

Constitutional legitimacy and legal policy of the free nutritious meal program (Mbg) in Indonesia

Hariang Dede Taufik¹, Dr. Bambang Slamet Riyadi², Dr. Riza Zulfikar^{2*}

¹ Faculty of Law, Langlangbuana University, Bandung, West Java, Indonesia

² Lecturer, Faculty of Law, Langlangbuana University, Bandung, West Java, Indonesia

Abstract

The Free Nutritious Meal Program (Program Makan Bergizi Gratis/MBG) has become one of the Indonesian government's strategic policies in fulfilling the constitutional obligation to guarantee public welfare and improve national nutrition quality. This study examines the constitutional basis, legal policy, and implementation challenges of the MBG program from the perspective of normative legal research and public policy. The study employs a qualitative juridical-normative approach using statutory, conceptual, and case approaches. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, the Food Law, the Health Law, the Consumer Protection Law, and Constitutional Court decisions related to state budgeting and social rights. The findings indicate that the MBG program reflects the state's constitutional responsibility to fulfill the right to food, health, and social welfare as mandated under Articles 27 paragraph (2) and 34 of the 1945 Constitution. However, the implementation of the program still faces legal and administrative issues, including the absence of a comprehensive legal framework, budget accountability concerns, procurement transparency, and the risk of maladministration. The study concludes that the MBG program should not merely be viewed as a populist political agenda but as a constitutional social policy requiring stronger legal legitimacy, institutional supervision, and sustainable governance mechanisms.

Keywords: Constitutional law, legal policy, free nutritious meal program, right to food, public policy

Introduction

The state has a constitutional obligation to guarantee the welfare of its citizens, including access to adequate food and nutrition. In Indonesia, this obligation is reflected in Article 27 paragraph (2) of the 1945 ^[1] Constitution, which guarantees every citizen the right to decent work and livelihood, as well as Article 34 paragraphs (1) and (2), which mandate the state to care for the poor and neglected children and to develop a social security system for the people.

The Free Nutritious Meal Program (Program Makan Bergizi Gratis/MBG) emerged as one of the government's strategic initiatives to address nutritional inequality, stunting, and educational disparities among Indonesian children and vulnerable groups. The program is aimed at providing nutritious food for school students, pregnant women, breastfeeding mothers, and children under five years old. Through this policy, the government seeks to improve human resource quality while simultaneously strengthening social welfare.

From the perspective of legal policy, the MBG program represents an effort by the state to translate constitutional mandates into concrete public policies. Legal policy itself refers to the state's official direction in establishing and implementing laws to achieve national objectives. In this context, the MBG policy is closely related to the state's responsibility in realizing social justice, public welfare, and the protection of economic and social rights.

However, despite its constitutional objectives, the implementation of the MBG program has generated significant legal and policy debates. Several issues have emerged concerning the legality of budget allocations, the absence of a specific statutory framework governing the program, procurement transparency, and potential conflicts with constitutional principles regarding education expenditure. Critics argue that the program risks becoming a

populist policy instrument if not supported by adequate legal safeguards and accountability mechanisms.

In addition, practical implementation challenges have also surfaced, including allegations of maladministration, food safety concerns, and weak monitoring systems. Such conditions raise questions regarding whether the MBG program genuinely reflects constitutional fulfillment of citizens' rights or merely serves short-term political interests. Based on the foregoing explanation, this study seeks to examine the constitutional legitimacy and legal policy dimensions of the MBG program in Indonesia. The study also analyzes the legal implications, implementation mechanisms, and human rights perspectives related to the program.

Research Method

This research uses a normative juridical method with a qualitative approach. Normative legal research focuses on examining legal norms, constitutional principles, statutory regulations, and legal doctrines related to the Free Nutritious Meal Program in Indonesia.

The approaches used in this study include:

1. Statutory Approach, by examining constitutional provisions and legislation related to food security, health, social welfare, and state budgeting.
2. Conceptual Approach, by analyzing legal doctrines concerning constitutional obligations, welfare state theory, and legal policy.
3. Case Approach, through the analysis of Constitutional Court decisions related to state budget allocation and constitutional rights fulfillment.

Primary legal materials consist of the 1945 ^[1] Constitution of the Republic of Indonesia, Law Number 18 of 2012 concerning Food, Law Number 17 of 2023 ^[2, 3] concerning Health, Law Number 8 of 1999 ^[5] concerning Consumer

Protection, Presidential Regulation Number 115 of 2025^[6] concerning the Free Nutritious Meal Program, and several Constitutional Court decisions.

