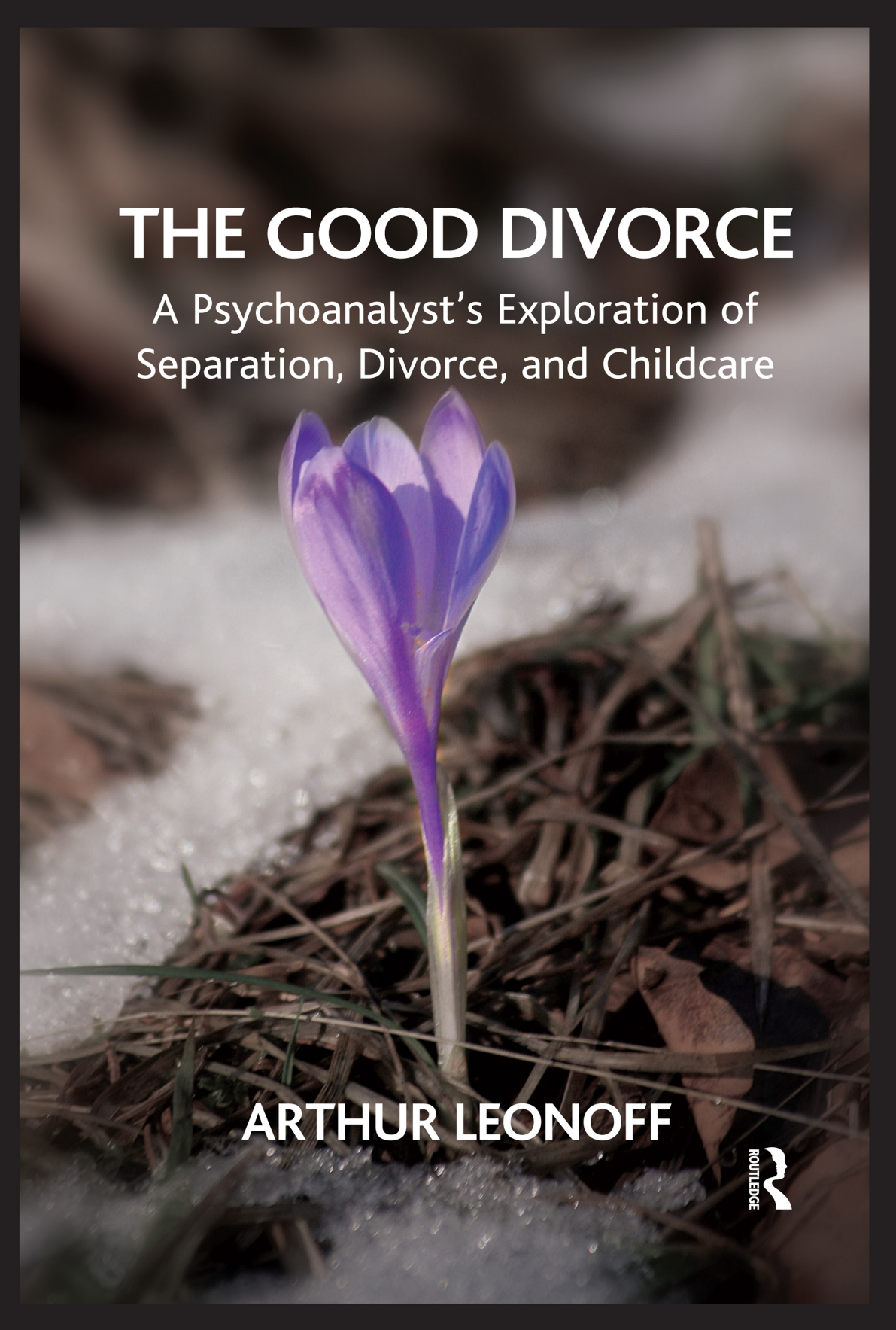
THE GOOD DIVORCE
A Psychoanalyst's Exploration of Separation, Divorce, and Childcare
ARTHUR LEONOFF
ROUTLEDGE

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Routledge
Taylor & Francis Group
LONDON AND NEW YORK

First published 2015 by
Karnac Books Ltd.

