

FOLLOW-UP REPORT & SUMMARY NOTES

*The Ninth Annual Dean's Forum on Access to Justice
and Dispute Resolution*

Rory Erickson

Shelby Fitzgerald

Pam Watson

Levi Graham

Kyra Kujawa

Taryn McLachlan



DEAN'S FORUM
ON ACCESS TO JUSTICE AND DISPUTE RESOLUTION

Table of Contents

- Introduction2***
- The “Merger” Concept2***
- Summary of Policy Discussion Papers Presented by Students4***
 - A Tale of Two Labs.....4***
 - Reimagining Family Justice in Saskatchewan 2.05***
- Common Themes that Emerged from the Forum Day’s Discussion.....6***
 - Methodology Used.....6***
- Recommendations from Student Facilitators10***
 - Merger Recommendations10***
 - Presentation Recommendations10***
- Topic Recommendations11***
 - Lab Group Recommendations.....11***
 - Family Group Recommendations11***
- Recommendation Regarding Diversity12***
- Conclusion14***
- Appendix I: Methods for Design Lab Thinking15***
- Appendix II: Visual Tools Used.....15***
- Appendix III: Screenshots of Mural17***

Introduction

This report will summarize the findings and recommendations from the 9th Annual Dean's Forum on Access to Justice and Dispute Resolution (the "**Forum**"). The purpose is to provide a brief overview of each policy discussion paper, to summarize the methodology used on the Dean's Forum Day, and to share recommendations for next steps.

For clarity, this document will refer to the students who addressed "Reimagining Family Justice in Saskatchewan 2.0" as the "**Family Group**." The Family Group focused on the role that independent legal advice ("**ILA**") serves during a family reorganization. Students that authored "A Tale of Two Labs" are referred to as the "**Lab Group**." The Lab Group focused on the idea of a lab and how it may enhance access to justice in Saskatchewan.

The "Merger" Concept

This year, the student groups had very different topics. The Family Group was tasked with exploring and investigating mandatory ILA in the family justice system – a problem that arises within a complex system. In essence, the Family Group was asked to address a very complex problem. In contrast, the Lab Group was asked to explore and examine technology or innovation labs. As organizations, Labs are ultimately defined by a particular process – a process which is designed to devise innovative solutions to address problems within complex systems. **In short, the Family Group was asked to address a complex problem while the Lab group was asked to examine a process which yields solutions to complex**

problems. The merging of topics became a natural progression for the purpose of the Dean’s Forum presentation.

The “merger” decision was largely driven by pragmatic considerations. It was intended to improve the Dean’s Forum presentation by making efficient use of time during the Dean’s Forum. It was decided that the presentation would begin with a description of the Innovation Lab process which would then lead to the application of that process to the ILA problem. This relieved the Lab Group of the need to generally describe and demonstrate labs processes using a hypothetical example. This also freed up more time for the Family Group to engage in a deeper examination of the ILA issue, prompt a discussion of solutions, and ultimately provide a forum for deeper examination and participation.

This approach was also intended to have pedagogical value. Throughout the two Dean’s Forum days, we only needed to engage participants with two main ideas: Labs and the ILA problem. Merging the concepts meant that we did not have to repeatedly flip “back and forth” between disparate topics. Furthermore, using the two-day format for one presentation allowed participants to reflect on the first day’s discussion, and bring these reflections to the second day.

Although the merger idea was initially intended to be pragmatic and pedagogical, there may be further room to consider this technique in future Dean’s Forum presentations. Many participants expressed a view that this format was “exciting” and “innovative.” Future iterations of the Dean’s Forum could be designed to foster further development on topic mergers. This might be considered at the initial “topic selection” stage before the Dean’s Forum class is initiated—future topics might be chosen to facilitate such a merger. Future

student group may also consider merging topics at an earlier point of development to create a more cohesive presentation. There is a lot of potential growth that could be considered with mergers.

