

# **Gaps in Access to Justice in Rural Area of New Brunswick: A Case Study of the Courthouse Closure in the Acadian Peninsula**

**Hesam Seyyed Esfahani** (ORCID: 0000-0001-8809-4109)

Associate Professor

Department of Sociology and Criminology

Université de Moncton

Moncton, New Brunswick

CANADA

**Correspondence:** Hesam Seyyed Esfahani; [hesam.esfahani@umoncton.ca](mailto:hesam.esfahani@umoncton.ca)



### Abstract

New Brunswick is among one of the provinces with the highest proportion of inhabitants who live in rural areas. However, within the same province, the rural environment is not homogeneous in several aspects including cultural, linguistic, demographic, etc. Thus, the legal needs in a rural environment are different from those of an urban environment. Although access to justice is a fundamental right (Canadian Charter of Rights and Freedoms, section 7<sup>th</sup>), rural residents face challenges. Several strategies or initiatives have been put in place (such as remote justice or *WellCoMs Mobile Van*), but the main question is whether these strategies are effective and ensure adequate access to justice for rural residents. In the last twenty years the provincial government closed a number of courthouses across rural New Brunswick. However, the closure of the Caraquet courthouse in the Acadian Peninsula in 2022 raised several objections, particularly regarding the threatened access to justice and the fact that the rights of the Francophone community in the region had not been considered. In 2024, an application for judicial review of the government's decision was filed. A decision of the New Brunswick Court of King's Bench upheld the annulment of this closure. This decision was welcomed by rural communities. However, it should be noted that the judgement emphasizes the political and executive nature of the decision. In addition to the question of justiciability, the Court of King's Bench criticized the closure of the courthouse in the Acadian Peninsula, for the threatened linguistic right (here the right to French). In this paper, we approach an analysis of the content of the two legal decisions rendered by the Court of King's Bench of Bathurst while awaiting a decision from the Court of Appeal of New Brunswick in light of fundamental rights including access to justice in rural areas.

**Keywords:** access to justice; rural crimes; courthouse closure; linguistic rights; case study

## Introduction

New Brunswick is among the Canadian provinces with a high proportion of residents living in rural areas. This proportion is also seen in the Atlantic region of Canada. In Atlantic Canada, as mentioned by *Statistic Canada* (2022), almost half of the population lives in rural areas. While in Canada, approximately 18% of Canadians live rurally, this figure is approximately 48% for New Brunswick (Statistic Canada, 2022). In recent years, a significant increase in population growth has been observed across Canada. While this growth in urban areas is much more significant, the rural population is also increasing, with a 0.4% increase compared to 2016 (Statistic Canada, 2022).

Two factors can mainly explain the reason for this increase. First, the containment measures during the COVID-19 pandemic, especially the remote working model common among companies, and second, an increase in the cost of living, linked to the cost of housing, especially in large cities, have a significant impact on the increase in the rural population. Rural areas, due to their various advantages, such as proximity to nature and lower cost of living, have attracted a considerable number of middle-class individuals in recent years, especially self-employed and remote workers. (Gallardo & Whitacre, 2018).

Yet, across Canada, rurality does not share a common face (Reimer, 2006). In other words, rurality in each region of Canada is characterized by sociocultural elements including language, culture, and history (Reimer et al., 2007). This rural diversity is found even within a single province like New Brunswick. Northern villages are culturally distinct from southern villages. French-speaking villages have different characteristics than English-speaking villages. In New Brunswick, the Francophone community used to live primarily in rural areas. However, today, rural New Brunswickers are as much Francophone as Anglophone (Cao et al., 2005). In New Brunswick, some villages focus on agriculture, while others focus on fishing. The majority of French-speaking villagers in New Brunswick live in rural fishing communities along the Atlantic coast and in the northern part of the province, close to Quebec (Pagès, 2018). Thus, their needs vary from one village to another. These encompass a spectrum of essential expectations at the social and economic levels, among which legal needs play a significant role. In terms of access to justice, a rural area, for example, with a significant non-English speaking immigrant population, will have different legal needs than a rural area with a high rate of aging population.

The serenity and calm, often associated with rural areas give a false impression that crime in rural areas is much lower than crime in urban areas (Statz, 2024). However, when examined in proportion to the population, the reality tells a different story.. Indeed, crime in rural areas is much more serious and more numerous (Perreault, 2023; David, 2022). According to Statistics Canada, in 2023, the police-reported crime rate, measured as the number of incidents per 100,000 inhabitants, was 34% higher in rural areas than in urban areas (Statistics Canada, 2025). Moreover, the crime severity index (CSI) was, in 2023, 30% higher in rural areas than in urban areas (99 compared to 76) (Statistics Canada, 2025). Among the categories of offenses, violent crimes are particularly more frequent in rural areas. For example, in 2023, the violent crime rate was 1.7 times higher in rural areas than in urban

areas (Statistics Canada, 2025). Similarly, for property crimes. Indeed, according to Statistics Canada, for example, in 2023, the overall property crime rate was 13% higher in rural areas (3,692 per 100,000 population) than in urban areas (3,262) (Statistics Canada, 2025). For victimization in rural areas, we could also have the same observation (Hale & Harkness, 2022). Several reasons have been cited to explain the high crime rate in rural areas. These include, in particular, the slow response and availability of police, limited access to services, including victim support services and poverty issues (Ward et al., 2018). Although rural crimes have long been ignored by criminology, today criminologists are increasingly interested in studying this phenomenon on a larger scale (Ceccato & Abraham, 2022).