Secondary legal materials include legal journals, academic articles, books, government reports, and publications discussing constitutional law, public policy, and social welfare programs. The collected legal materials were analyzed descriptively and analytically to formulate conclusions regarding the constitutional legitimacy and policy implications of the MBG program.

Discussion

1. Constitutional Basis of the Right to Food and Nutrition

The constitutional foundation of the MBG program can be traced to Article 27 paragraph (2) of the 1945^[1] Constitution, which guarantees the right of every citizen to decent living conditions. Although the provision does not explicitly mention food rights, the concept of decent livelihood inherently includes access to adequate food and nutrition.

Furthermore, Article 34 paragraphs (1) and (2) of the Constitution emphasize the state's responsibility to care for the poor and neglected children and to develop a social security system. These provisions reflect the welfare-state orientation of the Indonesian constitutional system, where the government is required to actively intervene in fulfilling the social and economic rights of citizens.

The constitutional interpretation of the right to food is strengthened by Law Number 18 of 2012^[2] concerning Food.

The law explicitly states that the state is obligated to ensure adequate, safe, quality, and nutritious food consumption for the community. The explanatory section of the law also recognizes food as a basic human need and part of human rights.

Similarly, Law Number 17 of 2023^[3] concerning Health affirms that both central and regional governments are responsible for fulfilling the nutritional needs of poor families and vulnerable groups. These statutory provisions provide strong legal legitimacy for the implementation of state-funded nutritional programs such as MBG.

Thus, constitutionally and legally, the MBG program may be interpreted as a manifestation of the state's obligation to protect and fulfill citizens' social rights.

2. Legal Policy Perspective on the MBG Program

From the perspective of legal policy, the MBG program reflects the government's strategic direction in implementing social welfare policies. Legal policy refers to the state's official policy concerning the formation, implementation, and enforcement of laws to achieve national goals.

The MBG policy demonstrates the government's commitment to improving public welfare through nutritional intervention programs. The policy is also connected to broader national objectives such as reducing stunting rates, improving educational quality, and strengthening human resource development.

However, the legal policy dimension of the MBG program remains controversial. Several scholars and legal observers argue that the program lacks a sufficiently strong statutory framework because it is currently implemented primarily through budgetary mechanisms and presidential regulations.

The absence of a dedicated law governing the program may potentially create legal uncertainty and administrative vulnerabilities.

Another issue concerns the placement of MBG funding within the state budget structure. Critics question whether the program may interfere with the constitutional requirement under Article 31 paragraph (4) of the 1945^[1] Constitution, which mandates that at least 20 percent of the state budget be allocated to education.

Constitutional Court decisions regarding education budget allocation have consistently emphasized that education funding may not be reduced or diverted to unrelated sectors. Consequently, the legal categorization of MBG expenditures becomes an important constitutional issue.

Despite these concerns, supporters of the MBG program argue that nutritional fulfillment directly contributes to educational effectiveness and therefore supports broader educational objectives. In this regard, the program is viewed not merely as a social assistance policy but also as a constitutional investment in human development.

3. Implementation Challenges and Accountability Issues

The implementation of the MBG program involves significant financial and administrative mechanisms. The government allocated approximately IDR 71 trillion in the 2025 State Budget for the program, targeting millions of students and vulnerable groups throughout Indonesia.

The establishment of the National Nutrition Agency (Badan Gizi Nasional/BGN) serves as the central institutional mechanism responsible for coordinating program implementation, determining nutritional standards, and supervising food safety.

Nevertheless, practical implementation challenges remain substantial. Several reports have highlighted issues such as delays in food distribution, procurement irregularities, potential maladministration, and food poisoning incidents. Such problems demonstrate weaknesses in oversight systems and raise concerns regarding transparency and accountability.

Another critical issue involves procurement mechanisms. The use of government assistance schemes outside conventional electronic procurement systems has generated concerns about efficiency, auditability, and corruption risks. Without transparent procurement procedures and public reporting systems, the program may face legitimacy challenges.

In addition, the expansion of the program's target beneficiaries significantly increases logistical complexity. Ensuring equal access, nutritional quality, and nondiscriminatory implementation across all regions of Indonesia remains a major governance challenge.

Therefore, institutional strengthening and integrated supervision mechanisms are essential to maintain public trust and constitutional compliance.

