

A Practice with Heart

By Susan V. Busby



Introduction

Clients are not usually happy to be in my office. They find themselves there because a relationship they once felt was so fine that they made a lifelong commitment to it is ending. Faced with this often deeply distressful life change, their unhappiness is compounded by the need to pay a lawyer to guide them through the legal process and to right wrongs they perceive have been done to them. In this emotionally charged and unhappy situation, I see an opportunity to create an environment where some relaxation can occur and, therefore, focus my efforts on facilitating a process by which a painful divorce can be a transformative experience rather than one of defeat and destruction.

When seeking a divorce, clients generally have four options: they can do it themselves, work with a mediator, engage in a collaborative process, or go through litigation. The do-it-yourself option is sufficient when the divorcing spouses are able to

work together to resolve all issues. If they are unable to do this, the method involving the least amount of professional intervention is mediation, a process in which parties hire one mediator who doesn't represent either spouse but facilitates discussion and resolution of contested issues. If trust is present in the relationship, but one or both spouses want an advocate present during negotiation sessions, then the collaborative process is more suitable. In this process, each party hires an attorney, but both spouses and their lawyers sign an agreement to work collaboratively and, more importantly, not to go to court. If none of these methods is appropriate, then a litigation case is filed. Even within a litigated divorce, the spouses and lawyers can still act cooperatively but have the option of going to court if necessary.

Until the advent of non-adversarial models to process a divorce, such as mediation and collaborative law, there was no place for

In this personal essay, Susan Busby, a matrimonial lawyer, explains how the practice of Buddhism informs her legal work and enhances her ability to be an effective guide to clients as they move through the challenging situation of ending a marriage.

the type of transformative and respectful approach described in these pages. Instead, there was a professional impulse by many lawyers to fan the flames of fear during the legal process rather than cool the fires of emotion. Mediated and collaborative divorces help couples maintain sanity, whereas litigation by its very structure is designed to draw battle lines. While it is true that some people just want to fight, my

experience tells me that the majority of couples would rather act civilly and with dignity. Although the fully litigated divorce is what most people are familiar with from movies, television, or personal experience, as more people discover that litigation is not the only way to process their divorce, they are choosing a non-adversarial approach.

My law practice has evolved hand in hand with my dharma practice, so that on some seamless days I have one practice. By cultivating a strong habit of meditation and aspiring to uncover the genuine heart of bodhichitta, a respect for self and other emerges and a confidence in the present moment of experience takes place, enabling me to be present for my clients with calmness and awareness.

Creating a Sane Environment

It takes a great deal of courage for new clients to come to my office and tell me their stories. In a one- or two-hour initial meeting they must reveal very personal details—details they may never have shared with anyone. Recognizing how difficult this can be, I try to create an open, accommodating, and non-judgmental atmosphere where they can feel safe. Acknowledging directly the clients' pain and their courage in engaging in the divorce process lays the ground for trust between us and for further openness that will support the process.

Creating such an environment is not different than practice on my meditation cushion. Both require a willingness to come back to one's moment-to-moment experience, to remain undistracted, and to accommodate thoughts and feelings without becoming caught up in them. On the seamless days when I am truly present with my clients and their situations, a larger picture of the world is visible. Within this spacious view, it is possible to see and offer more options. This in turn enables clients to relax and recognize the possibilities inherent in their situation.

Then when conflict arises, as it inevitably does, clients are more able to participate without becoming entangled in the conflict or swept away by the whirlwind of blame and recrimination that often characterizes

divorce proceedings. Spaciousness creates an environment where misunderstandings do not escalate into polarized battles.

Educating and Guiding

As a lawyer, I do not play a primary role in a divorce proceeding; my function is to guide and educate my clients, while focusing on them and their needs throughout the process. This role, then, is not about my winning a case or running my clients' lives because I know more than they do. Instead, I try to elicit their thoughts about the best way to respond in a situation and provide advice when appropriate. Decision-making responsibility remains with the client. When clients know they are central to the process, when they feel that they are being treated with dignity and respect, they gain confidence in themselves, in their capacity to engage skillfully in the proceedings and in their ability to move forward with their lives.

