

Case Study on the National Advisory Council (NAC)

**The National Advisory Council Model: When the Civil Society was
Heard in Policymaking in India**

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Abstract

This case study explores the National Advisory Council (NAC), an advisory body to the Prime Minister of India. NAC is a unique, and even historic experiment for several reasons.¹

First, this body was constituted by then-ruling government, the United Progressive Alliance (UPA), to bridge civil society and government in advising the Prime Minister of the country on social sector reforms. The body consisted of experts from various branches of civil society ranging from academia to grassroots activists, along with members of the government. It was created to devise social policies for the most underdeveloped sections of Indian society. The NAC had been constituted twice, first from 2004 to 2008 (NAC-1), and subsequently in 2010 to 2014 (NAC-2). Both times, the ruling government was headed by the Indian National Congress Party. Consequently, the chairperson of the Congress Party and the UPA was appointed as the chairperson of the NAC.

Second, NAC-1 has been credited with supporting some of India's most crucial, pro-poor legislation, including The Right to Information Act, 2005, Forest Rights Act, 2006 and the Mahatma Gandhi National Rural Employment Guarantee Act, 2005. While NAC-2 had made recommendations and inputs that were critical as well, their successes were less praised in the media, and have not been appropriately credited.

Third, regardless of the politicization of the NAC, the body has always been a multistakeholder group and their approaches towards policymaking and consulting sought out multiple relevant actors when making decisions. Their processes were inclusive, transparent and successful. Though burdened by much criticism, in the future the NAC model can be replicated by increasing transparency, accountability, and duplicating the effort under a legal framework. The case study is based on personal accounts of the members, news reports and available records.

¹ The case study is based on interviews with members of the former NAC, Ms. Mirai Chatterjee (NAC-2: 2010-2014) and Dr. Jean Drèze (NAC-1: 2004-06, NAC-2:2010-11).

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I. Introduction

When the United Progressive Alliance (UPA) led by the India National Congress Party achieved a majority in the 2004 general elections, political parties collaborated and passed the National Common Minimum Programme (NCMP)². The purpose of the NCMP was to remind everyone of the government's goals: to strengthen "secular and progressive forces for parties wedded to the welfare of the farmers, agricultural labour, weavers, workers and weaker sections of society,[and] for parties irrevocably committed to the well being of the common man across the country."³ The government established the National Advisory Council (NAC) to oversee implementation of the NCMP in June 2004.

The NAC was envisioned as a body of experts derived from civil society, less than twenty in number, and handpicked by the Prime Minister in consultation with the chairperson, who ranked as cabinet minister.⁴ The ultimate aim of the NAC as an advisory body to the Prime Minister of India was to provide legislative inputs to help the most disadvantaged groups in society. The NAC ran until 2014 when it was disbanded due to a party switch in government.

The constitution of NAC and its wide range of stakeholders created a multistakeholder model. The group encompassed the breadth of civil society, broadly defined for the purpose of this case study as all those individuals and organizations independent of the government, and working to promote citizens' rights. This case study explains the structure of the NAC, examines the context surrounding the creation of NAC and extracts key lessons learned from the model. The paper uses personal interviews with members of the NAC, records⁵ and news reports to support its contention that the NAC was a largely successful pre-legislative body and multistakeholder model.

II. Understanding Context

When the NAC was constituted in 2004, civil society in India thrived and new democratic institutions emerged, but they mirrored the growing unrest among the people over the state's economic reforms.

A. Rise of Civil Society

Sarkar-mai-Baap is an Indian theology that the state is supreme and the only legitimate representative of the people. The state is a welfare one; it represents the poor and the oppressed, and dominates the public domain. This ideology changed with Indira Gandhi's "Emergency Regime" when some began to challenge the state's legitimacy and objected to leaders that undermined the functioning and autonomy of democratic institutions.⁶ This opened a vacuum for the emergence of non-governmental organizations (NGO) to act

² The Common Minimum Programme is a document outlining the minimum objectives of a [coalition government](#) in [India](#). The NCMP in 2004 placed a heavy emphasis on tackling the needs of India's poor

³National Common Minimum Programme of the Government of India, 2004, <http://nceuis.nic.in/NCMP.html>

⁴Cabinet ministers are a part of the Union Council of Ministers headed by the Prime Minister and exercise executive authority in India. India's parliamentary model is closely based on that of United Kingdom.

⁵Records are limited to NAC-2. Mirai Chatterjee provided access to the same as they are no longer available in the public domain.

