INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 6 | Issue 6

2024

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Silent Voices: A Study on Struggles of Selectively Mute Individuals in Courtroom

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ABSTRACT

Selective mutism poses a significant challenge in courtrooms, where clear and effective communication is essential for fair proceedings.Selective mutism is more than just shyness—it's an anxiety-driven condition that can prevent people from speaking in unfamiliar or stressful environments, like a courtroom. This condition, which is often triggered by anxiety in unfamiliar or high-pressure social settings, can make it incredibly difficult for individuals to express themselves verbally. In such a formal and intimidating environment, people with selective mutism may feel pressured, leading to silence and potential misunderstandings.

To ensure justice is not compromised, it's vital to adopt approaches that help individuals feel at ease and offer alternative ways to communicate. Simple measures, like allowing responses to be written on paper, typed on a laptop, or conveyed through gestures, can make a significant difference. With the advancements in AI and technology, tools like speech-to-text apps, video recording in familiar settings, and real-time communication aids have made it easier to bridge this gap.

Creating a supportive and understanding atmosphere in courtrooms is crucial. This includes educating courtroom personnel about the condition, implementing accommodations like private sessions, or permitting pre-recorded testimonies. By embracing these strategies, the justice system can ensure everyone has a fair opportunity to present their side, regardless of communication barriers.By recognizing the struggles of those with selective mutism, we can make small yet meaningful changes.It's about creating an environment where they feel safe and understood, ensuring that their voice is heard, even if they can't speak it out loud.

Keywords*: Selective mutism, courtroom, struggles.*

I. INTRODUCTION

In the courtroom, silence reverberates with great intensity, particularly when it is involuntary. Consider a scenario where effective communication plays a vital role in the realm of justice, while certain individuals encounter difficulties in expressing themselves. This distinction is the

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source of the complicated phenomenon known as selective mutism.

Selective mutism, a complex anxiety disorder, presents unique difficulties for the legal system, especially in courtroom situations where clear communication is crucial. It is characterized by a person's inability to speak in social situations, despite their ability to do so in comfortable environments like their homes.

People who suffer from selective mutism may find it difficult to verbally defend themselves in court as well as to provide important information. Due to potential misunderstandings, this could result in faulty judgments. Moreover, lack of knowledge about selective mutism among legal professionals may present a huge challenge for the individuals to access necessary support and accommodation in legal proceedings.

To overcome the difficulties faced by people who are selectively mute,legal professionals must handle this issue with empathy and work with psychological experts. They should also facilitate interaction for these individuals through alternative communication strategies like writing on a piece of paper, conveying information through a trusted communicator,etc. Through appropriate accommodations, psychological expert assistance, alternate communication methods, etc legal professionals can ensure fair justice for these individuals.

II. SELECTIVE MUTISM

Selective mutism is a complex anxiety disorder characterized by an individual's difficulty adjusting to a particular social setting. It can be regarded as a fear or phobia of engaging with particular people or circumstances. In certain social situations, it becomes difficult for individuals with selective mutism to speak and converse with others due to fear and anxiety, even though they want to speak. In comfortable settings, such as at home, people may converse regularly. They might also converse with someone one-on-one, but group communication might still be difficult for them. Sometimes, they may feel at ease conversing online yet find it difficult to communicate in person. Typically, children are more prone to it,but it can also be found in adults. 1 out of 140 children is affected by selective mutism. [2]This rare disorder appears during childhood and greatly affects a child's ability to converse with others in certain environments, like schools, family gatherings, and other public places. This may hinder an individual's social, professional, and school lives.

People with selective mutism often find it difficult to converse when asked to. The expectation to talk may trigger anxiety attacks or panic attacks, and they may freeze or stutter while trying

2 NHS. Selective Mutism. Available from: https://www.nhs.uk/mental-health/conditions/selective-mutism/ [Accessed on: March 7,2024].

to interact. They may feel pressured to have a conversation with others at social gatherings. The person may experience emotions of loneliness, annoyance, and worry as a result, while others may misunderstand or misinterpret their condition and believe it to be something entirely different. This may lead to them feeling dejected at times and starting to blame themselves for everything. Many people think that the individual chooses to stay quiet or is stubborn and doesn't want to talk, but that's not the actual truth. They want to talk, but due to fear and anxiety, they are unable to do so. These individuals may also have additional speech and language difficulties.