Access to justice represents a fundamental right with a broad and inclusive scope (Page & Farrel, 2023). It encompasses on the one hand, the right to be heard before courts and within the justice system, and on the other hand, the right to participate and express one's views. In this article, we therefore adopt a broad understanding of this concept. Access to justice in rural and urban areas is not the same (Herzog, 2023). While a citizen in a city does not have to travel far to access the courts or justice-related services, villagers sometimes have to travel hundreds of kilometers to reach the nearest court. While the extent of this difference varies depending on the social and cultural context and geography of Canada, due to its vast area, it is even more problematic. The question of access to justice in rural areas is one of the first subjects addressed in rural criminology under the influence of critical currents in contemporary criminology (Donnermeyer, 2016). In this article, to describe this difference and the consequences that citizens in rural areas may experience, we will study the case of the closure of the courthouse in the Acadian Peninsula, in Caraquet, New Brunswick, in 2022. While previously there were closures of some courthouses across the Province, the closure of the courthouse in the Acadian Peninsula has raised several concerns about access to justice in this predominantly French-speaking rural area. To highlight the issue of access to justice in rural areas, we analyze the question of the justiciability of this type of decision and its consequences on linguistic law in light of the judgments rendered by the Court of King's Bench of New Brunswick and the Court of Appeal of New Brunswick. In this case, the plaintiff is *Forum des maires de la Péninsule acadienne Inc. et La Société de l'Acadie du Nouveau-Brunswick Inc.* In addition to language rights, another major issue reflected in this decision is access to justice.

### **Access to Justice: A Fundamental Right**

#### ***Comparing Access to Justice in Rural Areas and Urban Areas in the Light of the Fundamental Rights***

There is no doubt that rural residents should have easy access to justice for the protection of their rights. Access to justice is recognized as a fundamental right in the *Canadian Charter of Rights and Freedoms*. The sections on the right to life, liberty and security of the person (section 7) and legal guarantees in criminal matters (section 11) may relate to the right to access to justice. However, it is in section 15 of the *Charter*, on the right to equality, that the right to access to justice is implicitly mentioned:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability (s.15(1)).

Therefore, in Canadian law, especially from a fundamental rights perspective, access to justice is interpreted as the right to equality. As the Supreme Court of Canada points out in its decision *R. v. Sharma, 2022 SCC 39*, we have a two-step review if a person asks whether section 15 of the *Charter* is violated:

The first step for assessing a s. 15(1) claim examines whether the impugned law creates or contributes to a disproportionate impact on the claimant group based on a protected ground. [...]The claimant must establish a link or nexus between the impugned law and the discriminatory impact, but does not need to show why the law being challenged has that impact.

[...]

The second step asks whether that impact imposes burdens or denies benefits in a manner that has the effect of reinforcing, perpetuating, or exacerbating a disadvantage. Not every distinction is discriminatory. Courts must examine the historical or systemic disadvantage of the claimant group. Leaving the situation of a claimant group unaffected is insufficient to meet the step two requirement: a negative impact or worsened situation is required (pp. 150-151).

Despite constitutional texts, the reality in the world, due to the phenomenon of urbanization and globalization, shows that in practice citizens living in rural areas do not benefit from the same justice services as citizens living in urban areas (Hale, 2024; Hagan, 1977). Improving access to justice is hence increasingly recognized as an essential dimension of inclusive growth and a means of combating inequalities. Thus, the inability to access legal and judicial services in rural areas can be both a cause and a consequence of disadvantage and poverty, according to several studies (Maluleke, 2023; Dickey & McGarry, 2001). It is for this inequality that rural criminology, under the influence of ideas from critical theories, was particularly interested in studying access to justice in its field (Carrington et al., 2014; Donnermeyer & DeKeseredy, 2008).

It is true that in rural areas informal social control is stronger and police and justice officers are much more familiar with citizens than in urban areas. However, this does not solve the problem of access to justice in this environment (Ceccato & Abraham, 2022). Indeed, residents in urban areas enjoy the privilege of easy access to the institutions of the judicial system from a lower court to a higher court. While residents in rural areas often have to travel to benefit from simple justice services. This difference is also found in the implementation of judicial policies. For example, several studies show that the impacts of legislative policies on the maintenance of order among rural youth are limited, mainly due to the situational contexts of rural regions, notably geography, underdeveloped infrastructure

and limited resources (Ricciardelli et al. 2017; Wright, 1997). According to a study by Ricciardelli et al. (2017) on the application of the Youth Criminal Justice Act (YCJA) in the Atlantic provinces of Canada, especially extrajudicial measures, in the rural areas, there are difficulties in implementing programing. In rural areas, “more centers and more resources are needed to implement programs that serve much fewer people” (Ricciardelli et al. 2017, p. 608), unlike in urban areas where we can maximize the program use by a larger population located in a smaller area.

The first step in recognizing the right to access justice is the understanding of this right by the actors in the system, including the police, judges etc. Then, citizens should be able to claim this right when it is not respected by these actors. In the criminal justice system, new policies or strategies are often implemented. However, these policies or strategies are better suited for application in urban settings than rural settings. Thus, in addition to the challenge of guaranteeing access to justice for rural residents, local resources face significant strain. Practitioners in these areas need time to familiarize themselves with, and adjust the application of, these measures to the realities of rural life – a need that is fully understandable in light of contextual limitations. Moreover, it should be noted that, beyond the pressure on already limited resources, rural areas often face an overall lack of sufficient resources. (Pruitt et al., 2018; Pruitt & Showman, 2015). Furthermore, in urban areas, citizens generally have easier access to information on changes in policies and measures, while in rural areas, geographical remoteness could limit this access. Finally, local adoption is also an important issue. In other words, in a particular rural area, a policy or strategy that is successful in a large city could lead to significant problems. As mentioned by Mikaela Patrick et al. (2020), it is better to engage with rural justice to consider the population’s lived experiences and related practical ethics.

Several initiatives are being implemented in rural areas to implement a criminal policy or strategy adopted in this environment. In other words, access to justice in rural areas could be guaranteed through these specific strategies or policies that meet the expectations and needs of rural citizens. Payne et al. (2005), mention, while studying rural law enforcement in United States, highlighted three important findings to describe the difference between policing in cities, including small towns, and villages:

First, policing in rural and urban areas varied in terms of the specific kinds of activities commonly handled in the two communities. Rural and small-town police departments emphasized crime prevention and services activities, whereas urban agencies focused on enforcing law and controlling crime through arrests. Second, small-town officers were called upon and expected to carry out a wider range of tasks than their urban counterparts since other social services were either nonexistent or too remote to provide timely services. [...] [third] policing styles in rural areas were largely a reflection of the relationship between police and the community. The rural community was often close-knit; thus, rural officers utilized a policing style that was more responsive to residents in their areas (p. 33).

