

Sorting Out and Managing Emotions in the Divorce Process

It's not unusual for lots of different emotions to swirl around two persons going through the process of divorcing. Those various emotions are by no means all created equal. They are, in fact, quite diverse as to how they came into being and how they affect each of the parties.

Emotional categories based upon the sources and effects of emotions.

Leaving out all sorts of psychological labeling, the emotions of divorce fall into two main categories, based upon differences in their nature and their effects on the participants. The two categories are: (1) **emotions that suggest a need for understanding and empathy, and perhaps counseling**, and (2) **emotions that affect negotiations over divorce agreements and management of the legal process of divorce**. While these are by no means two mutually exclusive categories, it is useful to sort out their separate characteristics.

Categories based upon the sources of the emotions. One viable way to categorize the various divorce emotions is to identify their sources:

1. Emotions arising out of *problems in the marriage*, such as blaming, guilt and issues over control;
2. Emotions relating to one spouse's *insistence upon or resistance to separation*, which are often met by the other's reactive emotions;
3. Reactions to the *emotional process of divorcing*, such as denial, depression and anger;
4. Emotional responses to the *substantive legal and financial issues of the divorce*, such as anxiety about finances and future security;
5. Emotions focused on the *process of the divorce case*, such as stress, frustration and mistrust;
6. *Negotiating-related emotional issues*, such as inflexibility, defensiveness and unreasonable expectations;
7. *Family systems emotions*, such as anxiety and reactivity over extended-family relationships and parenting;
8. The "*supposedly irrelevant factors*" of *behavioral economics*, such as lack of impulse control, inability to focus on plans, fairness issues, and managing losses; and
9. *Serious mental health conditions*, such as schizophrenia, obsessive or bipolar syndromes, and character or personality disorders.

Obviously, there may be multiple sources for the emotions in a case, but it can still be useful to try and pinpoint the primary source. Most of the above categories do not depend upon a precise psychological diagnosis. Only the 8th category necessarily includes some persistent irrationality as a basic element.

Emotions affecting each party's own stability. These include the emotions that are analogous to Elizabeth Kübler-Ross' stages of death and dying – denial, anger, bargaining, depression, and acceptance. There are more sophisticated versions of the same idea, such as that suggested by collaborative attorney Joryn Jenkins (see the prior

section). Although Joryn starts with the same list, she turns it around to consider how her clients develop their capability to become engaged in a more positive process and to become motivated to work on creative decisions. Collaborative professionals Kate Scharff and Lisa Herrick treat divorce as a developmental challenge. They see many of the emotions that divorcing clients experience as stemming from the challenges of letting go of the familiar and the known, and moving toward new ideas that may be unfamiliar, frightening and/or may involve loss.

Situations appropriate to counseling. There are certain divorce-related emotions for which counseling is clearly appropriate. These include depression, low self-esteem, insecurity, and difficulties in normal day-to-day functioning. There are three sub-parts of this group, namely (1) problems arising from the divorce process, (2) problems that emanate from earlier points in the marriage, and (3) problems that pre-exist the marriage. Often the first can be resolved as a party works through the divorce, while the others have settled in and may stay around for a longer term.

Emotions affecting divorce negotiations. This second category of emotions often reflects emotional aspects that are quite different from the first one. It includes conflict styles, such as competing, accommodating and (worst of all) avoidance. Another model comes from a family systems analysis of negotiating, which focuses on the parties' emotional enmeshment or emotional distance, and on their inflexible or disorganized approaches to marital negotiating.

Anger is a special case. Anger is often an important and even a controlling problem in the divorce process. Frequently the anger results from a party's adverse reaction to the other's decision to divorce. Another cause may be a party's feeling that the other has acted in bad faith regarding the breakup of the marriage, as well as in the stages of the divorce process. The variety of emotions regarding divorce include anger that may appear justified by some supposedly objective standard.

