

# The Price of Free Meals: Rethinking Its Constitutionality within a Progressive Realization Framework

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## Abstract

*The Free Nutritious Meals program, as a national strategic initiative in Indonesia, fundamentally has a noble purpose in line with the mandates of the 1945 Constitution. Nevertheless, its implementation has prompted questions about its constitutional legitimacy. This study aims to explore and examine the legal basis and issue of Free Nutritious Meals in Indonesia as well as its constitutionality based on the principle of progressive realization. This study uses a normative juridical method with a regulatory, comparative, and conceptual approach. Data collection was conducted through a literature review to gather secondary data. Free Nutritious Meals is regulated by Annex I of Presidential Regulation 12/2025, mandated to be elevated to a law or presidential regulation, with implementation issues in planning, execution, oversight, and budgeting. Based on progressive realization, Free Nutritious Meals' implementation contravenes constitutional mandates, particularly Article 28I paragraph (4) of the 1945 Constitution. This research aims to offer both academic and practical contributions to the enforcement of human rights, especially for those rights that have been compromised by the Free Nutritious Meals program. The study further contributes to constitutional law by showing that aligned programs may still face constitutional questions under progressive realization.*

**Keywords:** *Constitutionality; Free Nutritious Meals; Progressive Realization.*

## Introduction

A central flagship policy of President Prabowo Subianto's administration is the *Makan Bergizi Gratis* (MBG) or Free Nutritious Meals programme, embedded within the broader *Asta Cita* vision for "Indonesia Emas 2045" [1]. Conceived as a large-scale social investment, MBG is designed to provide free nutritious meals to school-age children, toddlers, and pregnant women, and is projected to cover approximately 82–83 million beneficiaries when fully scaled. MBG has been publicly framed not merely as a welfare transfer, but as a cornerstone of a development strategy that links social protection, educational attainment, and rural economic empowerment [2]. The normative justification for MBG is rooted in Indonesia's persistent challenges in combating malnutrition and stunting, which continue to affect a significant proportion of children under five and undermine long-term productivity and equality [3]. International experience and empirical studies on school feeding and targeted nutrition programmes indicate positive effects on school attendance, learning outcomes, and child health, especially in low and middle-income countries with high rates of food insecurity. In the Indonesian case, the MBG initiative is deliberately crafted to sit at the crossroads of social rights and development policy, as it is intended to translate the constitutional mandate to promote public welfare and enhance the nation's intellectual life into a tangible, operational programme. In doing so, Indonesia positions itself alongside more than 97 countries that implement school meal schemes in diverse institutional and programmatic forms [4].

In response, the Government of Indonesia established the *Badan Gizi Nasional* (BGN) or National Nutrition Agency through Presidential Regulation Number 83 of 2024 concerning the National Nutrition Agency (PR 83/2024). That PR mandates BGN to implement national nutritional needs, also carries out the coordination, formulation,

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determination, and implementation of technical policies in the areas of systems and governance, provision and distribution, promotion and cooperation, and monitoring and supervision of national nutritional fulfillment. Furthermore, the implementation of MBG is organized through *Satuan Pelayanan Pemenuhan Gizi* (SPPG) or Nutrition Fulfillment Service Units which act as central kitchens and distribution hubs [5]. By September 2025, MBG had reportedly reached around 22.7 million beneficiaries through 7,644 SPPG with a stated target of 32,000 SPPG and 82.9 million beneficiaries by the end of the year [6].

In fiscal terms, the 2025 State Budget initially earmarked IDR 71 trillion (around US\$5 billion) for the first year of implementation [7]. Furthermore, it was subsequently revised upward as part of a broader fiscal policy package, transforming the programme into one of the largest single items in the social sector budget [8]. While this expansion signals strong political will, it also exposes the programme to considerable management and governance risks, ranging from procurement inefficiencies and weak internal controls to potential misallocation of funds at various levels of government. At the same time, the early implementation period has been overshadowed by a series of mass food poisoning incidents that have sharply exposed weaknesses in the programme's operational design and regulatory oversight. Monitoring by the *Jaringan Pemantau Pendidikan Indonesia* (JPPI) documented a rapid escalation of poisoning cases among MBG recipients, with civil society reports indicating several thousand affected children across multiple provinces, including West Java, the Special Region of Yogyakarta, Central Java, Bengkulu, and Central Sulawesi [9]. JPPI reported that 16,109 people were poisoned by the free nutritious meal program, from the launch of the MBG on January 6 to October 31, 2025 [10]. These incidents have been linked to inadequate food safety practices in newly established kitchens, improper storage and delayed distribution of meals, and limited knowledge of hygiene standards among personnel, especially in SPPG units that had been operating for only a short time.