Despite the reality of limited access to justice in rural areas compared to urban settings, several studies in rural criminology have identified examples of strategies addressing this issue.

### *The Strategies to Make Access to Justice Effective in Rural Areas*

The challenges related to access to justice in rural areas are a major concern in the implementation of an effective public policy focused on fundamental rights and on crime prevention. Several strategies have been proposed and implemented to find solutions to make justice more efficient in rural areas. The analysis of these strategies could be the subject of another paper. However, without delving into these strategies in depth, we will present two examples of practices implemented in rural areas in recent years. These two examples are increasingly used in recent years in different countries including Canada.

First, remote justice is a widespread strategy in this field. It is true that remote justice began to be common before the COVID-19 pandemic (Bossan, 2011). However, especially since this pandemic, this method is still used. Using technology, at the judicial and police levels, to provide services including the organization of hearings or investigations remotely during this period of global health crisis, has raised several challenges. Theoretically, the experience of remote trials is a good solution for access to justice, especially in rural areas, for several reasons: availability, accessibility, accommodation, affordability and acceptability (Adisa et al., 2023). However, in practice, due to problems related to the quality of access to the Internet for citizens in rural areas (Srinivasan & Han, 2000; Camilleri, 2019), this strategy is not currently well received by the criminal justice system, and for this reason, a return to the in-person procedure is preferred (Norton, 2023).

In addition to the problem of internet access, the lack of access to legal information or available support services is yet another major challenge for residents in rural areas. However, videoconferencing methods could facilitate citizens living in rural areas accessing the court processes, but it is important to verify whether virtual access to a courtroom respects the right of access to justice. In other words, we are asking ourselves whether the defendants in rural areas are equipped with the necessary equipment and are able to use it properly (Guillemard & Danet, 2021). Moreover, it must be considered that technology, while intended to improve access to justice, can also be a source of distraction, stress, and anxiety for some users (Gill, 2021), particularly those unfamiliar with digital tools. Following the COVID-19 pandemic, a wide range of applications and online platforms have emerged – such as systems for virtual hearings, remote mediation, and online legal information – to enhance the accessibility and efficiency of justice services in both urban and rural contexts. For example, in Australian courts, audio-visual links (AVL) are used especially by family courts (Rossner et al., 2021). Or the Online Dispute Resolution (ODR) platforms, the platform to aid in the resolution of litigation is used in Canada (Vermeys & Roberge, 2019). These strategies are often successful. However, we could not apply the same strategy in two different environments. Different factors make these strategies applicable.

The second strategy for access to justice in rural areas consists of an innovative experiment in mobile justice. Using mobile services can be beneficial in ensuring access to

justice. If people in rural areas have difficulty accessing legal assistance or information in person, one option is to provide legal assistance and information by bringing these services directly to the people who need them. This strategy could be beneficial for very remote rural areas and also for simple cases. Thus, mobile justice can help to overcome some of the geographical barriers to accessing legal services (Roshan et al., 2023). In the United States, there are several initiatives, such as mobile legal clinics or mobile courts (Hubbard et al., 2019). For example, a “Justice Bus” serves people across the 2.8 million acres of the Cheyenne River Sioux Reservation in South Dakota. This Justice Bus addresses minor offenses and truancy cases, while also managing initial appearances and pretrial supervision for low-level or victimless crimes (Metzger, 2022). In Kenya, mobile courts are used to serve remote rural areas. These courts regularly travel to different areas, allowing rural residents to have their cases heard without having to travel long distances. According to Roshan et al. (2023), these mobile courts have proven effective in resolving issues such as land disputes “which are common in rural areas and have significant implications for the livelihoods of rural populations” (p.396).

In the Canadian context, due to the remoteness of the regions, this strategy is applied at the provincial level. A Canadian example is the *WellCoMs Mobile Van project*, which ran as a pilot project from May 2019 until the end of October 2019 in Wellington County, Ontario (Legal Clinic of Guelph and Wellington County 2019). However, it has not yet been rolled out nationally. In this project, a van travels to different rural communities according to a pre-established schedule. Lawyers on board the van offer free consultations on various legal issues. They help rural residents understand their rights. This project, according to the researchers, was very effective in identifying legal needs and expectations in these rural areas. Over a period of approximately 6 months, this project welcomed a total of 586 visitors (Currie, 2019). Most of the problems of citizens in these rural areas are family law, landlord-tenant, and civil matters (approximately 60%). Although the initial results of its implementation are positive, this project is not necessarily effective for other provinces and rural areas. Furthermore, the scope of this project is limited due to the fact that this service only serves a limited number of the community at a time. Indeed, this service is heavily dependent on technology. The aforementioned challenges related to internet connectivity in rural areas could have an impact on the quality of services.

Despite some initiatives mentioned, services and resources for access to justice in rural areas are already limited. A decision to limit or eliminate a service could further threaten this fundamental right in rural areas. In this article, as a case study, the closure of a courthouse, as a symbol of justice, in a rural setting in New Brunswick, is the subject of an in-depth analysis.

