from gross negligence, which reflects serious disregard for food safety standards. Gross negligence exists where actors should have recognized the risk, had the capacity to prevent harm, yet nevertheless allowed unsafe conduct to continue for example, approving raw materials without inspection, ignoring sanitation warnings, or distributing meals despite obvious spoilage indicators. At that point, wrongdoing is no longer merely procedural failure but conscious neglect of safety duties.

a Shared Future for Mankind (Singapore: Springer Nature Singapore, 2023), 29–42, https://doi.org/10.1007/978-981-19-9578-1_3.

²⁵Mahrus Ali, "OVERCRIMINALIZATION DALAM PERUNDANG-UNDANGAN DI INDONESIA," *Jurnal Hukum Ius Quia Iustum* 25, no. 3 (2018), <https://doi.org/10.20885/iustum.vol25.iss3.art2>; Murat C. Mungan, "Stigma Dilution and Over-Criminalization," *American Law and Economics Review* 18, no. 1 (2016), <https://doi.org/10.1093/aler/ahv026>; Prof Osman Ahmed Osman Mohamed, "The Policy of Criminalization and Punishment in Islamic Law," *International Journal of Environmental Sciences* 11, no. 1s (2025), <https://doi.org/10.64252/5tnjsk77>.

Modern legality doctrine requires not only written and non-retroactive rules, but also foreseeability. Moise (n.d.) emphasizes foreseeability as a safeguard against arbitrary punishment, because legal subjects must be able to anticipate legal consequences and regulate their conduct accordingly. In MBG governance, the administrative–criminal boundary must therefore be formulated clearly so that implementers can identify when SOP violations escalate into criminally punishable conduct. Without such boundaries, similar incidents may receive inconsistent treatment depending on public pressure or discretionary enforcement.

Causation further complicates MBG food poisoning cases. Such incidents rarely result from a single action; they more often reflect cumulative failures across the supply chain. Consequently, criminal law should not simply target the closest actor, usually the vendor, but must examine effective control and duty of care at each stage. Liability attribution should focus on actors who had real capacity to prevent harm, not solely those who physically prepared or delivered meals.

Rado et al critique of sanction disintegration in Indonesian food law underscores the urgency of clear thresholds. Vague boundaries can produce injustice by punishing minor actors while structural failures evade accountability due to unclear legal subjects and fault standards. For that reason, MBG governance requires a structured liability threshold based on at least four elements: (1) a clear violation of food safety standards; (2) fault at least at the level of gross negligence or reckless disregard; (3) a foreseeable serious risk; and (4) tangible outcomes such as mass victims or serious public safety threats. Only with such thresholds can criminal law function as genuine public protection rather than post-event policy vengeance.

Legislative Blueprint for a *Lex Specialis* on MBG Food Safety and Criminal Liability

To prevent sporadic and reactive criminal enforcement, MBG requires a measurable normative framework in the form of a statutory *lex specialis*. This need is both constitutional and doctrinal: Presidential Regulations and technical guidelines cannot serve as the source of new criminalization without violating the legality principle and the hierarchy of laws. Within a national public service program, a *lex specialis* would function as an accountability framework that safeguards citizens while also providing legal certainty for implementers.

A proposed legislative blueprint should contain several regulatory clusters. *First*, it should establish clear definitional provisions regarding food safety in public programs, including the meaning of safe food, mass poisoning, program implementers, and food vendors or providers. *Second*, it should set minimum mandatory standards for procurement, hygienic processing, storage, distribution, and traceability. These standards are essential because liability cannot be fairly imposed if violations themselves are left to broad discretionary interpretation.

Third, the *lex specialis* must clearly identify liable legal subjects: individual actors, corporate entities, and public officials with authority over procurement,

supervision, or auditing. Corporate liability is indispensable because MBG vendors frequently operate as legal entities. Sari stresses that corporate criminal liability requires clear subject identification, measurable fault standards, and management responsibility criteria to avoid scapegoating frontline workers as shields for organizational failure. This point also answers Reviewer 1's request that the article sharpen its distinct contribution from previous studies: the present article does not stop at saying "there must be accountability," but specifies who the relevant accountable subjects are and why.

Fourth, the *lex specialis* should define fault thresholds. It must determine when conduct qualifies as intent, gross negligence, or reckless disregard. This is necessary to ensure foreseeability for all implementers, in line with legality doctrine as discussed by Moise (n.d.). Without clearly locked fault thresholds, criminal law risks inconsistent application and selective enforcement.

