

GETTING RECOMMENDATIONS IMPLEMENTED

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Recommendations are the fulcrum of torture prevention through preventive monitoring.

The approach to ensuring effective implementation of recommendations is continuous, strategic constructive dialogue and introspection.

Over the past two years HRCM has developed what we now call the 'Recommendations Monitoring Tool kit'. This comprises of three core elements;

1. Recommendations Implementation Time-line
2. Recommendations Monitoring Tool
3. The 17 Factor Model

Recommendations Implementation Time-line is the list of recommendations pertaining to each monitoring report, shared with the concerning authority during the initial report sharing meeting, to which respective authorities respond with proposed time-lines for implementation. This then becomes the pivotal document for constructive dialogue and monitoring endeavours conducted every three months.

- I. The Recommendations Monitoring Tool depicts the implementation progress of each recommendation based on a progress monitoring scale. In addition the tool categorizes each recommendation into four types, based on the nature and objective of the proposal ,namely, Legal and National Standards related, Policy propositions, those that can be addressed at an institutional level and finally enforcement related. The tool also indicates SPT recommendations apart from the specific institution it was directed at as well as the year of issuance.

The 17 factor Model is a list of factors developed by HRCM, based on our experiences, constructive dialogue endeavours, trainings and literature reviews of experiences from other monitoring bodies, which is meticulously applied to each recommendation in order to infer what factors are influencing its implementation. This method of introspection into our own recommendations and processes has proven insightful.

Over the past 2 years HRCM has issued 482 recommendations. Of which 3.74% are legal and National Standards related, 19.3% are policy proposals, 26.4% are those that needs to be addressed at institutional level and 50.6% are enforcement related. Indicating that there are greater concerns regarding issues pertaining to institutional roles and enforcement of an already existing framework to prevent torture in the Maldivian context. It is also indicative of the fact that NPM Maldives needs to engage more closely, through trainings, sensitization exercises etc-with enforcement officials, detention managers, political appointees and technical staff in charge of specific institutions.

Each category of recommendations has been treated with the 17 factor Model. Which indicates that;

- a) Recommendations pertaining to legal and National Standards have not been implemented owing to a combination of two factors- inability to generate adequate constructive dialogue and lack of political will.
- b) Proposals of Policy amendments and adoptions have not been implemented due to a lack political will, budget implications, lack of human rights sensitivity of political appointees and officials at related management levels, as well as the absence of a legal framework that mandates/facilitates it.
- c) Institutional level recommendations have not been implemented, owing to the same factors and to some extent due to a lack of involvement of Secondary Stakeholders.
- d) Similiar factors are seen to hinder implementation of enforcement related recommendations.

In instances where successful implementation of recommendations have been achieved;

- a) For those pertaining to legal and National Standards; Continuous Dialogue on the Subject Matter, Media Pressure, Human Rights Sensitivity of Political Appointees

and Officials at Related Management Levels, recommendations that are 'SMART' and contains appropriate referencing of standards, have had greater support from secondary stakeholders and political will is seen to have been implemented effectively. It is imperative to note here that, 67% of legislations/national standards related recommendations implemented contained Budget Implications, but nevertheless saw implementation because other factors complemented those recommendations.

- b) Recommendations with Policy proposals indicate an interesting influence of SPT recommendations and pressure from other Human Rights treaty bodies such as the Human Rights Committee's Concluding Observations. And these two factors are seen to impact political will in this case. It is interesting and encouraging to see that roles and activities of other departments of HRCM; Advocacy Department (AD), Research and Monitoring Department (RMD), Investigations Department (ID), legal and Policy department (LPD) have contributed to immensely towards implementation. Perhaps an indication of advantages of designating an NHRI as the NPM?
- c) The most apparent factor, influencing implementation in all categories remain Continuous Constructive Dialogue. Hence this tool is proving indispensable for NPM Maldives, to further strategise our Constructive Discourse.
- d) Another apparent factor is the affirmative presence of SPT recommendations which is seen to contribute to implementation 48% of the time.

HRCM follows-up on SPT recommendations to the Maldives through its own monitoring visits. As a result implementation status of SPT recommendations are distinctly reflected in the Monitoring tool. In addition SPT recommendations are also used in referencing standards, which form part of NPM recommendations where applicable.

Other departments of HRCM also uses the SPT recommendations to the state as advocacy material and standards for reference; for instance Investigation reports, the recent booklet and poster on rights at the time of arrest by AD, HRCM comments to torture Law ensuring inclusion of all SPT recommendations by LPD and the recent submission by HRCM to the UN Human Rights Committee for the list of issues of ICCPR by RMD.

It is also interesting to note that SPT recommendation status is 7% greater than that of NPM recommendations; indicating the influential role of SPT as a mechanism.

The OPCAT implementation mechanism of Maldives saw a new promising avenue in July this year, when all OPCAT actors including the SPT, represented by Mr. Olivier Obrecht, came together for a stock taking exercise called, the National Dialogue on OPCAT, facilitated by the APT. The outcome of this endeavour is proving to be instrumental in getting recommendations implemented as; the government has assigned OPCAT focal points to all relevant ministries, the judiciary and the parliament. In October all these OPCAT actors came together for its first OPCAT meeting hosted by the Home Minister. A resolution was passed in this meeting; for all OPCAT focal points to meet four times a year to follow-up on progress and report on implementation. Post the National Dialogue the government has also announced that it will host the OPCAT National Dialogue on an annual basis to enforce and ensure the success of the OPCAT system in the Maldives.

Using the aforementioned tool kit NPM Maldives intends to generate- what we now call- Implementation Advocacy Plans- for each of the 464(remaining) recommendations it has proposed- because what this exercise helplessly conveys is, that, the key to getting recommendations implemented, is dependently unique to each recommendation itself.

Practical? Most certainly, definitely NOT! But I'm certain that we can make it practical; by prioritizing, clubbing; assigning timelines and developing progress indicators! Its tedious! But I firmly believe that all OPCAT actors must undertake whatever is required and become equal partners with our stakeholders to ascertain that recommendations don't remain mere aspirations.

Each recommendation is a responsibility- one that demands equal accountability from the OPCAT actor proposing it as well as, the one it is directed at. Every time you decide to propose a recommendation you must bear equal responsibility with that of the primary stakeholder to ensure, facilitate and guide its implementation!