



## **Criminal Liability Based On the Child Nutrition of Vicarious Liability for Poisoning Cases in the Child Nutrition Program**

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#### **ABSTRACT**

The purpose of this study is to analyze criminal liability based on vicarious liability in a mass poisoning case that occurred during a nutritious food program for children, a government policy aimed at improving the nutritional quality of students. The problem arose when the food provided by the organizer did not meet food safety standards, resulting in harm to children as consumers who are legally entitled to safety and security as stipulated in the Consumer Protection Law. The approach used in this study is a normative legal method, analyzing legislation, legal doctrine, and the concept of criminal liability within the framework of employment relationships. The results of this study indicate that the program involved many parties, including local governments, catering providers, schools, and third parties involved in distribution. Therefore, the principle of vicarious liability is relevant for assessing the criminal liability of those who benefited, had authority, and were negligent in supervising the program. In conclusion, the application of the principle of vicarious liability can provide clarity regarding the primary responsibility in cases of negligence that lead to poisoning. It also serves as a basis for strengthening oversight mechanisms to ensure that the public program's goal of fulfilling children's rights does not become a potential loss to the community.

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### **INTRODUCTION**

The nutritious food program for children is a government policy aimed at improving the nutritional quality and health of the younger generation. Through this program, it is hoped that schoolchildren will receive balanced nutrition to support their growth and development and academic achievement. However, despite this noble goal, the program's implementation often encounters various obstacles, one of which is the occurrence of mass poisoning cases affecting students due to food provided that does not meet food safety standards. Such cases raise complex legal issues, particularly regarding which party should be held criminally responsible for such negligence. In the context of implementing government programs, particularly the Nutritious Food Program for Children, the application of the Vicarious Assurance Principle becomes

relevant when cases occur that cause harm, such as mass poisoning incidents affecting program participants. The program is essentially a manifestation of the state's responsibility to fulfill children's rights to adequate health and nutrition. However, in practice, program implementation often involves various parties, ranging from local governments, catering service providers, school administrators, to third parties involved in food distribution. The complexity of the legal relationship between these parties raises the question of who should be held criminally responsible if detrimental consequences occur.

Based on Agus Sardjono's (2022) study in his journal on strengthening children's rights as end consumers, children who benefit from the free nutritious meal (MBG) program have the same status as vulnerable consumers. In the context of consumer protection, legal provisions emphasize that every consumer must be guaranteed a sense of comfort, safety, and use of a product or service. Therefore, children as recipients of the MBG program are required to receive legal protection that ensures the safety and quality of the food they consume in accordance with applicable standards (Sardjono, 2022). This emphasizes the importance of consumer protection, especially for children, in the context of protecting health and food safety. In this context, students as recipients of food from providers appointed by the state have the right to receive food that is suitable for consumption. When the food consumed is found to contain hazardous substances or is processed unhygienically, and results in poisoning, the food provider and the government as the party responsible for supervision can be subject to legal sanctions. Legal provisions stipulate that business actors are prohibited from producing or distributing goods that do not meet established standards or that do not comply with applicable technical requirements.

In this context, the reference to nutritious and safe food quality is based on the provisions set by the Food and Drug Monitoring Agency (BPOM) and technical regulations from the Ministry of Health.(Tampubolon 2018) If it is proven that the food provided in the MBG program does not meet sanitation standards, the catering service provider can be prosecuted. Furthermore, the state, as the party collaborating with or granting a license to the food provider, can also be held accountable for negligence in carrying out supervision in its work.

In this context, the principle of vicarious liability becomes relevant to examine. This principle places criminal responsibility not only on the individual perpetrator, but also on parties with whom they have an employment relationship. In other words, a party who benefits from and has authority over an activity can also be held accountable for the actions of their subordinates.(Anita Mihardja, Cynthia Kurniawan, and Kevin Anthony 2020) This program is a form of government policy aimed at fulfilling the right to safe and nutritious food and improving the quality of national human resources (HR). President Prabowo firmly stated that the government is fully responsible for the success and safety of this program, including avoiding irregularities and ensuring the safety of food distributed to the community. However, if incidents such as poisoning or negligence occur during program implementation, the government must have a clear legal accountability mechanism to ensure that the program's social objectives do not become a source of danger to children and the wider community. In this context, clear criminal and administrative regulations are crucial for those responsible, both in terms of implementation and oversight. Therefore, the existence of strict legal regulations regarding who can be held criminally responsible in cases of negligence is vital to maintaining the integrity and effectiveness of the program, as well as protecting the rights of citizens, especially children who are the target of this program.(Collins et al. 2021)

Through this research, it is hoped that a comprehensive understanding can be found regarding how the principle of vicarious liability can be applied in the context of criminal liability for cases of poisoning in free meal programs for children, as well as the extent to which this principle can be applied fairly in the legal system in Indonesia.