Existing research on Indonesia's MBG program has largely concentrated on understanding how the policy is designed and implemented, and how it is perceived by key stakeholders, rather than on rigorously quantifying its developmental impact. Firre An Suprpto, Editha Praditya, Reffi Marizka Dewi, and Wignyo Adiyoso have research entitled "A Policy Implementation Review of the Free Nutritious Meal (MBG) Program" that examine MBG primarily as a governance and delivery system, showing that the program carries substantial promise for strengthening human capital by potentially enhancing school participation and integrating micro, small, and medium enterprises (MSMEs) into the supply chain of school meals and their review reveals persistent implementation bottlenecks, including weaknesses in food safety assurance, logistical coordination, and the coherence of regulatory frameworks that govern procurement and distribution [11]. Complementing this, the study by Media Wahyudi Askar, Galau D. Muhammad, Bakhrul Fikri, and Jaya Darmawan from CELIOS, "Who Goes Hungry? Who Gets Full? Strategies to Mitigate Risks in the Free Nutritious Meal Program" shifts the lens toward public perception and political economy, documenting concerns around uneven geographical and social distribution of benefits, doubts about the nutritional quality and safety of the meals provided, and the potential for financial mismanagement and politicization.

Furthermore, this study departs from the observation that existing research on Indonesia's MBG programme has largely focused on policy design, budget politics, administrative challenges, and food safety issues, but has not yet systematically examined the programme's constitutional status through the lens of the principle of progressive realization. Against that backdrop, the primary aim of this research is to construct a coherent normative framework for assessing the legality and constitutionality of the Free Nutritious Meals programme in Indonesia, grounded in the principle of progressive realization. Substantively, the research seeks to clarify: (i) whether and to what extent MBG can be understood as an instrument for realizing constitutionally protected social rights; (ii) what legal standards and criteria, derived from progressive realization, should guide the design, implementation, and evaluation of MBG; and (iii) how the current legal basis, institutional bodies, and implementation practices of MBG measure up against those standards.

## **Method**

The method employed in this study is normative legal research, grounded in legal materials encompassing norms, rules, principles, doctrines, and fundamental legal concepts. Accordingly, the analytical process is directed toward constructing a comprehensive argumentation framework [13]. Such argumentation not only explains the applicable legal structure but also serves as a prescriptive or normative recommendation addressing the legal issues under examination. This research utilizes several approaches, namely: (i) the statute approach, that is used to examine in depth and critically analyze the existing regulatory framework governing the Free Nutritious Meals program in Indonesia, including constitutional provisions, statutes, implementing regulations, and related policy instruments; (ii) the comparative approach, that is employed to study how free or nutritious school meal schemes are regulated and implemented in other jurisdictions based on progressive realization; and (iii) the conceptual approach is utilized to explore and systematize various theories, doctrines, and scholarly views relating to social rights, the right to food, and the right to education, with particular emphasis on the constitutional status of the MBG program and its justification within the framework of the principle of progressive realization of economic, social, and cultural rights in Indonesia. Through the integration of these approaches, this study seeks to build a robust normative argument concerning the legality, constitutionality, and policy soundness of the Free Nutritious Meals program.

In line with the research method employed, this study relies on secondary data as its primary source of legal materials. The secondary data used in this research consist of: (i) primary legal materials, which possess authoritative or legally binding force, such as legislation, international treaties, and legislative drafting records; (ii) secondary legal materials, which provide explanations, interpretations, or analyses of primary legal materials, including doctrines, books, journal articles, and other scholarly writings; and (iii) tertiary legal materials, which assist in interpreting terms, concepts, or norms contained in primary and secondary legal materials, such as legal dictionaries and general dictionaries [14]. These secondary materials were obtained through library research, which involves

systematically collecting documents relevant to the research topic [15]. The library research process includes gathering legislative instruments, books, academic journals, and other supporting data to construct the legal analysis.