There are two responses to divorce-related anger that occur frequently. One is that anger is often more of a burden to the party who experiences it than to the party against whom it is directed. The second is that when anger about divorce is justified, the harder it may be to work through. Anger is a process, and as such there may not be a quick fix for it. Process-related anger is often transitional, and so it may pass as the process moves on. However, there is also anger that is deeply intertwined with the history of the marriage and the way it ended. Working through those emotions may require a more extended time.

In theory and often in practice, forgiveness can be a powerful cure. It's not easy to forgive someone when the emotions run deep. Anger often includes anger toward oneself. Where this is the case, it may be that only when the angry person finds self-forgiveness that forgiving the other is genuinely possible. When forgiveness can be extended to both oneself and the other person, it has two effects. The first is that it helps the angry person to recover his or her self-esteem. The second is to increase the possibility of productive interest-based negotiating.

High conflict cases. An often-intractable level of emotionality is found in Bill Eddy's categories of high conflict couples, where the conflict itself becomes the focus that engages the parties' emotions. This is frequently accompanied by the obsession of

one or both parties over the conflict and may extend well beyond any of the substantive disagreements. In this kind of case, in which the parties can be very reactive, the emotions of the parties generate further elements of conflict, which in turn leads to an even higher level of emotionality. Emotionality = more conflict = even more intense emotions, and so forth. Bill has demonstrated how the family court system may unintentionally foster this kind of perpetual conflict.

Bill Eddy's new book, *5 Types of People Who Can Ruin Your Life*, lists the most serious problem categories as persons who are borderline, narcissistic, paranoid, sociopathic, or histrionic. A full examination of Bill's work is covered in a later chapter.

Managing emotions in collaborative practice. One of the most brilliant aspects of collaborative practice is the institution of collaborative coaches, so it makes sense to start with their roles. Coaches are mental health professionals who work with each party to address the emotional and communication issues in a case. Collaborative coaches also often consult with the parties on parenting issues. The coaches need to be aware that emotions affecting negotiating are a basic and different category of divorce-related emotions. Since many of the serious communication issues in marriages and divorces are also negotiating problems, it is important for collaborative coaches to keep this concept in the foreground as an appropriate professional role for them to consider.

A starting point for a collaborative coach is to sort out the client's emotions by their **source** and by their **effects**. The initial focus is to identify the matters on which the client may need coaching, and then to determine the type of intervention that would be responsive. For *negotiating problems*, the next step is then to ascertain the extent to which the problem is transitional or chronic. Since the negotiations involve legal and financial as well as emotional issues, any responsive strategies should be discussed by the collaborative team.

At issue is whether to work through the negotiating problem or to work around it. If coaches are not initially part of the collaborative team, this would be an argument for adding them. The coaches need to be comfortable with their roles in each case. So, for example, a coach could discuss with a client how anger and blame are often ineffective negotiating strategies, but not use this to advise the client to make changes in his or her substantive negotiating goals.

Managing emotions in other contexts. A divorce lawyer or an impartial mediator may not also function in a professional counseling role in the same matter. Divorce lawyers and mediators often have substantial experience in managing their clients' negotiating problems in the context of their traditional roles. A divorce attorney who recognizes that the client's emotional state is creating problems can deal with that situation as a matter of conventional attorney counseling. A mediator's role is trickier since the mediator cannot give legal advice. However, the mediator may tell the clients that they are negotiating counter-productive manner, if this is done in an impartial way designed to promote a more effective process.

The value of accurate diagnosis. The emotions of divorce come from a variety of sources. They should not be treated as a mishmash or a collection of labels. As a structuralist, I believe that if a divorce professional can identify the likely nature and source of an emotion and understand its probable effects, he or she should be able

to ascertain a suitable intervention (including the option of not intervening). When there are serious emotional problems in a case that may affect how settlement negotiations are to be conducted, the best process may be a collaborative practice team that includes coaches. Another alternative is a properly structured team mediation. There are some divorce attorneys in conventional practice who are sensitive to their clients' emotional states and can channel them into sensible agreements. Alas, there are also some divorce lawyers who don't have a clue!