

# Reformasi Hukum Keselamatan Kerja Berdasarkan Prinsip Bisnis dan Hak Asasi Manusia: Studi Kasus Aspek Pencegahan Kecelakaan Kerja Industri Nikel di Indonesia = Reforming Occupational Safety Laws Based on Business and Human Rights Principles: A Case Study On Work Accident Prevention Aspects Of The Nickel Industry In Indonesia

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## Abstrak

Tesis ini menganalisis bagaimana pengaturan pada saat ini, pelaksanaan dan pengaturan di masa yang akan datang terkait akses terhadap pemulihan non-yudisial korban kecelakaan kerja Industri Nikel di Indonesia berdasarkan UN Guiding Principles on Business and Human Rights. Tesis ini disusun menggunakan metode penelitian doktrinal. Akses terhadap pemulihan non-yudisial korban kecelakaan kerja di industri nikel Indonesia saat ini berdasarkan UU RI Nomor 1 Tahun 1970 tentang Keselamatan Kerja adalah melalui pengawasan ketenagakerjaan setempat dan terdapat jaminan sosial yang dapat diakses oleh korban berdasarkan UU Sistem Jaminan Sosial Nasional, Perpu Cipta Kerja dan UU BPJS. Pelaksanaan akses terhadap pemulihan non-yudisial korban kecelakaan kerja di industri nikel Indonesia berdasarkan UNGPs terdiri dari akses terhadap pemulihan berbasis negara dan non-negara seperti BPJS Ketenagakerjaan, Dinas Ketenagakerjaan, Komnas HAM, perusahaan dan asosiasi bisnis. Masih terdapat banyak tantangan hukum dalam pelaksanaan akses terhadap akses pemulihan non-yudisial korban kecelakaan kerja nikel seperti tidak adanya pengaturan komprehensif mengenai kompensasi dan berbagai resiko terbaru, sistem pengawasan atau mitigasi resiko, koordinasi dalam pemerintahan. Pengaturan akses terhadap pemulihan non-yudisial korban kecelakaan kerja di industri nikel Indonesia yang seharusnya berlaku pada masa yang akan datang adalah mengimplementasikan prinsip bisnis dan HAM secara internasional terhadap perbaikan UU Keselamatan kerja. Perbaikan yang dapat dilakukan terhadap UU Keselamatan kerja yaitu menyusun pengaturan yang komprehensif dengan pendekatan HAM, kewajiban dan membangun uji tuntas industri nikel dan menjamin mekanisme pengaduan terhadap korban.

.....This thesis analyzes the current regulation, implementation, and future regulation concerning access to non-judicial remedy for victims of workplace accidents in the Nickel Industry in Indonesia based on the UN Guiding Principles on Business and Human Rights. This thesis is compiled using a doctrinal research method. Currently, access to non-judicial remedy for victims of workplace accidents in the Indonesian nickel industry is governed by Law No. 1 of 1970 concerning Occupational Safety, through local labor supervision and social security guarantees accessible to victims under the National Social Security System Law, the Job Creation Omnibus Law, and the Social Security Administrator Law. Implementation of access to non-judicial remedy for victims of workplace accidents in the Indonesian nickel industry based on the UNGPs includes access to both state-based and non-state-based grievance mechanisms such as BPJS Employment, the Department of Manpower, the National Commission on Human Rights (Komnas HAM), companies, and business associations. There are still many legal challenges in implementing access to non-judicial recovery for victims of nickel industry workplace accidents, such as the lack of comprehensive regulations on compensation, various emerging risks, risk supervision or mitigation systems, and governmental coordination. Future regulation governing access to non-judicial recovery for victims of

workplace accidents in the Indonesian nickel industry should involve implementing international business and human rights principles to improve Occupational Safety Laws. Improvements to Occupational Safety Laws should include drafting comprehensive regulations with a human rights approach, obligations to conduct thorough assessments of the nickel industry, and ensuring complaint mechanisms for victims.