The data collected through this process were then processed and analyzed using a descriptive method. This analytical approach aims to present the research findings in a systematic and factual manner so as to provide relevant and comprehensive answers to the research problems formulated earlier. The results of the analysis and synthesis were subsequently organized and structured to identify and clarify the issues present in the status quo. Thereafter, conclusions were drawn using a deductive approach, reasoning that proceeds from general propositions to specific conclusions, grounded in established rules of logic. This approach was implemented by breaking down broad, general problems into the concrete issues at hand.

## **Result and Discussion**

### **Legal Basis and the Implementation of Free Nutritious Meals Program in Indonesia**

The Free Nutritious Meal Program began with the campaign promise of the Presidential and Vice Presidential Candidate pair Number 2, namely Prabowo Subianto and Gibran Rakabuming Raka. Free Nutritious Meals is a flagship program with the hope of improving the nutritional quality of the Indonesian people, as an effort to achieve a Golden Indonesia in 2025. This program has been launched and actively distributed since January 6, 2025, so it has been running for approximately 11 months. The status *quo* shows that the provision of Free Nutritious Meals requires budget commitments from both the central and regional governments. The figures show that in the 2025 State Revenue and Expenditure Budget (RAPBN) has allocated IDR 71 trillion for programs out of the total education budget of IDR 722.6 trillion [16]. However, it turns out that towards the end of 2025 the absorption of the realization of the Free Nutritious Meal budget is still minimal and stones reach 18 percent of this figure. However, the government's strong commitment to the implementation of this program continues with the increase in the budget for Free Nutritious Meals for 2026 to Rp335 trillion or four times higher than in 2025 [17].

However, in fact, in the status *quo*, the implementation of Free Nutritious Meals encounters various problems both in terms of regulation and implementation. In fact, this program has become the main program and priority program of the President and Vice President which is then proven clearly through the fantastic disbursement of funds in the State Expenditure Budget (APBN). These problems, at least starting from the government's haste to immediately implement this program, are only approximately 2 (two) months away from the inauguration of the President and Vice President in October 2024. Not only that, the lack of regulatory preparedness is one of the sources of the problem of Free Nutritious Meals which then raises new questions, related to the legal basis and legality of the implementation of Free Nutritious Meals in Indonesia. As mentioned earlier, is Free Nutritious Eating just a fulfillment of political promises or indeed to meet the nutrition and needs of most people in Indonesia?

In this study, at least the author groups into two main problems, namely regulation and implementation. First, in terms of regulations, the implementation of Free Nutritious Meals in Indonesia has actually not been clearly regulated. This is because, in the status *quo*, even Free Nutritious Meals is regulated in Presidential Regulation Number 12 of 2025 concerning the National Medium-Term Development Plan for 2025 – 2029 (Presidential Regulation 12/2025), which is even only listed in Appendix I and not in the core or body of the Presidential Regulation *a quo*. Not only that, in the attachment to Presidential Regulation 12/2025, it is even stated that Free Nutritious Meals should be prepared immediately as the basis for implementation units in the regions, by being regulated in regulations at the level of laws or presidential regulations [18]. But in fact, until this article was written, there has been no law or presidential regulation that regulates rigidly related to Free Nutritious Eating and is only carried out through internal technical instructions, namely the Decree of the Deputy for Distribution of the National Nutrition Agency (BGN) Number 2 of 2024 regarding the operational technical instructions of MBG. This lack of regulation then makes the implementation of this program not have a sufficient legal basis, obscures the mandate of cross-sector coordination [19], and shows the government's unpreparedness or haste to run the Free Nutritious Meal program in Indonesia. Thus, the lack of clarity of this regulation then causes the implementation of Free Nutritious Meals to experience problems that until now seem like an endless end.