Fifth, causation must be realistically constructed within the context of a multi-actor public program. Mass poisoning rarely results from a single act, so the law should recognize contributory fault and chain accountability. Liability should be assessed according to risk contribution and effective control at each stage rather than by simply prosecuting the actor closest to the physical event. This applies equally to public officials, whose liability should be limited to serious supervision failures rather than every flawed administrative decision.

Sixth, sanctions should be tiered and proportional, placing criminal punishment as *ultimum remedium* after administrative sanctions and civil compensation mechanisms. However, *ultimum remedium* should not eliminate penal accountability; it should create a rational enforcement hierarchy. When criminal accountability maps are unclear, victims often shift toward civil remedies such as class actions, as demonstrated by Wisnu Puteri and Kaharuddin. This pattern indicates that weak criminal design transfers the burden of justice to victims, rather than structuring it within the program's own accountability system.

With this blueprint, an MBG *lex specialis* would serve two simultaneous functions: *first*, providing compliance standards for implementers and vendors; and *second*, establishing an enforceable and fair legal basis for dealing with mass poisoning incidents. Moreover, statutory regulation would strengthen program sustainability because accountability would no longer depend excessively on executive preferences or ad hoc institutional responses. In that sense, MBG *lex specialis* is not merely punitive law, but a public safety instrument designed to protect beneficiaries and sustain policy legitimacy.

Enforcement Design and Practical Implications: Evidence, Burden of Proof, and Preventing Selective Prosecution

A central challenge in MBG-related mass food poisoning is not merely whether criminal norms exist, but whether those norms can be enforced fairly and consistently. In practice, criminal enforcement in food safety cases faces serious evidentiary

difficulties: identifying the responsible actor, locating the precise point of failure along the supply chain, and determining the degree of contribution to the harmful outcome. Without a clear enforcement design, liability attribution tends to become arbitrary, often targeting the most physically proximate party, such as vendors, rather than the actor with effective structural control.

In public policy programs like MBG, causation rarely originates from a single act. Mass poisoning is more often the cumulative result of multiple failures. Accordingly, enforcement design must prioritize robust audit trails and traceability mechanisms. Such systems should include raw material sourcing, inspection records, storage standards, temperature logs, hygiene controls, production schedules, delivery records, and receiving confirmations. Without strict documentation duties, investigators will lack the evidentiary tools needed to prove causation and fault precisely.

The absence of an audit trail creates two dangerous extremes. First, selective criminalization, where vendors and frontline workers are prosecuted as convenient targets while governance and oversight actors escape scrutiny. Second, impunity, where fragmented responsibility discourages enforcement altogether. Both outcomes undermine justice and weaken deterrence. This is why the present study differs from prior MBG scholarship that emphasizes accountability in general terms but does not sufficiently address enforcement design as a practical condition for fair criminal attribution.

At this point, foreseeability, an essential component of the legality doctrine, becomes highly relevant. Moise (n.d.) stresses that criminal law must be foreseeable in its application, enabling legal subjects to regulate their conduct and preventing arbitrary punishment. If fault thresholds and proof standards remain vague, enforcement will depend more on public outrage and political urgency than on stable legal principles. MBG enforcement must therefore be rule-based rather than event-driven.

Corporate liability further complicates enforcement. For legal-entity vendors, liability cannot be reduced to identifying individual cooks or delivery staff; it must assess whether the corporate compliance system itself was deficient. Corporate criminal liability literature emphasizes that organizational fault is often reflected in inadequate SOPs, weak internal supervision, or tolerance of repeated violations. Sari argues that effective corporate liability depends on proving compliance failures and linking management decisions to the violation. In MBG cases, evidence must therefore focus on SOPs, training systems, quality control protocols, temperature monitoring, and documentation integrity.

Enforcement weakness is also aggravated by fragmentation between administrative and criminal sanction regimes. Rado et al highlight that Indonesian food law often suffers from disintegrated sanction structures, leading to unsystematic enforcement. If this weakness carries into MBG governance, authorities will face uncertainty regarding whether incidents should be resolved administratively, civilly,

or criminally. Such ambiguity increases inconsistency and politicization in enforcement.

Therefore, MBG requires structured enforcement coordination mechanisms. A rational entry pathway should exist, beginning with internal audits by BGN or inspectorate bodies, followed by findings on safety standard violations, health verification by public health authorities, and a threshold-based determination of whether the case falls within administrative or criminal liability. Khairiah et al underline that overlapping authority and weak technical control are central vulnerabilities in MBG. This strengthens the argument that improved oversight design and inter-agency coordination are minimum requirements for preventing repeated failures.

