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Legality and Legal Formulation of the Implementing Institution for the Free Nutritious Meal (MBG) Policy Within the Indonesian Welfare State Framework

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Abstract: The Free Nutritious Meals Program (Program Makan Bergizi Gratis/MBG) constitutes one of the Indonesian Government's strategic policy instruments within the framework of the welfare state under the rule of law. The implementation of this large-scale program requires a robust institutional framework, including the establishment of the National Nutrition Agency (Badan Gizi Nasional/BGN). This normative legal research examines the legitimacy of the authority and the legal basis for establishing the National Nutrition Agency (BGN) in light of the principle of legality under Indonesian constitutional law, as well as its institutional formulation within the legal framework governing state institutions. The findings indicate that the establishment of the National Nutrition Agency (BGN) through Peraturan Presiden Nomor 83 Tahun 2024 formally satisfies the principle of legality by virtue of the President's attributive authority as the holder of executive governmental power. Nevertheless, from the perspective of the law governing state institutions, the implementation of a program with substantial fiscal implications should ideally be institutionalized through an Act of Parliament (Law) to ensure legal certainty, cross-sectoral accountability, and the sustainability of the legal framework for fulfilling citizens' constitutional right to food.

Keywords: Principle of Legality, State Institutions, Free Nutritious Meals Program, Welfare State.

INTRODUCTION

The Unitary State of the Republic of Indonesia is constitutionally designed as a welfare state (*sociale rechtsstaat*). This concept goes beyond the notion of a formal *rechtsstaat*, which merely functions as a *nachtwakerstaat* (night-watchman state). Instead, the state is required to undertake *staatliche* intervention to ensure both the material and spiritual welfare of all citizens. This constitutional mandate is rooted in the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, which affirms the obligation of the Government of Indonesia to “...*memajukan kesejahteraan umum dan mencerdaskan kehidupan bangsa dan ikut melaksanakan ketertiban dunia yang berdasarkan kemerdekaan, perdamaian abadi dan*

keadilan sosial,...” Substantively, the spirit of the welfare state is also reflected in several constitutional provisions, particularly Article 28H paragraph (1) of the 1945 Constitution concerning the right to prosperity, as well as Articles 33 and 34, which assign the state responsibility for administering social security to realize social justice for all Indonesian people. Consequently, the fulfilment of public nutrition should no longer be viewed merely as a private matter or an economic commodity, but rather as part of economic and social rights that require active and concrete government action in carrying out its *bestuurszorg* function.

According to Sapraji, sociological realities indicate that Indonesia continues to face significant challenges related to stunting and malnutrition. If these issues are not addressed systematically, they will hinder the achievement of the "Indonesia Emas 2045" vision. Although various programs, such as the Supplementary Feeding Program (*Pemberian Makanan Tambahan/PMT*) and the Family Hope Program (*Program Keluarga Harapan/PKH*), have previously been implemented, their implementation has often been fragmented across different technical ministries, lacking strong centralized coordination (Sapraji, 2026).

As part of its legal policy commitment to achieving social justice, the government has introduced the Free Nutritious Meals (*Makan Bergizi Gratis/MBG*) Program as a major national strategic policy. This program is intended not only to meet the nutritional needs of schoolchildren and other vulnerable groups but also to stimulate inclusive economic growth by involving micro, small, and medium enterprises (*Usaha Mikro, Kecil, dan Menengah/UMKM*) and local farmers in rural areas. To implement this large-scale policy effectively, the government considered it necessary to establish a dedicated and integrated institution, which was realized through the creation of the National Nutrition Agency (BGN) under Presidential Regulation Number 83 of 2024 concerning the National Nutrition Agency.