**Second, the implementation** of Free Nutritious Meals encounters various problems, including *first, inter-institutional governance and weak accountability*. In this program, transparency and accountability are very important because the funds used come from community taxes with a very large percentage. Furthermore, due to the lack of a clear legal footing in this program, it has resulted in suboptimal cross-agency coordination, even though the status *quo* has the National Nutrition Agency (BGN) as the main manager of this program, but in fact it is still considered less orderly in its planning. This is because the BGN institution is still at the central level and does not have a clear structure at the regional level, even though the Free Nutritious Meal program covers the central and regional levels [20]. Furthermore, related to accountability in its implementation related to the appointment of implementing partners of the Nutrition Fulfillment Service Unit (SPPG) for Free Nutritious Meals is also carried out without an open verification mechanism which then causes the implementation of Free Nutritious Meals to be increasingly colored by very thick political elements. Some of the managing foundations are known to have affiliations with political actors, military and police institutions, and certain power groups. This is reflected in the involvement of the police and the army in the distribution of Free Nutritious Meals and in the Free Nutritious Meals kitchen. Thus, creating preferential access that undermines the principle of meritocracy and the neutrality of public services [21].

*Second, the Free Nutritious Meal budget has not been maximally absorbed and has the potential for corruption.* Based on the CELIOS report, Nutritious Meals for Free is held hostage by *operator fees* or service fees that must be paid to third parties. In this case, if each package is charged a service fee, there will be a potential for budget waste or inefficiency or in other words most of the Free Nutritious Meal budget will not reach the beneficiaries, but will only be used up to pay the service provider [22]. Furthermore, the ineffectiveness

of this budget is evidenced by the occurrence of *fraud* that befell Free Nutritious Meals partners in Kalibata, South Jakarta. The arrears in payment of 65 thousand food packages from Free Nutritious Meals partners to third parties is one of the proofs that there is still unclarity in regulations and there is no transparency of partners in their implementation, causing inefficiencies. More comprehensively, the lack of transparency and the skyrocketing budget for Free Nutritious Meals is an opportunity for the greater the potential for corruption that will occur. Indonesia Corruption Watch (ICW) explained that the results of its search found affiliations of Makan Nutriizi Gratis partners to political parties to former convicts in corruption cases. ICW stated that it found the most MBG partner foundations affiliated with the Gerindra Party and also 3 BGN partners for Free Nutritious Meals affiliated with former convicted corruptors, namely the Lazuardi Kendari Foundation, the Indonesia Food Security Review Foundation, and the Abdi Bangun Negeri Foundation. The three foundations are affiliated with four former corruption convicts, namely Nur Alam and Mohammad Zayat Kaimoeddin who are affiliated with the Lazuardi Kendari Foundation. Then there are Burhanuddin Abdullah from the Indonesia Food Security Review Foundation, and Abdul Hamid Payapo from the Abdi Bangun Negeri Foundation [23]. Thus, if the line is drawn further, the lack of transparency in the implementation of Free Nutritious Meals even though the funds provided have the potential to increase the risk of state financial losses and also have the potential to encourage the widening of the state budget deficit [24].

Third, weak supervision in the implementation of Free Nutritious Meals. Currently, the Free Nutritious Eating program is in the spotlight of the public considering the increasing number of cases of poisoning that occur. According to the Indonesian Education Monitoring Network (JPPI), there are at least 8,000 people who have experienced Free Nutritious Eating poisoning. This can happen due to problems in the procurement of raw materials and alleged rice counterfeiting. This is due to the fact that there are many price mark-ups carried out by the organizers of Free Nutritious Meals that are not tracked due to weak supervision in its implementation. Furthermore, the Ombudsman of the Republic of Indonesia found that there are at least four potential violations of maladministration, namely delays in problem solving, discrimination in MBG business competition, weak kitchen competence in implementing Standard Operating Procedures, and procedural deviations. The four potential maladministration are reflected in the mode carried out by falsifying shopping price records, considering that proof of purchase does not guarantee the correctness of the prices recorded. The potential for maladministration violations is further exacerbated by the lack of a supervision system because the government is still not aware of the importance of the supervision infrastructure for the implementation of Free Nutritious Meals [25].

