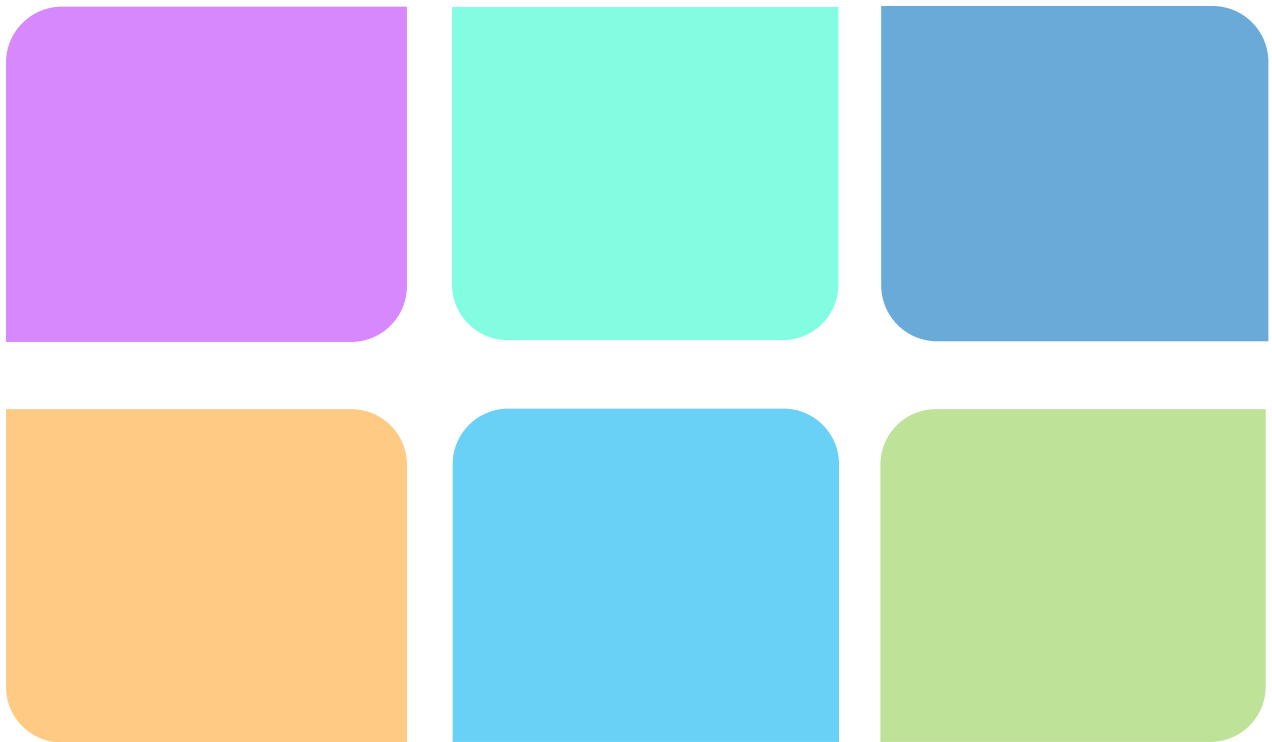


FOLLOW-UP REPORT & SUMMARY NOTES

INNOVATION IN ADJUDICATION: Effective Decision Making in Family Law



Megan Ripplinger
Tiffany Xu
University of Saskatchewan, College of Law
March 3rd, 2023

Table of Contents

INTRODUCTION	1
SUMMARY OF AGENDA & POLICY DISCUSSION PAPER	2
A. SUMMARY OF AGENDA.....	2
B. SUMMARY OF <i>INNOVATION IN ADJUDICATION: EFFECTIVE DECISION MAKING IN FAMILY LAW</i> PAPER.....	2
IDENTIFICATION OF COMMON THEMES	3
FUTURE TOPIC RECOMMENDATIONS	8
CONCLUSION.....	9
APPENDICES	10
APPENDIX A: PRESENTATION.....	10
APPENDIX B: MODELS CHEAT SHEET	16
APPENDIX C: WORKSHOP MATERIALS.....	18
APPENDIX D: EVALUATION FORM.....	20

INTRODUCTION

The eleventh annual Dean’s Forum on Access to Justice and Dispute Resolution (“the Forum”) was held on March 3rd, 2023, at the University of Saskatchewan. Two topics were explored: (1) the development of a competency framework in family law; and (2) innovations in adjudicative models for effective family law decision making.

The purpose of this follow-up report is to provide a summary of the policy discussion paper *Innovation in Adjudication: Effective Decision Making in Family Law*, to summarize the agenda of the event, to identify common themes that emerged during discussions, and to give recommendations for future topics in family justice innovation in Saskatchewan. Please note that presentation and workshop materials are included in the Appendices.



