

Integration of the rights to health and food as human rights in the national policy of indonesia's free nutritious meal program

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Abstract: Health development in Indonesia continues to face major challenges, particularly in fulfilling community nutrition needs, as reflected in the high prevalence of stunting, wasting, and malnutrition. From a human rights perspective, the rights to health and food are interrelated and require integrated policy implementation. Through the Free Nutritious Meal Program (MBG), the government seeks to fulfill nutritional needs while carrying out its responsibility to guarantee the rights to health and food. This study aims to analyze the regulation of the rights to health and food within the Indonesian legal system and examine the integration of both rights into the Free Nutritious Meal Program as a human rights-based policy using normative legal research methods with statutory, conceptual, and human rights approaches. The findings show that the rights to health and food already have a strong normative basis in the 1945 Constitution and related legislation; however, existing regulations remain sectoral and lack an integrated framework. The study also identifies potential conflicts between fulfilling the rights to health and food and the right to education, particularly regarding state budget allocation, as the Free Nutritious Meal Program may create budgetary pressure on the education sector, thereby requiring regulatory harmonization to ensure balanced fulfillment of all human rights.

Keywords: Free Nutritious Meal Program; Human Rights; Right to Food; Right to Health.

INTRODUCTION

Health development in Indonesia continues to face various fundamental challenges, particularly concerning the fulfillment of public nutrition, which directly affects the quality of health and human resources. Nutritional problems such as stunting, wasting, and malnutrition remain crucial issues that indicate the suboptimal fulfillment of the right to health for all citizens. Prevalence data show that the stunting rate among children under five stands at 19.8% (Kementrian Sekretariat Negara RI Sekretariat Wakil Presiden, 2025). There are six provinces with the highest number of stunting

cases, namely West Java with 638,171 cases, Central Java with 485,759 cases, East Java with 430,661 cases, North Sumatra with 316,368 cases, East Nusa Tenggara with 214,084 cases, and Banten with 209,542 cases (Nouvan, 2026). Meanwhile, malnutrition affects approximately 20–25% of children under five (Kemenkes, 2025). This condition becomes increasingly complex when linked to socio-economic inequality, which affects people's access to adequate, safe, and nutritious food. Therefore, health issues cannot be separated from issues concerning the availability of and access to food, as both are closely interconnected and mutually influential.

Within the framework of a rule of law state that upholds human rights, the fulfillment of the right to health and the right to food is not merely a policy option, but rather a constitutional obligation of the state. The right to health and the right to food have been recognized as fundamental human rights, both in international instruments and within Indonesia's national legal system. Constitutionally, the guarantee of the right to health and welfare, including the fulfillment of basic needs such as food, is reflected in the 1945 Constitution of the Republic of Indonesia. Furthermore, various laws and regulations in the fields of health and food further affirm the state's obligation to ensure the fulfillment of these rights for all citizens without discrimination. This is reflected, among others, in Law Number 17 of 2023 concerning Health, which emphasizes that every person has the right to attain the highest possible standard of health, and in Law Number 18 of 2012 concerning Food, which guarantees every citizen the right to obtain sufficient, safe, high-quality, and nutritious food.

Furthermore, the recognition of the rights to health and food as part of human rights is also affirmed in Law Number 39 of 1999 concerning Human Rights, which states that every person has the right to physical and spiritual well-being, including the right to a good and healthy environment and access to health services.

From a human rights perspective, the right to health and the right to food possess characteristics that are interdependent and indivisible. The fulfillment of the right to health cannot be achieved optimally without guarantees regarding the availability of and access to adequate and nutritious food. Conversely, the fulfillment of the right to food also has direct implications for improving the standard of health of individuals and society. Therefore, sectoral and partial approaches in public policy have the potential to hinder the effective realization of these two rights. An integrated approach is therefore required, one that is capable of connecting various policy sectors synergistically in order to achieve the comprehensive fulfillment of human rights.

Although the normative recognition of the rights to health and food is relatively strong, in practice there are still various challenges in their implementation (Pribadi, 2023). Existing policies tend to be formulated and implemented separately across sectors, thereby failing to demonstrate systematic integration between the fulfillment of the right to health and the right to food. This can be observed in various government programs that are more oriented toward sectoral approaches, for example, health programs that are not always accompanied by adequate interventions in the food sector, or vice versa. This condition indicates the existence of a gap between normative regulations and policy implementation in practice (Riyanto & Sinaga, 2025).

In this context, the Indonesian government has initiated the Free Nutritious Meal Program as one of the strategic policies aimed at improving the nutritional quality of the population, particularly among vulnerable groups such as children and students. This

program is expected to serve as a concrete solution in addressing nutritional problems while simultaneously improving the health quality of future generations. Conceptually, this program has significant potential to become an instrument for integrating the fulfillment of the right to health and the right to food, as it directly targets the consumption of nutritious food that has a direct impact on health conditions.