Much of the initial time I spend with clients involves educating them about the divorce process. Most clients don't know what to expect from the process itself or what a reasonable settlement might entail. The little knowledge they do have is often colored by the negative experiences of a divorced friend or relative. When clients learn about the process and have reasonable settlement expectations, the experience becomes less frightening. They are able to make reasoned decisions and act with dignity in proceedings that are often fraught with emotion.

But the role of guide involves much more than providing information about the ins and outs of a legal process. By encouraging my clients to take the long view and by helping them work with their emotions, I offer them tools that have the potential to greatly ease the difficulty of the divorce process.

Taking the Long View

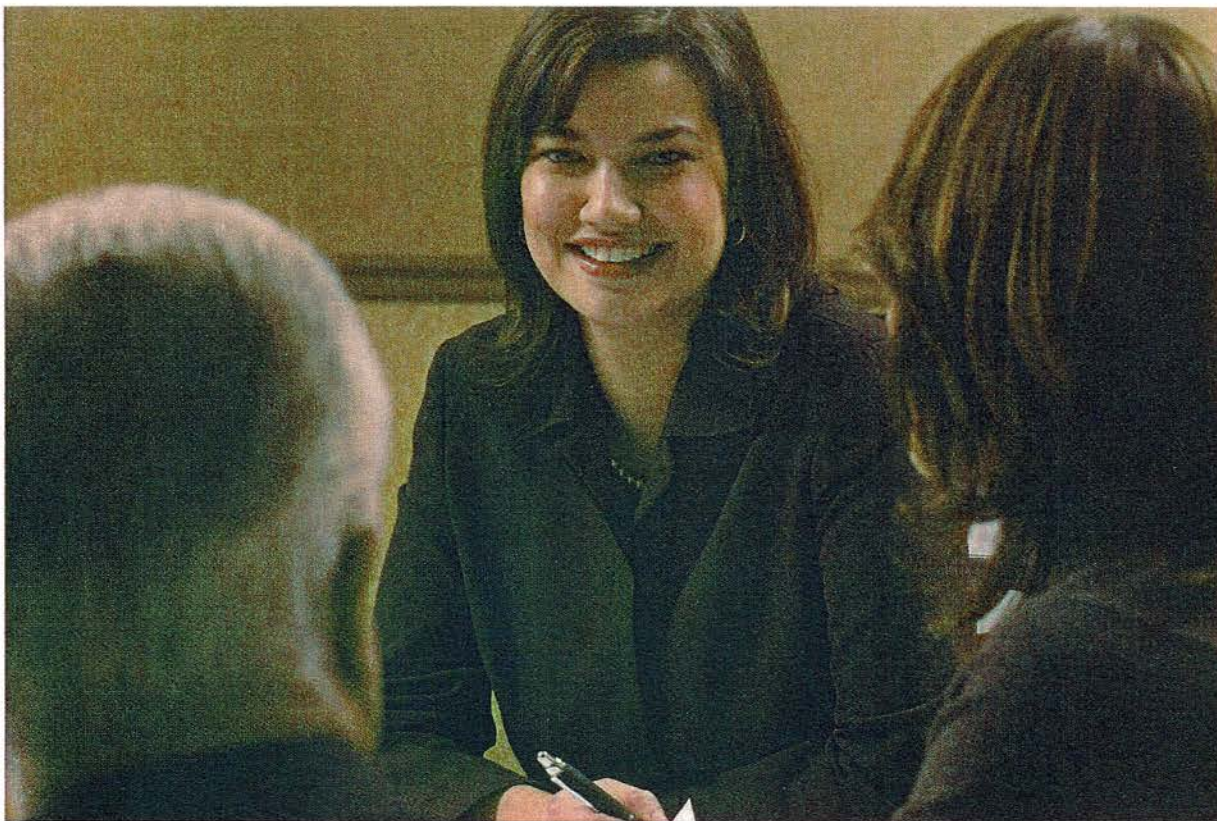
Divorce proceedings are often emotionally grueling, leaving participants extremely raw. To protect themselves from further hurt, my clients often pull inward and their world becomes very small. When this happens, they lose sight of the big picture and

may become subject to paranoia. Or, overcome by the intensity of their feelings and reactions, they may be consumed by speculation about the intentions and actions of their spouse. They might be fearful of what they perceive to be judgmental attitudes on the part of opposing counsel or the judges. Any one of these responses creates a very claustrophobic environment.