Published 2018 by Routledge
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN
711 Third Avenue, New York, NY 10017, USA

Routledge is an imprint of the Taylor & Francis Group,
an informa business

British Library Cataloguing in Publication Data

A C.I.P. for this book is available from the British Library

ISBN-13: 9781782202707 (pbk)

Typeset by V Publishing Solutions Pvt Ltd., Chennai, India

This book is dedicated to Lynda, Alison, Shayna, Emily, and Holly

CONTENTS

ACKNOWLEDGMENTS

Some books exist before they are written and *The Good Divorce* falls into this category. It was incubated through a creative synergy of psychology, psychoanalysis, family law and the family courts. I am very grateful for the privilege of doing the work I do—helping so many individuals and families over the length of a career. They have taught me so much and allowed for ideas to percolate and find form. My wife, Lynda, has been both supportive and patient. Her wisdom, affection and judgment are a constant source of strength. Jean Whieldon, a gem of an editor and kindred spirit, has been instrumental in bringing this text to press. It is her guidance, perseverance and stewardship that have made this work possible. Finally, thanks to Karnac for accepting this book for publication and bringing these ideas and experiences to a reading public that will hopefully find value and guidance in what is conveyed.

ABOUT THE AUTHOR

Dr. Arthur Leonoff is a psychologist and psychoanalyst in private practice in Ottawa, Canada. He is a supervising and training analyst with the Canadian Psychoanalytic Society and a member of the International Psychoanalytical Association. Apart from his work as an analyst and psychotherapist, Dr. Leonoff has a four-decade involvement studying and working in the area of divorce and family adjustment. In this regard, he has served as a court-appointed assessor, expert witness, and clinician working to resolve issues related to the care of children and their parents confronting and dealing with divorce with its manifold repercussions. In the capacity of expert, he has provided hundreds of court-mandated assessments over the years and has spoken frequently on the topic of divorce and its impact on children, adults, and families. Dr. Leonoff is co-author of *Custody and Access Assessments: A Practical Guide* (Toronto: Carswell, 1996).

AUTHOR'S NOTE

Plentiful clinical examples are instrumental to illustrating the important themes of this book. I view them as essential to giving form and life to the book's topics and ideas. Some are fictionalized although always relevant while others are amalgams of disguised and generalized case material absorbed from the clinic of experience. I am grateful to all who have crossed my path and to whom I could offer assistance, whether through court evaluation or treatment.

INTRODUCTION

They were an elegant couple, composed on the surface, well dressed and attractive—both professionals. They had been married for eleven years and had a nine-year-old daughter when Sean decided to leave Sally.

He had a plan and wanted shared care and joint custody of their daughter Sarah. Sally was confused. Sean was adamant. They could not seem to talk. She had many questions and no answers from Sean. How would they tell Sarah? "Daddy no longer loves mommy and wants to leave", was how Sean wanted to put it. Sally did not understand. What did it mean to fall out of love when you have a child and eleven years together? She grasped for some sense of control as her nuptial life dissolved in a mire of angst and unanswered questions.

As the example above portrays, many divorces occur in the depth of confusion with little communication or common resolve. There is no real template available for how to understand this complex and often ambiguous process. What exists is mainly practical advice such as a step-by-step manual for implementing and managing divorce. This book makes no pretensions to serving as a "how-to" guide. On the other hand,

if it can create deeper understandings then it could well be helpful to professionals and the enquiring public combined.

Can there be such a thing as a "good divorce?" Given that sixty-two percent of premarital cohabitations and thirty-three percent of official marriages end in separation within ten years in the United States, we should hope so.[1] Since the 1980s in Canada, the divorce rate before the thirtieth wedding anniversary has fluctuated between thrity-five and forty-two percent.[2] Assuming sociological continuity between the countries, therefore, the majority of marriages fail before the ten-year juncture with approximately four of every ten official unions failing over the lifespan.

"Good divorce", though, should not be confused with the ethics of divorce.