Based on the above explanation, it can be seen that in the status quo of the implementation of Free Nutritious Meals still encounters various problems caused by the lack of clarity in regulations or legal umbrellas in Indonesia. With the absence of rules that are a reference, the implementation of Free Nutritious Meals becomes a domino effect that further complicates the implementation which leads to unresolved problems. Free Nutritious Meals is then seen as a priority program without planning which is often considered as the fulfillment of mere political promises rather than promises to fulfill the

goals of state life. Moreover, the government does not see and calculate the impact of the Free Nutritious Meal budget and the risks posed and considered as a deliberate setback by the Government because of the government's strong commitment to implement this program despite the impacts on the community with the potential for human rights violations.

### **Constitutionality of Free Nutritious Meals Based on the Principle of Progressive Realization**

The notion of progressive realization is a core doctrinal concept in international human rights law, particularly under the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Article 2(1) of the ICESCR requires States to take steps, "by all appropriate means," with a view to achieving progressively the full realization of the Covenant rights by using the maximum of their available resources. In simple terms, it acknowledges that many economic, social, and cultural rights cannot always be fully realized immediately, especially in resource-constrained settings [26]. Instead, States are required to move continuously and demonstrably in the direction of fuller enjoyment of these rights, and their efforts are assessed in light of the resources at their disposal [27]. The United Nations Committee on Economic, Social, and Cultural Rights has elaborated this understanding in General Comment Number 3 and subsequent practice, treating progressive realization as a central organizing principle of economic, social, and cultural rights obligations [28]. Importantly, progressive realization is not a license for inaction. This obligation is both realistic and demanding, while it recognizes that full realization may take time, it is paired with immediate duties to take deliberate, concrete and targeted steps, to ensure non-discrimination, and to secure at least a minimum essential level of each right [29].

Although States are allowed to realize economic, social, and cultural rights gradually over time, they are nevertheless required to take immediate steps in five specific areas. First, States are under a strict and immediate obligation to eliminate discrimination [30]. This includes a duty to prohibit and prevent discrimination in access to, for example, health care services, education, housing, social protection, and employment. It also requires States to address discriminatory practices and outcomes in policy and administration, and to ensure that marginalized groups are not excluded from services and benefits. Second, there are certain economic, social, and cultural rights or elements that are not subject to progressive realization and must be respected without delay because some of these obligations do not require substantial financial resources [31]. In these areas, governments cannot rely on the language of progressive realization to justify delay, instead they are expected to move promptly and decisively. Third, States have an immediate duty to take steps towards their fuller realization [32]. This means that governments must make continuous efforts to improve enjoyment of rights within a reasonably short timeframe, rather than deferring action to an indefinite future. The steps taken must be deliberate, concrete, targeted, and pursued by all appropriate means. Fourth, States are constrained by a strong presumption against retrogression in the protection of economic, social, and cultural rights [33]. Any measure that would reduce existing levels of enjoyment is considered a retrogressive step and is subject to particularly rigorous scrutiny. Fifth,

minimum core obligations as a set of essential guarantees that must be secured immediately [34]. These core obligations define the minimum essential content of rights. If a State fails to secure these minimum levels, it bears the burden of demonstrating that the shortfall is genuinely due to a lack of resources, and that it has nonetheless made every effort to use all available resources, including seeking international assistance where appropriate, to prioritize these core needs [35]. Even in conditions of severe resource scarcity, governments are expected to adopt low-cost, well-targeted programmes that reach those most in need, so that scarce resources are used as efficiently and effectively as possible [36].