When functioning with these intense and closed states of mind, clients can be demanding and want to take immediate legal action against their spouse, believing it will bring satisfaction or alleviate their suffering to some degree. Most "immediate actions," however, offer only fleeting relief or satisfaction and often have long-lasting emotional and financial consequences as the proceedings escalate into recrimination and acrimony while the real problem remains ignored and unresolved. Winning a highly contentious court battle is often a Pyrrhic victory because at the end of the case, while the lawyers will move on, clients are left with the emotional carnage created by intense courtroom dramas and usually face a steep legal bill as well. Both can take years to overcome. However, when my clients can take a long view they can avoid being caught up in the strong emotions that lead to shortsighted thinking and the injury that flows from it. This has a stabilizing effect and helps to maintain dignity for all involved.

As a lawyer, I know from experience where shortsighted thinking in divorce proceedings leads and thus I am in a unique position to short-circuit this pattern. In order to do this I need to be comfortable with my own emotions. The best way that I have found to develop this comfort (or even tolerance) is through regular meditation practice—on the cushion and off—watching what comes up. Becoming familiar with my own emotions can take the fear out of experiencing them directly. I can recognize that emotions come and go and are insubstantial. As a result of this recognition, I can help my clients understand and tolerate their own discomfort and emotional response so they can avoid the trap of knee-jerk reactions.

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Working with Emotions

Another aspect of my role as a guide is helping my clients to understand the importance of feeling comfortable with the range of emotions that inevitably arise during the process of divorce. It is important for them to know that what they are feeling is normal.

In my practice, I see a great deal of fear, cloaked by anger and sadness. Being familiar with my own habitual reactions and being able to sit with my own emotions enables me to watch and participate, but not get caught up in the emotional reactions of others. This ability to forbear without judgment can be taught to clients and helps them avoid being cast in a leading role in the dramas created by the spouse or opposing counsel. The simple mindfulness practice of observing what arises without judging or labeling—bringing awareness to habitual tendencies to respond or react and then allowing some space before acting—can help clients stay present in the moment without getting caught up in overpowering emotions. It then becomes possible to non-

judgmentally observe the behavior of others as well.

Fear

Divorce triggers fear in more than one way. My clients often experience fear because they are threatened by their unwanted situation: the ending of an important relationship, the uncertainty as familiar and financial arrangements are changed, and the unfamiliar circumstances of the legal proceedings. Fear can also arise when life opens up in positive ways. Many clients find themselves facing the prospect of recreating their lives in ways they never thought possible, and this reality is both exhilarating and terrifying. It is exhilarating because they now have an opportunity to make independent choices about their lives, yet for this very reason it is also terrifying.

Anger

Anger is the primary response that I have most often observed in clients. Anger has many guises and can prevent clients from directly confronting their fear and sadness.

Clients upset with their situation or their spouse's behavior sometimes demand that something be done to make their situation stress-free or their spouse reasonable. Unfortunately, a spouse who was unreasonable and unkind during a marriage is not likely to change upon the filing of a divorce suit. In fact, conflict tends to increase once suit is filed because fear of the unknown is heightened for both spouses. Teaching clients about the long view helps with their intolerance of their present situation. Coaching them to disengage during emotionally charged situations and to hold their seat of sanity during emotional outbursts of their spouse are important tools to help clients through the divorce process.

Sadness

Divorce causes a great deal of sadness. Clients may experience many of the stages of grief that would result from the death of a loved one. Whether the relationship was good or bad, clients are grieving what could have been and the loss of the dreams they held when they fell in love and got married. The sadness can be very deep, triggering

other feelings of loss and abandonment. These feelings often manifest as frenzied activity, which the client engages in to avoid feeling the underlying sadness.