Individuals who suffer from selective mutism usually stay away from crowded places because they often feel overwhelmed and anxious, and they could feel under pressure to socialize. They could become uncomfortable if they think a large group of people are watching and judging them. For this reason, they take comfort in being by themselves rather than going to crowded places. They also tend to avoid taking part in social activities. They frequently attempt to avoid engaging in activities that may attract the attention of others because they believe that by doing so, others will anticipate them engaging in conversation.

The main reason for selective mutism is extreme social anxiety, where people have an acute and enduring fear of social events or performance situations where there is a chance of embarrassment or judgment. Another reason is a lack of verbal communication with others. Traumatic experiences or stressful life events can also cause selective mutism in children.

People who are selectively muted can express themselves nonverbally by using gestures. When verbal communication is difficult for them, they frequently choose alternatives to express themselves. They may express themselves by nodding, pointing, etc. They shouldn't be pressured to speak if they don't want to, as it will make them more anxious. People should try to make the environment as comfortable as they can for individuals with selective mutism so that they can talk comfortably. This will help in building the confidence of that particular person.

It is possible to cure selective mutism. With the help of counselling or therapy like Cognitive Behavioral Therapy (CBT),[3] medication, and the help of family and other people close to them, people with selective mutism can enhance their communication abilities. [4]

3 Association for Behavioral and Cognitive Therapies. (n.d.). Selective Mutism. Available from: https://www.abct.org/fact-sheets/selective-mutism/ [Accessed on: March 20, 2024]

4 Johnson, M., & Wintgens, A. (2017, July 28). The Selective Mutism Resource Manual. Routledge eBooks. https://doi.org/10.4324/9781315174068[Accessed on: March 7 , 2024]

(A) Symptoms:-

While the symptoms of selective mutism can vary from person to person, all selectively mute people share some common symptoms. The symptoms are listed below:

- They are not able to speak openly with strangers, but they may talk freely with friends and relatives. Individuals with selective mutism may be efficient when working alone, but they could take longer in groups.
- They can communicate individually, but not in groups. They could exhibit excessive shyness in a crowd, so they tend to avoid crowded places and prefer being isolated.
- They typically shy away from taking part in social events at schools, colleges, etc.
- They may exhibit blank expressions, remain still or silent for extended periods, show no emotion at all, or appear stiff and awkward as a result of their fear of being watched and judged.
- It may appear as though they are ignoring others and not participating in the conversation, while, in reality, they are unable to react due to their nervousness or anxiety. They may attempt to avoid making eye contact with others and divert their gaze elsewhere. They may want to communicate, but due to fear and anxiety, they can't. They tend to wait for others to speak on their behalf.
- It could be tough for them to respond and express themselves verbally. They could also find it challenging to strike up a conversation on their own. When questioned, they could become irritated as well.
- They might answer more slowly and softly than others and can be easily startled due to their being sensitive to noise, touch, smell, etc. They may also worry more than usual about the smallest things.
- People may assume they struggle with focus because they are not very social and have trouble expressing themselves, but in reality, they have good attention skills.[5]

(B) **Causes:-**

A person may become selectively mute for a variety of reasons. It may vary from person to person. Some typical causes of selective mutism are listed below:

- Selective mutism may develop as a result of prolonged social anxiety.

[5] Selective Mutism Handout. Bournemouth University. Available from: https://www.bournemouth.ac.uk/sites/default/files/asset/document/selective-mutism-handout.pdf [Accessed on: March 10, 2024].

- Inadequate family dynamics, such as ineffective communication among family members or excessively controlling and rigid parenting, can also be one of the reasons for the development of selective mutism.
- Selective mutism may also arise as a result of low self-esteem and confidence.
- They may have a sound processing, speech, or language problem.
- Traumatic experiences may also result in selective mutism.
- Selective mutism can also be caused by a family history of anxiety.

Researchers are still trying to find the actual cause of this disorder, as it is still a mystery to the world. [6]

(C) Impact on Legal Proceedings:-

In a courtroom setting, effective communication is essential to everything. However, individuals with selective mutism often face challenges when it comes to effective communication. They may encounter difficulties in providing a comprehensive explanation or presenting their side of the story in court. They may fail to provide crucial information for the case, potentially resulting in misunderstandings or misinterpretations. Due to this, there is not much information left for the court to consider when making a ruling. These factors can ultimately lead to incorrect and unjust judgments within the court system.