⁶SarbeswarSahoo, *The Politics of Democratic Participation*, Chapter 20 in *Quest for Participatory Democracy*, Anand Kumar and Manish Tiwari, eds, Rawat Publications, 2010, p.281

alongside development and civil rights groups as watchdogs against state repression and violation of civil liberties by powerful, vested interests.⁷ These groups sought to justify their struggles in terms of the Directive Principles of State Policy⁸ contained in the Constitution of India that relates to issues such as social justice and economic welfare. NGO funding surged after the Seventh Five Year Plan was presented,⁹ which provided for formal recognition of NGOs.¹⁰ With the larger retreat of institutional politics, there was an emergence of grassroots movements and organizations.¹¹ One such movement was the nationwide Right to Information (RTI) campaign, which eventually culminated in the passing of a legislative act. This national movement emerged from activists fighting in a small village in the state of Rajasthan in the late eighties. The activists fought for Hum Janenge, Hum Jiyenge, which linked the right-to-know with the right-to-live, which acted as the starting point in the struggle for transparency in public institutions.¹²

B. Economic Reforms of the 90's

In the post-emergency era, the state could no longer accommodate the interests of diverse groups and fulfill the demands of a large population. India was forced to restructure its economy according to terms and conditions of international economic institutions.¹³ This led to the introduction of liberalization, privatization and globalization (LPG) reforms in 1991 to 1992 to more quickly raise income levels. These reforms were considered to be pro-poor and pro-employment. But instead, the policies led to larger income gaps where the results did not trickle down to the poorest, as is now generally agreed upon in public discourse in India. Consequently, suicides and deaths driven by starvation among farmers rose. The reforms led to a decrease in public expenditure for social development.¹⁴ This was the socio-economic context in 2003 to 2004 that set the background of the parliamentary elections of 2004.

C. Shift in State's Focus

Considering this context of the Indian society and its marginalized populations, the opposition government in the 2004 elections faced a "political compulsion" to balance the consequences of high growth using direct interventions to help the poor.¹⁵ The Congress-led UPA won the general elections. The subsequent NCMP drawn up by a pro-people government restated their commitment to the poor of the country and its role in

⁷ Ashwini K Ray, *Voluntary Action and Citizenship: Issues of Civil Rights*, Chapter 11 in *The Public and the Private: Issues of Democratic Citizenship*, G Mahajan & H Reifeld eds., Sage Publications, 2003, pp. 241-9

⁸ Directive Principles of State Policy are contained in Part IV of the Constitution of India. They are to act as guidelines to the state when framing laws and policies. The provisions are not justiciable in a court of law.

⁹ Five Year Plans were national economic programmes formulated by the Planning Commission, a government institution. The 7th Five Year Plan was for the years of 1985-90.

¹⁰ Harsh Sethi, *NGOs in the era of globalization*, Chapter 15, in *The Public and the Private: Issues of Democratic Citizenship*, G Mahajan & H Reifeld eds., Sage Publications, 2003, pp. 296-313

¹¹ *Id.*

¹² Aruna Roy, Nikhil Dev, Suchi Pande, *The Right to Information Act 2005: A Social Development Perspective*, Oxford University Press, 2008, p.206

¹³ Sahoo, *supra* note 6, at 285

¹⁴ Sahoo, *supra* note 6, at 287

¹⁵ S.K. Das, *India's Rights Revolution: Has it Worked for the Poor?*, Oxford University Press. 2013. p.305

supporting a welfare state. The NCMP was a checklist of the new government's priorities consisting of various initiatives under agriculture, education, health, food, scheduled castes and scheduled tribes and several other areas. The government decided that the NAC's job would be to review the checklist and advise the Prime Minister on carrying forward the stated goals.

III. Organization Model and Structure

Considering the rise of civil society actors, the government created the NAC to guide the government's social sector policies. The NAC was launched on June 4, 2004 and its term ended in March 31, 2008.¹⁸ It was again reconstituted in 2010 when the UPA led by Congress Party was again voted into power in the 2009 General Elections (UPA-II). NAC-2 had its first meeting on June 10, 2010 and their last on the May 6, 2014. NAC was disbanded after the 2014 elections when a new government was voted in.