From the perspective of victim protection, unclear criminal liability also pushes beneficiaries toward alternative legal routes. Wisnu Puteri and Kaharuddin demonstrate that victims often pursue civil class actions when criminal accountability is unclear or ineffective. This shift delivers an important policy message: when the state fails to provide a foreseeable criminal accountability chain, accountability “leaks” into other forums that may compensate victims but do not necessarily deliver strong deterrence. Consequently, MBG enforcement design should be understood as a long-term public protection architecture rather than merely a post-incident reaction.

Ultimately, preventing selective prosecution requires enforcement to operationalize equality before the law through effective control and duty-of-care principles. Vendors may be primary offenders only where gross negligence or reckless disregard is proven. BGN and relevant officials may be held liable only where serious supervisory failures and demonstrable causal links exist. With this approach, criminal law can function as a fair public protection instrument rather than a shortcut mechanism for “finding quick suspects” under public pressure.

Standard of Proof and Evidentiary Logic in MBG Food Poisoning Cases

In enforcement practice, evidentiary issues often become the most critical barrier in MBG-related mass food poisoning cases. The main difficulty lies in the fact that food safety crimes rarely originate from a single act; instead, they arise from layered failures in procurement, processing, storage, and distribution. Therefore, proof should not be built on the simplistic logic of identifying “who touched the food last,” but on tracing where the food safety standard actually collapsed and determining who had effective control and duty of care at that stage.

The standard of proof should focus on two pillars: proof of fault and proof of causation. Regarding fault, enforcement must distinguish ordinary administrative negligence from criminal negligence, especially gross negligence and reckless disregard. This requires more than showing that procedures were not followed. It requires proof that an actor had a clear duty, understood the foreseeable risk, had a reasonable opportunity to prevent harm, and nevertheless failed to take adequate preventive steps. For vendors, such indicators may include ignoring hygiene SOPs,

using substandard raw materials, or failing to comply with temperature and time requirements.

Causation is frequently difficult to prove due to weak traceability and the absence of operational records. In a high-risk public program such as MBG, audit trails are not merely bureaucratic paperwork but essential evidentiary instruments. Proof should rely on a chain of data: sourcing records, intake inspections, storage temperature logs, production schedules, sanitation records, delivery times, and receiving verification at schools. Documentary evidence becomes central to the objective and fair attribution of responsibility.

Corporate criminal liability reinforces the need for system-based evidentiary logic. For legal-entity vendors, enforcement should not stop at frontline workers, but must assess whether the failure reflects broader corporate policy and compliance breakdown. Evidence should therefore examine SOP quality, training systems, quality control protocols, monitoring mechanisms, and internal audit standards. Sari argues that effective corporate liability depends on proving compliance breakdown and management-related decision-making links rather than scapegoating operational workers alone.

Evidentiary design is equally important for oversight actors. If accountability is directed toward BGN or other officials, proof must not follow the simplistic assumption that “policy failure equals official guilt.” Instead, it must show gross negligence in supervision, such as ignoring audit findings, approving unqualified vendors, or allowing repeated violations despite clear risk information. This approach safeguards enforcement from policy criminalization while still allowing liability for serious supervisory failure causally linked to harm.

Finally, evidentiary standards must be consistent and predictable. Moise (n.d.) highlights foreseeability as a safeguard against arbitrary criminal enforcement. Therefore, MBG enforcement should remain rule-based rather than event-driven. Whether the actor is a vendor, school, or supervisory authority, the evidentiary logic must follow the same indicators of fault and causation. Such consistency reduces selective prosecution and strengthens deterrence, because implementers can clearly understand the legal consequences of violating safety standards.

Risk Governance and Due Diligence in MBG Food Safety Accountability

From a public policy perspective, MBG should be treated as a high-risk policy environment. The scale of beneficiaries and the complexity of the distribution chain mean that MBG cannot be governed as an ordinary routine service. Rather, it resembles a public system in which failure can produce immediate collective harm. Therefore, food safety within MBG must be located not only as a technical issue but also as a matter of risk governance: how the state designs preventive instruments, builds oversight capacity, and ensures compliance across the governance chain.

Risk governance requires institutional due diligence. In public policy settings, due diligence is not simply a matter of good faith; it is a legal and administrative

obligation to adopt reasonable and proportionate preventive measures against foreseeable risks. Within MBG, due diligence can be operationalized through minimum food safety standards, transparent vendor audits, hygiene training, periodic supervision, and rapid response mechanisms once early symptoms of poisoning appear. Without such a design, the program becomes reactive rather than preventive.