4. Human Rights Perspective on the MBG Program

From a human rights perspective, the MBG program may be regarded as part of the state's obligation to fulfill economic and social rights, particularly the right to food and health.

The right to adequate food is recognized internationally under various human rights instruments and has become part of the broader welfare-state principle adopted by Indonesia. Through the MBG program, the government

attempts to ensure that vulnerable groups, especially children, receive access to adequate nutrition.

The program also contributes to educational rights because adequate nutrition significantly affects children's learning concentration, cognitive development, and school attendance.

However, the realization of human rights principles within the MBG program requires more than broad coverage. The state must also ensure food safety, equal access, quality standards, and protection against discrimination.

In this context, the principles of accountability, transparency, participation, and non-discrimination become essential indicators for evaluating whether the MBG program genuinely fulfills constitutional and human rights obligations.

5. Comparative Perspective

School meal programs have been widely implemented in many countries as part of social welfare and educational policies. According to the World Food Programme (WFP), hundreds of millions of children worldwide benefit from school meal programs.

India's Mid-Day Meal Scheme represents one of the largest examples globally. Indian courts have recognized the provision of school meals as part of the constitutional fulfillment of the right to education and the right to life.

Similarly, countries such as Japan and Brazil implement nationally regulated school meal systems to support public health and educational development.

These international experiences demonstrate that state-funded nutrition programs are generally recognized as legitimate constitutional and social welfare policies when supported by clear legal frameworks, sustainable funding, and effective governance systems.

Conclusion

The Free Nutritious Meal Program (MBG) constitutes a manifestation of the Indonesian state's constitutional responsibility to fulfill citizens' rights to food, health, and social welfare. The constitutional basis of the program derives primarily from Articles 27 and 34 of the 1945 ^[1] Constitution, supported by statutory regulations concerning food, health, and consumer protection.

From the legal policy perspective, the MBG program reflects the government's effort to realize welfare-state principles and improve national human resource quality. However, the implementation of the program still faces significant legal and administrative challenges, including the absence of a comprehensive statutory framework, budget accountability concerns, procurement transparency issues, and risks of maladministration.

Therefore, the sustainability and legitimacy of the MBG program depend on stronger legal foundations, integrated supervisory mechanisms, transparent governance systems, and consistent constitutional compliance. The study emphasizes that the MBG program should not merely be viewed as a temporary populist policy but as a constitutional public policy instrument aimed at fulfilling social justice and human rights obligations in Indonesia.

Recommendations

The government should establish a stronger legal framework through a specific law or comprehensive governmental regulation governing the MBG program.

Budget allocation mechanisms must ensure compliance with constitutional principles, particularly regarding education expenditure and public accountability.

Procurement systems should adopt transparent and auditable electronic mechanisms to minimize corruption risks and improve efficiency.

The National Nutrition Agency should strengthen integrated supervision, public reporting systems, and food safety monitoring.

The implementation of the MBG program should prioritize vulnerable groups while maintaining equal access and non-discriminatory principles.

Periodic policy evaluations are necessary to measure the effectiveness of the program in reducing malnutrition, improving educational outcomes, and strengthening social welfare.

References

1. The Constitution of the Republic of Indonesia, 1945.
2. Law Number 18 of 2012 concerning Food.
3. Law Number 17 of 2023 concerning Health.
4. Law Number 36 of 2009 concerning Health.
5. Law Number 8 of 1999 concerning Consumer Protection.
6. Presidential Regulation Number 115 of 2025 concerning the Free Nutritious Meal Program.
7. Constitutional Court Decision Number 026/PUU-III/2005.
8. Constitutional Court Decision Number 011/PUU-III/2005.
9. Constitutional Court Decision Number 24/PUU-V/2007.
10. Shientiarizki *et al.* Program MBG dalam Perspektif Konstitusionalisme. Justicia Sains, 2025.
11. Antara News. Pihak Terkait Tegaskan MBG Konstitusional di MK Sidang, 2026.
12. NU Online. Mahkamah Konstitusi Sidang Gugatan Program MBG, 2026.
13. Ministry of Finance of the Republic of Indonesia. MBG Tingkatkan Target Penerima Jadi 82,9 Juta Orang, 2025.
14. World Food Programme (WFP). School Meals Programme.
15. Bharwaj S. Mid-Day Meals in India and Constitutional Rights, 2021.
16. Mahfud MD. Politik Hukum di Indonesia, 2009.
17. Nasir. Legal Policy and Structural Change in Society, 2025.