**Barriers to Justice for Disconnected Youth: Does Technology Really Solve the Problem of Access to Justice?**

Since the mid-20th century, the prevalence of information and communication technology around the world has increased dramatically. In 2018, over 90% of Canadians aged 15 years and over used the Internet, and nearly 90% had access to a smartphone for personal use (Statistics Canada, 2018). The pervasiveness of Internet and smartphone use in youths and young adults is even higher, reaching upwards of 97% in some locations. The rise of information and communication technology has had a significant impact on social institutions such as the economy, education, government, and healthcare. The criminal justice system is no exception.

In adapting to the increasingly digital world, the Canadian criminal justice system implemented several new technological innovations to stay abreast of developments and reach a greater proportion of the population (McKay, 2018). When the COVID-19 pandemic began in 2020, technology became even more important in ensuring individuals had access to justice. In-person attendance at courthouses, law and probation offices, and even police stations was restricted or prohibited altogether. Lawyers, probation officers and other justice professionals began relying on telephone communication and videoconferencing tools for connecting with clients.

Despite the increasing digitization of society, many groups have been left behind (Blomberg et al., 2021). The digital divide continues to disadvantage vulnerable groups, particularly groups of low socioeconomic status and who experience transient lifestyles. Although young people often use information and communication technology at a higher rate than older populations, they are more susceptible to having low income and experiencing transience, which puts them at a higher risk of experiencing technological poverty.

As part of my undergraduate degree in Criminology, I completed a 160-hour field placement with the Youth Restorative Action Project (YRAP). YRAP is a non-profit youth justice committee and support agency for youths who have caused harm in the community and who are involved in the formal criminal justice system. Most of the youths who are connected to YRAP face multiple complex barriers and vulnerabilities that increase their likelihood of being isolated from information and communication technologies. In this paper, I will explore how the ever-increasing societal reliance on information and communication technology, especially since the onset of the COVID-19 pandemic, presents barriers for vulnerable youths moving through the criminal justice system. Despite the common belief that technology breaks down barriers to accessing justice, many disconnected youths experience an increase in inequality and isolation while moving through the criminal justice system.

I will begin my paper by describing the barriers faced by digitally disconnected young people while attempting to access legal counsel and the courts. I will highlight the barriers youths face in the correctional system and while completing the conditions of judicial interim releases (JIRs), extrajudicial sanctions (EJSs), and sentences. I will also describe how the inability of youths to access information and communication technology impacts the community at large and leads to higher rates of recidivism and victimization. Lastly, I will provide several policy recommendations for addressing barriers to justice for disconnected youths.

**Barriers to Justice**

**Legal Counsel and the Courts**

There are a number of barriers young people without access to technology face while arranging legal counsel and navigating the court system. In particular, youths who are unable to connect to information and communication technologies experience barriers to acquiring and retaining legal counsel, appearing in court, and during sentencing. These barriers reproduce inequality and present new challenges, such as accruing new charges and harsher sentences. I saw the impact of these barriers firsthand during my field placement with the Youth Restorative Action Project.

Sandefur (2014) explains that digital exclusion does not impact everyone at an equal rate and it is more likely to impact low-income populations and youths. These groups are also more likely to use Legal Aid, a service that has become increasingly technological. In recent years, many Canadian Legal Aid offices have completely shut down to the public and operate by telephone only. When the COVID-19 pandemic began, most of the remaining in-person Legal Aid offices closed and transferred their services online. There are currently very few Legal Aid offices that offer in-person services, especially in rural and remote areas. For youths without access to a phone, contacting Legal Aid is extremely difficult. Many public spaces with free public telephones such as libraries, resource/drop-in centres, or courthouses have also closed or have time restrictions for phone calls. This creates barriers because Legal Aid is notorious for having lengthy phone call wait times and many youths end up having to hang up their calls before getting through to an operator (Blomberg et al., 2021). Even young people who have access to cell phones often have limited cell phone minutes and may end up using all of their time before getting a chance to speak to Legal Aid. If youths are needing to attend in-person Legal Aid offices, many of these offices have restricted hours and may only be open in-person a few days per week. This makes it extremely difficult for young people who are attending school or who work during the day to access Legal Aid, despite the fact that all youths in Canada are eligible for their services.