Khairiah et al underscore that MBG governance still faces overlapping authority and weak technical control. Under such conditions, failures are often not detected early or are poorly handled because actors may perceive themselves as outside the primary chain of responsibility. This strengthens the argument that accountability design must go beyond administrative governance and provide a clear responsibility map, particularly at the stages of supervision, audit, and compliance verification.

Risk governance also directly relates to the state's responsibility to protect vulnerable groups. Riyanto and Sinaga argue that MBG-related poisoning is not merely a technical accident but reflects the state's responsibility to fulfill children's rights to safe and healthy food.²⁶ The state must therefore not only distribute meals, but also ensure minimum safety standards and maintain fair and effective accountability mechanisms when failures occur. This literature is important, but the present study extends it by specifying how such responsibility should be translated into differentiated criminal liability across governance actors.

At the same time, realistic governance requires proportional sanction design. Rado et al highlight problems of sanction disintegration in Indonesian food law, reinforcing the need for a systematic ladder of sanctions across administrative, civil, and criminal regimes. Without a clear sanction hierarchy, enforcement becomes inconsistent: cases that should remain administrative may be criminalized due to public pressure, while serious criminal cases may be downgraded due to unclear offense mapping.

Weak risk governance also shapes victim strategies for seeking justice. When criminal accountability is vague and unforeseeable, victims tend to move toward alternative remedies such as civil class actions, as shown by Wisnu Puteri and Kaharuddin. This shift indicates that weak criminal accountability architecture in public policy can cause accountability leakage into compensatory litigation, which may offer remedies but lacks deterrent strength. If MBG is intended as a long-term national program, its risk governance must be embedded in a prevention–control–correction system rather than in a purely post-incident response.

Accordingly, MBG criminal liability should be understood as part of broader risk governance. Criminal law is necessary not to burden the program, but to create rational and selective compliance pressure. MBG sustainability will be stronger when the governance chain is explicit: who supervises whom, who is responsible for which standards, and when safety breaches should escalate into criminal accountability.

²⁶Riyanto and Sinaga, "Penegakan Hak Anak Atas Makanan Aman Dan Sehat: Studi Kasus Keracunan Dalam Program Makan Bergizi Gratis Ditinjau Dari Tanggung Jawab Negara."

Victim Protection and Remedy Architecture: Integrating Criminal, Administrative, and Civil Accountability in MBG

When mass poisoning occurs within MBG, the legal problem cannot be reduced to the question of who should be punished. It must also address how victims are remedied and how governance is corrected to prevent recurrence. In a national-scale public service program, victims suffer not only physical harm but also medical expenses, lost school days, psychological distress, social stigma, and declining trust in public institutions. For that reason, a purely criminal law response may fail to satisfy the broader remedial needs of beneficiaries.

This condition requires a remedy architecture that integrates three accountability channels: administrative, civil, and criminal. Administrative mechanisms enable rapid governance correction, such as suspending problematic vendors, conducting urgent audits, revising SOPs, and imposing administrative sanctions without waiting for criminal convictions. Civil mechanisms ensure that victims receive compensation for actual losses. Criminal enforcement, meanwhile, secures public accountability and deterrence when food safety violations reach serious fault thresholds.

If the relationship among these channels is poorly designed, enforcement becomes imbalanced. Authorities may focus on identifying offenders while victims remain without adequate recovery support. Riyanto and Sinaga frame MBG poisoning incidents as a matter of state responsibility rather than merely private wrongdoing.²⁷ This perspective strengthens the argument that victim remedy forms part of the state's public service obligation, especially because children are the primary beneficiaries. Thus, accountability must extend beyond offender identification and include effective victim recovery mechanisms.

Where criminal accountability is unclear due to vague legal subjects or evidentiary obstacles, victims often shift toward alternative routes. Wisnu Puteri and Kaharuddin show that civil class actions may become a practical strategy when criminal channels are perceived as uncertain or ineffective. While this illustrates the vitality of civil mechanisms for collective compensation, it also demonstrates accountability leakage caused by weak criminal mapping. If such leakage becomes systemic, criminal law loses its deterrent function while lengthy civil proceedings impose additional burdens on victims.

Accordingly, an ideal policy model should not place criminal and civil remedies in opposition, but should arrange them in a coherent sequence: (1) rapid compensation through state-backed program funds or emergency mechanisms; (2) state recourse against vendors or actors proven negligent; (3) strengthened class action as a supplementary remedy where rapid compensation is inadequate; and (4) criminal enforcement as the highest accountability mechanism once serious fault thresholds are

²⁷Riyanto and Sinaga.

satisfied. This design prevents victims from being forced to wait for criminal outcomes before receiving meaningful relief.