Figure 1: Group Picture (from left to right: Tiffany Xu, Jakaeden Frizzell, Dean Martin Phillipson, Brea Lowenberger, Sam Rezededah, Stephanie Varsanyi, & Megan Ripplinger)

SUMMARY OF AGENDA & POLICY DISCUSSION PAPER

A. Summary of Agenda

The morning of the Forum began with registration and coffee, followed by a welcome message from the Dean of the College of Law, Martin Phillipson. The students and attendees provided brief self-introductions once everyone was seated around the boardroom. Law students, Jakaeden Frizzell and Stephanie Varsanyi, presented on family law competency education through an interactive workbook. Megan Ripplinger and Tiffany Xu followed with a presentation on six family justice adjudicative models. Each presentation was well-received and was followed by a large group discussion with questions and comments.

Attendees made their way to the Education Student Lounge after attending the Student Research Poster Competition and eating lunch. The room was set up with round tables to facilitate breakout discussions. The topic order switched for the afternoon, and the adjudicative models team facilitated their engagement activity first. The breakout groups evaluated all five adjudicative models against the three principles that were identified at the consultation and research stage: expediency, cost-efficiency, and holistic decision making. Attendees were enthusiastic about the evaluation discussions, and student facilitators were used to facilitate the flow of the evaluation and make sure that each model was discussed in ten-minute intervals. The workshop materials used for the evaluation activity are included in the appendices. The engagement activity for the competencies team focused on the development of a competency framework under a scenario context that was unique to each breakout group. The details of the scenarios are included in the participant's workbook.

After the two rounds of engagement activities, a large group discussion was facilitated by asking attendees to share what they will personally take away from the Forum. The day ended by requesting attendees to fill out a feedback form, followed by closing remarks provided by Dean Phillipson and Brea Lowenberger.

B. Summary of *Innovation in Adjudication: Effective Decision Making in Family Law Paper*

The report of the adjudicative models team focused on how innovation within legal adjudication can produce increasingly expedient, cost-efficient, and holistic resolutions for families accessing the justice system. Through research and consultation, the following six categories for innovation emerged:

1. The Inquisitorial Model
2. The "One Family, One Judge" Model

3. Indigenous Adjudicative Models & Social Context Considerations
4. The Mediation-Arbitration Hybrid Model
5. The Parenting Coordination Model
6. The Family Law Tribunal Model

Within each category, we either provided exemplary models from other jurisdictions or we provided recommendations for improved implementation of the existing model in Saskatchewan. Under the inquisitorial model, we researched Australia’s “Less Adversarial” Child-Related Trials. We then explored Toronto’s Integrated Domestic Violence Court and Florida’s Coordinated Management Model under the “one family, one judge” model. We advocated for social context considerations in holistic decision making when Indigenous Peoples are accessing the colonial family law system. Further, we provided an example of a First Nation exercising their self-determination in adjudication through the Siksika Aiskapiimohkiikcs Arbitration Model. For the mediation-arbitration hybrid model, we recommended an “opt-out” model, a non-linear and flexible process, and an opportunity for collaborative process in information-sharing. Turning to the parenting coordination model, we researched key insights from the United States and recommended increased protection and screening for victims of family violence as well as the potential for a hybrid consent rule. Finally, we explored Boyd’s proposed Family Law Tribunal as well as Patricia Robinson’s targeted approach for a specialized tribunal for cases involving children.

We concluded the report by inviting Saskatchewan stakeholders to consider the key processes and underlying principles that can continuously improve our existing adjudicative family models, while imagining the possibilities and potential for new Saskatchewan models that will serve families in more effective ways.

IDENTIFICATION OF COMMON THEMES

In the engagement activity, the adjudicative models team asked attendees to evaluate the five proposed models based on the overarching principles of expediency, cost-efficiency, and holistic decision-making. It should be noted that we did not include Indigenous adjudicative models in our workshop, as we advocated for the self-determination of Indigenous Nations to practice adjudication that is a cultural match for their community based on Indigenous principles.

Some groups were able to finish their discussions on all five models, while others spent more time evaluating the specifics of a certain model. Members of the five groups have provided their unique and valuable insight by drawing upon their experience in the family justice system. **We have compiled the common themes from each discussion below.**

THE INQUISITORIAL MODEL

- ⇒ In Saskatchewan, the JCC and the binding pre-trial were raised as processes that informally have inquisitorial elements.
- ⇒ The discussions highlighted a few caveats for this model to be implemented in Saskatchewan. First, the jurisdiction of judges at different levels of court is confined by relevant statutes. Second, lawyers still play an important role in an inquisitorial model and their competencies affect the outcome of the decision making.
- ⇒ The inquisitorial model is labour intensive on the front-end for judges, but there could be someone else to begin the inquisitorial process at different stages of the dispute. Groups discussed when the inquisitorial process could actually begin and who should be in charge of that process.