NAC was a unique experiment where grassroots activists along side other sections of civil society conversed with government to brainstorm solutions to pressing issues affecting the disadvantaged. Interestingly, the NAC was often referred to as a committee of jholawalas¹⁹ or literally people bearing sling bags who set off to work with and for the poor. This is a term used to refer (often derisively) to certain people who can be expected to act in a particular way when they deal with issues of poverty and vulnerability. This perception of NAC contributed to its general perception, and reveal important lessons of this model that shall be explained later in this case study.

The following section details the operations of the NAC. Since the records for this case study are limited to those of NAC-2, this paper restricts its analysis to the same when explaining membership and funding, NAC secretariat operations, and the workings of the NAC. The document titled "NAC Procedures" that was eventually adopted by the members on July 14, 2010 has been relied upon for the following section.²⁰ Explanations of operations and structure are then supported by interviews with members of NAC.²¹

A. Mission

The NAC acted as a pre-legislative body: a chairperson was ranked equally with a union cabinet minister. In effect, the NAC had the power to obtain information from any ministry through the Prime Minister's Office (PMO), and would submit policy and legislative recommendations as an advisory body to the Prime Minister. Pre-existing procedures of a parliamentary democracy or the established systems of legislative passage then put these inputs into action.²² However this stated purpose was often seen differently by the participants and the public and this will be dealt with in the next section (Lessons Learnt). Importantly the government through the NAC also had access to a

¹⁸Smita Gupta, *The Super Panchayat*, Outlook India, April 12, 2010, <http://www.outlookindia.com/article/the-super-panchayat/264926>

¹⁹Smita Gupta, *The Power of Ideas*, Outlook Magazine, October 3, 2005, <http://www.outlookindia.com/article/the-power-of-ideas/228780>

²⁰ Minutes of Meeting of the National Advisory Council held on 14.07.2010

²¹ See Footnote 1

²²Suvojit Chattopadhyay, *In Defence of the National Advisory Council*, Mint, June 3, 2013, <http://www.livemint.com/Opinion/rStVgahhn1VOHV6jx8QsCL/In-defence-of-the-National-Advisory-Council.html>

larger network of NGOs, advocacy and research organizations thereby making the pre-legislative process more multistakeholder in nature.

The main tasks of the NAC were performed through the establishment of working groups consisting of the members. The tasks were:

1. **Recommendations related to legislation-**
 - **Drafting of new legislation**
 - **Amendments to existing legislations/Rules.**
 - **Drafting essential elements of new/proposed legislation**
2. **Recommendations on social sector policies and programs**

As has been explained earlier, NAC-1 was tasked with implementing the NCMP by providing inputs in the legislative business. The agenda²³ set out for NAC- 2 provided legislative inputs to the government focusing on the priorities stated in the address of the President of India to the Parliament on 4th June, 2009.²⁴ In addition, NAC-2 would review the flagship programs of the government (mainly ones where NAC-1 played a crucial role) and suggest measures to address any constraints in their implementation and delivery. Essentially, the members agreed that the policy and legislative inputs would focus on social policy and the rights of disadvantaged groups.²⁵

NAC-2 was differed in some ways, including creating more working groups to propose recommendations²⁶, changing the internal procedures of the council²⁷ and increasing transparency through the NAC website. The guiding principles of NAC-2 are inclusiveness in consultation, openness during discussion and transparency in sharing information in the public domain.²⁹

²³ Minutes of the First Meeting of National Advisory Council held on June 10, 2010

²⁴ Full text of the address by the Hon'ble President of India, PratibhaPatil to Parliament on June 4, 2009, <http://www.ibnlive.com/news/politics/full-text-of-presidents-address-to-parliament-317589.html>

²⁵ Minutes of the First Meeting of National Advisory Council held on June 10, 2010