Summary of Policy Discussion Papers Presented by Students

A Tale of Two Labs

“Labs” go by many names. For example, they might be called a “Tech Lab”, “Legal User Lab” or “Refugee Law Lab.” Labs might be aimed at different things or use different techniques—but the basic structure is the same. **The Lab Group preferred the terms “*Innovation Lab*” and “*Legal Innovation Lab*” respectively because this was the most generic term for the core process.**

An Innovation Lab “is a semi-autonomous organization that engages diverse participants—on a long-term basis—in open collaboration for the purpose of creating, elaborating, and prototyping radical solutions to open-ended systemic challenges”¹ In essence, an Innovation Lab is a process whereby innovations are derived from broad and diverse participants, these innovations are narrowed into prototype-able solutions—which are applied and later revisited. Through numerous iterations of creating solutions, prototyping them, learning from them, re-examining them, and amending them, meaningful solutions can be developed within a complex system. A key component of the lab process is workshopping solutions—this workshop phase is broken down into three sub-stages: (1) “Seeing the system”; (2) “Designing” solutions; and (3) “Prototyping” solutions.

¹ Lidia Gryszkiewicz, Ioanna Lykourantzou & Tuukka Toivonen, “Innovation Labs: Leveraging Openness for Radical Innovation?” (2016) 4:4 J Innovation Management 68, n 5.

The report “A Tale of Two Labs” describes the various phases and stages of a standard lab process and applies it to a hypothetical innovation lab. This hypothetical is the first of the “two” labs; the second lab is the one that we prototyped during the Dean’s forum. Readers are encouraged to read the full policy discussion paper for a fulsome explanation of the Innovation Lab process.

Reimagining Family Justice in Saskatchewan 2.0

The policy discussion paper, *Reimagining Family Justice in Saskatchewan 2.0*, largely focused on the role that ILA serves during family reorganizations. The students were asked to consider the current landscape in family law and to provide commentary on whether ILA is still an effective method to ensure that a spouse’s property rights remained protected on the dissolution of an intimate relationship. Although a seemingly simple question, the road to answering this was long and winding. It became evident that the effectiveness of ILA cannot be discussed without considering the complexities of the current system. This included, *inter alia*, greater access to mediation and collaborative law, increased legal resources online, barriers to receiving trauma-informed services, and where ILA sits in the current process.

The paper includes an in-depth overview of the historical backdrop of ILA. This was provided to ensure the reader could properly understand the context for which ILA is still relied upon today. Tensions with ILA are identified and juxtaposed with other jurisdictions, inside and outside of Canada. In the latter part of the paper, **the macro picture of family law**, with a special focus on how it relates to ILA, was considered. Finally, they identified nine problems related to ILA and proposed recommendations for each. This included increasing the training for mediators and lawyers on how to provide trauma-informed services,

regulating the mediation profession, increasing the number of mediators in the province, and potentially creating a commission for family services similar to the Human Rights Commission.

Common Themes that Emerged from the Forum Day's Discussion

Methodology Used

The 2021 Dean's Forum was split into two half-days. Each day addressed different stages of the lab process and was intended to lead participants to understand, brainstorm, and eventually develop solutions for the ILA problem.

Day 1: Friday, March 5th

The first day of the Dean's Forum had two primary objectives: (a) describe the Innovation Lab process; and (b) apply the first stage of the lab-workshop process to the ILA process—to allow participants to “see the problem.”

The first stage, (a) describing the Innovation Lab process was largely an hour-long presentation conducted by the Lab Group which outlined the basic information which was included in their respective report. This presentation was relatively straightforward. It included oral presentations combined with a video (which was graciously and deftly created by Kyra Kujawa).

The second stage, (b) applying the first stage of the lab-workshop process, was largely participation driven. This process included breaking participants into five break-out groups. Each break-out group contained a unique and carefully crafted fact pattern developed by the Family Group using the “Persona Profile” technique (described in Appendix 2 below). These

fact patterns highlighted particular concerns that arise within the ILA problem-space and highlighted intersecting problems that arise for users in the family justice system. They were intended to begin introducing participants to the inherent complexity surrounding ILA. Although a full-length lab process might be constructed to ensure that every group of participants were exposed to similar concepts, this format allowed us to highlight a variety of problem clusters within a short time-frame. The key goal of this part was to invite participants to contemplate the complexity of the problem and thereby “unfreeze the problem” by seeing the problem through unfamiliar perspectives.

Day 2: Tuesday, March 9th

The second day of the Dean’s Forum had three primary objectives: (c) introducing participants to the complexity of the problem through an institutional lens; (d) enable the participants to develop solutions or solution clusters; and (e) identify and refine common solution clusters into actionable solutions. Admittedly, our goals on the second day were ambitious.