Holistic Decision Making

- ⇒ All groups identified that whether the outcome can be holistic not only depends on the training, competency, cultural awareness, background, and willingness of the decision makers, but also depends on the sophistication of the parties and lawyers.
- ⇒ Affidavits do not always create conflicts, but can may increase the animosity between the parties.
- ⇒ This model could increase candour from the parties and enable children's voices to be heard in a better way. However, the traditional truth-finding process including cross-examination reveals important information, allowing the decision makers to reach full access to the case. Without this process, truth-finding might be sacrificed, and the procedural rights of parties being fully heard might not be guaranteed.
- ⇒ Problems may emerge when self-representing parties lack awareness of whether to disclose certain information to the court or not. Harm may be caused when parties lose control of the information after sharing it.
- ⇒ The groups pointed out the binding pre-trial is a new process and requires lawyers' buy-in to be carried out. Because the result of a binding pre-trial is not open to appeal, lawyers must fully explain the possible consequences to clients when intending to choose this model. In our province, some judges may be open to meeting with lawyers and informing them of how the binding pre-trial will be carried out.

Expediency

- ⇒ The groups expressed that the model can be both lengthy or quick depending on the matters being adjudicated, the decision maker, and whether parties have independent legal advice or other assistance.
- ⇒ The model may induce a longer process if judges are left alone to inquire all facts by **themselves, but it can also be shorter when there is some advocacy by lawyers, combined with judges drawing out information that they are more curious about.**
- ⇒ With self-represented litigants, the inquisitorial process may drag on if parties are stuck on negativities and anger.

Cost-efficiency

- ⇒ Cost-efficiency for the parties, especially self-represented litigants, but there is an investment in the system itself.

⇒ Indirect costs to litigants were raised as a concern when the process becomes protracted.

THE “ONE FAMILY, ONE JUDGE” MODEL

- ⇒ The groups identified that potential implementation of this model in Saskatchewan is constrained by the capacity of the court. Anecdotally, one judge hears twenty to thirty cases each day and there are a limited number of judges available at the family law division at King’s Bench. If all the matters of one family are seized in front of one judge, it may impose serious strain on the resources of the justice system.
- ⇒ Currently in Saskatchewan, there is no formal coordination between family court and criminal court, but the request form for JCC’s asks if there are other related cases. This is an important first step in at least being aware of related cases and how that might affect decision making. One possible suggestion was to create the ability for coordination by allowing a family court judge to amend a restraining order to facilitate decision making in various circumstances.

Holistic Decision Making

- ⇒ This model may be effective for situations involving intimate partner violence, as parties do not have to talk about traumas multiple times.
- ⇒ There is a risk that one judge may enter into a sort of “parenting role” where they are repeatedly making decisions about a certain child. This may be holistic, but it also puts a tremendous amount of responsibility onto one judge in relation to the trajectory of a child’s life and how they are essentially raised. It was expressed that parents should be making parenting decisions, not judges.
- ⇒ As intensive counselling for the perpetrators of family violence is only available in criminal courts, the combining of the two systems may make this service accessible in family court. Family violence victims, who usually lack representation in a criminal court, will be represented in such a combined court, although his or her family lawyer will not be able to advise on criminal matters.
- ⇒ There are also some concerns that when the criminal and family matters are adjudicated together, the seriousness of the criminal offence may be watered down in the eyes of the parties.

Expediency

- ⇒ What if the parties appeal the decisions of a specific judge who they do not like? Will the family be stuck with the judge that they do not like? Returning to a decision maker whom the families are not willing to appear in front of may cause this process to be less expedient.
- ⇒ Additionally, what if there are not enough resources and a family spends a significant amount of time waiting to appear in front of “their” judge?

Cost-efficiency

- ⇒ It was expressed that this model is probably more cost effective for the parties, in that there is more continuity in decision making so less time repeating facts and allowing decision makers to get caught up with family dynamics.
- ⇒ It was also expressed that this model may result in less appearances.
- ⇒ It is costly to develop the systemic infrastructure to bring this model to reality.

THE MEDIATION-ARBITRATION HYBRID MODEL

- ⇒ The groups pointed out this model may not be so different than the binding pre-trial, which has not had significant uptake in Saskatchewan.
- ⇒ The non-linear process suggested in the presentation received many positive comments, where the mediation process is interjected by arbitrations on urgent matters. In the binding pre-trial model, the court rules should be set up to promote the flexibility of the model instead of hindering it.
- ⇒ Some groups prefer the roles of mediator and arbitrator to be taken by the same person, and others prefer the roles being taken by different people. This may be grounded in the specifics of the parties' dynamic and the complexity of the dispute.

Holistic Decision Making

- ⇒ How holistic the ultimate decision is may depend on whether the mediator is the same person as the arbitrator. Groups expressed that it is more holistic when it is the same person.
- ⇒ It was also agreed that the relaxed rules of evidence in this model may facilitate more holistic information gathering.
- ⇒ The groups raised issues on the quality of the outcomes in this model given that the results may not be published. This approach surely protects the privacy of the parties, so parties may be more willing to provide a full picture of their family dynamic. What is discounted is public access for the purposes of research and oversight.