From a juridical perspective, the establishment of the National Nutrition Agency (BGN) as a Non-Ministerial Government Institution (*Lembaga Pemerintah Non-Kementerian/LPNK*) directly accountable to the President constitutes a manifestation of the President's attributed authority under Article 4 paragraph (1) of the 1945 Constitution. Functionally, the position of LPNKs within Indonesia's constitutional structure is regulated by Law Number 39 of 2008 concerning State Ministries, which establishes such institutions to perform specific governmental functions not assigned to ministries (Wicaksono & Hantoro, 2024). Nevertheless, the institutionalization of the BGN has sparked important discussions from the perspectives of Constitutional Law and Administrative Law, particularly regarding the Principles of Legality (*Asas Legalitas*) and Good Governance.

The principal issue is that a policy with enormous fiscal implications—amounting to IDR 71 trillion in 2025—and extensive public impact has been established solely through a Presidential Regulation. Under the principles embodied in Law Number 30 of 2014 concerning Government Administration, the exercise of governmental authority that significantly affects state finances and public rights should ideally obtain strong political legitimacy through legislation enacted as an Act of Parliament. From an objective perspective, several criteria may be employed to determine whether a state institution or governmental body should be established and specifically regulated by statute.

First, the scope of authority and functions exercised by such an institution must possess a high degree of urgency and have broad and significant implications for the public interest at the national level. The more strategic the governmental function and the greater its impact on the rights and interests of the public, the stronger the legal and constitutional justification for establishing an adequate statutory legal basis.

Second, the establishment of such an institution may arise either from a direct mandate of the 1945 Constitution of the Republic of Indonesia or from an actual and strategic need of the State to establish a distinct institutional framework. In this context, legislation does not

merely serve as an administrative legal basis; it also functions as an instrument for conferring democratic legitimacy, defining institutional authority, establishing accountability mechanisms, and creating an effective system of oversight.

The establishment of the Corruption Eradication Commission (Komisi Pemberantasan Korupsi or KPK), for example, reflects the creation of an institution with a strategic role in combating corruption and is specifically regulated by statute. Such statutory regulation provides the legal foundation for determining the institution's status, powers, functions, operational mechanisms, and accountability.

Furthermore, Law No. 12 of 2011 concerning the Establishment of Laws and Regulations provides a normative framework concerning the substance that should be regulated through each type of legislation. Matters that are fundamental, general, strategic, and closely related to the organization of state affairs and the broader public interest, in principle, require a legal framework supported by an adequate degree of democratic legitimacy.

Within this conceptual framework, the Free Nutritious Meals (Makan Bergizi Gratis or MBG) program possesses characteristics that distinguish it from an ordinary governmental program. MBG concerns the public interest on a national scale, involves the allocation of substantial state resources, and relates to the fulfillment of basic public needs, particularly those of children. Accordingly, from an objective legal perspective, it may be argued that a program of such scale, impact, and fiscal consequence should be supported by a stronger and more comprehensive statutory legal basis.

Regulation through statute would provide several important advantages. First, the program would acquire stronger democratic legitimacy because its establishment would involve the House of Representatives (Dewan Perwakilan Rakyat or DPR) together with the President. Second, the objectives, beneficiaries, implementation mechanisms, service standards, sources and allocation of funding, and oversight mechanisms could be clearly defined. Third, the continuity of the program would not depend solely upon the policies of the government in power. Fourth, stronger mechanisms of checks and balances could be established with respect to the use and management of public finances.

This consideration is particularly relevant because Article 23 of the 1945 Constitution places the State Budget (Anggaran Pendapatan dan Belanja Negara or APBN) within a statutory framework, requiring it to be enacted annually by law and implemented in an open and accountable manner for the greatest possible prosperity of the people. Consequently, when a governmental program involves the allocation of state funds on a substantial scale, issues of legal legitimacy, fiscal accountability, transparency, and public oversight become integral components of its implementation.

Nevertheless, an important qualification should be made to this argument. From the perspective of constitutional and administrative law, not every governmental program that has a broad impact on society is automatically required to be established through a separate statute. The Government may, in principle, implement a program on the basis of authority already conferred by existing legislation and regulations. Accordingly, the legal issue is not simply whether MBG is legally required to have a separate statute, but rather whether the existing legal framework provides a sufficiently robust basis to support the scale of governmental authority, state budget allocation, public reach, and long-term sustainability associated with the program.