Comparative experiences from several countries demonstrate that school feeding and nutrition programs can serve as effective instruments for integrating the right to health and the right to food within a human rights framework. Brazil, through its National School Feeding Program (Programa Nacional de Alimentação Escolar/PNAE), has successfully integrated food security, local agricultural empowerment, and children's nutritional rights through a decentralized governance model involving local governments and community participation (Sonnino et al., 2014). South Africa, through the National School Nutrition Programme (NSNP), emphasizes the protection of children's rights to food and education, although studies reveal that implementation challenges still arise, particularly during school breaks and emergency situations (Mulaudzi et al., 2024). In Latin America more broadly, studies during the COVID-19 pandemic indicate that school feeding programs became important instruments for protecting the Human Right to Adequate Food and Nutrition (HRAFN), although the effectiveness of implementation depended heavily on governance capacity, accessibility, and policy integration (Weinfurter et al., 2025). These comparative experiences indicate that successful nutrition policies are not solely determined by food distribution mechanisms, but also by the extent to which such policies are integrated with human rights principles, governance accountability, and cross-sector coordination.

The implementation of the Free Nutritious Meal Program cannot be separated from various challenges, particularly in aspects of management and governance. A program that involves a wide distribution scale, substantial budgeting, and the involvement of numerous actors ranging from the central government and regional governments to providers and field implementers requires a management system that is transparent, accountable, and integrated. In practice, the primary challenge lies in inter-ministerial coordination, such as among the Ministry of Health, the Ministry of Agriculture, and the Ministry of Education, where the distribution of local food supplies is often hindered by supply chains that have not yet been optimally integrated. This condition not only creates dependency on imports but also leads to unequal nutritional quality, particularly in remote areas.

From a governance perspective, the implementation of this program is normatively based on Presidential Regulation Number 83 of 2024 concerning the establishment of the National Nutrition Agency as the institution responsible for managing the program. However, when referring to various previous government programs in the same nutritional improvement sector, the decentralization of implementation to regional governments often results in inconsistencies in budgeting, implementation, and monitoring mechanisms (Purnamasari et al., 2014). This indicates that strong sectoral bureaucracy and weak cross-sector coordination remain obstacles to achieving effective policy integration, thereby potentially hindering the comprehensive fulfillment of the rights to health and food.

Furthermore, from a legal perspective, the implementation of a program at a national scale with substantial budget support also opens up opportunities for irregularities that

may lead to criminal acts, particularly corruption. Such potential can arise at various stages, ranging from planning, procurement of goods and services, distribution, to supervision. Practices such as budget mark-ups, reduction in food quality, falsification of nutritional labels, abuse of authority, and misdirected distribution are forms of misconduct that not only harm state finances but also have the potential to weaken the state's mandate in fulfilling human rights obligations. Therefore, the success of the Free Nutritious Meal Program is not solely determined by sound policy design, but also by the quality of governance and the effectiveness of oversight in preventing potential criminal acts in its implementation.

From this perspective, the existence of the Free Nutritious Meal Program (MBG) also raises critical questions in terms of law and human rights. Has the program been formulated based on a human rights approach that positions the fulfillment of the rights to health and food as a state obligation, or is it still framed as a form of charitable social assistance policy? In addition, it is important to examine whether the program reflects human rights principles such as non-discrimination, participation, accountability, and the fulfillment of quality standards (availability, accessibility, acceptability, and quality)

On the other hand, developments in academic studies indicate that research on the right to health and the right to food is generally still conducted separately. Studies in health law tend to focus more on aspects of health services and health insurance systems, while studies in the field of food concentrate more on food security and food distribution. Research that examines the interrelation and integration of these two rights within a single comprehensive analytical framework remains relatively limited. In addition, studies on nutrition fulfillment programs such as the Free Nutritious Meal Program are more often conducted from public policy or economic perspectives, and there have been relatively few that analyze them from the perspective of human rights integration.

Recent academic studies indicate that research concerning nutrition policies and the integration of health and food rights is increasingly developing, although comprehensive legal studies remain limited. First, research entitled "*Beyond School Feeding: Makan Bergizi Gratis (MBG) as a Life-Course Nutrition and Human Capital Policy in Indonesia*" analyzes MBG from the perspectives of nutrition policy, welfare governance, and human capital development, emphasizing that the effectiveness of MBG depends on governance coherence, food safety, and rights-based policy implementation (Dirawan & Sukriadi, 2026). Second, the study entitled "*Three Decades of School Meal Program Research: Bibliometric Insights for Governance and Sustainability of Indonesia's Free Nutritional Meal Initiative (MBG)*" highlights that global school feeding research increasingly focuses on sustainability, governance efficiency, and policy integration, while also emphasizing the importance of cross-sector coordination in Indonesia's MBG implementation (Wibowo & Yuliani, 2026). Third, the article "*The Paradox of Justice in the Free Nutritious Meal Program*" critically evaluates MBG from the perspective of justice and human rights, concluding that weaknesses in legal frameworks and food safety governance may potentially undermine the fulfillment of the rights to health and food (Lailatul Firdaus & Dwi Astuti, 2026). Nevertheless, these studies generally focus on governance, public policy, and welfare perspectives, and have not comprehensively examined the integration of the right to health and the right to food within a normative human rights framework in Indonesian law.