Expediency

- ⇒ Arbitration is capable of producing speedier results than court processes. Some participants drew a comparison to labour arbitrations, some of which are so complex now that they are like trials. We should prevent an informal process from crumbling under its own weight.
- ⇒ The flexibility of the model is expedient in switching between mediation and arbitration to resolve disputes quickly.

Cost-efficiency

- ⇒ Some practitioners called for the public funding of this model due to its efficiency.
- ⇒ Examples were provided of how an arbitration step has been used in cases which were primarily mediated. The combination of approaches was successful and efficient.
- ⇒ The groups pointed out that a privatization of this model might increase access as more practitioners would want to become mediators and arbitrators, but the cost is not necessarily lower when it becomes more popular with wealthier families.

- ⇒ There is a call for public funding for publishing the arbitration reasons (with an anonymization of parties' names when there is a need) so that precedents are more readily available and social accountability of this model is better guaranteed.

THE PARENTING COORDINATION MODEL

- ⇒ The groups pointed out that the type of families who are willing to partake in parenting coordination may be at a certain level of reasonableness and willingness to cooperate. Conversely, the type of families who would most benefit from parenting coordination may not be willing to engage in the process and the parenting coordinators may consequently not be willing to enter into agreements with them.

Holistic Decision Making

- ⇒ Groups spoke about how decisions may be more or less holistic depending on the background of the parenting coordinator and their specific approach. Parenting coordinators that have a psychology background may have a more interdisciplinary approach that produces more holistic decisions.
- ⇒ Parenting coordinators can and often do actually meet with the children in getting their views. Depending on the training of the parenting coordinator this has benefits and drawbacks – are they competent in understanding child development?

Expediency

- ⇒ Expedient in keeping families from coming to court on minor parenting issues.
- ⇒ If families are learning communication skills and improving their ability to come to agreements over the course of the two-year term of the parenting coordination agreement, this ability to resolve disputes on their own is very expedient for all involved in family justice.

Cost-efficiency

- ⇒ The groups agreed that this is cost efficient from a systems perspective. From a user-perspective parenting coordination is expensive, although it may save parties money by engaging in a process that empowers them to make their own decisions and to stop needing the assistance of the legal system for parenting.
- ⇒ It may be cheaper to go to court if self-represented; however, if both parties have legal counsel, it may be more cost-efficient to split the cost of a parenting coordinator.
- ⇒ PEI has a government-funded parenting coordinator, but the population is much smaller.

THE FAMILY LAW TRIBUNAL MODEL

- ⇒ The groups expressed mixed thoughts on the effectiveness of a family law tribunal model. Rather than focusing on the adjudicative function of the model, the groups seemed to agree that a tribunal could offer a multi-disciplinary approach around educating people about the source of their conflict and how to manage it.

⇒ The groups identified jurisdictional challenges with the tribunal model.
<p>Holistic Decision Making</p> <p>⇒ Judges deal with legal issues but may not be currently responsible for, nor, subject to their background, the most suited for addressing the holistic needs (e.g., psychological, or financial issues) that a family experiences. A tribunal could offer more services and an opportunity for a panel of decision makers that have a wide range of expertise.</p> <p>⇒ A support worker that follows families through the tribunal would be a beneficial support in producing outcomes that are holistic and meaningful for families.</p> <p>⇒ Limitations were raised in regard to dealing with matters of family property and legal divorce. However, groups recognized that specialization around certain family law issues could produce holistic decisions within that area.</p>
<p>Expediency</p> <p>⇒ A front-end entry point to determine where processes may go is more expedient than dealing with issues as they arise without guidance.</p> <p>⇒ It was expressed that a discrete issue can sometimes be managed in a reasonable period of time, and you do not need all the trappings of the full legal system. A tribunal may be more capable of being proportionate to the issue in dispute. The process would have to be less formulaic than court processes, while still maintaining consistency and fairness.</p>
<p>Cost-efficiency</p> <p>⇒ It was expressed that because you may only be dealing with a specific portion of the issues, it is difficult to say whether it is cost-efficient as a whole.</p> <p>⇒ Depending on the funding model of the services of the tribunal, it may be expensive from a systems perspective.</p>

FUTURE TOPIC RECOMMENDATIONS

Following the Dean’s Forum Day, the following topics emerged as continued areas of interest:

Fairness of the outcome: one stakeholder raised the question of how the consideration of a fair outcome fits into the design of the models. A future project could touch on the definition of fairness in family justice and what fairness entails.

Applications for variations of orders: unlike some other areas of law, family situations are dynamic and may frequently change. Our project has not fully surveyed the issue of applications for variation of orders, which often happen in matters of parenting time, child support, and spousal support.