Therefore, the more legally defensible proposition is that the greater the impact of a governmental program on society, the larger the amount of public expenditure involved, and the more strategic the objectives pursued, the stronger the need for a clear, comprehensive, and democratically legitimate legal foundation. In the context of MBG, the enactment of a specific statute may therefore be regarded as one of the appropriate legal instruments to ensure that the program is not merely implemented as an administrative policy, but is also supported by legal

certainty, democratic legitimacy, fiscal accountability, effective oversight mechanisms, and stronger guarantees of institutional and programmatic continuity.

Based on the foregoing discussion, this study is entitled "*Legalitas Dan Formulasi Hukum Kelembagaan Pelaksana Kebijakan Makan Bergizi Gratis (MBG) Dalam Konsep Welfare State Di Indonesia*"

Based on the background outlined above, this study addresses the following research questions: What is the legal basis for establishing a special agency through a Presidential Regulation, and how should the Free Nutritious Meals (MBG) Policy be institutionally formulated within Indonesia's constitutional framework in accordance with the principles of the welfare state.

METHODS

This study employs a normative-juridical research method—a form of legal research that relies on library materials or secondary data as its primary sources—utilizing both the statute and conceptual approaches. Rather than focusing on empirical facts in the field, the research centers on analyzing the legal norms governing the Free Nutritious Meal (MBG) policy—implemented through the National Nutrition Agency (BGN)—and assessing their alignment with the principles of legality and public welfare. Furthermore, the study adopts a descriptive-analytical approach, applying theories of the Welfare State and State Institutional Law to outline the prevailing legal framework and analyze and evaluate legal norms. This process aims to provide solutions to the issues under investigation, specifically regarding the legal validity of the institutional framework for implementing the Free Nutritious Meal (MBG) program.

Primary legal materials used in this study include the 1945 Constitution of the Republic of Indonesia, Law Number 39 of 2008 concerning State Ministries, Law Number 30 of 2014 concerning Government Administration, and Presidential Regulation Number 83 of 2024 concerning the National Nutrition Agency. Secondary legal materials consist of books, scholarly journals, articles, research findings, and expert legal opinions relevant to the study. Tertiary legal materials include legal dictionaries, legal encyclopedias, and academic writing guidelines used to support the understanding of legal terms within the research.

Legal materials were collected through library research, including the identification, gathering, and examination of relevant materials. This process entailed identifying legal sources, categorizing materials by type, and analyzing their content in accordance with the research objectives.

The Analysis of legal materials was conducted qualitatively to gain a comprehensive understanding of the research issues. The analytical methods employed include: a. Legal Interpretation, used to understand the meaning of norms within legislation and court rulings through grammatical, systematic, historical, and teleological interpretation; b. Legal Construction, used to formulate logical and systematic legal arguments regarding legal issues facing the implementers of the Free Nutritious Meal (MBG) policy; and c. Prescriptive Analysis, conducted to provide recommendations for future regulations concerning general elections and regional head elections, ensuring they remain consistent with the principles of the rule of law and constitutional democracy.

RESULTS AND DISCUSSION

Legality of the Establishment of the National Nutrition Agency (Badan Gizi Nasional—BGN)

The principle of legality is a cornerstone of the rule of law (*rechtsstaat*), grounded in the requirement that all government actions and the establishment of state institutions must be based on prevailing laws and regulations. Within the context of Indonesian institutional law,

the creation of a new body or a Non-Ministerial Government Agency (LPNK) requires a valid legal basis for its authority, derived through attribution, delegation, or mandate.