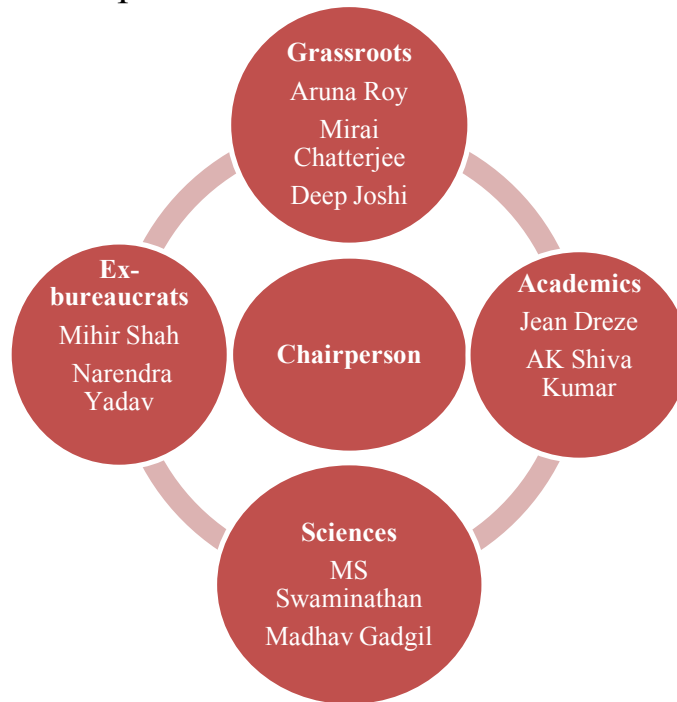
²⁶ Interview with Dr. Jean Drèze

²⁷ Interview with Mirai Chatterjee

²⁹ Section 1, NAC Procedures, July 5, 2010

B. Membership

A



representative diagram depicting backgrounds of some NAC-2 Members³⁰

The PMO appointed the members in consultation with the chairperson of the NAC. Members were appointed for a term lasting one year and could be nominated for consecutive, successive terms. Members were selected from diverse backgrounds. These were individuals with experience working on issues affecting the countries' poor. NAC members were chosen from "social development" sectors,³¹ including academics, grassroots-level activists and sciences. A guiding principle of the NAC was openness, and it encouraged open dialogue and expression of different viewpoints at the council meetings.³²

The establishment of the NAC acknowledged the leadership shown by NGOs and civil society leaders in a number of areas. For instance, Aruna Roy was one member fighting for the *Right to Know* in Rajasthan, who later spearheaded the nationwide movement. Jean Drèze, a developmental economist, pioneered work on the right to food mentioned earlier.³³ The late Ram Dayal Munda who had worked extensively on tribal issues, made several critical contributions to the NAC, as he was an *adivasi* (tribe member) himself.³⁴

³⁰Other members of NAC-2, total of 18 members over 4 years, include Sonia Gandhi, PramodTandon,N.C.Saxena, Farah Naqvi, Anu Aga, Harsh Mander, Mihir Shah, AshisMondal and VirginiusXaxa.

³¹Interestingly the number of politicians was sought to be reduced with NAC-2 with the chairperson, Sonia Gandhi being the only politician in the council.

³² Section 1, Guiding Principles, NAC Procedures, July 5, 2010

³³UditMisra, Saumya Roy, *The Barefoot Economist*, Forbes India, December 19, 2009, <http://forbesindia.com/article/person-of-the-year-09/the-barefoot-economist/8222/2#ixzz3IRFbnaHk>

³⁴ Interview with Mirai Chatterjee

The chairperson of the Congress Party and the UPA, Mrs. Sonia Gandhi, was appointed chairperson of the NAC for both terms. As an interviewee explained, the members did not have any direct political affiliations. However, the PMO had known some members before.³⁵

C. NAC Secretariat

The NAC secretariat had an important role in enabling the NAC to perform its functions. The secretariat facilitated all working group activities, from communications between the members to the participation of various stakeholders in the working group meetings.³⁶ Before each meeting, the secretariat would send relevant background material (via email mostly) to the council members well in advance. The secretariat was in charge of recording the minutes of meetings of the council and the working groups. Further the secretariat was responsible for pursuing follow up action on the recommendations of the council with the relevant government ministry and submitting a “Secretariat Report” at every meeting of the council. Similarly the secretariat would also come out with a “Quarterly Action Taken Report.”³⁷

D. Funding

The NAC office was situated at 2, Motilal Nehru Marg in New Delhi. The NAC was funded by the PMO. All the activities of the council including the meetings, consultations held by the working groups were funded by the PMO.³⁸

The members would receive a reimbursement for their travel (air fare included) and accommodation for their monthly council meetings. The members were also reimbursed when they attended their respective working group meetings.³⁹ They received no other monetary compensation for their services. They all worked for the council in their individual capacities and invariably had day jobs of their own.⁴⁰

E. Working

Mirai Chatterjee⁴¹ an interviewee for this case study was the co-convener of various working groups, such as the working groups on welfare of domestic workers, street vendors and social security for workers in the informal economy. She was also the convener of the working group on universal health coverage (WG on UHC) along with Dr. AK Shiva Kumar. NAC-2 had a total of 37 working groups on various subjects. These working groups held around 240 consultations with a wide range of stakeholders. To understand the working of the NAC, the processes of WG on UHC as explained by Chatterjee have been laid out in the section.