## **METHODS**

This research uses a normative legal approach with a focus on an in-depth study of various positive legal norms, legal principles, and legal doctrines related to criminal liability based on the principle of vicarious liability or vicarious liability. The analysis is conducted through three main approaches, namely the statute approach, the conceptual approach, and the case approach, specifically regarding the case of mass poisoning in the program providing nutritious food for school children. The data and legal materials used in this research include primary legal sources, namely various statutory provisions and court decisions that have a direct relationship to the issue being studied; secondary legal materials, including criminal law textbooks, scientific journal articles, and opinions of criminal law experts; tertiary legal materials, such as legal term dictionaries and legal encyclopedias. The collection of legal materials is carried out through literature studies, then analyzed descriptively and qualitatively to produce appropriate conclusions regarding the forms of criminal liability that can be applied based on the principle of vicarious liability in the Indonesian criminal law system.

## **RESULTS AND DISCUSSION**

The results and discussion should be presented in the same part, clearly and briefly. The discussion part should contain the benefit of the research result, not the repeat result part. The results and discussion part can be written in the same part to avoid the extensive quotation. Tables or graphs must present different results. The results of data analysis must be reliable in answering research problems. References to the discussion should not repeat the references in the introduction. Comparisons to the findings of previous studies must be included.

### **Application of the Principle of Vicarious Liability in Indonesian**

#### **Criminal Law to Cases of Poisoning in the Free Nutritional Meal Program for Children**

The principle of Vicarious Liability is a principle of criminal responsibility that allows a person to be held responsible for crimes committed by others within the scope of certain work relationships, such as employment, official relations, or job responsibilities. In the context of Indonesian criminal law, this principle is not explicitly regulated in the Criminal Code (KUHP), but its application can be found in various special regulations as well as in modern legal practices that emphasize the responsibility of corporations and superiors towards their subordinates. (Dwi Kurniawan and Indri Hapsari 2022)

In cases of food poisoning in free nutritious meal programs for children, the application of the principle of vicarious liability becomes relevant in determining who should be criminally responsible. These programs are generally organized by the government in collaboration with schools, catering providers, and field workers. If food poisoning occurs due to negligence in the procurement, processing, or distribution of food, criminal liability can be imposed not only on the direct perpetrator but also on parties who have legal responsibility and authority within the program organizer.

From a normative perspective, the Indonesian criminal law system adheres to the principle of “no punishment without fault,” which emphasizes that a person can only be subject to criminal sanctions if proven to have committed an act accompanied by an element of fault. However, in modern developments, especially in the field of corporate criminal law and public responsibility, the concept of vicarious liability has begun to be adopted to address the social reality where criminal acts are not always committed by a single perpetrator, but rather within a work system or hierarchical relationship. Therefore, in cases such as mass poisoning due to a free nutritious meal program, criminal responsibility does not only stop at the direct perpetrator (for example, a cook or catering employee), but can also extend to parties who have authority, supervision, and legal responsibility for the activity.(Kurniawan 2015)

In the mass poisoning incident that occurred during the implementation of the Free Meals (MBG) program, the principle of legal certainty plays a crucial role because the incident had serious implications, namely hundreds of students were poisoned after consuming food from the government initiative.(Rif'iy et al. 2025) This principle is necessary to ensure that all parties involved, both individuals and business entities, can be held accountable for all stages of implementation based on the provisions of applicable laws and regulations. This application ensures that the stages of investigation, examination, and prosecution are carried out objectively and based on valid evidence, without deviating from established legal norms.(Emmanulle et al. 2025)

One of the legal bases for the relevant legal provisions to be applied in this case is the article regulating article 360 of the Criminal Code, which states that:

- a) Anyone who, through his/her negligence, causes another person to suffer serious injury, is threatened with a maximum imprisonment of five years or a maximum imprisonment of one year.
- b) Anyone who, through his/her negligence, causes another person to suffer injury to such an extent that illness or an obstacle arises in carrying out work, office, or profession for a certain period, is threatened with a maximum imprisonment of nine months or a maximum imprisonment of six months or a maximum fine of four thousand five hundred rupiah.

In practice, the principle of vicarious liability is an important basis for determining who is criminally responsible for poisoning cases occurring in the free nutritious meal program for children.(Dewi and Silaswaty 2018) This principle emphasizes that criminal responsibility is not only imposed on the direct perpetrator, but also on any party with an employment relationship or supervisory authority over the perpetrator. In this context, government officials or program organizers who are negligent in their supervision can be held criminally responsible for the negligence of their subordinates that led to the poisoning.