The hierarchy of laws and regulations in Indonesia is governed by Law No. 12 of 2011 concerning the Formation of Laws and Regulations. Pursuant to Article 7 paragraph (1), the hierarchical order—from highest to lowest—is as follows: 1) The 1945 Constitution of the Republic of Indonesia (UUD 1945), serving as the constitution and supreme legal foundation; 2) People's Consultative Assembly Decrees (TAP MPR), decrees issued by the MPR for specific purposes; 3) Laws (UU) and Government Regulations in Lieu of Law (Perppu)—Laws are enacted by the House of Representatives (DPR) jointly with the President, whereas the President issues Perppu during emergencies and require subsequent DPR approval; 4) Government Regulations (PP), regulations enacted by the President to implement Laws; 5) Presidential Regulations (Perpres), regulations enacted by the President to carry out specific duties; and 6) Regional Regulations (Perda), regulations issued by regional governments within their respective jurisdictions, comprising Provincial Regulations and Regency/City Regulations (Republik Indonesia, 2011).

The National Nutrition Agency (BGN), viewed through the lens of state institutional characteristics, reflects an effort to strengthen the state's role in enhancing public welfare; here, the government actively intervenes by addressing nutritional needs—recognized as citizens' economic and social rights (positive rights). From a legal standpoint, the BGN's authority is rooted in Article 4, Paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which stipulates that "*Presiden Republik Indonesia memegang kekuasaan pemerintahan menurut Undang-Undang Dasar*" (Undang-Undang Dasar Negara Republik Indonesia, 1945). The President exercises this governmental power through prerogative rights and attributive authority to establish auxiliary organizational units for specific governmental affairs. With regard to attributive authority, Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, as previously explained, provides a clear constitutional basis for the President to exercise governmental power. Such attributive authority constitutes the constitutional foundation for the President's exercise of governmental functions and responsibilities as the holder of executive governmental power.

On the basis of such attributive authority, particularly in circumstances involving urgent or compelling governmental interests, the President may exercise discretionary powers within the limits prescribed by law. Discretion is essentially necessary to provide the Government with sufficient room to respond effectively to particular circumstances or issues that require immediate action, particularly where the existing statutory framework does not adequately regulate a specific situation or where governmental action is necessary to protect and advance the public interest.

This principle is further provided for under Law No. 30 of 2014 concerning Government Administration, which establishes a legal framework governing the exercise of governmental authority, including the exercise of discretionary powers. Accordingly, presidential discretion does not constitute an unlimited power, but rather a legal instrument of government whose exercise remains subject to the principles, requirements, and limitations established by applicable laws and regulations.

Accordingly, the President's attributive authority derived from Article 4 paragraph (1) of the 1945 Constitution may serve as the constitutional basis for the President to exercise discretion in responding to urgent public interests. Nevertheless, the exercise of such discretion must remain within the applicable legal framework and must take into account the principles of good governance, the public interest, legal certainty, and the principles of accountability and legality.

In the context of the Free Nutritious Meals (Makan Bergizi Gratis or MBG) program, the President's attributive authority may provide a basis for the President to adopt governmental

policies and take necessary administrative measures to address strategic and urgent public needs. However, reliance on discretion as the legal basis for implementing a policy does not, in itself, eliminate the need for an adequate legal foundation, particularly where such a policy has nationwide scope, involves substantial state expenditure, is intended to operate on a continuing basis, and creates legal consequences as well as rights and obligations for the public.

Therefore, a distinction must be drawn between the President's authority to take governmental action on the basis of attributive authority and discretion, on the one hand, and the need to establish legal norms that are general, abstract, and binding for the purpose of regulating a national program on a permanent basis, on the other. Discretion may serve as an instrument for addressing urgent governmental needs; however, when a policy develops into a broad and sustainable national program, utilizes significant public resources, and concerns the interests of society on a large scale, the need for a stronger legal foundation through legislation becomes increasingly relevant.

Accordingly, presidential discretion and the enactment of legislation should not be viewed as mutually exclusive. They serve different functions within the governmental system. Discretion provides the President with the flexibility necessary to respond to urgent governmental needs, whereas legislation provides democratic legitimacy, legal certainty, defined limits of authority, oversight mechanisms, and guarantees of accountability for policies that have broad and continuing implications for society.