The technological battle is not over once young people are connected to Legal Aid or other types of counsel. Most lawyers and justice professionals rely on telephone or email communication with young people to relay important information or arrange meetings (Silverman & Molnar, 2016). Since the COVID-19 pandemic began, many lawyers have stopped in-person meetings and court appearances altogether. This makes it extremely difficult for youths to engage with their lawyers and can force lawyers to close their files with youths due to an inability to establish or maintain contact (Silverman & Molnar, 2016). Sourdin et al. (2020) highlight how the inability of young people to connect with counsel can lead to a reliance on informal legal advice from unreliable sources such as friends or family members. Another negative consequence of youths being unable to connect with their lawyers is a breakdown in communication surrounding required court dates or fingerprinting scheduled dates. Youths who are unable to communicate with their lawyers will often be unaware of their scheduled docket court or fingerprinting dates, which results in them missing their appearances. The consequence of failing to appear is a warrant being issued for a youth’s arrest and a new charge for failing to appear in court or for fingerprinting. Although the COVID-19 pandemic has changed the in-person dynamic of many courtrooms and has reduced the expectation for individuals to attend court in-person, young people who do not stay in contact with their lawyers will often be charged with failing to appear regardless (Blomberg et al., 2021).

During sentencing, persistent failures to appear and poor relationships between lawyers and youths can lead to the imposition of harsher sentences (Novac et al., 2009). For example, judges will sometimes impose more frequent reporting conditions for individuals with histories of failing to appear in court. Another challenge faced by individuals whose cases are frequently adjourned due to a lack of contact is increased pressure to give guilty pleas when they are finally connected to the courts. This pressure may come from a youth’s counsel, the judge, or an internal desire to “get it over with” (Johnson, 2019). When young people struggle to communicate with their lawyers and court officials, they also have a more difficult time expressing their desired penal outcome, and comprehending the recommendations and information provided by counsel. This often leads to youths feeling unsatisfied with outcomes at sentencing.

Many of these barriers exist at the Edmonton Law Courts in Edmonton, Alberta. To illustrate, during my field placement as a YRAP file coordinator, I frequently observed the consequences of the closure of Legal Aid and digitization of duty counsel services. The Edmonton courthouse had several operational in-person Legal Aid offices prior to the onset of the COVID-19 pandemic. When the 4th floor Legal Aid office was open, youths who attempted to appear in docket court without counsel would be escorted directly to this office to apply. However, as the pandemic worsened, all the Legal Aid offices in the courthouse closed and have yet to reopen. This has led to mass confusion surrounding youth applications for Legal Aid and delays in connecting youths to their own lawyers. Another barrier I witnessed while supporting clients in the Edmonton courthouse was the transfer of duty counsel services from in-person to over-the-phone. In order to speak with duty counsel—which is a requirement for young people who do not already have counsel—youths must locate a Post-it note on the docket courtroom door and call the phone number listed on the note. Aside from the fact that the Post-it note is small and unnoticeable, this presents a significant barrier for youths who do not have access to a cell phone. There is only one public phone in the Edmonton provincial courthouse and this phone is not publicized or made readily available. In order to support a youth I was working with, I had to use a personal contact from previous volunteer experience to locate the public phone and take my YRAP client down to a different floor of the courthouse to use it. Upon returning to the youth docket courtroom, I spoke to another youth who was so frustrated about not being able to phone duty counsel that they decided to leave the courthouse before speaking to their matter in court. Patently, this demonstrates the barriers disconnected youths face in acquiring legal counsel and appearing in court.