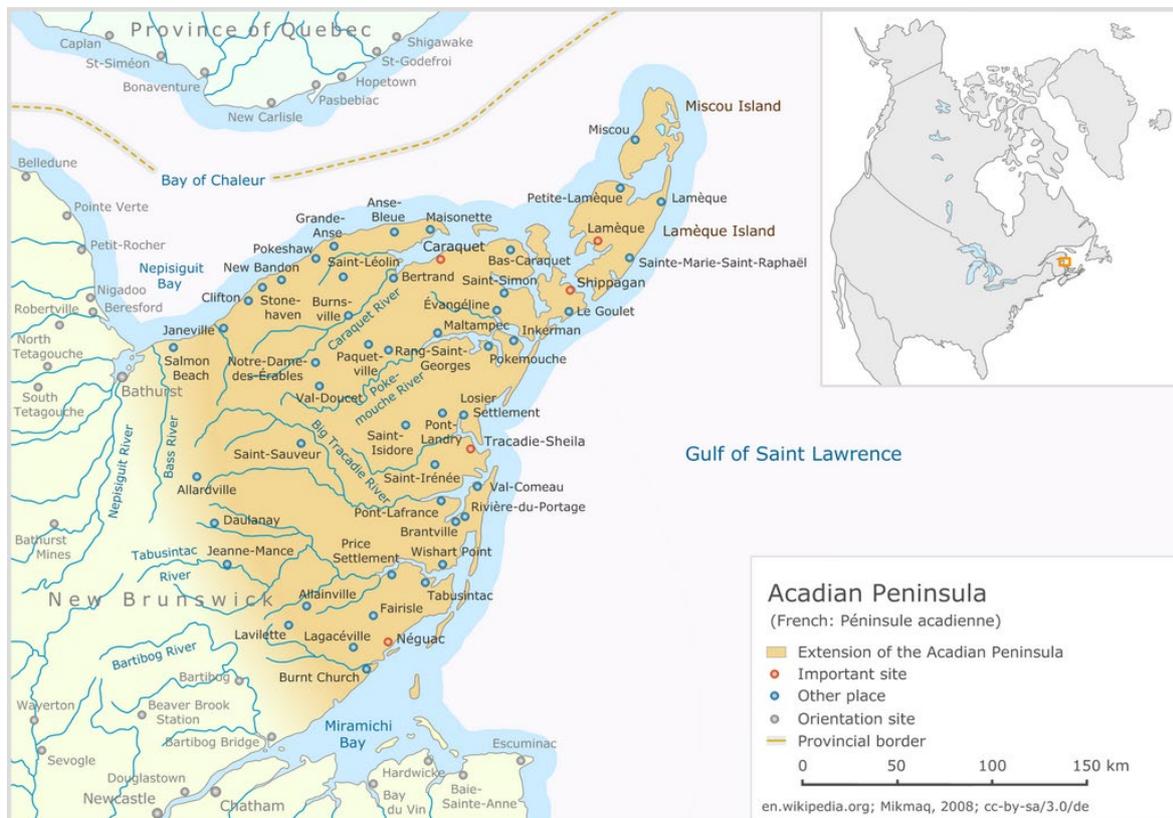
## The Closure of the Courthouse in Rural Area and the Issue of the Justiciability of Fundamental Rights; a Case Study of the Acadian Peninsula

### *The Justiciability of Closure the Courthouse: a Political or Legal Decision?*

The Acadian Peninsula, is a rural area located in Northeastern New Brunswick, encompassing fourteen municipalities with a population of approximately 50,000 inhabitants. It stands out from other rural areas in New Brunswick for its predominantly French-speaking linguistic profile (Figure 1). Although French is an official language in New Brunswick, it is a minority language. Until December 31, 2021, the Acadian Peninsula had two courthouses, one in Caraquet and the other in Tracadie. Both courthouses were similar: a courtroom, a few offices for Crown attorneys, sheriffs, etc. A judge was assigned to each courthouse. French was the predominant working language used in both courthouses. Without consulting the public, the New Brunswick Minister of Justice and Public Safety announced in 2021 the closure of the Caraquet courthouse and the transformation of the Tracadie courthouse into a satellite court with all processing of cases moved to the courthouse located in the city of Bathurst.

**Figure 1**

### *Acadian Peninsula*



Source: Image (Map) made by Klaus M. (Mikmaq), Germany, CC BY 3.0, <https://commons.wikimedia.org/w/index.php?curid=3600222>

The Tracadie courthouse was completely closed in June 2022. This type of closure was not the first in New Brunswick in recent decades. However, this closure in the Acadian Peninsula sparked considerable protest. According to the Minister of Justice, the reason for this closure was the fact that the volume of cases heard in this region had declined significantly. The government's objective was to reduce economic and administrative costs. Therefore, for the government, this decision is purely economic and political. However, it must be considered that the distance between Bathurst, as an urban area, and Tracadie and Caraquet is approximately 70 km. The closure of the courthouse requires the public and legal professionals, as well as police officers and victim and witness, to travel such a distance to Bathurst to access legal services. Despite the political nature of this decision, a key question is raised regarding the right of access to justice for residents of this rural area: a political decision that violates a fundamental right.

In February 2022, the *Forum des maires de la Péninsule Acadienne*, a grouping of fourteen municipalities which gathers to discuss peninsular issues and provides an official voice when the *Forum* takes positions on regional issues, filed a motion challenging this decision by the Minister of Justice and Public Security. The *Forum* requested that the decision of the Chief Judge of the Provincial Court, who had accepted the Minister's decision, be overturned. For the Chief Justice of the Provincial Court, this decision is a political, administrative and executive decision. As mentioned in the decision of the Court of King's Bench of Bathurst of New Brunswick, the judge believed that it was not within the Chief Justice's power to open or close courthouses, nor did he have the power to approve or reject a provincial government decision in this regard (*Forum des Maires de la Péninsule Acadienne Inc. v. Minister of Justice and Public Safety et al.*, 2022 NBKB 174, para.5). In its decision on September 22, 2022, the Court of King's Bench of Bathurst, New Brunswick, agreed with the statement of the Chief Justice of the Provincial Court that it is not within the power of this judge to open or close a courthouse and that this power is entrusted to the Province, the executive branch of government, according to section 94 (12) of the Constitution Act of Canada. However, the case was presented primarily against the government (para. 12).