We began by sending participants to break-out groups, usually the same or similar ones as at the previous meeting. During these break-out group sessions, we began introducing participants to the complexity of the problem through an institutional lens. This meant introducing a second set of fact patterns, built upon the one’s from the day before and highlighting the concerns and difficulties of institutional players and professionals in family justice, such as mediators and lawyers. This stage was meant to both refresh the participants on last-day’s conversation and bring the conversation towards a more systemic focus.

While in these breakout groups, facilitators were also instructed to pivot towards solutions. This was reflective of a shift between the “seeing the problem” and “designing solutions” stages of the lab. The institutional focus of the new fact patterns allowed us to develop solutions in light of both the user and the constraints on service providers. Still in break-out groups, group facilitators were asked to cluster solutions into common themes.

Eventually, the break-out groups were disbanded so that participants could take a break. This time allowed the student facilitators to quickly gather and share the themes of their solutions and develop some common grounds. This was an imperfect method but was necessary given the time constraints. A typical lab process would leave more time for transitions and sharing between groups.

After quickly compiling common themes from the solutions designed by participants, we were able to find some common themes among some of the groups: issues around mediation not being regulated, a lack of communication between lawyers and mediators, and insufficient trauma-informed services. The most germane common solution was a system which introduced legal information (and other interdisciplinary support) into the process at the beginning of the negotiation stage—this is contrasted with ILA which currently occurs at the end of the mediation/agreement formation process. The most ambitious solution proposed was the development of a Commission similar to the Human Rights Commission where families could access multiple resources to resolve their dispute.

The final stage of the lab process was intended to take one solution and refine it in a critical way. Normally, this prototyping stage is a major component of the lab process, but due to time constraints, we could only afford to devote an hour to this stage. Furthermore, a

typical lab process prescribes a detailed form of organization. For example, often participants will form into sub-groups based on their expertise profile and examine a particular solution within these lenses. Here, we simply kept all participants in one large group and introduced lenses one-by-one, and invited participants to discuss.

For some time, this proved effective because it spurred a meaningful discussion about how a potential solution could be implemented. However, due to time constraints, students were unable to focus participants on refining a chosen solution since further discussion ensued concerning systemic issues. At the end, we were not able to refine a solution into something well-defined and implementable. That said, more time or a more delineated transition could have yielded a more tangible solution that could be employed quickly.

Overall, this year's Dean's Forum was an ambitious one. We aimed to show how Innovation Labs are useful processes for deriving solutions. Our ambition is found in the fact that we hoped to develop a solution to an actual real-life complex problem—where such a solution did not exist prior to the Dean's Forum process itself. We may not have produced a singular solution—but we did demonstrate for everyone that there were some common approaches that seemed to have wide acceptance. That is, most participants expressed the notion that legal (and other) oversight is valuable but improperly timed in the current regime. This is an important development because it shows that there is a general direction for future solution development—and this is a direction that some justice system leaders have identified themselves as well as being identified in the Family Group's report.

Recommendations from Student Facilitators

Merger Recommendations

The students who participated in Dean's Forum this year have noted a few areas regarding the "merger" concept which are worth reflection:

- The merger concept required a large degree of cross-expertise. Both groups were forced to become fairly well-acquainted with each other's topics.
- The merger concept would have been better implemented if it were considered earlier in the process. This would allow both teams to develop research useful to the merger concept. For example, the lab group could have tailored their research to addressing family-law specific lab concepts.
- The merger concept requires a greater degree of cross-team communication. Future mergers might be easier if teams could meet in person.

When considering next steps, it is useful to consider James Youngblood Henderson's reflection that, to move forward requires "discourses that create inclusive dialogue, creative decision-making models and institutional reform."² The merger, as attempted in this iteration of the Dean's Forum, is itself a step forward in innovation. In the continued quest to address access to justice issues, inclusivity and creativity should forever be the primary challenge of the Dean's Forum.

Presentation Recommendations

The students who participated in Dean's Forum this year have noted a few areas regarding the presentation concept which are worth reflection:

- Given the two-day format, some participants only attended the second day and therefore may not have had the background understanding of the overall methodology of the process. This may have affected some participants' contributions.

² James (Sákéj) Youngblood Henderson, "Postcolonial Indigenous Legal Consciousness" (2002) 1 Indigenous LJ 1 at 51.

