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Mains Practice Questions

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Q: Publicly naming and shaming might be a flawed process but it is the only option available for any hope of justice for many victims of sexual harassment. Critically examine.

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Approach

- Frame the recent context of public naming and shaming of sexual offenders on the social media platforms.
- Explain the concerns and challenges with public naming and shaming.
- Explain its significance in the backdrop of loopholes in other mechanisms available.
- Conclude by suggesting what other steps can be taken to address the issue.

Introduction

Recently a lot of women have taken to the various social media platforms to name and shame the sexual offenders especially at the workplaces. The public naming and shaming by a number of women reflect the failure of the due process to address the issue in the society.

Body

Challenges with Public naming and shaming

- **The anonymity of the victims-** false accusations can be raised. Can lead to the spread of inauthentic information. Can be used to settle scores. Irreparable damage to the reputation.
- It **undermines the possibility of reforming the judicial process** and violates its basic tenet which is the presumption of innocence.
- **Media Trial:** 'Guilty till proven so' is not followed. The process of naming and shaming itself will be the punishment.
- The process can be highly irresponsible in naming people without giving them an opportunity to respond to the allegations and defend themselves.
- Largely being a social media dependent phenomenon, methods of resistance or grievance sharing is **not accessible to everyone**.

The significance of the process

- The institutional mechanisms which are meant to protect against harassers are not working. The **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013** provides for all organised-sector institutions to have an internal complaints committee to look into cases of harassment and resolve them. At least three members of this panel must be women. However, this is not being followed.
- Even in cases in which such committees exist, the issue is rarely resolved in a manner satisfactory to the woman who is most of the times in a subordinate position to the harasser.

- Victims who have written formal complaints and tried to get their organisations to act have found themselves dealing with the hierarchal and hostile nature of power in their organisations that are complicit with the perpetrators.
Eg. former TERI chairman, R.K. Pachauri and former Editor of Tehelka, Tarun Tejpal.
- Many women prefer not to complain to the panel as they lack the confidence in the redressal mechanism and fear vindictive action from the harasser.
- Judicial processes take a long time to provide justice to the victims. They continue to suffer mentally and emotionally. The judicial process is typically burdensome and often traumatic for victims of sexual violence and harassment.
- Victims' testimonials can easily identify them to the alleged perpetrator, even while they must continue to study or work in his presence. Under such circumstances, anonymous public naming comes out to be a safe option available to them.

Conclusion

- Naming and Shaming cannot be a substitute for proper redressal mechanism. Due process of law involves a process that respects the rights of persons. And chief among them is that all persons have a right to know the accusation against them with a right to defend themselves — not merely in a court of law or inquiry but in any public sphere.
- It is important to make the due process a fair and functional one in which all victims including those of false allegations can seek justice.
- Strengthening the existing mechanisms. For example, making internal complaints committees autonomous, accountable, accessible to all and gender-sensitive.