The first question with the courthouse closure is whether this decision is a political or a legal one. The question of the justiciability of this decision was the subject of a judgment by the Court of King's Bench in Bathurst in March 2024 (*Forum des maires de la Péninsule acadienne Inc. v. Minister of Justice and Public Safety*, 2024 NBKB 58). When we talk about justiciability, that is, according to the Federal Court of Appeal of Canada: “the appropriateness and ability of a court to deal with an issue before it” (*Hupacasath First Nation v. Canada* (Foreign Affairs and International Trade Canada), 2015, para. 62). According to this court, most cases should be considered justiciable. In other words, if we doubt the justiciability of a case, we must consider it justiciable and the “category of non-justiciable cases is very small” (para.67). The Supreme Court of Canada has addressed the issue of justiciability in its case law, notably in *Highwood Congregation of Jehovah's Witnesses (Judicial Committee) v. Wall*, 2018 SCC 26. In that decision, the Court found that there is no specific rule or regulation governing justiciability:

There is no single set of rules delineating the scope of justiciability. Indeed, justiciability depends to some degree on context, and the proper approach to determining justiciability must be flexible (para. 34).

For the *Forum*, it is correct for the government to make a decision on the opening and closing of a courthouse (*Forum des maires de la Péninsule acadienne Inc. v. Minister of Justice and Public Safety*, 2024 NBKB 58, para. 19). However, what is at issue here is whether this decision complies with language rights in the Canadian Charter of Rights and Freedoms (Sections 16 and 16.1). For the *Forum*, this decision is contrary to this fundamental right recognized in the Charter. Thus, in its arguments, the *Forum* focused more on language rights than on the violated right to access to justice (Section 15). According to the government, this decision was made in the exercise of the minister's "discretionary power" in accordance with legislative authority. It therefore questions the justiciability of this request (para.20). According to the Bathurst Court of King's Bench, there are cases where the court should consider the issue of justiciability, for example, the question of the legality of the decision (para. 28). Thus, "Access to justice, like legality, is "fundamental to the rule of law" (*Trial Lawyers Association of British Columbia v. British Columbia (Attorney General)*, 2014 SCC 59, para. 39) and in a fairly recent decision of the Supreme Court of Canada (*British Columbia (Attorney General) v. Council of Canadians with Disabilities*, 2022 SCC 27), Chief Justice Wagner defined access to justice as follows:

Access to justice means many things, such as knowing one's rights, and how our legal system works; being able to secure legal assistance and access legal remedies; and breaking down barriers that often prevent prospective litigants from ensuring that their legal rights are respected (para.35).

In the case discussed in this article, it is the question of legality that justifies the justiciability. According to the *Forum*, the closure of a courthouse in a primarily French-speaking region does not respect the rights guaranteed by the Canadian Charter of Rights and Freedoms (sections 16 & 16.1).

For the Court of King's Bench, the request is justiciable. Because this request falls "squarely within the framework of what our courts have a duty to protect, namely the rights guaranteed under the *Charter*" (*Forum des maires de la Péninsule acadienne Inc. v. Minister of Justice and Public Safety*, 2024 NBKB 58, para. 32). Thus, as mentioned above, access to justice at the level of remoteness to legal services for residents of this rural area is less mentioned and rather access to justice is targeted in the light of fundamental rights, including here the linguistic rights of a French-speaking rural community. Even if the decision of the Court of King's Bench of Bathurst was the subject of appeal, however, this consideration on linguistic rights and access to justice should be analyzed.

*The Closure of the Courthouse and Fundamental Rights in French-Speaking Rural Area*

The question of the violation of the *Canadian Charter of Rights and Freedoms* in the case of the closure of the courthouse on the Acadian Peninsula is primarily based on the framework of the *Doré* decision (2012) rendered by the Supreme Court of Canada (*Doré v. Barreau du Québec*, 2012 SCC 12). According to this decision, discretionary decisions, such as the New Brunswick government's decision here, must always take into consideration the values of the Charter (para.35). In such a situation, a court to apply the decision-making framework of the *Doré* (2012) judgment is to ask whether the decision in question is reasonable because it reflects a proportionate balance between the Charter protections at stake on the one hand, and the relevant statutory mandate on the other (para. 57). This is how, according to the Court of King's Bench of New Brunswick (*Forum des maires de la Péninsule acadienne Inc. v. Minister of Justice and Public Safety*, 2024 NBKB 58) : “[T]he Minister’s decision to close the Caraquet courthouse, to convert the Tracadie courthouse into a satellite court and to transfer the judges is unreasonable” (para.66).

Technically, to analyze this decision, there are different steps to go through to arrive at this conclusion of Judge Christa Bourque in the decision of the Court of King's Bench. The first step is to determine whether this decision engages the rights guaranteed by the Charter, in this case, sections 16 and 16.1 of the Charter. In addition, we should consider the other provisions on language law, namely the Official Languages Act of New Brunswick. The preamble of the Official Languages Act of New Brunswick affirms its purpose of granting the provincial government the authority “to advance the status, rights and privileges set out therein” (Official Languages Act, SNB 2002, c O-0.5, preamble). For the Court of King’s Bench, this *Act* has an important place in protecting access to justice in this rural environment, the Acadian Peninsula (*Forum des maires de la Péninsule acadienne Inc. v. Minister of Justice and Public Safety*, 2024 NBKB 58).