- To fully appreciate the complexity of ILA, it was important to allow space to discuss both a user, i.e. family-centered, perspective and an organizational, i.e. profession-centered, perspective. For the purpose of flow, it may be important to consider encapsulating problem-based discussions on the same day. Doing so would be more efficient, respectful of the participants time and, ultimately help facilitators reach their goals.

Topic Recommendations

Lab Group Recommendations

- A lab is a process which can be applied to any area, where a complex topic of concern exists. Participants should be encouraged to consider areas of complex concern where incremental change might be possible. “A Tale of Two Labs,” **at page 21**, contains some guidance on the situations which might employ lab processes.
- The lab group would like to emphasize that Innovation Labs work particularly well with technological innovation. Some participants have expressed interest in establishing Tech/Innovation labs. This is both feasible and encouraged. The basic principles of the lab “process” demonstrated in the presentation itself apply here. This is also germane to the recently adopted “duty of technological competence” in Saskatchewan Code of Conduct, 3.1-2, Comments 4A and 4B.
- Procurement often requires a traditional “waterfall” style of project management. It would be encouraged to consider, when possible, procurement arrangements which allow for incremental and iterative design. This requires certain planning at the procurement stage.

Family Group Recommendations

- A need for clarity was a common theme that emerged on both days. Clarity would help both direct the user to the right support and aid in managing expectations of the user. One participant wondered how to determine if a user “is confused or just not getting the answer they want?” Similarly, one participant noted a “misinformed spouse = misinformed fight.” Clarity, in general, can therefore be understood to a be an upstream solution.
- Discussion of where ILA sits in the process of a family reorganization occurred. There is concern that if spouses enter into a mediation, and are not aware of their property rights, that they will agree to aspects of an interspousal contract that they might not otherwise concede if they were fully informed of their entitlements. Justice stakeholders may want to increase access to resources that will inform spouses of

their property rights prior to entering into a mediation or drafting a contract themselves.

- Recommendation of standardizing of what ILA entails was brought forward. Currently, there is no standard which causes confusion for the public and for members of the legal community. ILA could range from a “rubber stamp” to drafting an entire interspousal contract for spouses. Legislation changes or practice directives could potentially resolve this issue.
- The need to increase trauma-informed practice was recommended. Spouses going through a family reorganization will likely encounter some form of trauma.
- One potential solution that was discussed was creating a Commission similar to the Human Rights Commission where families could access multiple resources to resolve their dispute. This could increase access to justice in a multitude of ways, such as financial barriers and accessibility of resources.
- If a committee or a working group of stakeholders decide to focus on the work started at the Dean’s Forum, they might consider adopting or developing a similar Access to Justice Measurement Framework, as British Columbia has for organizations to individually track progress and to collectively track progress among organizations related to the ILA topic (see Appendix 4 of “Reimagining Family Justice in Saskatchewan 2.0”).

Recommendation Regarding Diversity

At its core, the Dean’s Forum is an initiative meant to create dialogue about access to justice issues and the future of the justice system. Five years previous to the start of the Dean’s Forum, Dwight Newman published an article in which he examines cross-cultural theorizing and notes “a legal system carries with it particular values, systems of thought, and intellectual traditions.”³ These values, systems, and traditions have created barriers to inclusion in the legal profession. (The work of the 2019 Dean’s Forum students on Diversity and Inclusion in the Legal Profession highlights the important work remaining to be done in this area specific to the profession of law). The Dean’s Forum is a product of the legal

³ Dwight G Newman, “You Still Know Nothin’ ‘Bout Me: Toward Cross-Cultural Theorizing of Aboriginal Rights” (2007) 52:4 McGill LJ 725 at 730.

landscape in which it is situated and so is not immune to the challenges around diversity and inclusion that pervade the legal system.

Following our debrief, students wondered if there was more we could have done to ensure that the invitations included more diverse participants, including people of colour and non-profit service providers. Previous iterations of the Dean's Forum have addressed the need for inclusivity in discussions of access to justice and the future of the justice system (see the 2019 Dean's Forum report mentioned above). We encourage future Dean's Forum students to carefully consider how they can continue this work through the voices they choose to include in future discussions.

This year due to COVID-19, an online platform was exclusively used over two half-days, rather than the previous full day in person format. While there was concern that the lack of in-person interaction may affect the level of engagement, it did not appear to be an issue. The students discussed the potential this experience has for future iterations of the Dean's Forum to consider using technology to widen the circle of possible stakeholders and/or attendees.