This limitation in existing studies indicates an important research gap that needs to be addressed. The integration of the right to health and the right to food within a single concrete public policy is a strategically significant issue, both theoretically and practically. Theoretically, this study can enrich the development of legal scholarship, particularly in health law and human rights, by introducing a more holistic and interdisciplinary approach. Practically, this study can contribute to the formulation of more effective, integrated, and human rights based public policies. In contrast to previous studies, this research specifically examines the integration of the rights to health and food as human rights within the national policy of Indonesia's Free Nutritious Meal Program through a normative legal approach based on human rights combined with a comparative analysis of nutritious meal policies in several countries. Accordingly, the novelty of this study lies in its effort to position the Free Nutritious Meal Program as an instrument for fulfilling the rights to health and food, which constitute constitutional and human rights obligations of the state, thereby requiring integrated governance, legal accountability, and cross-sector policy harmonization in its implementation.

Based on this description, the present research focuses on analyzing the regulation of the right to health and the right to food within the Indonesian legal system, as well as examining the integration of these two rights as a foundation for formulating the Free Nutritious Meal Program. This study is expected not only to enrich academic discourse but also to provide practical contributions in the form of policy recommendations for strengthening public policies oriented toward the comprehensive fulfillment of human rights. In line with this, the study is directed to examine two main aspects: the normative regulation of the rights to health and food within the national legal framework, and the integrative concept of these rights in the formulation of the Free Nutritious Meal Program policy in Indonesia.

METHODS

This study constitutes normative legal research focusing on library research, namely research that emphasizes the analysis of legal norms, principles, doctrines, and concepts contained in legislation and relevant literature related to the research topic. According to (Marzuki, 2005) normative legal research is a process of identifying legal rules, legal principles, and legal doctrines in order to address existing legal issues, while (Muhaimin, 2020) argues that normative legal research positions law as norms, rules, legal principles, doctrines, legal theories, and various forms of legal literature utilized to resolve the legal problems under examination. In line with these views, this study positions law as a system of norms consisting of legislation, legal principles, legal theories, and doctrines developed within legal scholarship to examine the integration of the right to health and the right to food as part of human rights within Indonesia's national policy on the Free Nutritious Meal Program. The legal materials employed in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include legislation related to the right to health, the right to food, and the Free Nutritious Meal Program policy, such as the 1945 Constitution of the Republic of Indonesia, Law Number 39 of 1999 concerning Human Rights, Law Number 17 of 2023 concerning Health, Law Number 18 of 2012 concerning Food, and Presidential Regulation Number 72 of 2021 concerning the Acceleration of Stunting Reduction. Secondary legal materials comprise books, scientific journals, research findings, and

expert opinions related to health law, food law, and human rights, while tertiary legal materials include legal dictionaries, encyclopedias, and other supporting sources that facilitate the understanding of legal terms and concepts applied in this research. The approaches employed in this study include the statutory approach, which examines various legal instruments regulating the rights to health and food, and the conceptual approach, which is utilized to analyze the concept of integrating these rights from a human rights perspective. The collection of legal materials was conducted through library research by identifying, inventorying, and reviewing various relevant national and international legal sources, including the International Covenant on Economic, Social and Cultural Rights, all of which were systematically organized to analyze their relevance to the focus of the study. The analysis of legal materials was carried out qualitatively through the interpretation and examination of the collected legal materials based on the research problems, involving stages of classifying legal materials, interpreting legal norms and concepts, and drawing deductive conclusions. Accordingly, the findings of this study are expected to provide a comprehensive understanding of the integration of the rights to health and food within the national legal framework and its implications for the implementation of Indonesia's Free Nutritious Meal Program policy.

RESULTS AND DISCUSSION

Regulation of the Right to Health and the Right to Food in Indonesia's Legal Framework

The right to health and the right to food are integral components of human rights (HR) that hold a fundamental position in ensuring human survival and dignity, as stipulated in Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). These two rights are not only recognized in various international legal instruments but have also been strongly internalized within Indonesia's national legal system as part of the state's commitment to protecting and fulfilling the basic rights of its citizens. As a constitutional foundation, the 1945 Constitution of the Republic of Indonesia regulates the right to health in Article 28H paragraph (1), which states that every person has the right to a life of well-being in terms of physical and spiritual health, and Article 34 paragraph (3), which obliges the state to provide adequate health service facilities. Meanwhile, the right to food is implicitly recognized through Article 27 paragraph (1) concerning equality in obtaining prosperity, Article 28A on the right to life, and Article 28C paragraph (1) regarding the fulfillment of basic needs, with the affirmation of state obligations as stipulated in Article 28I paragraph (4).

These provisions indicate that, normatively, both in international and national law, the right to health and the right to food have obtained strong legitimacy as fundamental rights inseparable from human existence. At the international level, the existence of the ICESCR not only affirms the recognition of these rights but also imposes legal obligations on states to take concrete steps toward their realization. This obligation became further binding after Indonesia ratified the Covenant through Law Number 11 of 2005, which requires harmonization between international norms and national policies and regulations.

As a follow-up to this commitment, human rights principles have been implemented into various laws and regulations in Indonesia. In the health sector, Law Number 17 of 2023 concerning Health affirms that health is a fundamental right of every person that must be realized through the provision of equitable, affordable, and quality health services. This is further reinforced by Law Number 39 of 1999 concerning Human Rights, which positions the right to health as part of the right to live a decent and dignified life. Meanwhile, in the context of food, Law Number 18 of 2012 concerning Food emphasizes that food is a basic human need, the fulfillment of which is the responsibility of the state to ensure the availability, affordability, and quality of food for the entire population.

