

**The UNGP Protect, Respect and Remedy Framework as a Best Practice Model for Dispute Resolution in the Context of Natural Disasters**

|  |
| --- |
| **SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLES** |
| “Speed up the rebuilding and compensation process in the aftermath of the Canterbury earthquakes “ (Germany). “Facilitate the realization of economic, social and cultural rights through the reconstruction of the areas affected by earthquakes in 2010 and 2011” (Algeria). In other words, make better progress on rebuild and recovery efforts. |

|  |
| --- |
| **NATIONAL FRAMEWORK** |
| There is no national framework. EQC’s obligations are governed by the Earthquake Commission Act 1993. The obligations of private insurers are governed by contracts of insurance which provided for full insurance cover. Insurers have adopted a system of self-regulation and are generally expected to comply with minimum standards contained in the Fair Insurance Code 2016. |

|  |  |
| --- | --- |
| **CHALLENGES** | **IMPACT** |
| *Critical human rights challenges include:** *Failure to committing to adoption of the Protect, Respect and Remedy Framework.*
* *Failure to adopt a human rights approach to managing earthquake claims.*
* *Failure to adopt human rights due diligence programmes.*
* *Failure to address the inherent imbalance in power between affected people and their insurers.*
 | *As a result of the failure to adopt the UNGP Framework, dispute resolution mechanisms have been piecemeal, ad hoc and inadequate.* *In most cases, government insurers have failed to provide opportunities for affected people to participate in decision-making regarding their claims and how they will be managed. They have failed to adopt a flexible approach.* *The lack of a human rights discourse has resulted in many affected people feeling like they do not matter and they have no say in their earthquake claims.**…**…* |

|  |
| --- |
| **RECOMMENDATIONS** |
| WCM Legal recommends that the New Zealand government must:* 1. Urgently implement Recommendation 17 made by the UN Committee on Economic, Social and Cultural Rights in its Concluding Observations on the Fourth Periodic Report of New Zealand to adopt a national plan of action to implement the UN’s “Protect, Respect and Remedy” Framework;[[1]](#footnote-1)
	2. Ensure that immediate adoption of a human rights approach should be mandatory for EQC and insurers.
	3. Ensure that EQC and insurers must carry out human rights due diligence which includes (1) identifying adverse human rights impacts, (2) addressing adverse human rights impacts, (3) monitoring adverse human rights impacts and (4) reporting on adverse human rights impacts should be mandatory for EQC and insurers within 12 months.
 |

References/sources:

1. OECD “OECD Due Diligence for Responsible Business Conduct” (2018).
2. United Nations “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework” (United Nations, New York and Geneva, 2011).
3. Earthquake Commission Act 1993.
4. Fair Insurance Code 2016.
5. Human Rights Commission *Monitoring Human Rights in the Canterbury Earthquake Recovery: A Report by the Human Rights Commission* (Human Rights Commission, 2013).
6. United Nations Economic and Social Council *Concluding Observations on the Fourth Periodic Report of New Zealand* (United Nations, E/C.12/NZL/CO/4, May 2018).
1. United Nations Economic and Social Council  *Concluding Observations on the Fourth Periodic Report of New Zealand* (United Nations, May 2018). [↑](#footnote-ref-1)