Helping clients understand that sadness is a very real part of the process normalizes their experience so they can learn to more directly experience their grief and therefore move through it. The majority of people who come to my office end up crying. They are very uncomfortable at first. This may be their first experience of letting go. By just staying present with them, often saying nothing and offering tissues, I create a space for them to experience their grief without shame or fear of falling apart. It also allows them an opportunity to experience its cessation. From this they can learn that their sadness is not as scary as they thought, and by not indulging in or rejecting it, it naturally will cease.

When clients are caught up in any of these emotions, I listen with an open heart and try not to judge. I encourage them to recognize that their reaction is an emotional one, and therefore it is a temporary response to a temporary situation. I remind them that if they don't hang on to their feelings or story-lines by replaying them over and over in their head, the feeling will dissipate.

Becoming familiar with the range of emotions, in all of their intense glory, helps clients cope during the divorce process and beyond. To the extent that they can do this, clients gain beneficial tools with which to restart and live their lives in a much more positive way.

Experiencing Equanimity

The ability of clients to experience equanimity in the intensity of divorce is a result of their willingness to take the long view and work with their emotions. The calmness and composure that result often lead to an awareness that their spouse and others suffer in much the same way as they themselves. The spouse, opposing counsel, and even the judges all want what the client wants: to be happy and free of suffering. Most people don't want to act badly but end up behaving without respect and dignity because they lack the emotional resources

to act otherwise. The other would not be acting in such a poor way if he or she were happy. In that way, the other is just like us. Indeed, the spouse is very likely experiencing his or her own world of upsetting emotions brought on by the divorce.

In an emotionally charged situation, it is difficult for clients to experience equanimity. Each situation calls for its own skillful intervention. Pointing out the shaking hands of a clearly nervous opposing counsel helps my client see the other lawyer as something other than just a bully. Acknowledging the anger of both clients around the same situation can illustrate their shared predicament. Asking a client to tell me about their spouse or to explain the spouse's behavior can be a way for the client to step into the shoes of their spouse. Other techniques that help people relax and experience the humanness of the other include restating a charged comment more positively and reframing a polarizing issue in a way that both clients can work towards a mutually agreeable solution.

Listening Deeply

Clients often feel alone during the divorce process and too often their lawyers do little to allay this feeling. Clients justifiably complain that, generally speaking, lawyers don't return their phone calls, they don't communicate what is going on in their case, and they don't listen. Unlike many matrimonial lawyers who have one hundred cases or more, I usually have only about a dozen clients at any given time. A limited caseload gives me enough time for each client and a balanced life for myself. It enables me to return phone calls and respond to clients' needs in a timely manner.

Having enough time for my clients not only enables me to respond, but it also means that I have the energy to deeply listen to their stories. Deeply listening means listening not just for the legal facts that structure their case, but listening with an open heart to everything that they tell me, both verbally and non-verbally. When this happens, clients know that they are not just another case. They feel recognized and appreciated for who they are, and on this basis I can help them more fully process what the divorce means for them.

The Rewards of Practice

Matrimonial law is difficult work. However, every day I have the opportunity to provide comfort to others during a very difficult time in their lives. Maintaining respect and dignity for my client, for the process in which we are engaged, and for myself are key components in processing a sane divorce.

In Mahayana Buddhism, we are taught that our basic nature is fundamentally good. We are taught that our essence is Buddha-nature and that wisdom, clarity, and compassion are always available, even in the midst of enormous pain and confusion. This understanding allows me to have confidence in my ability to do my job well and not feel depleted when giving of myself to others. Understanding my limits and setting boundaries enables me to create a balanced life for myself. Maintaining dignity and equanimity as best I can has a direct impact on my relationships with my clients and others in the court system.

I also try to encourage others to see and appreciate their own Buddha-nature. When clients feel the respect and care I have for them, they can relax and start to have love and respect for themselves. They can feel empowered instead of abused by the process. With this state of mind, they are able to remain open to possibilities instead of shutting down. They can take responsibility for their actions and begin to have an appreciation for the suffering of others. Watching clients transform from someone with a fearful, sad, or angry outlook to someone filled with confidence, compassion, and self-respect is extremely rewarding. Any ability I have to work skillfully with others in very intense situations is made possible by my dharma practice and the skillful and compassionate teachings I receive daily from those around me. **CL**

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