Technical regulations regarding the implementation of the rights to health and food are further elaborated in various implementing regulations, such as government regulations and presidential regulations that govern operational aspects in practice. These policies function as implementing instruments to ensure that the rights to health and food do not remain merely at the normative level, but are truly realized in society. In this context, strategic policies such as Presidential Regulation Number 72 of 2021 concerning the Acceleration of Stunting Reduction demonstrate an integration between nutritional fulfillment as part of the right to food and the improvement of public health status.

Therefore, the existence of such technical regulations cannot be viewed merely as administrative instruments, but rather as a concrete manifestation of the state's obligations within the human rights framework. The implementation of policies in the health and food sectors is essentially a reflection of the state's responsibility to ensure the real and equitable fulfillment of citizens' basic rights. In other words, the effectiveness of implementing regulations becomes an important indicator in assessing the extent to which the state has performed its function in protecting and fulfilling human rights, particularly in ensuring equitable access to health services and the availability of adequate food for the entire population. This view is consistent with Paul Hunt's argument, which emphasizes that the right to health can only be realized when states integrate it into effective public policies, including through technical regulations that ensure access, availability, and quality of health services (Hunt, 2016).

From the perspective of modern human rights, the rights to health and food are no longer viewed merely as social needs, but as inherent rights possessed by every individual from birth that must be respected by the state without discrimination. This principle emphasizes that the state has no legitimacy to restrict or neglect the fulfillment of these rights on any grounds, including limited resources, without undertaking maximum and measurable efforts (Mohammad Maulana & Nur Akifah Janur, 2020). Accordingly, the rights to health and food cannot be positioned as optional policies, but rather as legal obligations that must be fulfilled progressively and sustainably.

Conceptually, the right to health and the right to food fall under the category of economic, social, and cultural rights, which require active state involvement in their realization. Unlike civil and political rights, which are generally negative in nature (limiting state interference), economic, social, and cultural rights instead require affirmative action from the state through policies, programs, and adequate resource allocation. In this context, the state cannot remain passive but must be actively present

to ensure that every person has access to proper health services and sufficient, safe, and nutritious food.

In international human rights legal doctrine, the fulfillment of economic, social, and cultural rights, including the rights to health and food, is carried out based on the principle of progressive realization. This refers to the obligation of the state to continuously improve the realization of these rights gradually in accordance with the available resources (Nabalende, 2020). However, this principle must not be interpreted as a justification for delaying the fulfillment of rights entirely, as there are minimum core obligations that must be fulfilled immediately by the state, such as ensuring access to basic health services and providing minimum essential food for every individual.

In addition, the human rights-based approach positions individuals as rights holders and the state as the duty bearer (Hakim & Kurniawan, 2022). In this context, the state is required to ensure that policies are non-discriminatory, transparent, participatory, and accountable in fulfilling the rights to health and food. This means that every public policy, including social programs in the health and food sectors, must be designed by considering principles of social justice and the protection of vulnerable groups such as children, women, and people living in poverty.

On the other hand, the right to health encompasses not only access to medical services but also other health determinants such as a healthy environment, adequate sanitation, and sufficient nutritional intake, as affirmed in the AAAQ framework (Availability, Accessibility, Acceptability, Quality) of the WHO and General Comment No. 14 of the Committee on Economic, Social and Cultural Rights (CESCR) (Mosha et al., 2025). Meanwhile, the right to food is not only understood as the availability of food in terms of quantity, but also includes its quality, safety, sustainability, and affordability for all segments of society. Thus, these two rights are closely interconnected and interdependent, as the fulfillment of the right to adequate food directly contributes to improving public health status (Pribadi, 2023).

In the context of fulfilling the rights to health and food, within the human rights legal framework, the state bears three main obligations: to respect, to protect, and to fulfill. The obligation to respect requires the state to refrain from actions that hinder people's access to health services and food. The obligation to protect requires the state to prevent third parties such as corporations or other individuals from violating these rights. Meanwhile, the obligation to fulfill requires the state to take concrete measures through regulations, public policies, and social programs to ensure the effective realization of these rights.

In this context, the obligation to protect requires the state to establish a regulatory framework capable of controlling the activities of third parties so that they do not undermine the public's rights to health and food, for example through oversight of food safety, nutritional standards, and business practices that may endanger public health (Sastrawan & Rahmah, 2026). This principle is consistent with the provisions of the ICESCR, which affirms the state's responsibility to ensure that non-state actors do not violate the basic rights of individuals. At the national level, this obligation is reflected in various regulations such as Law Number 18 of 2012 concerning Food, which regulates food safety and quality, and Law Number 17 of 2023 concerning Health, which emphasizes the need for supervision of health service delivery.