In his same article, Newman notes that "It is simply necessary to assume that it is possible to reach cross-cultural consensus in order to have a chance of doing so."⁴ The Dean's Forum has much potential to continue building a foundation of cross-cultural discourse. The future of the justice system in Saskatchewan will be all the better for it.

⁴ *Ibid* at 737.

Conclusion

2021 marked the first year where the Dean's Forum was entirely online. While this posed certain challenges, it also spurred certain innovations. The same story is playing out across the world in other settings—now is a time of change. This means taking action, making the leap. The same can be said when approaching access to justice in the province.

The Innovation Lab process is meant to derive rapid solutions in the face of complex problems. This means taking a leap. The ILA project is one of those areas which need change. The Dean's Forum showed that the ILA space is complex, but we were also able to demonstrate how the Innovation Lab process can elicit multiple perspectives from stakeholders, and inspire tangible direction for future change. What these solutions look like depends on the many experts and practitioners in the field. We hope that this moment can be sustained and approached with the change mind-set that we aimed to instill.

Appendix I: Methods for Design Lab Thinking

The design thinking methods described were adapted from *Innovating for People: Handbook of Human Centered Design Methods* by the LUMA Institute. We developed Persona Profiles to use as part of Stage 1 of our workshop which are described in the book as “fictional characterizations drawn from real research data.”⁵

Appendix II: Visual Tools Used

The teaser video can be accessed at the following link:

https://drive.google.com/file/d/1HnK1jFKDGJ_TqI-M0YIXfYUpAS3sYG8D/view?usp=sharing

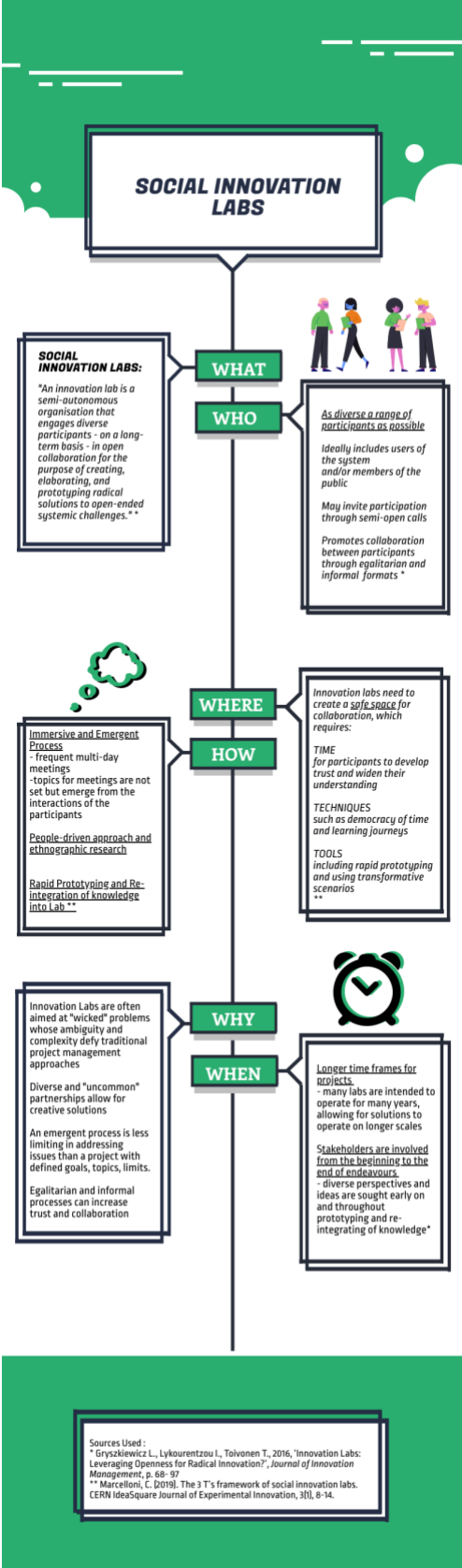
The Innovation Lab Presentation Video can be accessed at the following link:

https://drive.google.com/file/d/1HnK1jFKDGJ_TqI-M0YIXfYUpAS3sYG8D/view?usp=sharing

The Innovation Lab infographic is reproduced below and can also be accessed at:

<https://drive.google.com/file/d/1xUjMYegGxCDBDQo-pZnOIMgIa6tsJWrd/view?usp=sharing>

⁵ LUMA Institute, *Innovating for People: Handbook of Human Centered Design Methods* (Pittsburgh, PA: LUMA Institute, 2012) at 34



Appendix III: Screenshots of Mural

DEAN'S FORUM MIND MAPPING

Equally map your ideas, observations or projects and uncover new perspectives and connections.