This authority affords the President discretionary power (*freies Ermessen*) to designate a specialized agency to implement national strategic programs. Formally, the regulatory instrument employed is Presidential Regulation Number 83 of 2024 concerning the National Nutrition Agency (BGN); under constitutional law principles, this is deemed a valid executive regulatory product that formally institutionalizes policy and satisfies the legal requirements for an executive legal instrument governing specific governmental affairs.

In terms of institutional hierarchy, the National Nutrition Agency (BGN) is classified as a Non-Ministerial Government Agency (LPNK) situated directly under and accountable to the President. This aligns with Article 25, paragraphs (1) and (2) of Law Number 39 of 2008, which stipulates that functional relationships between Ministries and non-ministerial government agencies must be carried out synergistically as a unified governance system within the Unitary State of the Republic of Indonesia, in accordance with statutory regulations; furthermore, such agencies are positioned under the President and are accountable to the President through a coordinating minister. This structural arrangement aims to achieve executive efficiency and accelerate the execution of the massive, multisectoral Free Nutritious Meal (MBG) Program. However, regarding regulatory alignment, the agency's status creates significant overlap with Law Number 39 of 2008 concerning State Ministries and Law Number 30 of 2014 concerning Government Administration.

The use of a Presidential Regulation (Perpres) rather than a Law has sparked debate over substantive legal certainty, as the establishment of this agency creates a sharp overlap in authority with state ministries' mandates. This is viewed in light of Article 5, paragraph (2) of Law Number 39 of 2008, which states “*Government affairs as referred to in Article 4 paragraph (2) letter b include affairs concerning religion, law, finance, security, human rights, education, culture, health, social affairs, manpower, industry, trade, mining, energy, public works, transmigration, transportation, information, communication, agriculture, plantations, forestry, animal husbandry, marine affairs, and fisheries.*” (Republik Indonesia, 2008), whereas matters concerning health, education, and social affairs are mandates legally distributed across the ministerial structure.

The establishment of the National Nutrition Agency (BGN) as the sole implementing body creates a potential for overlapping authority regarding clinical nutrition matters—currently under the Ministry of Health—or student health, which falls under the Ministry of

Education. Furthermore, in accordance with the principles of Law Number 30 of 2014 concerning Government Administration, any exercise of authority that has a broad impact on the public and state finances ideally requires greater political legitimacy. That is crucial given that the objective of the Government Administration Law is to ensure legal certainty and prevent the abuse of authority in public decision-making.

While this Presidential Regulation is formally valid as an executive regulatory instrument, issues arise when examining the scope of functions and the budget managed by the National Nutrition Agency (BGN). The Free Nutritious Meal (MBG) program is not a minor sectoral policy; it is a massive, multisectoral initiative (involving health, education, agriculture, and social affairs) that manages a substantial budget. According to official materials from the National Nutrition Agency (BGN), the Free Nutritious Meal (MBG) program—implemented by the government through the BGN—positions Indonesia among the largest school meal programs in the world. Data released on March 3, 2026, indicates that the number of beneficiaries has reached 61,239,037, of whom 49,057,682 are school students. Khairul Hidayarti, Head of the BGN's Legal and Public Relations Bureau, stated that “The Free Nutritious Meal (MBG) program is also part of the government's long-term strategy to prepare a healthy and productive Indonesian generation...” (Badan Gizi Nasional, 2026).

Based on Law Number 30 of 2014 concerning Government Administration, the exercise of authority that significantly impacts the public and state finances ideally requires a higher level of political legitimacy from the legislature (DPR), achieved through the enactment of a Law. Relying solely on a Presidential Regulation (Perpres) renders the institutional standing of the Free Nutritious Meal (MBG) program politically and legally vulnerable; a subsequent administration could alter, dissolve, or repurpose the body at any time simply by issuing a new Presidential Regulation. This situation risks undermining the principle of fair legal certainty, as enshrined in Article 28D, paragraph (1), of the 1945 Constitution of the Republic of Indonesia. Therefore, elevating the legal basis from a Presidential Regulation to a Law is essential to establish the program as a permanent state legal obligation that endures across successive administrations.