The obligation to fulfill (to fulfill) implies that the state must actively create conditions that enable every person to fully enjoy the rights to health and food. This is carried out through the provision of health care facilities, social security programs, nutritional interventions, and sustainable food security policies (Andriyani & Irfan, 2026). Concrete manifestations of this obligation can be seen in various government programs aimed at improving access and quality of life for the population, which essentially represent the direct implementation of the constitutional mandate as stipulated in the 1945 Constitution of the Republic of Indonesia.

Thus, these two obligations demonstrate that the role of the state is not merely passive in preventing violations, but also active in ensuring the fulfillment of people's basic rights. The integration between the obligations to protect and to fulfill becomes key to achieving the effectiveness of human rights protection, particularly in guaranteeing fair and equitable access to health services and the availability of adequate food for all citizens. The recognition of the rights to health and food as part of human rights carries legal consequences that the state does not only act as a regulator, but also as a duty bearer responsible for actively realizing public welfare (Namli, 2024). This further emphasizes that the fulfillment of these two rights is not merely a matter of policy choice, but a constitutional and moral obligation of the state in ensuring a decent life for all citizens.

Integration of the Right to Health and the Right to Food in the Policy of Indonesia's Free Nutritious Meal Program

The existence of the Free Nutritious Meal Program (MBG) in Indonesia cannot be separated from the long-standing dynamics of nutritional and public health problems as well as the demand for the fulfillment of human rights in the fields of health and food. Empirically, Indonesia still faces fundamental issues such as stunting, malnutrition, and inequality in access to nutritious food, particularly among vulnerable groups such as school-age children (Krisnawati & Erwandi, 2025). This condition not only affects individual health but also has broader implications for human resource quality, productivity, and sustainable national development.

In its development, various policies have been undertaken by the government to address these issues, one of which is through a program-based nutritional intervention approach. Policies such as Presidential Regulation Number 72 of 2021 concerning the Acceleration of Stunting Reduction serve as an important milestone emphasizing the need for integration between the health and food sectors in efforts to improve the nutritional status of the population. However, sectoral approaches are considered not yet fully effective in reaching all levels of society, thus requiring more comprehensive, direct policies that concretely address the basic needs of the population (Sitohang & Lestari, 2024).

Historically, the idea of providing free nutritious meals cannot be separated from global practices in various countries that have previously implemented similar programs as part of welfare state policies, particularly in the education and health sectors. One of the countries frequently used as a reference is Brazil through its *Programa Nacional de Alimentação Escolar* (PNAE), which integrates nutrition, health, and education within a single public policy framework (Food and Agriculture Organization (FAO), 2023). In addition, India has implemented the *Mid-Day Meal Scheme* as part of efforts to fulfill

the rights to food and education for school children (Drèze & Goyal, 2003). Indonesia subsequently developed a similar approach by adapting it to its national social, economic, and legal context, resulting in the establishment of the Free Nutritious Meal policy as part of the state's efforts to fulfill the rights to health and food.

From a welfare state perspective, the Free Nutritious Meal Program reflects a shift in the role of the state from merely a regulator to a provider that is actively involved in fulfilling the basic needs of society, particularly the rights to food and health. This is consistent with welfare state theory, which positions the state as responsible for ensuring social welfare through distributive and protective public policies (Fikri, 2025).

The legal basis of the Free Nutritious Meal Program (MBG) in Indonesia does not only rely on constitutional norms and sectoral laws, but is also strengthened by various implementing regulations that govern technical aspects, institutional arrangements, and operational standards of the program. In this regard, Presidential Regulation Number 115 of 2025 serves as the main legal foundation governing the governance of the Free Nutritious Meal Program comprehensively, ranging from distribution mechanisms, supervision systems, to program implementation evaluation to ensure that it runs effectively and is properly targeted.

In addition, the existence of Presidential Regulation Number 83 of 2024 provides an institutional foundation through the establishment of the National Nutrition Agency (BGN) as an institution with a strategic role in formulating and implementing nutrition policies, including the implementation of the Free Nutritious Meal Program. From the perspective of food safety and quality, further regulation is provided under Government Regulation Number 28 of 2004 concerning Food Safety, Quality, and Nutrition, which ensures that every meal distributed under the Free Nutritious Meal Program meets proper standards of safety, quality, and nutritional value for consumption. This is important to guarantee that the fulfillment of the right to food is not only achieved in terms of quantity but also in terms of quality in accordance with health standards.

Furthermore, technical standards related to food health and safety are reinforced through various ministerial regulations, such as Minister of Health Regulation Number 14 of 2021 and Minister of Health Regulation Number 2 of 2023, which regulate hygiene standards, sanitation, and the feasibility of food provision by implementing units. These regulations function as operational guidelines to ensure that the implementation of the Free Nutritious Meal Program does not pose health risks to the public.

In addition, the constitutional basis for implementing the Free Nutritious Meal Program can also be traced to Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which guarantees every person the right to access health services and to live in prosperity, as well as Article 34 of the Constitution, which affirms the state's responsibility to provide proper health services and public services. Thus, the Free Nutritious Meal Program is not only understood as a form of social assistance, but also as an implementation of the state's constitutional obligation to fulfill citizens' basic rights (Mustaghfirin, 2026).