³⁵*Id.*

³⁶ Section 5.15, Working Groups, NAC Procedures, July 5, 2010

³⁷ Section 8.5, Follow up Action on NAC Recommendations, NAC Procedures, July 5, 2010

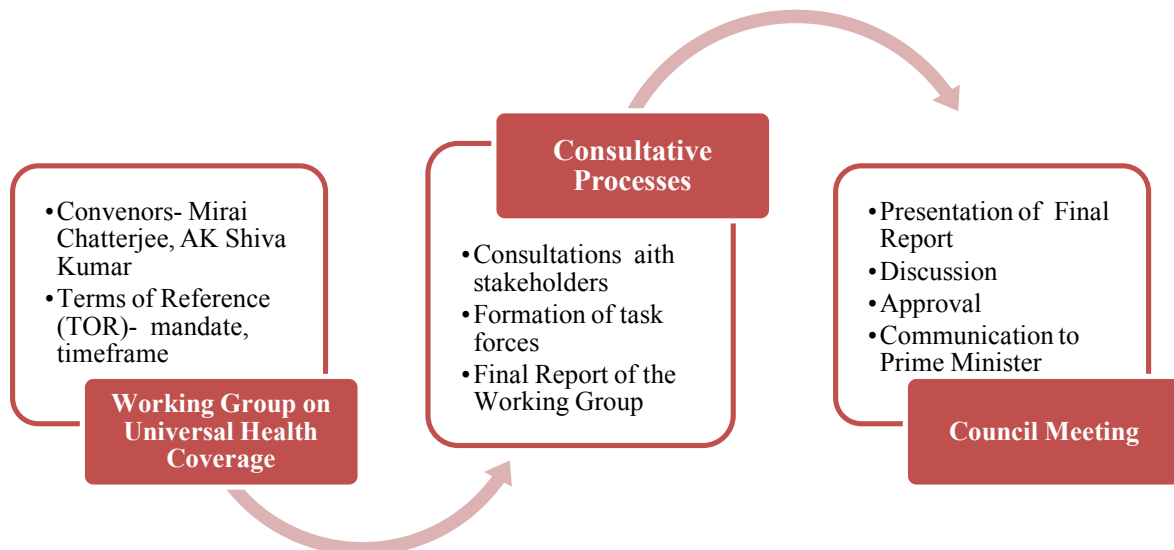
³⁸ Interview with Mirai Chatterjee

³⁹*Id.*

⁴⁰*Id.*

⁴¹ Mirai Chatterjee is the Coordinator of Social Security for India's Self-Employed Women's Association (SEWA).

1. Working Groups, Consultative Processes and Council Meetings



Stages of a Recommendation in NAC

The Working Group on Universal Health Coverage created in October, 2012 came out with their final recommendations in April, 2013. The conveners incidentally were also members of an earlier committee of experts⁴² formed by the Planning Commission on healthcare in India. The momentum in various institutions helped formulate a law that would address public health issues. The public health system needed restructuring; reforms were required both in the public and private health sectors. Recognizing that health reforms were crucial to development of other sectors such as education and food as well, the NAC constituted the working group.

The working group decided that NAC's role was not to replicate the processes of parallel institutions but instead to bring all of them and other stakeholders together to formulate key recommendations and to take it forward with the concerned ministries. For instance, the aspect of financing was considered crucial to roll out Universal Health Coverage. Here, involving the Finance Ministry at the central government was ideal for brainstorming and agreeing on how to finance the project, and therefore was conducted by the NAC. The WG on UHC also worked closely the entire time with the Ministry of Health and Family Welfare.

The NAC remained keen on formulating recommendations through "consultative processes," where various actors were consulted before drafting NAC's inputs on the subject. NAC's internal procedures provided for details on how these consultations were to be carried out.⁴³

⁴² The High Level Expert Group was constituted by the Planning Commission in October, 2010 with the mandate of developing a framework for providing easily accessible and affordable health care to all Indians.

⁴³ Section 6, Consultations, NAC Procedures, July 5, 2010

As a result the WG on UHC had a highly consultative process by inviting and holding meetings with civil society organizations, grassroots workers, development professionals, academics, union government ministries, state governments and other stakeholders. Further taskforces were created with the invitees in specific areas, like community action, to work on the subject more after the consultations before creating recommendations. Geographic diversity was represented in the consultations. Public consultations were also held on urban health and community action. The final recommendations were eventually uploaded to the website, inviting comments from the public.