INTRODUCTION

MIND MAPPING allows you to represent ideas and organize them into a visual diagram (usually by keywords). Start with your main idea in the central point, then add sub-themes to branch out and connect supporting ideas, concepts, or themes.

This method allows you to see a **visual overview of relationships**, as well as **discover hidden connections and connections**. It fosters creative thinking, effective brainstorming, exploration, and planning.

With **Rapid Mind Mapping in MURAL**, you'll be able to make use of **color-coded levels**, and you'll be able to color, copy, and drag.

TOOL TIPS

ADD ELEMENTS

Fill the hub key to quickly duplicate sticky notes. Use **Control/Cmd** to duplicate elements.

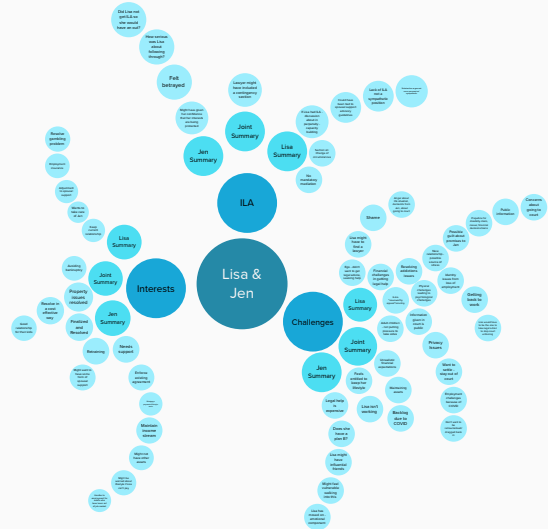
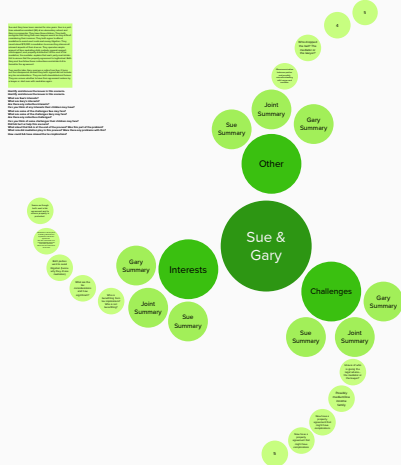
Hold down the right key (R) on PC (and click and drag) an element to duplicate it in the desired position.