This legal construction shows that the Free Nutritious Meal Program is not merely a standard social policy, but a human rights implementation instrument that reflects the integration of the right to health and the right to food within a single public policy framework. From a human rights perspective, both rights fall under the category of

economic, social, and cultural rights (ESCR), which are interdependent and indivisible. This means that the fulfillment of the right to health cannot be achieved without adequate fulfillment of the right to food, and vice versa. A violation of one almost always implies a violation of the other. Therefore, their fulfillment requires an integrated intersectoral policy within a human rights framework (Siddika, 2023).

Heoretically, this integration aligns with the human rights-based approach (HRBA), which positions public policy as a means to realize the basic rights of society. Within this approach, the state acts as the duty bearer, bearing the obligation to respect, protect, and fulfill citizens' rights, while society is positioned as the rights holder entitled to access nutritious food and proper health services. As a duty bearer, the state is not only responsible for procurement but also for ensuring food safety and quality standards. In cases where incidents occur, such as food poisoning or persistent malnutrition, the state may be held accountable administratively and legally (Arafanditama Najim Hidayat et al., 2025). Thus, the existence of the Free Nutritious Meal Program can be seen as a concrete manifestation of the state's obligation, particularly in the dimension of to fulfill, namely through the direct provision of nutritious food as an effort to improve public health status. Therefore, the Free Nutritious Meal Program should not merely be understood as a social assistance policy, but rather as an integrative instrument for the fulfillment of the right to health and the right to food, which must be implemented in accordance with human rights principles.

Furthermore, the integration of human rights in the MBG policy can also be analyzed through fundamental human rights principles such as non-discrimination, social justice, accessibility, and accountability. The principle of non-discrimination requires that the Free Nutritious Meal Program reaches all groups of society without distinction based on social, economic, or geographical background. The principle of social justice demands prioritization of vulnerable groups, such as children and low-income communities. Meanwhile, the principle of accessibility emphasizes the importance of ease in obtaining program benefits, and the principle of accountability requires monitoring mechanisms and clear responsibility in program implementation.

In addition, the MBG policy is also relevant to the Sustainable Development Goals (SDGs), particularly the goals of Zero Hunger, Good Health and Well-being, and Reduced Inequalities. Therefore, the Free Nutritious Meal Program does not only function as a short-term food assistance policy, but also as an instrument of human resource development through improving nutrition, health, and children's learning capacity as part of national human capital development (Aulia, 2026).

Nevertheless, the integration of the right to health and the right to food within the MBG policy is not merely measured by the strength of its normative construction, but also by the effectiveness of its implementation in practice. In several records, it is noted that behind the normative construction and relatively comprehensive policy design, the implementation of the Free Nutritious Meal Program (MBG) in practice still faces various problematic issues that need to be critically examined from a human rights perspective. Several cases of food poisoning occurring in different regions involving school children indicate that food safety aspects have not been fully guaranteed, despite being regulated under Government Regulation Number 28 of 2004 concerning Food Safety, Quality, and Nutrition, as well as technical standards in Minister of Health Regulation Number 14 of 2021 and Minister of Health Regulation Number 2 of 2023. This condition

indicates a gap between legal norms and implementation, particularly in terms of supervision, hygiene, and the capacity of food service providers at the operational level. The direct implication of this situation may lead to violations of the right to health, as the state has an obligation to ensure the highest attainable standard of health, including through supervision of the quality of food consumed by the public, (Gressier et al., 2020) since unsafe food has the potential to cause health problems for program beneficiaries. From a human rights perspective, such conditions demonstrate that the failure to maintain food safety in the implementation of the Free Nutritious Meal Program is not merely an administrative or technical issue, but is also directly related to the substantive fulfillment of the right to health and the right to food.

In addition, issues related to food distribution also pose significant challenges, particularly in regions with limited infrastructure. Delays in distribution, declining food quality during transportation, and unequal access between regions indicate that the principles of accessibility and equality in human rights have not been fully realized. In this context, unequal distribution may lead to indirect discrimination against certain groups, especially those in remote areas.

The inclusion of private schools categorized as middle- to upper-income institutions as beneficiaries of the Free Nutritious Meal Program reflects a serious distortion in policy design. From the perspective of fiscal justice, state expenditure should be proportionally directed toward the most vulnerable groups. When the state finances nutritious meals for children from economically well-off families who already have adequate access to nutrition this results in misallocation of resources, namely a condition in which public resources (especially budget, labor, or facilities) are improperly targeted and therefore not used to meet the most urgent or priority needs (Roothaert et al., 2021).

In the context of human rights-based public policy, misallocation of resources refers to the use of state resources that is not directed toward vulnerable groups or those most in need of rights fulfillment, thereby creating both inefficiency and injustice in the distribution of policy benefits (Hu & Han, 2021). Private schools with high tuition fees are generally attended by students from families with high purchasing power. They are not only able to meet their children's nutritional needs independently, but also have access to relatively high-quality education and health services. Therefore, providing MBG to this group does not generate significant additional benefits, either in terms of nutritional improvement or human resource development. In other words, when a group already has a good baseline condition, policy intervention tends to produce minimal impact (Suprpto et al., 2025).