The role of lawyers in facilitating effective adjudication: our project primarily focused on the role of the decision makers in adjudicative models. However, as some stakeholders pointed out, the

role of lawyers is also crucial in an inquisitorial process such as binding pre-trials and JCC, and other models including arbitration and parenting coordination. The competency project aimed to provide solutions on the key competencies of family law practitioners in general. Neither of the projects has covered how a lawyer's role or the availability of independent legal advice affects the efficiency of the adjudicative models. Future Dean's Forum participants could revisit the [2021 Dean's Forum policy discussion paper and follow-up report](#) that explored independent legal advice in the family justice system.

Religious divorce models streaming into mediation and/or arbitration: a few stakeholders are interested in more research on how separations in different religions could potentially affect the approach of mediation and arbitration in Saskatchewan. This could be a sub-topic for a future project on family adjudicative models.

CONCLUSION

To summarize, the Dean's Forum Day was an opportunity for stakeholders to think about current adjudicative models in the family law context and how they may be improved through innovative processes and integrated principles. There was some disagreement about which models are the most effective and which principles are the most integral, but there was a common tone of recognizing that adjudication in family law has to be fair, flexible, and willing to adapt to the complex needs of families in Saskatchewan.

We are so grateful to the attendees for their positive engagement with our materials and their willingness to involve law students in access to justice initiatives. We hope this project facilitates continued discussions on how families are best served by the Saskatchewan legal system.

APPENDICES

Appendix A: Presentation

Innovation In Adjudication: Effective Decision Making in Family Law

DEAN'S FORUM
ON ACCESS TO JUSTICE AND DISPUTE RESOLUTION

Megan Ripplinger
Tiffany Xu

Navigating the Family Justice System

Imagine the ship is a family that is sailing to separation. The journey represents their involvement with the family justice system.

What could facilitate the journey and what are the obstacles that will stall their progress?

Boosters

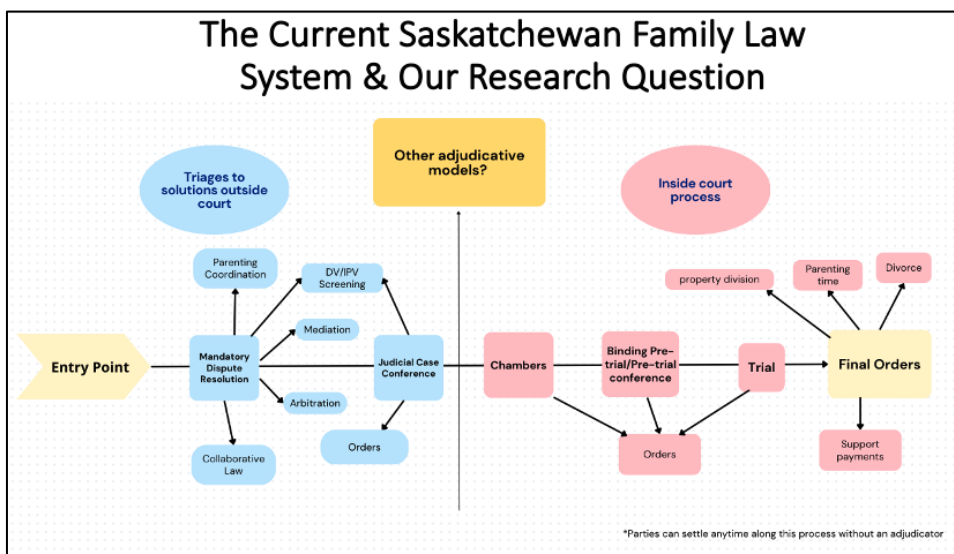
- Efficiency and Flexibility of the system
- Role of the decision maker
- Competency of the lawyers
- Easy access to information
- Other support services