MAKE IT VISUAL

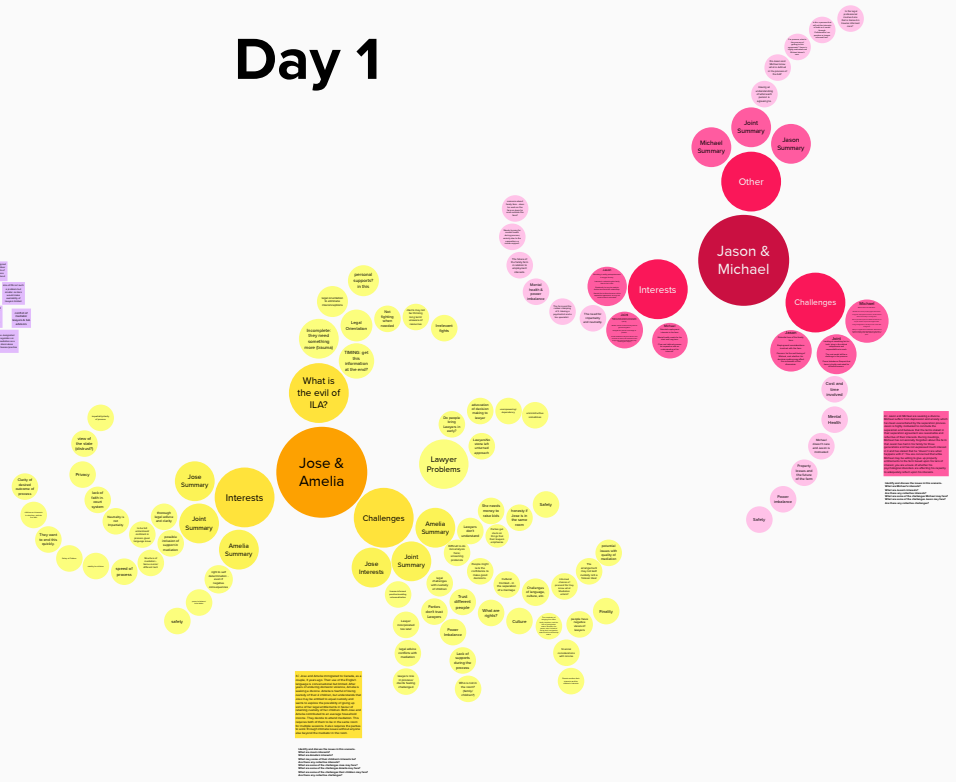
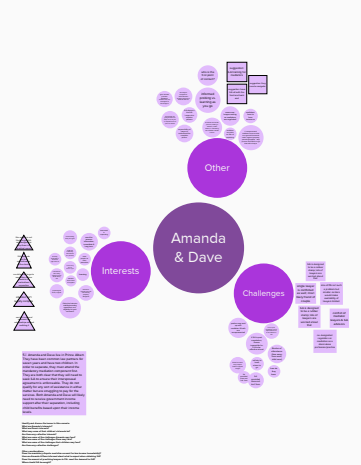
Use the panel on the left to add colors and images. Choose objects and play with colors.

Use different shades for different levels of information structure.

RESOURCES



Day 1



DEAN'S FORUM
ON ACCESS TO JUSTICE AND DISPUTE RESOLUTION

INTRODUCTION

The Dean's Forum is a unique and innovative initiative that brings together legal professionals from across the country to discuss and share best practice on a range of legal issues. The Forum is a voluntary organization and is not a part of the legal system. It is a place where legal professionals can meet and discuss their views on a range of legal issues. The Forum is a place where legal professionals can meet and discuss their views on a range of legal issues. The Forum is a place where legal professionals can meet and discuss their views on a range of legal issues.

WHAT IS IT?

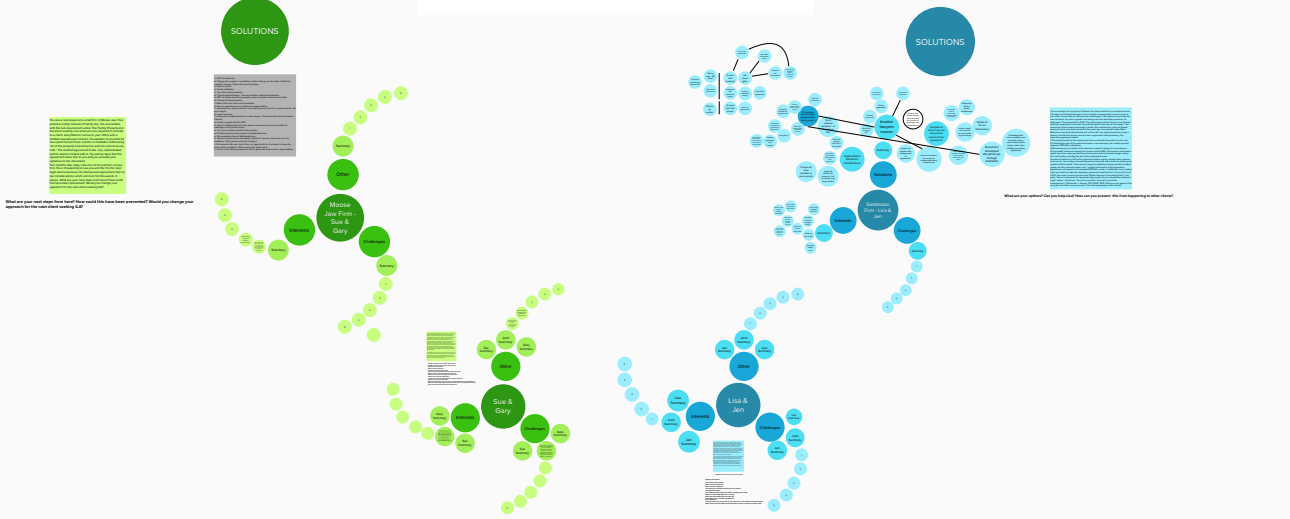
The Dean's Forum is a unique and innovative initiative that brings together legal professionals from across the country to discuss and share best practice on a range of legal issues. The Forum is a voluntary organization and is not a part of the legal system. It is a place where legal professionals can meet and discuss their views on a range of legal issues. The Forum is a place where legal professionals can meet and discuss their views on a range of legal issues.