The application of the vicarious principle shows that criminal law does not only focus on individuals who directly commit acts, but also pays attention to the responsibility of superiors who have control and supervisory obligations. Thus, this principle provides a foundation for enforcing justice and protection for the community, especially victims, and ensures that every party who has responsibility in organizing public programs is not free from legal consequences for their negligence. The enforcement of this principle also reflects the principle of a state based on law as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that the State of Indonesia is a state based on law.(Rokilah 2020)

The doctrine of vicarious liability, known as respondeat superior, essentially stems from the adoption of the principle of responsibility in civil law, particularly in the realm of unlawful acts (onrechtmatige daad). (Karawang 2018) In civil law, it has long been accepted that an employer can be held responsible for unlawful acts committed by its employees, as long as the act occurs within the scope of its duties or employment. This principle then developed and gained acceptance in practice and legal doctrine based on the consideration that employers benefit and profit from their employees' activities, so it is natural that employers also bear the risks and consequences of their subordinates' actions.

Among experts who study the doctrine of vicarious liability, (Rodliyah, Suryani, and Husni 2021) Peter Gillies presents several important views as follows:

- a. Corporations, like individuals acting as entrepreneurs, can be subject to vicarious civil liability. Within the realm of liability, employers or principals can be held vicariously liable for unlawful acts committed by employees or their representatives, as long as the act falls within the category of offenses that permit the application of vicarious liability.
- b. The majority of offenses that form the basis for the application of this doctrine, particularly those related to the employment principle, are summary offenses regulated by trade regulations or similar regulations.
- c. Within the framework of the vicarious liability doctrine, the status or position of the perpetrator (whether employer or agent) and whether the act was committed within the scope of legitimate employment are not absolute requirements. What is more crucial is whether the act can still be considered within the scope of the assigned duties or authority

Therefore, a corporation can still be punished even though there is no instruction or order from the leader or the Company to commit a violation, even if the employee acts against the existing order. This confirms that the Company is involved, responsibility arises even though there is no direct involvement from the Company's superiors. Based on the principle of delegation of authority (delegation principle), the element of fault (mens rea) contained in the actions of employees can be attributed to the leader or superior as long as there is a transfer of authority and responsibility directly related to the act.

#### **Party who is criminally responsible based on the principle of vicarious liability in the case of poisoning in the nutritious meal program**

In cases of poisoning that occur in children's nutritious food provision programs, criminal responsibility is not only imposed on the direct perpetrator but also involves parties who have legal positions and vicarious responsibilities, criminal responsibility can be transferred or imposed on leaders, companies, or organizers who benefit or have the authority to regulate and supervise the implementation of the program. (Anita Mihardja, Cynthia Kurniawan, and Kevin Anthony 2020) This principle states that in the context of an employment relationship or delegation of authority, errors committed by subordinates can trigger criminal responsibility for the employer, provided that the action is carried out as part of the implementation of mandated duties.

In this case, several parties may be held criminally liable, including:

- a) First, the food provider or supplier, acting as the direct (material) actor, has actual responsibility for the processing, storage, and distribution of food to students. If it is proven that the food was prepared or stored in unhygienic conditions and contained hazardous substances, this form of negligence fulfills the elements of fault required for criminal liability for acts resulting in injury or harm to others. Based on the theory of

strict liability, the food provider can still be prosecuted without proving fault, because mass food preparation is an activity that carries a high risk to human life, thus imposing a legal obligation to exercise due care.

- b) b. Second, the local government or official responsible for the MBG program acts as an indirect actor, namely an organizational actor. Through relevant institutions such as the Education Office or the Health Office, the government is obliged to supervise and ensure that all distributed food meets health standards. If negligence in supervising the seller or catering service provider is proven, criminal liability can be imposed based on the theory of vicarious or substitutionary liability. This theory stipulates that responsibility is transferred to the party with the employment relationship or supervisory authority over the primary actor.
- c) Third, companies or catering companies acting as food providers may also be subject to criminal liability based on the identification theory. According to this theory, the actions and errors committed by managers, as well as any actions committed by employees working for and representing the company, are considered acts and omissions that can be attributed to the company itself. Consequently, companies can be subject to criminal sanctions if proven negligent in ensuring food safety, such as failing to implement standard operating procedures for hygiene and food safety in accordance with applicable laws and regulations.

In addition to being contrary to the provisions of the Criminal Code, this action also violates the principle of consumer protection aimed at ensuring the fulfillment of consumers' rights to feel comfortable, safe, and secure in using or consuming any goods or services. (Handaru, Diesna Nudiya, Wardiono 2021) In this context, students as recipients of food from government programs have the right to receive food that meets the standards of suitability and safety for consumption. If food is found to contain hazardous substances or is produced without complying with hygiene standards resulting in poisoning, the food provider and the government as the supervisory authority can be subject to legal sanctions.