Legal-Institutional Formulation of the Free Nutritious Meal (MBG) Policy within the Framework (*Welfare State*)

Following the amendment of the 1945 Constitution of the Republic of Indonesia, a major restructuring took place, abolishing the system of "supreme state institutions" and replacing it with the principle of the division of powers and a system of checks and balances. State institutions are classified into three branches—executive, legislative, and judicial—which can be further categorized into four hierarchical levels based on their mode of establishment.

First, Constitutional Institutions: institutions established directly by the 1945 Constitution of the Republic of Indonesia, such as the President, Vice President, People's Consultative Assembly (MPR), House of Representatives (DPR), Regional House of Representatives (DPRD), Regional Representative Council (DPD), Audit Board (BPK), Supreme Court (MA), Constitutional Court (MK), and Judicial Commission (KY).

Second, Institutions established by statute (Act of Parliament): examples include the General Elections Commission (KPU), Election Supervisory Body (Bawaslu), National Commission on Human Rights (Komnas HAM), Financial Services Authority (OJK), Business Competition Supervisory Commission (KPPU), Witness and Victim Protection Agency (LPSK), Indonesian Child Protection Commission (KPAI), and Corruption Eradication Commission (KPK).

Third, there are institutions established by Government Regulations or Presidential Regulations; these are classified as Non-Ministerial Government Institutions (LPNK) and Non-Structural Institutions (LNS), such as the Agency for Pancasila Ideology Education (BPIP) and

the National Nutrition Agency (BGN). Finally, there are institutions established based on Ministerial Regulations; these generally take the form of organizational units, ad-hoc (temporary) non-structural bodies, committees, or advisory councils designed to support the functions of specific ministries—examples include the Indonesian Anti-Dumping Committee (KADI), the Indonesian Trade Safeguard Committee (KPPI), and the Biosafety Commission for Genetically Engineered Products (KKH).

Since the Reform era, Indonesia has seen the emergence of numerous independent state institutions and auxiliary bodies tasked with specific duties that require a high degree of professionalism and independence. This trend arose due to the diminished credibility of established institutions caused by systemic corruption, the inability of the conventional bureaucracy to handle urgent tasks during the democratic transition, and global influences advocating for the creation of "watchdog" institutions. These bodies are often referred to as Non-Structural Institutions (LNS); they operate outside the structures of both ministries and LPNK, maintaining autonomy and freedom from external interference (Wicaksono & Hantoro, 2024).

Within the system of government, there is a fundamental distinction between Ministries and Non-Ministerial Government Institutions (LPNK), even though both are regulated under the same statute: Law Number 39 of 2008 concerning State Ministries. A recurring issue in constitutional practice is institutional ambiguity—specifically when a ministry and an LPNK are merged or led by the same individual—which often blurs governmental functions and duties, leading to potential overlaps in authority. Consequently, the guiding principle is good state governance. Jimly Asshiddiqie (2006, p. 31) explains that, in a broad sense, a state institution is any institution other than a civil society organisation, whether it functions within the executive, judicial, or legislative branches, or as a hybrid of these branches. Furthermore, he narrowed the definition of a state institution to that of a state organ appointed to fulfill a specific function—carried out as a primary profession by virtue of the office held.

The role of *good governance* in enhancing government services to the public is crucial; it aims to boost public trust in the government and strengthen the legitimacy of government institutions in delivering services to the community. *Good governance* entails a system that ensures transparency, participation, and accountability, with a primary focus on the public's needs and well-being.

As a state governed by the rule of law, the principle of legal certainty serves as a fundamental pillar of good governance, emphasizing the rule of law and ensuring that all policies are implemented fairly and equitably. Consequently, the public feels secure and their rights are protected, as government actions align with established regulations.

Transparency is a core principle of good governance. It allows the public to be informed about policies, decision-making processes, and the utilization of public funds. This principle enables citizens to offer constructive criticism and input, ensuring that public services are not merely a formality but are tailored to meet community needs; furthermore, transparency helps prevent the abuse of authority and practices such as corruption, collusion, and nepotism (KKN), which can undermine the quality of service provided to the public.