People with selective mutism often experience high levels of stress and anxiety. When asked to communicate in social circumstances, they may feel overwhelmed. These feelings may be heightened by the formal environment, new and unfamiliar people, and the serious implications of the courtroom. Anxiety can hinder a person's ability to retain details, think properly, and participate fully in legal processes. High anxiety can make their minds go blank. They may stutter or become completely blank.

In court, people who are unable to communicate in social situations may encounter unfavourable opinions and criticism. As a result, they may withdraw themselves from attending any legal proceedings as their anxiety may be getting worse. They can withdraw completely from judicial proceedings out of dejection or embarrassment.

The inability of persons experiencing selective mutism to communicate might significantly impact their ability to access necessary legal assistance and resources. If they are unable to communicate their needs and desires clearly, they cannot receive the necessary

6 Selective Mutism. Cedars-Sinai. Available from: https://www.cedars-sinai.org/health-library/diseases-and-conditions---pediatrics/s/selective-mutism.html [Accessed on: March 12,2024].

accommodations or support to successfully deal with the legal system. It causes a huge challenge for everyone. A primary obstacle encountered by people suffering from selective mutism is the scarcity of lawyers and advocates who are familiar with and considerate of this condition. Even in the legal field, selective mutism is still mostly unknown and misunderstood. Because of this, people who experience selective mutism could have trouble finding lawyers who are qualified to offer the required assistance and modifications. The unavailability of proper help can hinder the development of a strong defence or the ability to present their case comprehensively.

Time limitations are imposed in many legal proceedings to guarantee that every case is resolved within the allotted time. The tight deadlines may cause the people who suffer from selective mutism to become increasingly anxious. Since they can require more time to manage their anxiety, they might feel under pressure. They could become agitated and struggle to respond.

(D) Using alternatives for communication:-

Although dealing with selectively mute people in court is difficult, there are several other strategies that might be useful:

- Individuals who have selective mutism may write their answers down and have a reliable communicator read them aloud. This can facilitate their easy and efficient communication. Writing something down can be a less intimidating process than speaking in court. This might also boost their self-confidence in social situations.
- In court, they can also communicate with others using whiteboards. They can simply add to and erase from it. This will also make it easier for them to participate in legal proceedings.
- The individual may choose to give the information to a trustworthy communicator so that they can share it with the court on his behalf. The communicator could be a friend, relative, or even a psychotherapist, depending on the individual.
- Individuals can also type their responses using either their mobile phones or laptops, providing them with the flexibility to choose the most convenient and accessible method. Also, there are software programs available, such as text-to-speech, that can convert written responses into speech. Alternatively, individuals can also have their responses read aloud by a trusted person present in the courtroom.
- They can also use the chat boxes offered in virtual proceedings. This makes it easier for individuals to express their thoughts without having to reply verbally.

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- Communication can also be facilitated by the use of visual communication boards containing legal symbols.
- They can communicate by using prompt cards that have short printed responses on them, such as "yes," "no," etc.
- Signs and gestures are another way through which they can communicate with others in a courtroom. Communication with sign language is quite successful.
- Visual aids such as diagrams and pictures can be used for effective communication in courtrooms. [7]

(E) **Assisting Selectively Mute Individuals in the Courtroom:-**

Selective mutism is a very rare disorder, which explains why many people are still unaware of it. Learning about selective mutism can help legal professionals better understand the challenges faced by those who have it and approach them cautiously without intimidating them or making them anxious. By doing this, they can modify their communication strategies to meet the needs of those who have them, as well as make appropriate accommodations for them, such as alternative techniques that can facilitate communication. It will also ensure that their rights and all their needs are taken care of without any hindrance in legal proceedings.

Legal professionals should use strategies that are appropriate for each person's particular set of abilities, challenges, and strengths. For instance, it will be challenging for someone with less education to write their responses to them. They need to find other ways to deal with this issue. Their methods should be completely customized to meet the needs of each individual.

Legal professionals should promote effective communication methods that are preferred by selectively mute individuals. They should avoid pressuring them to speak unless they choose to do so. Otherwise, it can lead to more difficulties. Legal professionals can foster an inclusive and supportive atmosphere for selectively mute individuals to participate in legal proceedings, thereby ensuring equitable and fair justice for all. This can be achieved by respecting the communication preferences of these individuals.