In addition to criminal liability, program organizers may also be subject to administrative sanctions. These sanctions can include revocation of business permits, suspension of activities or operations, and even fines if proven negligent in fulfilling food safety obligations. Therefore, MBG organizers are not only required to assume moral and social responsibility but also to comply with strict legal requirements to ensure that every stage of food production, distribution, and provision is carried out in accordance with food safety principles and public health protection. (Maesaroh, Widowati, and Fanani 2025).

Therefore, joint oversight between the National Nutrition Agency, (Arisanti, Indriani, and Wilopo 2018) the Ministry of Health, and Food Control Agencies needs to be strengthened through comprehensive legal enforcement. This approach focuses not only on criminal law enforcement but also includes preventive measures and education as an effort to realize a safe, sustainable national food system that supports public welfare.

The application of the principle of vicarious liability to business actors provides greater protection for consumers because consumers are no longer burdened with the obligation to prove the existence of an element of fault on the part of the business actor when a loss occurs due to consuming a food product. Business actors are required to be fully responsible for all losses arising from the product or food produced and consumed by consumers. If the business actor refuses, does not respond to, or does not fulfill the obligation to compensate for consumer

demands, then the consumer has the right to file a lawsuit through the Consumer Dispute Resolution Agency (BPSK) or directly file the case with the court at the consumer's place of residence.(Maulana and Agusta 2021).

Active oversight by the Health Department and the existence of clear and firm legal regulations are crucial to ensuring food safety across the culinary sector. This incident demonstrates the need for far more intensive oversight accompanied by more detailed and specific regulations. Currently, food hygiene provisions in Indonesia are still general and do not clearly define the division of responsibilities for each party, particularly the role of chefs in the food preparation process. Food should be served in accordance with food hygiene and safety provisions, as stipulated in Health regulations that require providers to meet hygiene standards in the preparation and serving process. However, these provisions do not explicitly contain criminal liability for chefs in the event of food poisoning. As a result, there is a potential legal loophole that could discourage businesses from truly enforcing strict hygiene standards. In contrast to Indonesia, many developed countries have more detailed food safety regulations, including mandatory periodic training and certification for all kitchen staff, thus making individual responsibilities clearer and more accountable.(Akbar and Rosando 2025)

In the development of consumer protection science in Indonesia, business actors, such as restaurant owners or managers, can be held accountable in cases of food poisoning. Typically, consumers who are victims immediately report the incident to law enforcement without first securing evidence in the form of food scraps. Therefore, the evidentiary process in these cases relies heavily on a medical and scientific approach, which encompasses three main aspects:

1. Examination of food samples suspected to be the source of poisoning
2. Results of a post-mortem examination (Visum et Repertum) from a doctor, and
3. Statements from the victims

Laboratory results on food samples can objectively indicate whether there are harmful substances (e.g., pathogenic bacteria, pesticide residues, heavy metals, or prohibited chemicals) that can disrupt the digestive system or other organs in the human body.(Akil, Nawi, and Abbas 2022) Meanwhile, a post-mortem examination (Visum et Repertum) from a doctor serves to prove a causal relationship between consumption of the food and the health problems experienced by the victim. This post-mortem examination is conducted through clinical, biological, and physiological examinations to detect abnormalities or symptoms consistent with food poisoning patterns.

The victim's own statement is an important support, especially when they are able to explain the symptoms that appeared after consuming food at that place, such as nausea, vomiting, diarrhea, itching of the skin, shortness of breath, fever, or other symptoms that can be medically categorized as food poisoning.(Indraswati 2023)

These three pieces of evidence were then further analyzed by investigators, involving the Food and Drug Monitoring Agency (BPOM) or local health laboratories.(Bafadhal and Alissa 2024) The results of the BPOM's investigation ultimately provide a strong basis for concluding whether the business operator was proven negligent and can be held legally responsible for the poisoning of the consumer, or whether they were acquitted of the charges due to the absence of food safety standards violations

## **CONCLUSION**

The poisoning incidents that occurred during the implementation of the Free Nutritional Meals (MBG) program demonstrate the complex nature of this problem and demand strict criminal accountability. The recurrence of poisoning cases, the alleged higher number of victims than officially reported, and weak oversight indicate a systematic failure in food safety and program implementation. The main contributing factors include a lack of understanding of food safety standards among implementers and volunteers, as well as weak regulations and oversight mechanisms from the authorities. In this context, the application of the principle of vicarious liability is crucial as a basis for expanding the scope of criminal liability, not only against direct perpetrators but also against organizers or officials with supervisory authority. Through the application of this principle, justice and accountability can be upheld, while simultaneously encouraging improvements in public program governance to be more transparent, prudent, and oriented towards protecting the safety of the community, especially children as the group most vulnerable to health risks.

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