Within the Indonesian constitutional framework, the concept of progressive realization does not appear as an explicit term but is implicitly embedded in Article 28I paragraph (4) of the 1945 Constitution. This provision states that “*the protection, promotion, enforcement, and fulfilment of human rights are the responsibility of the State, especially the Government.*” The inclusion of the word promotion (*pemajuan*) is particularly significant because it indicates that human rights are not understood merely as objects of passive protection, but as entitlements that must be actively and continuously advanced over time. In light of Indonesia’s international obligations, the constitutional duty of promotion of human rights can be interpreted as the domestic constitutional anchor for the principle of progressive realization. In that context means, the obligation of the State to move steadily, by all appropriate means, towards fuller enjoyment of rights within the limits of its available resources. Consequently, Article 28I paragraph (4) of the 1945 Constitution may be understood as transforming progressive realization from a merely treaty-based standard into a constitutional mandate that binds all branches and levels of government. The duty to “protect, promote, enforce, and fulfil” human rights requires the State to adopt legislative, policy, administrative, and budgetary measures that continually expand, rather than shrink, the effective enjoyment of rights, including economic, social, and cultural rights. It also implies that the Government may not remain passive or treat rights as static guarantees. Instead, it must demonstrate an ongoing effort to remove structural barriers, prioritize vulnerable groups, and avoid unjustified retrogressive measures.

Within the framework of the 1945 Constitution, the principle of progressive realization, implicitly anchored in Article 28I(4) requires the Government not only to advance human rights over time, but to do so in a manner that is coherent and non-destructive across the spectrum of rights. States must continually improve the enjoyment of rights such as education and health, while respecting the immediate duties of non-discrimination, non-retrogression, and minimum core obligations. Under this logic, the MBG programme cannot be assessed solely as an expression of the right to food because it must be evaluated in terms of its systemic impact on the broader architecture of economic, social, and cultural rights guaranteed by the 1945 Constitution. If the implementation of MBG results in the effective sidelining of other basic rights, most notably the right to education and the right to health, then the programme ceases to be a straightforward example of progressive realization and instead raises questions of constitutional inconsistency. This concern becomes concrete when one considers the fiscal and institutional choices surrounding MBG. In the budget discussions with the House of Representative’s Budget Committee on 21 August 2025, the Minister of Finance indicated

that approximately Rp223.6 trillion for MBG would be sourced from the education budget line, within a total planned education allocation of Rp757.8 trillion in the 2026 State Budget [37]. Roughly speaking, close to one-third of the education envelope is thus earmarked for a nutrition programme whose legal basis and design are still contested. At the same time, the Constitutional Court has, in at least two landmark decisions Constitutional Court Decision No. 3/PUU-XXII/2024 and No. 111/PUU-XXIII/2025, affirmed the government's obligation to ensure schooling that is free from compulsory levies and other de facto charges. Against this backdrop, critics such as Ubaid Matraji from the JPPI argue that the current budgetary configuration reflects a policy choice, in which the President prioritizes channeling education funds into MBG rather than fully implementing the Court's rulings on free education [38].

From a progressive realization perspective, such a trade-off is deeply problematic. The doctrine does not permit the State to justify retrogression in the enjoyment of one right, for example, access to genuinely free, quality education or adequate health services by invoking advances in another domain (such as subsidized meals). On the contrary, progressive realization requires the use of the maximum of available resources to expand the overall enjoyment of rights, subject to non-retrogression and minimum core obligations. If MBG funding contributes to a situation in which schools remain dependent on parental levies, infrastructure deficits persist, or health services for children and adolescents remain underfunded, then the programme risks functioning as a reallocation mechanism that undermines existing entitlements rather than strengthening them. In that scenario, MBG would not simply realize the right to food. It would, in practice, displace resources from the minimum core of the rights to education and health, precisely the kind of outcome that progressive realization, as constitutionalized through Article 28I(4) of the 1945 Constitution, is meant to prevent.

## **Conclusion**

The analysis reveals that the Free Nutritious Meals (MBG) programme, despite its ambitious goals, faces serious legality and implementation problems. It was launched without a proper legal basis and relies only on internal instructions, resulting in weak coordination, political interference, low budget absorption, risks of corruption, and inadequate supervision. These shortcomings show that the programme lacks the governance safeguards required for a national initiative funded by substantial public resources.

Viewed through the principle of progressive realization anchored in Article 28I(4) of the 1945 Constitution, MBG also raises constitutional concerns. Redirecting a large portion of the education budget to MBG risks undermining the minimum core of other guaranteed rights, especially free and quality education. A programme intended to advance one right cannot justify retrogression in others. Thus, without a clear legal framework and coherent policy design, MBG risks weakening rather than strengthening the overall protection of economic, social, and cultural rights in Indonesia.

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