According to the Court, the purpose of this *Act* is: “to promote bilingualism and to ensure equal access to government services in both official languages. The *Act* is also an expression of the government’s commitment to preserve and promote linguistic duality in our province” (para 88). The second step involves determining whether this decision may have an impact on these values. Here, a more contextual approach is required. Language rights are referred to as remedial rights (para. 75). The purpose of these remedial rights is to correct historical injustices or inequalities suffered by linguistic minorities and it also aims to promote linguistic diversity and protect the cultural identity of minority language communities (para.74). The Supreme Court of Canada, in the case of *Doucet-Boudreau v. Nova Scotia (Minister of Education)*, 2003 SCC 62, expressed the manner in which a remedial right should be interpreted:

Purposive interpretation means that remedies provisions must be interpreted in a way that provides “a full, effective and meaningful remedy for *Charter* violations” since “a right, no matter how expansive in theory, is only as meaningful as the remedy provided for its breach” (*Dunedin [R. v. 974649 Ontario Inc., [2001] 3 S.C.R. 575, 2001 SCC 81]* at paras. 19-20). A purposive approach to remedies in a *Charter*

context gives modern vitality to the ancient maxim *ubi jus, ibi remedium*: where there is a right, there must be a remedy. More specifically, a purposive approach to remedies requires at least two things. First, the purpose of the right being protected must be promoted: courts must craft responsive remedies. Second, the purpose of the remedies provision must be promoted: courts must craft effective remedies (para.25) (Emphasis in original).

The Court of King's Bench, in the case under review, states that there is a link between the closure of a courthouse in a rural area with a linguistic minority and the challenges to the protection and development of the community (*Forum des maires de la Péninsule acadienne Inc. v. Minister of Justice and Public Safety*, 2024 NBKB 58, para. 90). Judge Christa Bourque provides a very good analysis in this decision to present the link between access to justice and language rights in a rural community where they are a linguistic minority in New Brunswick. For her, a courthouse is a symbol of justice in a community. A political decision to close a courthouse thus targets the symbol of justice in a rural community. According to her:

[A courthouse] represents a physical expression of legal authority and a meeting point to resolve disputes and ensure the enforcement of the rights and responsibilities of citizens

[...]

The open court principle is a fundamental pillar of a transparent legal system [...] [by] allowing justice to be done publicly, courthouses promote transparency and the accountability of judicial authorities. This transparency is designed to inform citizens on their rights and judicial proceedings, all the while protecting them from abuse of power, particularly within the criminal justice system. (para. 91 & 92).

For the Court of King's Bench, if a courthouse in a rural community is so far away that the public would have to travel a great distance to access it, a fundamental value of the judicial system is not respected:

When the public is unable to access a courthouse to observe the proceedings because of geographic distance or other obstacles, the fundamental values of the judicial system are infringed.

[...]

Limited access is prejudicial to the community's commitment to and trust in the judicial system. Individuals feel isolated and alienated from the judicial process, which undermines efforts designed to promote a feeling of appropriation of and involvement in the judicial system (para 94 & 95).

Thus, for a rural community, such as the Acadian Peninsula, access to justice through the presence of a courthouse promotes confidence and a sense of belonging among rural citizens.

For the third step, the court should consider whether the government demonstrates that it has taken judicious account of the *Charter* protections. For the Court of King's Bench, the minister must proportionately balance constitutional values with government interests (para. 101). Yet for the Court, there is no such balance. For the Court, the closure of a courthouse in this predominantly French-speaking community could undoubtedly have a negative impact on the maintenance of the French language, the transmission of French-speaking culture and the promotion of solidarity within the French-speaking minority. The New Brunswick government, despite the arrival of a Liberal government in place of a Conservative government, insists on the political and economic nature of this decision and has appealed the decision of the Court of King's Bench. The New Brunswick Court of Appeal, nevertheless, in its decision on September 4, 2025, noted that the *Forum* had not established that the contested decision infringes upon the rights guaranteed by section 16.1 of the *Charter* (*Ministre de la justice et de la sécurité publique c. Forum des maires de la Péninsule acadienne Inc.*, 2025 NBCA 99):

[...] the judge did not explain in what respect the provisions of s. 16.1 were engaged in this case, nor did she establish a link between the rights guaranteed by that provision and the allegations made by the Forum. [...] Despite the Minister's decision, the residents of the Acadian Peninsula will continue to have access to judicial services in French, although they will now have to travel a greater distance by car. The evidence presented by the Minister shows that, since 1992, and even before the contested announcement, the Government closed courthouses in every judicial district of New Brunswick, including in Saint-Léonard, McAdam, Chatham, Florenceville, Plaster Rock, Minto, Bouctouche, Shippagan, Dalhousie, Doaktown, Neguac, Sackville, Richibucto, Shediac, Saint-Quentin, Hampton, Grand Falls, Grand Manan, Saint Andrews, St. Stephen, Sussex and Burton. The impact of most of these closures was felt within the English linguistic community of New Brunswick. [Thus] The application judge did not explain how the Minister's decision would have created an inequality of status, rights or privileges between the English and French linguistic communities in New Brunswick. (para 82, 83 & 84).

The New Brunswick Court of Appeal disagrees with “[e]xtending the scope of s. 16.1 by way of values that exceed those expressed therein would constitute an inadmissible change to this provision” (para 89). Contrary to this opinion, we believe the decision of the Court of King's Bench, despite its emphasis on the issue of linguistic rights rather than the right to access to justice, presents remarkable jurisprudential standards on access to justice for rural residents.

### Conclusion

New Brunswick is a bilingual province (English and French) with French as a minority language. In the *Forum des maires de la Péninsule acadienne Inc. v. Minister of Justice and Public Safety* case, the closure of a courthouse in the Acadian Peninsula sparked a strong reaction in this rural French-speaking area. Although access to justice is recognized as a fundamental right, as stated in Section 15 of the *Canadian Charter of Rights and Freedoms*, the issue with the public reaction was the violation of language rights. This right is also a fundamental right recognized specifically in the *Charter*. The Court of King's Bench, in this decision, orders that the government's decision has "an impact on the preservation and the development of the Francophone minority community" (para. 102). We might wonder if this courthouse closure was in an English-speaking environment, a similar decision was likely. We don't believe it would be. In other words, although we welcome this decision, at the legal level, the Court was addressing the issue of access to justice through linguistic law and not as a separate right. This is why access to justice in rural areas should be taken into account even before the question of linguistic rights. This could ensure equal access to justice and legal services for all citizens in both urban and rural areas.