Goals

- Protecting children
- Minimize trauma
- Fairness and safety

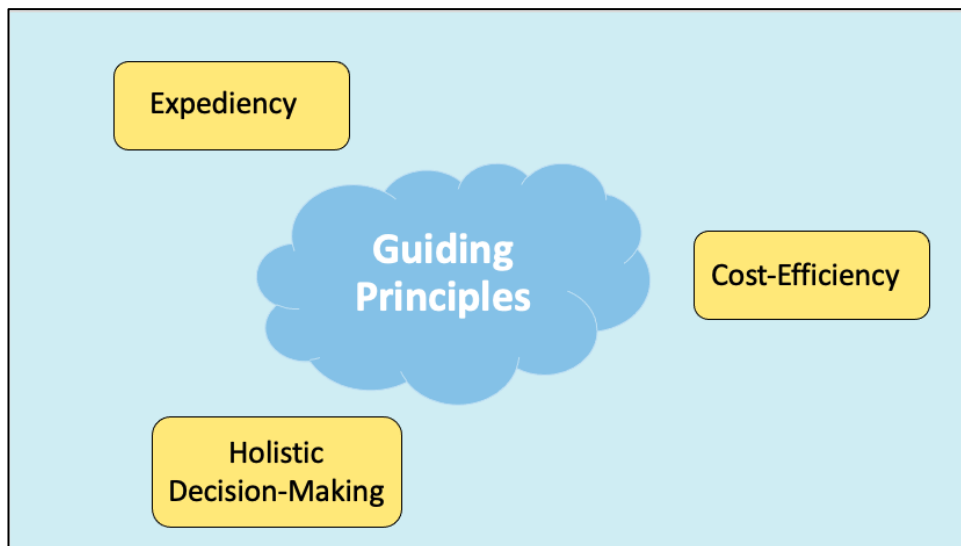
Family in Separation

Obstacles: Unfamiliarity with the legal system, Cultural differences, Cost, Trauma, violence, and power imbalance, Disruptions: new partner, school change, bankruptcy, tax issues, covid...



SIX INNOVATIONS WITHIN ADJUDICATION

- 1 THE INQUISITORIAL MODEL
- 2 THE "ONE FAMILY, ONE JUDGE" MODEL
- 3 INDIGENOUS ADJUDICATIVE MODELS & SOCIAL CONTEXT CONSIDERATIONS
- 4 THE MEDIATION-ARBITRATION HYBRID MODEL
- 5 THE PARENTING COORDINATION MODEL
- 6 THE FAMILY LAW TRIBUNAL MODEL



The Inquisitorial Model



Australia's Less-Adversarial Child-Related Trials

- The judge identifies issues and relevant facts through questionnaires, children's and parent's issue assessments, and by directly speaking with parties
- Family consultants are present at the trial to provide social science expertise (social workers or psychologists)
- Children's voices are heard through oral evidence and reports prepared by family consultants, the appointment of an independent children's lawyer, through evidence given by expert witnesses representing the child, and through judicial interviewing
- Flexible - a judge may make a finding of fact or make an order at any time after the commencement of the trial, and it does not disqualify that judge from continuing with other issues

Toronto's Integrated Domestic Violence Court

The "One Family, One Judge" Model



- Family appears before a single judge for a domestic violence criminal charge as well as for family matters relating to decision-making responsibility and parenting time, child support, spousal support, and restraining orders
- In family cases, the IDV Court can conduct case conferences, make temporary orders, and make final orders if both sides agree. In criminal cases, the court can hear applications to change bail conditions, have meetings before trial, and accept guilty pleas
- Three support workers: a community resource coordinator, a worker from the victim witness assistance program for the alleged victim, and a family support worker
- Began on a consent basis but had a slow uptake; implemented automatic streaming for all eligible cases

Florida's Coordinated Management Model

The "One Family, One Judge" Model



- Require the filing of a "Notice of Related Cases, Family Law Form"
- Rules that provide that "all related family cases must be handled before one judge unless impractical" and allow for the court to "order joint hearings or trials in related family cases"
- Concurrent criminal cases = "impractical" → "One Judge, One Team" approach
- "One Judge, One Team" approach allows judges to confer for the purpose of case management and coordination, and either the court or the party that filed the notice of related cases may organize a case management conference.

The Siksika Aiskapiimohkiikcs Arbitration Model

Indigenous Adjudicative Models



- Create space for Indigenous Peoples to practice their own adjudicative models within the existing colonial family law system and legislation
- The Siksika Arbitration Model, out of Alberta, has two steps:
 1. The Mediation Step
 2. The Arbitration Step (if mediation does not result in agreement)

*The parties can go to the *Aiskapimohkiikcs Appeal Tribunal* to have a trained community member and an Elder decide on behalf of the parties
- An adjudicative model that works for one Nation may not be a cultural match for Indigenous Peoples from other Nations

Ee-sak-ee-mo-keeks


Indigenous Adjudicative Models



Social Context Considerations

- Family law can be decolonized by making space for considerations of social context in decision making
- Evidence about social context may be available through extended family members or members of Indigenous communities, such as Elders.
- Education is important so that historical and personal trauma of Indigenous parents is not used to deny parenting time
- Decision making that facilitates access to services and providing resources, rather than further harming Indigenous kinship structures


The Mediation- Arbitration Hybrid Model



Recommendations

- Australian “opt-out” model: designate a second person to be an arbitrator when the parties request it under apprehension of bias
→ “comfort clause” in Saskatchewan
- A non-linear process: Can go back and forth between mediation and arbitration on an as-needed basis.
- If different people, the mediator and the arbitrator could collaborate to ensure key information and context is readily shared.