In this case, the state in fact loses the opportunity to expand the social impact of a very large budget allocation. As a result, such a policy risks eroding public legitimacy toward the Free Nutritious Meal Program itself. A program initially designed as an affirmative instrument for low-income groups may be perceived as a populist policy that is wasteful and insufficiently sensitive to social inequality (Amirkhanyan et al., 2024). In the long term, this situation risks reducing public trust in the effectiveness of state expenditure, particularly in the context of current pressures for fiscal efficiency in public budgeting. Therefore, the implementation of the Free Nutritious Meal Program should be directed affirmatively toward the groups most in need so that the integration of the right to health and the right to food truly reflects the principle of social justice within the framework of human rights.

Another equally important issue relates to the procurement of goods and services for the Nutrition Fulfillment Service Units (SPPG), which in several cases shows the dominance of certain parties within the procurement chain. This condition potentially gives rise to monopolistic practices, conflicts of interest, and a decline in the quality of food supplies provided. From a human rights perspective, such conditions are contrary to the principles of accountability and transparency in public policy implementation.

At the institutional level, the ownership and management of SPPG, which tends to be concentrated in certain groups or actors, also raises concerns regarding the fairness of economic benefit distribution. Ideally, the Free Nutritious Meal Program should not only focus on nutritional fulfillment but also empower local communities, such as small and medium-sized enterprises (SMEs), to ensure more equitable economic distribution in line with the principle of social justice. Therefore, non-transparent governance in the implementation of the Free Nutritious Meal Program has the potential to hinder the fair and accountable fulfillment of the right to health and the right to food.

Furthermore, inequality in the welfare of implementing personnel is also a crucial issue. The comparison between the salaries of SPPG workers and honorary teachers, which is relatively disproportionate, reflects an imbalance in wage policies within the public sector. This condition has the potential to create issues of distributive justice and may affect motivation as well as service quality in the long term. From a human rights perspective, this situation is related to the right to decent work and a fair livelihood as guaranteed under Law Number 39 of 1999 concerning Human Rights.

Thus, these various issues indicate that the integration of the rights to health and food within the MBG policy has not yet been optimally realized at the implementation level. This underscores the importance of strengthening oversight mechanisms, improving implementers' capacity, ensuring transparency in procurement processes, and enhancing overall policy governance so that human rights principles such as non-discrimination, justice, and accountability can be effectively implemented in practice. Without improvements in these aspects, the MBG policy risks remaining strong at the normative level but weak in its actual implementation on the ground.

Behind the idealism of the Free Nutritious Meal Program (MBG) as a human rights-based policy, there is also the potential risk of criminal acts in its implementation. The complexity of program governance, involving various actors from food procurement, processing, to distribution, creates space for irregular practices such as corruption, collusion, and nepotism (KKN), particularly in public procurement processes for goods and services.

From a criminal law theory perspective, this condition can be analyzed through the concept of abuse of power, where officials or authorized parties misuse their authority for personal or group interests. In addition, the theory of criminal liability emphasizes that any act fulfilling the elements of fault (*mens rea*) and unlawful conduct (*actus reus*) may give rise to criminal responsibility (Putri, 2020).

In the context of the Free Nutritious Meal Program, actions such as procurement of substandard food ingredients, budget manipulation, or negligence causing food poisoning may be classified as unlawful acts, especially when they result in harm to the public. This is closely related to the provisions of Government Regulation Number 28 of

2004 concerning Food Safety, Quality, and Nutrition, as well as Law Number 17 of 2023 concerning Health, which require compliance with food safety and feasibility standards.

From a human rights law perspective, the potential for criminal acts in the implementation of the Free Nutritious Meal Program can be understood as a form of violation of state obligations, particularly in the dimensions of to protect and to fulfill. The state is not only obliged to provide programs but also to ensure that such programs do not cause harm or endanger the public. If irregularities occur that result in people not receiving adequate food or even experiencing health problems, such conditions may be classified as a failure of the state to fulfill the rights to health and food as guaranteed under Law Number 39 of 1999 concerning Human Rights.

In addition, the theory of distributive justice is also relevant in examining potential inequalities in the implementation of the Free Nutritious Meal Program, both in terms of the distribution of program benefits and the welfare of implementing personnel. Inequalities such as the dominance of certain parties in the management of SPPG or significant disparities in wages may reflect injustice in the distribution of resources, which in turn can trigger deviant practices.

Thus, the threat of criminal acts in the implementation of the Free Nutritious Meal Program is not merely a technical issue, but is also closely related to various legal concepts and theories, both in criminal law and human rights law. Therefore, there is a need to strengthen supervisory systems, ensure firm law enforcement, and internalize the principles of good governance so that the MBG policy is not only normatively ideal but also clean and effective in its implementation.

On the other hand, there is a potential risk of budget “distortion” in the implementation of the Free Nutritious Meal Program due to the allocation of funds from the education sector budget, as stipulated in Law Number 17 of 2025 concerning the State Budget (APBN) for Fiscal Year 2026. Of the total education budget in 2026 amounting to IDR 769.09 trillion, the Free Nutritious Meal Program is estimated to absorb between IDR 223.56 trillion and IDR 268 trillion (Jurnaltoday, 2026). This figure represents nearly one-third of the total education budget. Such a condition has the potential to reduce improvements in education quality and narrow fiscal space for education, especially when the need for educational development remains very high.