It is crucial to provide an environment that is appropriate for those who suffer from selective mutism. It is also important to determine the settings and approaches that enable people with selective mutism to converse freely and without feeling anxious. Initially, it's critical to determine the precise triggers that cause them to become anxious and avoid communicating.

7 Understanding Selective Mutism: Adapting Legal Proceedings. Communicourt. Available from: https://www.communicourt.co.uk/news/understanding-selective-mutism-adapting-legal-proceedings [Accessed on: March 15,2024]

This will assist legal professionals in determining appropriate approaches and modifying the settings accordingly to interact with them. Additionally, it will assist them in reducing the triggers for anxiety and establishing a relaxed atmosphere for conversation. It is crucial to establish a peaceful and supportive environment where the person can feel at ease once the triggers have been recognized. Legal experts must be able to relate to them on a calm level and avoid pressuring them in their conversations. A welcoming and understanding environment should be fostered for the individual. Since people with selective mutism find it difficult to speak in court, it might be beneficial to encourage them to use nonverbal communication methods like gestures and sign language. They will benefit from being actively involved in court procedures in this way.

It's important to give selectively mute people enough time since the demanding atmosphere of court may wear them down and cause anxiety. Encouraging them to respond promptly will cause them to stop talking entirely, which will present additional difficulties for the court. It is important to respect their boundaries and allow them to communicate in their way and at their own pace.

III. ROLE OF LEGAL PROFESSIONALS IN HELPING SELECTIVELY MUTE INDIVIDUALS

The role of legal professionals in providing justice to these people is very crucial. All the legal professionals, including judges, lawyers, staffs etc, should have proper knowledge about selective mutism. This will help them to understand these people better and provide justice to them. They also play a vital role in ensuring justice to these individuals. Some key roles and responsibilities of the legal professionals are given below:

- Comprehending the Situation:

It is crucial to understand the situation of selectively mute individuals. For this, they themselves need to learn about selective mutism. It is important for them to have knowledge about it's origin, how it manifests in stressful situations like courtrooms, how to handle the situation, etc.

Consulting with psychologists and other specialists may also provide a valuable insight on dealing with individuals with selective mutism. They can provide proper guidance on how to help these people in courtrooms and also how to handle stressful situations like court proceedings.

- Guaranteeing Equal and Fair Treatment:

Lawyers and others legal professionals must adapt to ways that are more suitable for selectively

mute individuals. They should ask questions in a more relaxed and calm manner, which will not increase the anxiety of the person and ensure smooth functioning of the procedure. They should provide a calmer environment without any pressure. They should be provided with more time without hurrying. Lawyers must be patient with the individual.

They should be aware of alternative communication techniques that will help individuals to communicate properly, if not verbally. They can provide pen and paper for writing or mobiles or laptops for typing their answers to the questions.

They should be treated fairly and equally without any discrimination. They should be treated with utmost care.

- Facilitate Alternative Methods:

They should facilitate alternative methods for these individuals. It will help them communicate smoothly.

They should provide pen and paper so that the answers can be written on it without saying anything. They can also type their answers on mobiles or laptops. They can use whiteboards too.

The lawyers can provide help by calling professionals to help those people communicate. They can also communicate through a trusted individual, like a family member, friend, etc, with whom they are more comfortable.

Using these alternative techniques of communication, the legal professionals may help these individuals in communicating in courtrooms.

- Protecting Rights of Individuals:

As a legal professional it is their duty to protect the rights of those who are selectively mute. They must carefully assess the competency of individuals with selective mutism so that their inability to speak in front of a crowd may not affect the court proceedings. They need to understand these people and ensure that these people need to be dealt with patience without any hurry. Their inability to speak in front of people should not affect the credibility of those individuals.

The lawyers play a vital role in ensuring that people with selective mutism are not unfiarly penalized or misunderstood. They need to actively protect the right of selectively mute clients. They need to fully support these people and make sure they are comfortable. They also need to raise awareness about the condition to help others understand the situation. They need to emphasize that the silence of their clients is not a refusal to cooperate or a lack of understanding

or knowledge, but rather an indication of their anxiety.

- Customizing Courtroom Accommodation:

Judges can order a few customizations in courtroom settings for these special cases. They can try to provide a more comfortable environment to reduce stress, can allow breaks in between to calm them down, which may help the individuals to gather their thoughts and maintain their focus throughout the trial, minimize the population of the courtroom, especially those with whom the individual is not comfortable, and allowing only a few people who are important, which will reduce the anxiety and stress and also make the individual feel at ease, in some cases, special accommodations like assistive technology, etc, can also be used to ensure a healthy and helpful environment for these people.