The Parenting Coordination Model



Insights from the United States

- The hybrid consent rule out of Vermont: The Court can make an “Order of Referral” to an “Intake and Informational Meeting”
- Family violence context: making rules or statutes to allow victims to have a support person present during the parenting coordination sessions
- Formalize a process for terminating sessions if there are continued threats of abuse, coercions or violence

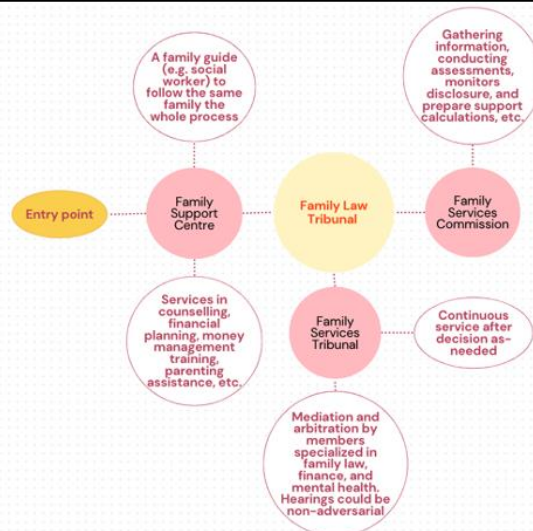
Boyd's Proposed Family Law Tribunal

The Family Law Tribunal Model



- Families enter through the **Support Centre**:
 - A guide assigned to help navigate the entire process and refer parties to relevant services
- The **Investigative Commission**:
 - Assist the family and tribunal in gathering information, conducting assessments, making inquiries around income, and making recommendations regarding parenting agreements.
- **The Tribunal**:
 - Members of the tribunal would be experienced family law lawyers and retired judges with an interest in family law disputes but might also include financial experts and mental health professionals.
- Services continue after the decision on an as-needed basis to address issues that may arise as the family situation continues to evolve.

BOYD'S PROPOSED FAMILY LAW TRIBUNAL



Robinson's Holistic Settlement Tribunal System for Child-Related Matters

The Family Law Tribunal Model



- A targeted approach that limits the tribunal to only child-related matters where there is a best interest of the child analysis in decision making and parenting time cases
- Includes multi-disciplinary mediators and adjudicators who share decision-making responsibility, nurture tribunal expertise, and develop transparent decision-making guidelines
 - Data from Child & Family Service Review Board (CFSRB) in ON
 - Test of "best interest of child", definition of "attachment", "psychological parent", etc.
- Adjudication relegated to a secondary, inquisitorial component.



WORKSHOP PREVIEW



- Evaluate our proposed models against the guiding principles of **expediency, cost-efficiency, and holistic decision-making**
- Because we are advocating for the self-determination of First Nations to create adjudicative models that work for their communities, we acknowledge that the diversity of Indigenous Adjudicative Models is not appropriate for evaluation against Western principles during our workshop.
- Rather, we ask that you please evaluate whether the proposed models are holistic enough to incorporate social context considerations and collaboration with Indigenous community members and Elders in decision making.

We invite Saskatchewan stakeholders to join us in considering the key processes and underlying principles that can continuously improve our existing adjudicative family models, while imagining the possibilities and potential for new Saskatchewan models that will serve families in more effective ways.



Questions & Comments



Appendix B: Models Cheat Sheet

Inquisitorial Model

- ⇒ Rather than relying completely on evidence that opposing parties present, the inquisitorial model involves judges taking an active role in acquiring additional information by investigating the facts through questioning.
- ⇒ Avoid hurtful accounts in affidavits that make it difficult for parties to move forward with productive relationships.
- ⇒ Address power imbalances that affect the process of truth seeking.
- ⇒ JCCs, binding pre-trials, and pre-trial conferences may already employ an inquisitorial approach.
- ⇒ An inquisitorial approach can be incorporated into other proposed models outside court, such as in arbitration.

Example (pg.5):

- ⇒ [Australia's Less Adversarial Child-Related Trials](#)

ADJUDICATIVE MODELS CHEAT SHEET

"One Family, One Judge" Model

- ⇒ When one judge is seized to one family throughout the entirety of their dispute, it creates enhanced awareness of family dynamics and patterns when decision making.
- ⇒ Enables diligent case management; ensures consistency in actions and avoids duplication of judicial efforts.
- ⇒ Parties do not have to explain the intricacies of their legal issues multiple times, and they are more willing to share information with the court.
- ⇒ Spectrum: from one judge for a private family case, to one judge for all related civil cases, to one judge for all related civil and criminal cases.

Examples (pg.7-8):

- ⇒ [Toronto's Integrated Domestic Violence Court](#)
- ⇒ [Florida's Coordinated Management Model](#)

Indigenous Adjudicative Models & Social Context Considerations

- ⇒ Decolonizing family by making space for considerations of social context in decision making.
- ⇒ Social context evidence may be available through extended family members, Elders, and other members of indigenous communities.
- ⇒ The self-determination of Indigenous Nations should be respected by creating space for Indigenous Peoples to practice their own adjudicative models. An example of this self-determination is the Siksika Askapiimohkiikcs model, but each Nation will be unique with their adjudicative approaches and preferences.