## References

- Adisa, O., James, S. & Newman, D. (2023). Rural access to justice and beyond: Dimensions of access as a criterion for understanding lay users' satisfaction with remote justice. In D. Newman and F. Gordon (Eds.), *Access to justice in rural communities: Global perspectives* (pp. 207-222). Hart Publishing.
- Bossan, J. (2011). La visioconférence dans le procès pénal : un outil à maîtriser. *Revue de science criminelle et de droit pénal comparé*, 4(4), 801–816.  
<https://doi.org/10.3917/rsc.1104.0801>
- Camilleri, M. (2019). Disabled in rural Victoria: Exploring the intersection of victimisation, disability and rurality on access to justice. *International Journal of rural criminology*, 5 (1), 88–112. <https://doi.org/10.18061/1811/88727>
- Canadian Charter of Rights and Freedoms (1982). <https://laws-lois.justice.gc.ca/fra/const/page-12.html>
- Cao, H., Chouinard, O. & Dehoorne, O. (2005). De la périphérie vers le centre : l'évolution de l'espace francophone du Nouveau-Brunswick au Canada. *Annales de géographie*, 642(2), 115–140. <https://doi.org/10.3917/ag.642.0115>
- Carrington, K., Donnermeyer, J.F. & DeKeseredy, W.S. (2014). Intersectionality, rural criminology, and re-imagining the boundaries of critical criminology. *Critical Criminology*. 22(4), 463–477. <https://doi.org/10.1007/s10612-014-9257-0>
- Ceccato, V. and Abraham, J. (2022). *Crime and safety in the rural: Lessons from research*. Springer. <https://doi.org/10.1007/978-3-030-98290-4>
- Colombie-Britannique (Procureur général) c. Conseil des Canadiens avec déficiences, 2022 CSC 27 (CanLII), [2022] 1 RCS 794, <https://canlii.ca/t/jpx82>
- Currie, A. (2019). Someone out there helping – Final report of the WellCoMs Mobile Van Project. *Canadian Forum on Civil Justice*. 11, 40 p.  
[https://digitalcommons.osgoode.yorku.ca/cfcj/11?utm\\_source=digitalcommons.osgoode.yorku.ca%2Ffcfcj%2F11&utm\\_medium=PDF&utm\\_campaign=PDFCoverPages](https://digitalcommons.osgoode.yorku.ca/cfcj/11?utm_source=digitalcommons.osgoode.yorku.ca%2Ffcfcj%2F11&utm_medium=PDF&utm_campaign=PDFCoverPages)
- David, J.-D. (2023). Rethinking perceptions of crime and safety in rural and remote communities. *The British Journal of Criminology*, 63(2), 511–528.  
<https://doi.org/10.1093/bjc/azac028>
- Dickey, W. J. & McGarry, P. (2001). *Community justice in rural America: Four Examples and Four Futures*. U.S. Department of Justice.  
<https://www.theiacp.org/sites/default/files/2018-08/Community%20Justice%20in%20Rural%20America.pdf>
- Donnermeyer, J. F. (2016). Introduction to the international handbook of rural criminology. In J. F. Donnermeyer (Ed.), *The routledge international handbook of rural criminology* (pp. 1-10). Routledge. <https://doi.org/10.4324/9781315755885>
- Donnermeyer, J. F. & DeKeseredy, W. (2008). Toward a rural critical criminology. *Journal of Rural Social Sciences*. 23(2) <https://egrove.olemiss.edu/jrss/vol23/iss2/2>
- Doré v. Barreau du Québec, 2012 SCC 12 (CanLII), [2012] 1 SCR 395  
<https://canlii.ca/t/fqn88>
- Doucet-Boudreau v. Nova Scotia (Minister of Education), 2003 SCC 62 (CanLII), [2003] 3 SCR 3, <https://canlii.ca/t/4nx4>

- Forum des maires de la Péninsule acadienne Inc. v. Minister of Justice and Public Safety*, 2024 NBKB 58 (CanLII), <https://canlii.ca/t/k47n6>
- Forum des Maires de la Péninsule Acadienne Inc. v. Minister of Justice and Public Safety et al.*, 2022 NBKB 174 (CanLII), <https://canlii.ca/t/jsl7q>
- Gallardo, R. & Whitacre, B. (2018). 21st century economic development: Telework and its impact on local income. *Reg Sci Policy Pract.* 10(2), 103–123.  
<https://doi.org/10.1111/rsp3.12117>
- Gill, N. (2021). Remote justice and vulnerable litigants: The case of Asylum. In D. Cowan & A. Mumford (Eds.), *Pandemic legalities: Legal responses to COVID-19 – Justice and social responsibility* (pp. 27–40). Bristol University Press.  
<https://doi.org/10.2307/j.ctv1t4m1r8.9>
- Guillemard, S. & Danet, A. (2021). La justice virtuelle : vous avez dit justice ? *Revue du notariat*, 123(1), 323–344. <https://doi.org/10.7202/1088968ar>
- Hagan, J. (1977). Criminal justice in rural and urban communities: A study of the bureaucratization of justice. *Social Forces*, 55(3), 597–612.  
<https://doi.org/10.2307/2577458>
- Hale, R. (2024). Access to justice. In A. Harkness, J. R. Peterson, M. Bowden, C. Pedersen & J. F. Donnermeyer (Eds.). *The encyclopedia of rural crime* (pp. 251-254). Policy Press.
- Hale, R. & Harkness, A. (2022). Rural victims of crime in contemporary context. In R. Hale & A. Harkness (Eds.), *Rural victims of crime: Representations, realities and responses* (pp. 1-11). Routledge. <http://doi.org/10.4324/9781003132691-1>
- Herzog, L. (2023). Urban–rural justice. *Journal of Political Philosophy*, 31(2), 233–253.  
<https://doi.org/10.1111/jopp.12297>
- Highwood Congregation of Jehovah's Witnesses (Judicial Committee) v. Wall*, 2018 SCC 26 (CanLII), [2018] 1 SCR 750. <https://canlii.ca/t/hs9lr>
- Hubbard, B., Saladen, M., Tushaus, D. W., & Upreti, N. K. (2019). Taking justice to people in crisis: Mobile legal clinics. *Alternative Law Journal*, 44(1), 76–81.  
<https://doi.org/10.1177/1037969X19829550>
- Hupacasath First Nation v. Canada* (Foreign Affairs and International Trade Canada), 2015 FCA 4 (CanLII). <https://canlii.ca/t/gfzcv>
- Legal Clinic of Guelph and Wellington County. (2019). WellCoMs Wellington County mobile legal service – Infographic. *Canadian Forum on Civil Justice*.  
<https://digitalcommons.osgoode.yorku.ca/cfcj/15>
- Maluleke, W. (2023). Accessibility to justice for rural livestock farmers in selected provinces of South Africa: Rural communities and the justice system. In D. Newman & F. Gordon (Eds.), *Access to justice in rural communities: Global Perspectives* (pp. 43-56). Hart Publishing. <https://doi.org/10.5040/9781509951673.ch-004>
- Metzger, P. R. (2022). Rural criminal justice reform. In J. B. Gould & P. R. Metzger (Eds.), *Transforming criminal justice: An evidence-based agenda for reform* (pp. 242-267). New York University Press. <https://doi.org/10.18574/nyu/9781479818839.003.0013>
- Norton, K. L. W. (2023). Accessing justice in hybrid courts: Addressing the needs of low-income litigants in blended in-person and virtual proceedings. *Georgetown Journal on Poverty Law and Policy*, 30(3), 499–544.
- Official Languages Act, SNB 2002, c O-0.5, <https://canlii.ca/t/564mx>