**Corrections and Completing Conditions**

Young people who do not have access to technology often experience barriers to completing conditions of judicial interim releases (JIRs), extrajudicial sanctions (EJSs), and sentences. One of the most common conditions of youth JIR on undertaking with conditions, EJS, and sentencing is the requirement for young people to maintain contact with a probation officer or the courts. In Canada, one of the compulsory conditions of probation is to “notify the court or the probation officer in advance of any change of name or address, and promptly notify the court or the probation officer of any change of employment or occupation” (*Criminal Code*, 1985, s 732.1(2)(c)). In addition, most probation orders will require young people to maintain contact with their probation officer for a particular time interval. These conditions are also commonly attached to JIRs and EJSs.

Probation officers and other justice professionals have used telephone and virtual communication techniques to maintain contact with offenders for years, but the COVID-19 pandemic increased the reliance on technological communication in Canada. As discussed earlier, a significant number of probation officers in recent months have completely halted in-person meetings with offenders. However, this isolates youths who do not have access to information and communication technologies to keep in touch with probation officers. Graham (2018) explains that probationers who do not have access to smartphone technology experience penal inequality because they are not provided with the same opportunity to connect and report to probation officers. When youths are faced with these challenges, they are significantly more likely to face additional charges for breaching the conditions of their JIRs, EJSs, and sentences (Novac et al., 2009).

Even among probationers who have access to a smartphone, there are still barriers as a result of limited access to other information and communication technologies such as tablets, computers, and fax machines. Youths and individuals with low income are likely to rely on smartphones as their only source of technology (Cabral et al., 2012). However, smartphones are also one of the most unreliable sources of technology. Many rural service providers only offer limited service plans and do not provide access to high-speed Internet connections and cell reception. When offenders require internet access and the ability to print, scan, or fax documents, smartphones are not always enough. Blomberg et al. (2021) explain that offenders often require access to computers and printers to fulfill the conditions of their probation or release orders. For youths who have historically accessed a computer or printer with the support of friends, family, neighbours, public libraries, or community centres, the pandemic has restricted their opportunities to access these resources. In addition, many youths are given conditions surrounding schooling. Given the changes to the education system since the beginning of the pandemic, many youths without access to tablets, laptops, or desktop computers are disadvantaged and struggle to complete school-related conditions. Not only does this increase the risk of breaching, but it also increases the amount of time young people spend engaged with the criminal justice system due to persistent extension requests for completion of EJSs and sentences.

**Community, Recidivism, and Victimization**

The barriers to justice experienced by youths involved in the criminal justice system extend into the experiences of youths in the community before, during, and after their involvement in the system ends. Youths who are unable to connect to information and communication technologies experience a number of barriers to meaningfully reintegrating into the community, preventing recidivism, and personal and community safety. Barriers in these areas reproduce inequality and undermine the effectiveness of the criminal justice system by increasing the likelihood of recidivism and victimization of criminalized youths.

One of the most important factors for social reintegration and preventing recidivism in offenders is the development of prosocial relationships and connections within the community (Sota & Agolli, 2015). Young offenders, in particular, benefit from increased emotional attachment and contact with prosocial friends and family members. However, it can be very difficult for youths to maintain healthy relationships with others, especially during a pandemic, when they do not have access to information and communication technology. boyd (2014) explains that social media and smartphones serve an important relationship maintenance function for young people. In many ways, social media platforms such as Meta (formerly known as Facebook), Twitter, Instagram, TikTok, Snapchat, and WhatsApp have replaced in-person communication. They have also created a new environment where many young people feel they can be more vulnerable and open with one another (boyd, 2014). Consequently, young people who are isolated from these experiences are less likely to feel connected to their community and more likely to reoffend.

