Importance of Impact assessments

What is the issue?

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Demands have been increasing for an impact assessment framework before passing legislation in India.

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What are the issues in law making?

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- A legislation seeks to create a framework that helps coordinate certain governance processes or to resolve certain identified problems.
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- It also articulates a standard of morality and an ethical approach that a society and government deems appropriate.
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- However, Legislation and policies in India are often passed with inadequate scrutiny and assessment.
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- The rush towards law results in policies and legal frameworks that are mostly reactive and seek to offer quick-fix solutions to complex problems.
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- As a result, both law-makers and citizens are frequently blindsided by the unanticipated impact of these moves and the laws often run aground on issues of implementation.
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- Also, the time and effort it takes to undo and resolve the issues caused by such hasty law-making compounds the problem that the law was intended to resolve, making the entire exercise of ‘fixing’ the issue futile.
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- Also, law-making in India suffers from lack of consciousness on potential impact on the economy, ecology, development and society in ways that might be wholly unintended by their framers.
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- This lack of consciousness stems from multiple causes –
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1. The nature of political economy in India
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2. The lack of a formal assessment structure for these laws and rules
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3. The increasing complexity of law-making in today's diverse and interconnected societies.
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- For example, the implementation of Biological Diversity Act, 2002 (BDA) shows that awareness of the BDA's provisions is extremely limited among the judiciary and the executive.
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- It also reveals that the provisions of the act are so contradictory that conservation, use and development action have almost come to a standstill.
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- This creates the need for legislative impact assessments, which is slowly getting traction around the world.
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What is the importance of Impact assessment?

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- There is widespread acceptance of the idea that laws and rules need to be comprehensively analysed prior to their enactment.
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- This is mainly done to identify the possible negative externalities from the legislation and to minimise them.
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- Countries like Kenya and Finland have mechanisms in place for the assessment of regulatory and legislative proposals as an essential part of their legislative process.
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- Thus there is a need for a policy and legislative impact assessment (PLIA) framework for India which should –
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1. Identify the policy problem, its root cause and the need for action
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2. Benchmark it against available alternatives
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3. Conduct stakeholder meetings and identify potential impact
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4. Pre-empt possible conflicts by identifying and planning for the mitigation of all negative effects of taking such an action.
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- Such a framework should be submitted and released to the public along with every proposed bill.
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- A PLIA should be a fundamentally iterative process that seeks to methodically apply a framework that assesses policies and laws at a granular level before they are put into place.
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- Costs and benefits of proposed legislation and policies should also be identified since laws have persistently sought to undervalue ecosystem services as well as indigenous peoples' rights.
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What lies ahead?

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- Establishing and following a PLIA framework in both letter and spirit would allow the common people to identify optimal law and policy changes.
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- It also ensures that preferred options are those that are economically feasible, operationally viable, and socially acceptable.
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- Above all, such a framework would promote transparent and democratic law-making in the country.
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- It will allow citizens to understand and debate trade-offs created by such laws even before they are formalised.
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- Thus the need of the hour is an impact assessment that focuses on policy and legal frameworks before they are passed.
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Source: The Hindu

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