HOW DOES IT WORK?

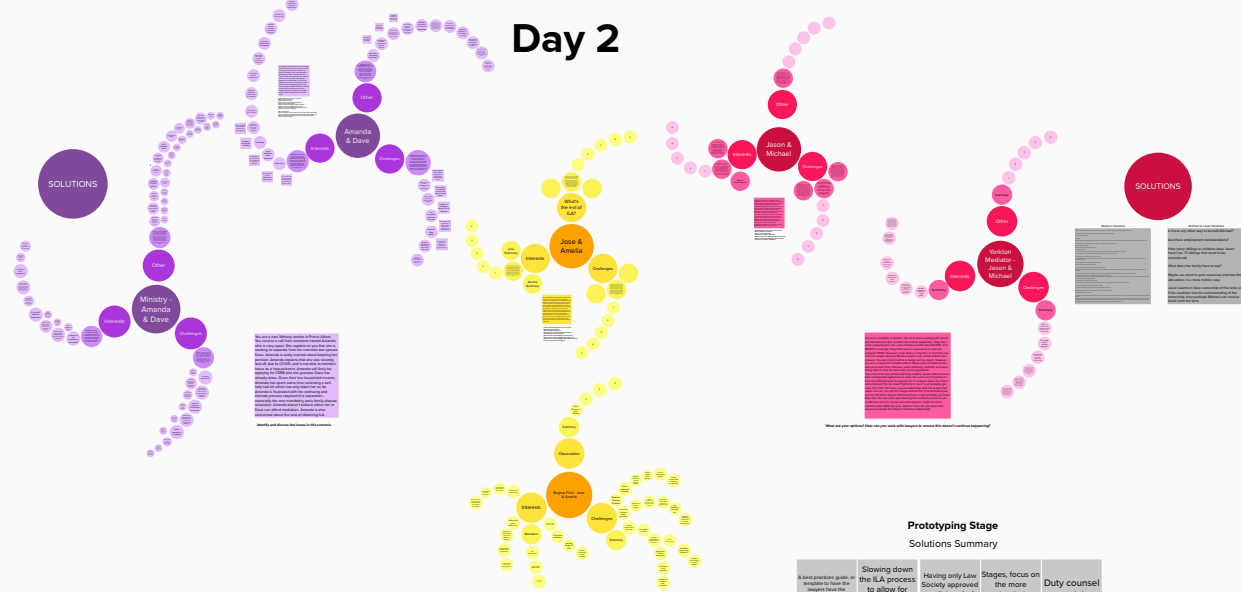
The Dean's Forum is a unique and innovative initiative that brings together legal professionals from across the country to discuss and share best practice on a range of legal issues. The Forum is a voluntary organization and is not a part of the legal system. It is a place where legal professionals can meet and discuss their views on a range of legal issues. The Forum is a place where legal professionals can meet and discuss their views on a range of legal issues.

WHY DOES IT MATTER?

The Dean's Forum is a unique and innovative initiative that brings together legal professionals from across the country to discuss and share best practice on a range of legal issues. The Forum is a voluntary organization and is not a part of the legal system. It is a place where legal professionals can meet and discuss their views on a range of legal issues. The Forum is a place where legal professionals can meet and discuss their views on a range of legal issues.



Day 2



Prototyping Stage
Solutions Summary

A level guidance guide, designed to help the judiciary in the process of having a draft agreement.	Slowing down the ILA process to allow for adequate consideration.	Having only Law Society approved mediators deal with ILA.	Stages, focus on the more detailed process.	Duty counsel model.
An interdisciplinary team that manages considerations of trauma, mental health and welfare through an initial screening process.	Interim agreements to allow for the varying needs of separations.	Having a trauma rights group that provides a duty counsel model, more tailored collaborative law services.	Screening cases where needed to have lawyers involved in the early first sessions of the process.	Changing the placement of ILA in the temporal process.