When considering recidivism and reintegration, it is also advantageous for youths to find prosocial activities to spend their time completing such as school or employment. As discussed earlier, youths who do not have access to information and communication technology are disadvantaged in the education system. They are also disadvantaged in their ability to develop basic life and employment skills. As Branstetter (2015) explains, digital literacy has become a skill that is as important as written skills, reading comprehension, organization, or time management. The vast majority of 21st-century jobs require at least some level of technological knowledge, so candidates without these skills have very few employment options. Additionally, it is extremely difficult to apply for jobs without access to a computer to create and submit resumes with, a printer to print copies of resumes, or a phone at which to be contacted (Blomberg et al., 2021). The COVID-19 pandemic has also presented new challenges for disconnected youths by restricting in-person access to day programs, counseling services, and other prosocial opportunities that reduce recidivism and encourage reintegration.

Safety is another key consideration when looking at the barriers to justice for youths who do not have access to technology. It is well known in the field of criminology that individuals who are at risk of criminalization are also at a higher risk of victimization. Smartphones and other digital devices have been lauded as powerful safety devices for vulnerable individuals and have been associated with increased psychological security (Gonzales, 2014). Many youths rely on cell phones to call for help in emergencies, particularly during times where there are increased concerns about violence and other health risks. Since the onset of the COVID-19 pandemic, there has been a significant increase in concerns about overdose, family violence, MMIWG2S+, and other safety risks (Statistics Canada, 2021). Unfortunately, these incidents disproportionately impact young people with low incomes and who are facing isolation. Given the significant intersection between victimized groups and criminalized groups, there is a growing concern about the safety of criminally involved youths in the community who do not have the means to call for help in case of an emergency. It is important to consider the impact of the victimization of young offenders while exploring the topic of barriers to justice because criminal justice involves the wellbeing of both offenders and victims.

**Policy implications**

**Access to Justice**

When creating criminal justice policy recommendations, it is important to have a clear definition and understanding of what it means to have unobstructed access to justice. Information and communication technology has been put forward as a radical solution to the complex problem of access to justice. Indeed, these technologies have positively impacted the criminal justice system in numerous ways. Throughout the COVID-19 pandemic, information and communication technologies such as smartphones and computers have kept the criminal justice system afloat by allowing individuals to work and connect with others remotely. However, the growing reliance on these technologies has also presented plenty of barriers, particularly for young offenders. Is it really considered ‘justice’ when youths are not provided with the same opportunities to connect with justice professionals and they experience an increased likelihood of facing new charges, harsher sentences, and increased violence and victimization?

Tackling the problem of access to justice must incorporate a variety of accessible options for all offenders. These options should be affordable, easily obtainable, effective, and ethical. As Graham (2018) explains:

No matter what technology can do, we must never lose sight of why it is being used, or

if it needs to be used in certain cases at all. New uses of technology are not

necessarily innovative if they are not ethical and effective, and this area is fertile

ground warranting further research. (para. 5)

It is also important for offenders to feel that they have autonomy and dignity in the justice process (Sourdin et al., 2020). The ends must always justify the means when considering the use of information and communication technologies to access justice.

**Recommendations**

I will provide three main recommendations for addressing the barriers for disconnected youths moving through the criminal justice system. Firstly, traditional access to justice must be at least partially preserved. Secondly, the government should fund or subsidize cell phone programs for individuals with criminal justice involvement. Lastly, there must be increased public education surrounding technology to address the second-level digital divide.

Instead of replacing traditional modes of access with technological models, technology should be used alongside traditional access points. The reality is that there will always be individuals who do not have access to information and communication technologies, but these individuals still require access to the criminal justice system (Cabral et al., 2012). Young offenders are especially susceptible to technological poverty due to previously discussed trends, and their increased likelihood of losing, breaking, or being robbed of their digital devices. Sourdin et al. (2020) also emphasize the need for close evaluation of the impact of technology on comprehension and quality of justice. Even when young people have access to technology, remote communication is not always conducive to effective and meaningful communication. This is particularly true when individuals are being confronted with complicated new information such as legal options. Additionally, although youths generally increase their knowledge of the justice system while using technologies such as smartphones and justice apps, this does not necessarily improve their confidence or overall capacity for understanding (Denvir & Balmer, 2013). These trends are more common for youths with cognitive and developmental delays, FASD, or language barriers. Evidently, technology is not an adequate replacement for traditional modes of access. Rather, technology may be used to complement traditional in-person methods.