- Page, D. F., & Farrell, B. R. (2023). One crisis or two problems? Disentangling rural access to justice and the rural attorney shortage. *Washington Law Review*, 98(3), 849-898. <https://heinonline.org/HOL/Page?handle=hein.journals/washlr98&id=871>
- Pagès, A. (2018). L'intervention sociale en milieu rural. Outils et méthodes d'observation. *Vie sociale*, 22(2), 47-57. <https://doi.org/10.3917/vsoc.182.0047>
- Patrick, M., Grewal, G., Chelagat, W., & Shannon, G. (2020). Planetary health justice: Feminist approaches to building in rural Kenya. *Buildings and Cities*, 1(1), 308–324. <https://doi.org/10.5334/bc.18>
- Perreault, S. (2023). Police-reported crime in rural and urban areas in the Canadian provinces, 2021. *Juristat*, 43(1). <https://www150.statcan.gc.ca/n1/pub/85-002-x/2023001/article/00002-eng.htm>
- Pruitt, L. R., Kool, A. L., Sudeall, L., Statz, M., Conway, D. M. & Haksgaard, H. (2018). Legal deserts: A multi-state perspective on rural access to justice. *Harvard Law & Policy Review*, 13, 15–156.
- Pruitt, L. R. & Showman, B. (2015). Law stretched thin: Access to justice in rural America. *South Dakota Law Review*. 59(3), 465–528.
- Reimer, B. (2006). The rural context of community development in Canada. *Journal of Rural and Community Development*, 1(2), 155–175.
- Reimer, B., Burns, M. & Gareau, P. (2007). Ethnic and cultural diversity in rural Canada: Its relationship to immigration. *Our diverse cities*, 3, 30–35.
- Ricciardelli, R., Crichton, H., Swiss, L., Spencer, D. C., & Adorjan, M. (2017). From knowledge to action? The Youth Criminal Justice Act and use of extrajudicial measures in youth policing. *Police Practice and Research*, 18(6), 599–611. <https://doi.org/10.1080/15614263.2017.1363971>
- Roshan, S.; Lokhande, A. A.; Kadam, S. N.; Pravin, B.M.; Shrikant, D. P. (2023). Challenges and opportunities in implementing judicial reforms in rural areas. *International Journal of Emerging Technologies and Innovative Research*. 3(12), 394–400. <https://iciset.in/Paper2762.pdf>
- Rossner, M., Tait, D., & McCurdy, M. (2021). Justice reimagined: Challenges and opportunities with implementing virtual courts. *Current Issues in Criminal Justice*, 33(1), 94–110. <https://doi.org/10.1080/10345329.2020.1859968>
- Srinivasan, N. & Han, S. (2000). Facilitating the delivery of justice services to rural and remote communities. *International Review of Law, Computers & Technology*, 14(2), 235–241. <https://doi.org/10.1080/13600860050033032>
- Statistics Canada (2025). *Police-reported crime in rural areas in the Canadian provinces, 2023*. <https://www150.statcan.gc.ca/n1/daily-quotidien/250429/dq250429a-eng.htm>
- Statistics Canada (2022). *Population growth in Canada's rural areas, 2016 to 2021*. <https://www12.statcan.gc.ca/census-recensement/2021/as-sa/98-200-x/2021002/98-200-x2021002-eng.cfm>
- Statz, M. (2024). “It is here we are loved”: Rural place attachment in active judging and access to justice. *Law & Social Inquiry*, 49(1), 247–277. <https://doi.org/10.1017/lsi.2022.73>
- Trial Lawyers Association of British Columbia c. Colombie-Britannique* (Procureur général), 2014 CSC 59 (CanLII), [2014] 3 RCS 31, <https://canlii.ca/t/gds2k>

- Vermeys, N., Roberge, J.-F. (2019). ODR as public service: The access to justice-driven Canadian experience. *International Journal of Online Dispute Resolution*, 6(2), 227–238. <https://doi.org/10.5553/IJODR/235250022019006002016>
- Ward, K. C., Kirchner, E. E., Thompson, A. J. (2018). Social disorganization and rural/urban crime rates: A county level comparison of contributing factors. *International Journal of Rural Criminology*, 4(1), 43–65. <https://doi.org/10.18061/1811/86153>
- Wright, L. E. (1997). Juvenile crime in rural areas. *The Justice System Journal*, 19(3), 355–364. <http://www.jstor.org/stable/27976954>