According to Chatterjee, it was NAC's positive image or clout that compelled stakeholders to attend these meetings. Stakeholders felt they would be contributing to a process that would have meaningful impact. These consultations provided the opportunity for actors working in public health to directly engage with government officials, a rare opportunity. Additionally, the NAC Secretariat played an important role in bringing government representatives from both the state and center to these meetings. A retired senior government official herself, the Secretary heading the secretariat was familiar to many of the government actors.

During these processes the conveners of the working group would provide regular updates to the members in the monthly council meetings. The UHC on WG consisted of other NAC members as well who would make useful interventions in the NAC meetings when the Final Report of the working group was discussed. Other than presentations of members, NAC also had experts or representatives of Ministries and Departments of government come in and discuss topics addressed by the NAC. Sometimes the Ministers would update the council on the status of the implementation of their recommendations. In one such instance,⁴⁴ the Secretary from the Ministry of Health and Family Welfare was called in to explain the progress made by the government after the NAC Recommendations were published.

2. Petitions

In order to be more inclusive, the council addressed "petitions" that were relevant to the broad mandate of the NAC.⁴⁵ These petitions would be sent in by individuals or organizations recommending policies that the NAC should address. Several petitions would be sent to the NAC via post and email by civil society organizations detailing a variety of issues that they believed demanded NAC's attention. Though some were absurd, invariably all petitions would be examined by the members.⁴⁶

⁴⁴ Record of Discussions of the 34th Meeting of the National Advisory Council held on 29th November, 2013

⁴⁵ Section 9, Petitions, NAC Procedures, July 5, 2010

⁴⁶ Interview with Mirai Chatterjee

3. NAC Website and Requests for Information

The NAC website⁴⁷ was utilized for sharing information in the public domain consistent with the obligations of public authorities as enunciated under Section 4 of the Right to Information Act, 2005.⁴⁸ Press notes summarizing discussions and decisions at every meeting were uploaded on the website.⁴⁹ NAC's draft recommendations/bills were published for comment. Other documents (as mentioned earlier) such as the Secretariat Report, Quarterly Action Taken Report, and background material were open to public access on the website. Additionally, as an interviewee explained, the NAC would attend to several requests for information under the *Right to Information Act, 2005*.

F. Decision-making Approaches

Recommendations were usually drafted by a working group. Sometimes, concerned members volunteered. Then it was circulated amongst all members for comments. After finalization, it was submitted to the chairperson for approval. The approved recommendations were then communicated by the chairperson to the government. All these decisions required consensus between all the members.⁵⁰ These decisions were made through a rigorous process of debate and discussion at the NAC meetings.⁵¹ As an interviewee pointed out, the time spent, the plethora of stakeholders involved and the final outcomes produced were a testament to the rich decision-making approach imbibed by the NAC.

Every approved outcome of the NAC was discussed openly in NAC meetings.⁵² Even for controversial issues such as the Communal Violence Bill, members were comfortable with the final approval.⁵³

G. Outcomes

It is not within the scope of this case study to discuss the contributions of the NAC to the substance of the bills/recommendations drafted. Drafts of the bills were available to the NAC before the members set out to draft the NAC's version.⁵⁶ However NAC's contribution to the bills proved to be crucial in the passing of landmark legislation. This is because the NAC enjoyed proximity to the Prime Minister's Office (PMO) and therefore their inputs could be heard by the relevant government ministries responsible for drafting the laws. Further the members could impress upon the chairperson the urgency of their recommendations and inputs. The chairperson in turn would report to the Prime Minister, thereby ensuring that the council's concerns were heard. Additionally,

⁴⁷ The website is no longer accessible after the current government came into power. Earlier the address was nac.nic.in.

⁴⁸ The *Right to Information Act, 2005* was established to provide timely responses to citizen requests for government information.

⁴⁹ Interview with Mirai Chatterjee

⁵⁰ Interview with Mirai Chatterjee, Interview with Dr. Jean Drèze

⁵¹ Interview with Mirai Chatterjee

⁵² *Id.*

⁵³ *Id.*

⁵⁶ Interview with Dr. Jean Drèze

the membership of the council (read Membership above) also contributed towards the council's legitimacy.⁵⁷ It must be noted, however, that it was the established processes of lawmaking that contributed to the final enactment of the legislations.