Substantively, the Free Nutritious Meal Program (MBG) lies at the intersection of the health and social protection sectors. Therefore, if its funding source is allocated from the education budget, this condition may potentially create normative tension because it could reduce the state’s capacity to fulfill the right to education. From a human rights law perspective, all rights hold equal standing and cannot be sacrificed for one another. Hence, budgetary policies must be designed proportionally and must not result in the reduction of other rights’ fulfillment.

In human rights theory, the fulfillment of economic, social, and cultural rights is based on the principle of progressive realization as set out in the International Covenant on Economic, Social and Cultural Rights (ICESCR), which requires states to continuously improve the realization of rights using the maximum available resources (Handayani, 2018).

However, this principle also contains the prohibition of retrogressive measures, namely policies that actually reduce the level of rights fulfillment that has already been

achieved (Warwick, 2025). Thus, if the financing of the Free Nutritious Meal Program results in a decline in the quality or accessibility of education, such a policy may potentially be in conflict with fundamental human rights principles.

Furthermore, in a constitutional context, the 1945 Constitution of the Republic of Indonesia explicitly mandates that the state must allocate at least 20% of the national and regional budgets (APBN/APBD) to education. This provision demonstrates that the right to education holds a strategic position that must not be reduced by policies in other sectors, including the Free Nutritious Meal Program. Therefore, the integration of cross-sectoral programs such as MBG must still take into account a balanced budget allocation so as not to create conflicts between rights.

From the perspective of justice theory, particularly distributive justice, the state is required to allocate resources fairly and proportionally without sacrificing certain groups or sectors. The diversion of funds from the education sector to the Free Nutritious Meal Program without careful planning has the potential to create new inequalities, both in the quality of education and access to other basic services. This is also closely related to the principle of non-discrimination in human rights, which requires that every public policy must not result in indirect adverse treatment toward certain groups.

Thus, although the Free Nutritious Meal Program is an important initiative for fulfilling the rights to health and food, its budgetary policy must be carefully designed so as not to result in violations of other rights, particularly the right to education. The state must ensure that cross-sector policy integration is carried out in a harmonious manner, while upholding the principles of balance, justice, and sustainability in the fulfillment of all human rights.

CONCLUSIONS

The Free Nutritious Meal Program (MBG) is essentially a concrete form of state policy aimed at realizing the fulfillment of the right to health and the right to food as part of human rights. Normatively, this program has a relatively strong legal foundation, both within the constitutional framework, sectoral laws, and various implementing regulations governing institutional aspects, food safety, and nutritional service standards. From a human rights perspective, MBG demonstrates an integration of the right to health and the right to food that is interdependent and indivisible. Through this program, the state no longer functions merely as a regulator, but also as a duty bearer that is actively present in fulfilling the basic needs of society through a human rights-based approach.

However, behind this relatively comprehensive normative construction, the Free Nutritious Meal Program (MBG) still faces various issues that indicate a gap between legal norms and policy realities on the ground. Problems related to food safety, unequal distribution, potential abuse of authority in procurement of goods and services, and unequal distribution of program benefits indicate that human rights principles such as non-discrimination, social justice, accessibility, and accountability have not been fully guaranteed. In addition, the provision of MBG to economically capable groups who are already able to meet their own nutritional needs also reflects a misallocation of resources, which may reduce the program's affirmative orientation toward vulnerable groups. This condition raises concerns from the perspective of distributive justice, as state resources should be prioritized for those most in need.

On the other hand, the budgeting policy of the Free Nutritious Meal Program also raises important issues from a human rights perspective, particularly regarding the potential normative conflict between the rights to health and food and the right to education. The use of a significant portion of the education budget to finance the Free Nutritious Meal Program may lead to budgetary distortion, which could affect both the quality and accessibility of education. Within the human rights framework, all rights have equal standing and cannot be fulfilled by reducing the realization of other rights.

Therefore, state budget allocation must be carried out in a proportionate, fair, and sustainable manner so as not to result in retrogressive measures against the right to education, which is constitutionally guaranteed through the obligation to allocate at least 20% of the APBN/APBD for education. In this context, the state is required to ensure policy harmonization across sectors so that the fulfillment of the rights to health, food, and education can proceed in a balanced manner without undermining the substantive protection of each right.

Thus, this discussion shows that the Free Nutritious Meal Program (MBG), in normative terms, is an instrument for fulfilling the right to health and the right to food within a human rights framework. However, at the same time, it still contains various legal, governance, and budgeting issues that may potentially lead to conflicts between rights and deviations from human rights principles. Therefore, the success of the Free Nutritious Meal Program is not determined solely by the existence of regulations and the size of the budget, but also by the state's ability to build governance that is fair, transparent, accountable, and grounded in human rights principles. Strengthening regulatory harmonization, improving oversight of food quality and distribution, reforming procurement mechanisms to ensure transparency, and designing budgetary policies that do not create conflicts between rights are necessary measures. Through this approach, the Free Nutritious Meal Program is expected not only to function as a short-term populist policy, but to truly serve as a constitutional instrument that strengthens the realization of the rights to health, food, and social welfare in a sustainable manner.

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