Accountability is a key element of good governance; government accountability to the public entails providing clear explanations regarding decisions made and outcomes achieved. That fosters public trust in the efficiency and effectiveness of public services.

The quality of public services serves as a benchmark and an output of good governance, assessable through several key dimensions that measure service delivery performance. One such dimension is "tangibles," referring to the physical elements of the service—such as facilities, infrastructure, and equipment—used to deliver the service. This dimension demonstrates that high-quality infrastructure and environments can enhance the user

experience. Another dimension is "reliability," which focuses on the service provider's ability to consistently and dependably deliver promised services (Edyanto & Asmadiano, 2025).

In the *welfare state* concept, the state is expected to engage in active intervention (*staatliche intervention*) to address social inequality. However, such intervention must not contravene the principles of good governance. That means that the extensive power granted to the government in a welfare state must be constrained by principles such as participation, transparency, and accountability to prevent the abuse of authority. The establishment of the National Nutrition Agency (BGN) as the sole implementer of the Free Nutritious Meal (MBG) program raises a constitutional challenge regarding potential overlapping authority.

Before the establishment of the National Nutrition Agency (BGN), responsibilities regarding food and nutrition were distributed across several technical ministries. These included the Ministry of Health (responsible for clinical nutrition and public health), the Ministry of Education (responsible for student health in schools), and the Ministry of Social Affairs (responsible for social protection and security for vulnerable groups).

The National Nutrition Agency's Free Nutritious Meal (MBG) program intersects with the Ministry of Health's mandate for specific stunting interventions—which account for a 30% reduction in stunting prevalence—by taking over nutrition provision functions that previously overlapped with the Ministry of Health's Supplementary Feeding (PMT) programs for pregnant women with Chronic Energy Deficiency (CED) and underweight toddlers. The MBG program targets pregnant women and toddlers, groups that are also priority targets under the National Strategy to Accelerate Stunting Prevention coordinated by the Ministry of Health. This situation is further complicated by the absence of an official theoretical framework guiding the MBG program's design. According to an article by the Center for Indonesia's Strategic Development Initiatives (CISDI), the provision of free nutritious meals—if aligned with the National Strategy to Accelerate Stunting Prevention (2018) and the FAO School Food and Nutrition (SFN) framework (2022)—could serve to improve the adequacy of food and nutrient intake while increasing access to nutritious food. However, the MBG program addresses only one direct cause and one indirect cause of stunting (CISDI, 2024).

There is also overlap in authority with the Ministry of Basic and Secondary Education (Kemendikdasmen) regarding implementation and its impacts on learning; the MBG program is implemented in Early Childhood Education (PAUD), elementary, junior high, and senior high schools—settings that fall under Kemendikdasmen's administrative jurisdiction. The Ministry of Basic and Secondary Education is tasked with improving human resource quality through education; the Free Nutritious Meal (MBG) program shares similar objectives—namely, boosting learning motivation, concentration, and school participation rates. However, instances of food poisoning associated with the MBG program in schools across various regions throughout 2025 reportedly disrupted the teaching-learning process and caused student absenteeism, directly impacting the Ministry of Education's academic achievement targets. There is significant policy overlap with the Ministry of Social Affairs (Kemensos) regarding social protection and meeting the basic needs of the poor. The Ministry of Social Affairs (Kemensos) manages the Family Hope Program (PKH), which aims to improve the quality of life, health, and education of the underprivileged by facilitating access to health and education facilities and providing conditional cash assistance—including components for pregnant women, toddlers, and school-aged children—to reduce malnutrition rates; this directly aligns with the objectives of the Free Nutritious Meal (MBG) program (Kementerian Sosial RI, 2019). The most direct overlap occurs with the Ministry's Fooding (Meal Provision) Program, which supplies ready-to-eat meals to elderly individuals living alone and persons with disabilities; however, the massive budgetary demands of the MBG program pose a risk of suspension or disruption to the *Perumahan* program for the sake of fiscal efficiency, even though the National Nutrition Agency (BGN) relies heavily on the Ministry's Integrated Social Welfare

Data (DTKS) to ensure that beneficiaries are accurately targeted among poor and vulnerable groups.