Example (pg.9):

- ⇒ [Siksika Aiskapiimohkiikcs Arbitration Model](#)

Mediation-Arbitration Hybrid Model

- ⇒ Two ways to facilitate this model: the mediator and the arbitrator can be the same person, or they can be different people and the parties commit to the entire process in an agreement.
- ⇒ The model can produce more expedient results and reduce legal fees in the long term.
- ⇒ This model is still new and underutilized in Saskatchewan.

Recommendations (pg.11):

- ⇒ **Australia's "opt-out" model**
- ⇒ **A non-linear process; can go seamlessly between mediation and arbitration on an as-needed basis**
- ⇒ **If they are different people, the mediator and the arbitrator could collaborate to ensure key information and context is shared**

Parenting Coordination Model

- ⇒ PC mediates and arbitrates matters relating to minor parenting issues including parenting plans, clothing and personal belongings, temporary care of the child and discipline, etc.
- ⇒ In Saskatchewan, PCs can be lawyers or mental health professionals.
- ⇒ A PC's hourly rate can be the same as a lawyer, and the agreement lasts for two years.
- ⇒ This model is currently underutilized in Saskatchewan.

Recommendations (pg.13):

- ⇒ **The hybrid consent rule**
- ⇒ **Formalized processes for domestic violence screening and termination of PC sessions if parties are unsafe**
- ⇒ **Allow victims of domestic violence to have a support person present**

The Family Law Tribunal Model

- ⇒ Tribunals have more freedom to develop their own dispute resolution and adjudicative models, policies, and processes, as well as relaxed rules of evidence. There is a very wide range of what a family law tribunal could be, based on its enabling legislation.
- ⇒ Potential for multi-disciplinary mediators and adjudicators to share decision making responsibilities and develop transparent guidelines.
- ⇒ Tribunal could be specialized to one area of family disputes.

Example (pg. 14-15):

- ⇒ **Patricia Robinson's thesis for a holistic tribunal settlement system in child-related matters**
- ⇒ **Boyd's Proposed Family Law Tribunal**

Appendix C: Workshop Materials

WORKSHOP: An Invitation to Evaluate the Adjudicative Models

We invite you to rate your perceptions from 1 to 5 on whether the proposed models would help achieve the three desired principles, with 1 representing the weakest and 5 the strongest.

To help guide your thinking, please keep in mind the following points for each principle.

Expedience

- Is the model facilitating decision making in a time-sensitive matter?
- Can the model be proportionate to the issue in dispute? How much flexibility does it offer to solve less-complex matters quickly?
- Does the model complicate the system further, or does it facilitate access to justice? Please consider self-represented litigants.

Cost-efficiency

- Consider whether families save money in accessing the proposed model due to its efficiency?
- The cost of adjudication will vary depending on the rates of service providers and whether there are funding opportunities available, but it is worthwhile to consider this principle throughout.

Holistic nature of the decision

- Can the model facilitate a collaborative approach and a decision that is comprehensive of the entire family dynamic?
- Please think back to our considerations of Indigenous adjudicative models and Indigenous Peoples accessing proposed models. Is the approach flexible enough to incorporate social context considerations? Can Elders and other community members be incorporated into decision making?
- Does the model allow for a decision maker to account for the needs of minorities, newcomers, self-represented litigants, and victims of domestic violence?
- Does the model allow for a multidisciplinary and collaborative approach? Can it incorporate interdisciplinary information gathering?

MODELS →	INQUISITORIAL MODEL	“ONE FAMILY, ONE JUDGE” MODEL	MEDIATION-ARBITRATION HYBRID MODEL	PARENTING COORDINATION MODEL	FAMILY LAW TRIBUNAL
PRINCIPLES ↓					
HOLISTIC DECISION MAKING					
Thoughts on benefits and drawbacks					
EXPEDIENCY					
Thoughts on benefits and drawbacks					
COST-EFFICIENCY					
Thoughts on benefits and drawbacks					

Appendix D: Evaluation Form

2023 Dean’s Forum Attendee Feedback Form



11th Annual Meeting – March 3, 2023

WE’D LIKE YOUR FEEDBACK

What do you think of the structure of the forum of having both presentations in the morning and both workshops in the afternoon?

What do you think of the workshop of evaluating family justice models? How does your organization have capacity to facilitate more efficient and holistic decision-making in the family justice system?

What do you think of the workshop of developing a competency framework? How does your organization have capacity to facilitate the education of competent practitioners for family justice?

Do you think our delivery of information help or hinder collaboration? Why?

What do you think is the most useful about this year's Dean's Forum? Was there anything that surprised you today?

What are your thoughts on the venue for the afternoon? Would it be a venue for future Dean's Forums?

What other suggestions do you have for future Dean's Forums?