Integrated remedies also address sanction fragmentation, which has been highlighted as a weakness in Indonesian food law.²⁸ When criminal and administrative sanction regimes operate in isolation, enforcement appears inconsistent and vulnerable to politicization. By contrast, a tiered and predictable remedy architecture allows the public to see a stable state response: immediate audit, victim compensation, governance correction, and criminal prosecution for serious violations. In this context, systemic order is more valuable than punitive symbolism.

Moreover, integrated remedies protect MBG from political delegitimization. Large-scale public programs depend heavily on public trust. If the state appears slow in remedying victims or selectively targets certain actors, public confidence declines, and the program becomes politically fragile. Conversely, rapid remedy and clear accountability signal that MBG risks can be managed within the law, thereby strengthening program legitimacy and long-term sustainability.

Ultimately, MBG criminal liability must be embedded within a broader protection system. Criminal law functions as a guardrail when violations exceed acceptable limits. Administrative mechanisms ensure swift governance correction. Civil remedies ensure that victims do not bear the burden of public policy failure alone. When these channels are integrated coherently, accountability becomes preventive, corrective, and sustainability-oriented rather than merely reactive.

Conclusion

The *Free Nutritious Meal (Makan Bergizi Gratis or MBG)* Program, as a national public service policy, generates significant legal consequences when food safety failures result in mass poisoning incidents. This study finds that Indonesian positive law has, in fact, provided a normative basis for criminal liability through negligence-based offenses in the Criminal Code, as well as through the Consumer Protection Law and the Food Law. However, these legal instruments were largely developed for more linear legal relationships, whether between offender and victim or between producer and consumer, and are therefore not fully compatible with the structurally layered, administratively coordinated, and multi-actor character of the MBG Program.

The main finding of this study is that the criminal law problem in MBG does not lie in the total absence of legal norms, but in the absence of a foreseeable criminal accountability map. Current MBG regulations remain predominantly administrative and institutional, while failing to establish clear boundaries between administrative violations and criminal conduct, between ordinary negligence and gross negligence, and between direct technical fault and supervisory failure. As a result, the chain of criminal responsibility becomes blurred and vulnerable to two equally problematic outcomes: selective criminalization of certain actors, especially field-level

²⁸Rado and others, "Food Law in Indonesia Has a Criminal Perspective That Is Oriented Towards Food Security."

implementers, or structural impunity because responsibility is dispersed across multiple institutions and difficult to attribute with precision.

This study further concludes that criminal liability in MBG food safety incidents must be constructed within the framework of multi-layered public policy governance rather than relying solely on conventional individual liability doctrines. In the MBG structure, criminal responsibility should be mapped in a limited, measurable, and rational manner across the chain of government, BGN, schools, and vendors on the basis of effective control, duty of care, degree of fault, and causal contribution to the harmful outcome. Within this framework, corporate criminal liability becomes essential for food service providers operating as legal entities, while the criminal liability of public officials must be limited to circumstances involving gross negligence, reckless disregard of food safety obligations, or abuse of authority that is causally linked to mass poisoning incidents.

The scholarly contribution of this article lies in its effort to move beyond earlier studies that generally discuss MBG in terms of food safety, child rights, public service, or broad state accountability. This article specifically offers a systematic construction of criminal liability by mapping legal subjects, forms of fault, and attribution chains within the MBG governance structure. In that sense, this study strengthens the discourse on criminal law in public policy by showing that mass food programs require not only administrative governance, but also a legally certain criminal accountability architecture.

Accordingly, this study recommends the enactment of a statutory *lex specialis* that explicitly regulates minimum food safety standards for public meal programs, liable legal subjects, fault thresholds, causation standards, and tiered sanctions that place criminal punishment as *ultimum remedium*. Such legislation is necessary not only to protect beneficiaries but also to provide legal certainty for implementers and to prevent arbitrary or inconsistent enforcement. For policymakers, this means that the sustainability and legitimacy of the MBG Program depend not merely on the capacity for nutritional distribution, but also on the existence of a clear accountability design that is fair, foreseeable, and enforceable.

Future research may expand the comparative scope of statutory regulation in public food programs, examine the relationship between criminal accountability and public procurement governance, and conduct empirical studies on the effectiveness of supervision, traceability, and audit mechanisms in MBG implementation. Such further studies are important to ensure that the development of MBG accountability does not remain purely doctrinal, but can also be tested against institutional practice and enforcement realities.

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