The establishment of the National Nutrition Agency (BGN) consolidates these matters under a single institutional umbrella. Ambiguity in role division challenges the principles of Good Governance. Under Article 25, paragraph (1) of Law No. 39 of 2008, the functional relationship between ministries and Non-Ministerial Government Agencies (LPNK) must operate synergistically as a unified system of government. However, designating the BGN as the "single gateway" for executing a massive budget—effected via a Presidential Regulation—is perceived as creating coordination vulnerabilities and the potential for sectoral parochialism, which could hinder the effectiveness of public services at the local level. Therefore, detailed guidelines defining the roles of each actor are essential to ensure that the Free Nutritious Meal (MBG) program complements, rather than stifles, existing multisectoral programs. From the perspective of executive efficiency, this move accelerates the program's execution command structure. Yet, from a constitutional law standpoint, this institutional design creates sharp overlaps in authority. Without harmonization through clearly defined regulatory boundaries, this risks triggering jurisdictional conflicts between agencies.

Furthermore, the nature of a welfare state demands the sustained fulfillment of rights. When the implementing mechanism for the MBG program is structured as an autonomous agency outside a ministry, the House of Representatives' (DPR) oversight and "checks and balances" functions are less effective than when the program is embedded within a state ministry that partners directly with a DPR Commission.

The more strategic, extensive, and sustainable a governmental program is, and the greater the amount of public resources it utilizes, the more important it becomes to ensure that its legal and institutional design provides effective mechanisms of *checks and balances*. In the context of the MBG program, the central issue lies not merely in the existence of the DPR's oversight authority, but rather in the quality and effectiveness of the oversight mechanisms available.

The effectiveness of parliamentary oversight is determined not only by the DPR's formal authority, but also by the institutional design, legal basis, accountability mechanisms, budgetary structure, access to information, and clarity in the allocation of authority among relevant institutions. Accordingly, establishing a more comprehensive legal framework for the MBG program could strengthen its democratic legitimacy, legal certainty, fiscal accountability, and the effectiveness of parliamentary oversight mechanisms over the implementation of this national program.

Consequently, the future legal framework for the MBG implementing body should be codified through higher-level legislation. That would ensure that the fulfillment of the right to nutrition transcends a mere temporary executive policy program, elevating it instead to a permanent state legal obligation; such a measure aims to guarantee the continued fulfillment of citizens' constitutional rights across successive government administrations.

CONCLUSION

The establishment of the National Nutrition Agency (BGN) via Presidential Regulation Number 83 of 2024 satisfies the formal requirements of the legality principle, grounded in the executive authority and presidential prerogative outlined in Article 4, Paragraph (1) of the 1945 Constitution of the Republic of Indonesia. However, from a substantive standpoint, the creation of an institution managing a massive budget with broad public impact suffers from weaknesses regarding legal certainty and political legitimacy, as it lacks a legal basis higher than a Presidential Regulation.

The institutional legal framework of the BGN, designed as an instrument of the welfare state, successfully streamlines the centralised implementation of the Free Nutritious Meal (MBG) program. Yet, it leaves unresolved issues regarding potential jurisdictional overlaps

with technical ministries, specifically the Ministry of Health, the Ministry of Education, and the Ministry of Social Affairs, which could undermine parliamentary oversight functions (checks and balances) essential to supporting effective government performance in line with good governance principles.

The author suggests that the government, in collaboration with the House of Representatives (DPR), must urgently institutionalize the Free Nutritious Meal (MBG) program by drafting specific legislation to guarantee national nutrition or by integrating the program into revisions of existing food or health laws. Such legislative action is crucial to strengthening the legal foundation of the implementing agency, ensuring program continuity across administrations, and guaranteeing the fulfillment of the right to food and nutrition as an absolute constitutional right of citizens within Indonesia's welfare-oriented rule of law.

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