The *Mahatma Gandhi National Rural Employment Guarantee Act, 2005* was the first major piece of legislation that NAC drafted. NAC-1 was also responsible for the passing of several other key socioeconomic laws such as *The Right to Information Act, 2005* and *Forest Rights Act, 2006*.

NAC-2's outcomes were not helmed as huge successes by the media unlike NAC-1, reasons to be explored in the next section (Lessons Learnt). However, there were important contributions made by the council. NAC-2 contributed a total of 41 sets of recommendations. There were recommendations leading to the *National Food Security Bill, 2011* and the *Land Acquisition Resettlement and Rehabilitation Bill, 2011*. NAC further made crucial interventions in Universal Health Coverage, welfare of domestic workers, manual scavengers and along with other issues focused on improving the well-being of women, children and the most disadvantaged castes and communities.

IV. Lessons Learnt

A lot of the lessons learnt below revolve around the change in circumstances that lead to reconstitution of NAC-2 in 2010. The UPA⁵⁸ government, after it was reelected in 2009, was perceived to have changed their priorities. The government prioritized the market over the marginalized, and the concerns of the decreasing growth rate over those of social development. This change in government's interests had a huge role to play in how the NAC was perceived both by participants and outsiders.

A. Participants viewed success of NAC differently

It can be observed from this model that there is dichotomy in how the participants viewed the success of the NAC. Jean Drèze⁵⁹ in an interview in 2006,⁶⁰ stated that an institution such as the NAC must be judged by its results. During the term of NAC-1, the UPA government had passed legislation the NAC had fought for, such as the *Right to Information Act* and *Employment Guarantee Act*. Drèze pointed out that these laws would not have been enacted without the NAC's intervention.⁶¹ Even so both Drèze and Aruna Roy resigned from NAC-1 citing similar complaints that government was diluting provisions of both of the above acts⁶² and lacked of proper implementation methods.

⁵⁷ Interview with Mirai Chatterjee

⁵⁸ The UPA Coalition that came into power in 2009 was different from UPA-I. The Left Party was no longer a part of the alliance.

⁵⁹ Jean Dreze, a development economist, was one of the more popular faces of both NAC-1 and NAC-2. He resigned from both his terms and this attracted considerable media coverage.

⁶⁰ Gupta, *supra* note 19

⁶¹ *Id.*

⁶² *The National Advisory Council Experiment*, Economic and Political Weekly, Vol. 43, No. 15, April 12 - 18, 2008, p. 7, available here- <http://www.epw.in/editorials/national-advisory-council-experiment.html>

Again in NAC-2 Roy and Drèze resigned and refused nominations for a subsequent term.⁶³ However it was reported that both Roy and Drèze were unhappy with the government's constant neglect of the council's recommendations and its changing priorities.⁶⁴ However, the NAC served only an advisory role, while the final decision was made by Prime Minister Dr. Manmohan Singh.⁶⁵ But the council remained unique; the government had for the first time proactively invited regular inputs from the civil society and made the pre-legislative multistakeholder process highly consultative.⁶⁶ Therefore, the NAC's successes could be found in both the processes and the outcomes, which might be reflected in the differing opinions of its members. Furthermore, the role of the press was in question among members and participants. Some members of the NAC considered it inappropriate to air their grievances in public.⁶⁷

B. NAC functioned within a broader framework of government priorities and interests

Some members of NAC-2 claimed that the UPA's second term was not as committed to inclusive growth as it was earlier.⁶⁹ Public expenditure in social sector programs was a very small percentage of the GDP. UPA-II, for several reasons, turned their attention towards economic growth and found the NAC's recommendations at odds with their views.⁷⁰ The government and the NAC publicly disagreed over the Food Security Bill and the Land Acquisition Bill.⁷¹ As another member explained in an interview, the government's focus had shifted from issues of equity to rekindling growth rates.⁷² Therefore, the council found themselves acting within a broader framework than believed.⁷³ In a sense, the NAC's birth and demise can be attributed to the state's shifting priorities.