Another way to combat barriers to justice for disconnected young people is the creation of government-funded cell phone programs for individuals with criminal justice involvement. One example of such a program is the Youth Restorative Action Project’s Cell Phone Program. Through YRAP’s cell phone program, youths are able to access donated phones and 6 month phone plans free of cost. The YRAP collects donations of used and refurbished cell phones from the public and uses government grant money to pay for sim cards and phone plans for disconnected youths. These phones are then used by young people to keep in touch with their YRAP file coordinator, lawyer, probation officer, or other important contacts. Gonzales (2014) describes similar programs in the United States and provides evidence of their effectiveness.

However, these programs are not without their own challenges. Most of these programs are not able to provide young people with phone plans indefinitely, which leads to instability in digital ownership (Gonzales, 2014). Furthermore, many cell phone programs only offer limited data plans, do not provide free access to repair services, and do not provide the option for data transfer. Young people who access these services will often be required to change their phone number with each new phone or phone plan, and they will usually lose all of their previous contacts. Changing some of the policies surrounding cell phone programming may help to solve some of these issues. For example, investments into higher quality phone plans and repair services may alleviate concerns about digital instability.

Another consequence of cell phone programs such as YRAP’s cell phone program is the potential for increased criminalization or victimization through internet and social media usage. Pyrooz et al. (2016) discuss how the use of social media can contribute to social disorganization and challenges with collective efficacy. Urbanik & Haggerty (2018) also explain how access to social media opens the door to new types of crime such as cyberbullying and revenge porn. Internet platforms may also be used to publicize criminal acts and provoke other youths, leading to increased criminalization and victimization. Lastly, there are always security risks when using technologies, such as unauthorized data collection and loss of privacy (Sourdin et al., 2020).

It is also important to consider the second-level digital divide and how digital literacy impacts the ability of young people to use information and communication technology in the criminal justice system. Supportive cell phone programs will not necessarily be helpful to youths who do not have any knowledge or experience with using these devices. In addition to creating programs that provide cell phones, tablets, and computers to criminally involved youths, there must be educational programs to teach them how to use them (Blomberg et al., 2021; Cabral et al., 2012; Denvir & Balmer, 2013). These educational programs should be government-funded and can be run by nonprofit services or other agencies that offer cell phones to youths. It may be particularly wise to have these programs operate out of schools where young people naturally gather.

Nevertheless, there is a significant lack of research on the impact of information and communication technology on the criminal justice system. In writing this paper, it was very challenging to find sources that directly explore how the reliance on technology creates barriers to justice for disconnected individuals. Further research on this topic is crucial, especially during the era of COVID-19.

**Conclusion**

To summarize, information and communication technology is not an adequate solution to the problem of limited access to justice. Although these technologies can be beneficial, the overreliance on them presents a number of barriers for disconnected young people moving through the criminal justice system. Youths who do not have access to information and communication technologies experience several challenges accessing legal counsel and the courts, while completing conditions in the correctional system, and during community reintegration. These barriers lead to an increase in inequality for youths who are moving through the criminal justice system, such as disproportionately harsh sentences, extra charges or breaches, and higher rates of recidivism and victimization. However, there are ways to break down these barriers. There are several solutions that can be implemented to reduce the challenges young people face while attempting to access justice, but these solutions cannot be implemented exclusively. In the era of COVID-19, more thought and research should go into finding ways to combat these barriers and to ensure youths have unobstructed access to justice.