- Ethical Conduct:

As a lawyer, it is their duty to ensure that the proceedings are conducted ethically without the presence of any coercion or pressure, which may lead to more problems in communicating with these individuals as this will increase their anxiety. They need to make sure that they are comfortable and are not scared of anyone. They must prioritize ethical practices. Instead of putting pressure, they should adopt an emphatic and patient approach, which will help them feel safe and encourage them to speak freely.

Another most important thing is maintaining the confidentiality of their clients, especially those who are minors or from vulnerable sections of society. They should ensure that the personal information is well protected and will not be disclosed without their consent. This will help in gaining the trust of those individuals, which will further make communication easier and more comfortable. Moreover, being mindful of the personal and psychological dimensions of a situation is equally important. They need to understand from where those people are coming from, their background, their emotional state, experience, etc. They need to approach these people with proper care and understanding.

- Policies and Guidelines:

Legal professionals can also help in developing policies and guidelines for special cases like selective mutism. From these developments, they can ensure the protection of the rights of these individuals. This will also ensure consistency and fairness in providing justice to these individuals.

These policies may include access to help from mental health professionalprofessional and alternative communication techniques like laptops, mobiles, paper or whiteboards etc. It may

include bringing several changes in the court setting and accommodating the court accordingly.

- Promoting Access to Justice:

Legal professionals should also ensure that everyone, including selectively mute individuals, is equally getting access to justice without any discrimination. Their inability to speak in formal settings should not pose a huge challenge or act as a hindrance in getting justice. They should ensure that these people are getting justice without any difficulties. They should work vigorously to provide them justice and also protect their rights in courts.

By fulfilling these duties, the legal professionals can ensure justice is served to everyone.

IV. LEGAL IMPLICATIONS

The legal ramifications of selective mutism should be carefully considered, as they are significant and demanding. People who have selective mutism are entitled to use alternative means of communication. While verbal communication can be challenging for them, they can be helped through these alternative communication strategies. They have the right to participate in legal proceedings. The legal system should accommodate their communication needs, ensuring that they have equal access to justice. They should be treated equally, without any discrimination. Denying them the opportunity to engage in the legal system violates not only their fundamental rights but also the principles of equality and fair justice.

Respecting the privacy and dignity of selectively mute individuals in courtrooms is of utmost importance. It's critical to establish a space free from prejudice that encourages empathy and compassion for these people and also respects their dignity. Selectively silent people have the freedom to decide when and how to communicate, and this right must be respected to protect their privacy. It's crucial to refrain from pressuring them to talk, as it will make them feel more anxious. This way, individuals feel comfortable and empowered to participate in the legal proceedings to the best of their abilities.

In cases involving selective mutism, expert testimony is essential. In a courtroom, they can offer appropriate direction for handling people who are selectively mute. Expert testimony can offer insightful suggestions on how to interact with and assist those who have selective mutism in a judicial context. This could involve finding ways to make a place that is secure and encouraging, utilizing various mediums of communication, and putting in place accommodations to guarantee that the person's rights are respected.

V. CONCLUSION

Selective mutism is a complex anxiety disorder characterized by an inability to speak in certain

social settings despite being able to speak in other settings. In courtroom, selective mutism presents a unique challenge for all parties involved. In the judicial system, effective communication is essential. Legal proceedings may be hampered by selective mutism as it can cause anxiety and panic, which can make it difficult for the affected person to give important information, give their side of the story in detail, and engage completely in legal proceedings. It also increases the risk of misunderstandings and misinterpretations. Furthermore, ignorance about this condition could provide a serious obstacle for all parties engaged in the judicial process.

Legal experts must know selective mutism. This will facilitate easy and effective communication between them and also assist them in establishing a pleasant environment for those people.

Despite these challenges, various substitute techniques facilitate communication within the courtroom. For instance, writing their response on paper, typing it on a laptop, conveying it over a reliable communicator, etc. These techniques can guarantee that individuals with selective mutism can effectively engage in court procedures and improve communication.

It is essential to provide these individuals with appropriate support in a variety of ways. Helping these individuals communicate in court requires working in coordination with psychologists and other specialists. This is one way the judicial system can guarantee that people who are selectively mute can get justice and be treated fairly.

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