C. Chairperson contributed immensely towards the efficacy of NAC

Sonia Gandhi as the chairperson of both the ruling (Congress) Party and the NAC played a critical role in NAC's operation. The NAC had political clout, which enabled them to invite stakeholders from, civil society to government, to attend the consultations when deliberating on proposed policies. Knowing that the chairperson of the NAC enjoyed proximity to the Prime Minister, stakeholders were assured that the NAC processes were

⁶³Interview with Mirai Chatterjee

⁶⁴Shiv Visvanathan, *Decadence and Decline*, The Caravan, May 1, 2014, <http://www.caravanmagazine.in/perspectives/decadence-and-decline>

⁶⁵ Interview with Mirai Chatterjee

⁶⁶*Id.*

⁶⁷ *Id.*

⁶⁹Visvanathan, *supra* note 65

⁷⁰KanikaDatta, *Q&A: Deep Joshi, NAC member*, Business Standard, June 24, 2011, http://www.business-standard.com/article/opinion/q-a-deep-joshi-nac-member-111062400042_1.html

⁷¹Interview with Mirai Chatterjee

⁷²NAC Member N.C. Saxena, Pragya Singh, Lola Nayar, *The Doctor Is In, But Only Just*, Outlook India, <http://www.outlookindia.com/article/the-doctor-is-in-but-only-just/281560>

⁷³Incidentally even when NAC-I was around the National Budget was not guided by NCMP with the budget cutting back on state investment in development sectors.

meaningful.⁷⁴ For example, Sonia Gandhi is said to have pushed the Prime Minister to consider the NAC's demands with the RTI Act. Even so there were times when the NAC's recommendations were not accepted by the Prime Minister, like the Food Security bill.

When Gandhi resigned from her Member of Parliament (MP) seat and the first NAC on March 23, 2006,⁷⁵ the NAC continued to degrade and was dissolved in 2008. Sonia Gandhi was appointed chairperson again⁷⁶ in NAC-2 in 2010 with the Parliament Prevention of Disqualification Amendment Act, 2006 that exempted a MP from disqualification when holding the office of chairperson of NAC. As an NAC member, N.C Saxena explained in an interview,⁷⁷ Sonia Gandhi had the political legitimacy to become the Prime Minister but had chosen not to. This added "moral weight" to Gandhi when she was appointed chairperson of the NAC.

D. NAC's legitimacy dictated by varied perceptions of outsiders

NAC's legitimacy was tied with the legitimacy of the UPA government. UPA critics did not consider NAC to be legitimate, and called it an "extra-constitutional" body.⁷⁸ The NAC was criticized as a platform for Sonia Gandhi to usurp established law-making institutions. But as the interviewees explained, the NAC was only an advisory body.⁷⁹ The Prime Minister had several other such bodies like the Economic Advisory Council and Planning Commission.⁸⁰ Further the change in perception of NAC in its second term might be related to the general public's increasing disagreement with civil society's pro-poor concerns, as these were viewed as resulting in a drain on already tight budgets and the growing fiscal deficit. This factor, along with the changed priorities of the state, may have contributed to criticism of the NAC.

E. The NAC model could gain accountability within a legal framework

The NAC had been open in its discussions and transparent in its work; an interviewee called the NAC a "fishbowl."⁸¹ Yet, the NAC model could institutionalize its processes within a legal framework to further increase its legitimacy. Issues including the chairperson's resignation, dropped members,⁸² the member selection criteria and the chairperson selection process could be more effective if the NAC were granted legal backing.

⁷⁴Interview with Mirai Chatterjee

⁷⁵Gupta, *supra* note 18

⁷⁶ Gupta, *supra* note 18

⁷⁷ Gupta, *supra* note 19

⁷⁸Dorab R Sopariwala, *Dorab R Sopariwala: NAC = Anna = Baba?*, Business Standard, June 11, 2011, http://www.business-standard.com/article/opinion/dorab-r-sopariwala-nac-anna-baba-111061100031_1.html

⁷⁹Interview with Mirai Chatterjee, Interview with Dr. Jean Drèze

⁸⁰Datta, *supra* note 68

⁸¹ Interview with Mirai Chatterjee

⁸² Singh, Nayar, *supra* note 70

F. Membership made the NAC more accountable and legitimate

The members selected to the council were all leaders in their specific fields and brought vast knowledge and credibility to the institution. They were familiar faces in the civil society circle which encouraged participation during public consultations of the council. The members saw themselves as representatives of civil society and wished to represent a broad variety of concerns of their colleagues.⁸³ Many members spent their lives working with the poor. They believed in civil society's role as an intermediate and representative of the people. They saw it as their duty to bring the issues and priorities of the poorest Indians to the attention of policy-makers and legislators. Civil society in India welcomed the NAC as an opportunity to be heard by government officials.⁸⁴ The consultative processes of the NAC provided a platform for these voices across India to deliberate on social policies.

⁸³Interview with Mirai Chatterjee

⁸⁴*Id.*