This is not a polemic about the merits of ending marriages. I am sure the reader shares my concern for Sean and Sally but who knows what has occurred between them to bring Sean to this point. In any case, this is a personal decision and it is clear that Sean believes strongly in the merits of his resolve. He has no desire to remain united with Sally and is on his way out.

Having accepted the reality of divorce, it remains necessary to investigate the many challenges and issues created when unions dissolve. How can separation and divorce be implemented in a way that is as respectful, responsible, and protective to self and others as possible?

Divorce expresses so much at the core of the human condition. It begins with the need for attachment and its social expression. The married couple is reminiscent of the first couple—mother and baby—from which human life evolves and is nurtured. Intimate partnership establishes the elemental ingredients for starting a new family. The issues are the same whether the couple is straight or gay/lesbian. New technologies and the freeing of institutionalized love from the constraints of the one man/one woman paradigm have also created further avenues for divorce.

Divorce reflects the breakdown of this fundamental unit of intimate partnership. Failure in this realm is very personal and painful, often undermining identity in the short term. If the ultimate human catastrophe is to be alone, divorce exposes this

fear once the coating of marriage is removed. Relationships are disrupted and social reinvention is required. Divorce, thus, creates multiple challenges: psychological, social, economic, family, and community. There is no simple divorce and no simple way to understand its implications for adults, children, and community.

Divorce also carries its weight of guilt and recrimination, a social stigma for many that brands them despite its frequency. By thirty years of age, three-quarters of North American women have been married. Of course, many will separate and effectively if not legally divorce.

The good divorce is an ethical divorce. It recognizes that whatever the fate of the union, there is a need to separate in a rational and considered way that best protects all concerned. This includes establishing a process that allows for reflection and working through of issues with the former spouse. Ethics implies that there is a way to navigate this often stormy and inevitably destabilizing life event to limit long-term damage and increase the odds of getting on with life in an adjusted way.

Psychologists are well trained to be helpful and I began my practice in 1974 with this goal in mind. Psychotherapy led eventually to training in psychoanalysis, which greatly deepened my understanding of human nature and the human condition. I have practiced as a psychoanalyst for the majority of my career. The reader will identify the psychoanalytic perspective at least in terms of a focus on inner experience. In this regard, my approach is psychodynamic rather than empirical.

In the late 1970s, joint custody emerged from trendsetting California as an option in divorce. A close friend had recently divorced and shared custody of her two children with her former partner. Together we wrote a short article on the subject and this initiated my particular involvement. Meanwhile, in my clinical practice, I was well aware of the depriving consequences of the usual anemic sole custody models in place at the time that reduced the non-residential parent to infrequent visitor status. Too many children were short changed particularly on the father side even when these dads were capable and willing to parent.

In the 1980s, a lawyer asked me to prepare an assessment for the court in a disputed custody case. General theorizing gave way to the clinical complexities of the particular case. Each was unique and had to be assessed on its own terms. More than thirty-five years later, there has been an unbroken chain of assessments, arbitrations, and clinical interventions involving divorcing couples and families in the mix.

This work on divorce does not presume to review the academic literature although it is informed by it. Clinical experience is a further source of knowledge and a major impetus for this book. Professionals and the educated public alike seeking a deeper insight into the divorce process should find this exploration useful. My goal is to provide the thinking, clinical basis and rationale for sound choices and informed decision-making as compared to simply identifying the mechanics of how to proceed. In my view, deeper understanding provides the seedbed for good decisions as well as offering guidance to those faced with the complex challenges routinely arising during the divorce process.

Among existential crises, divorce is a top tier event in terms of stress and consequences. It matters a great deal how it is managed. Superficial advice does little for people trapped in the maelstrom of divorce conflict. To be sure, there is no evidence that all the self-help books currently available make an appreciable difference in the turmoil associated with this event. Divorces are easier to get in this era but no less painful.

Meanwhile, society's way of understanding and configuring family life is changing at a rapid rate. It is important to ponder these issues in meaningful ways in the light of divorce and re-partnering. The formation of new social units with looser fixed ties to gender and biological filiation has revolutionized how we think about family. The old authority laden and linear model of mother-father-child is no longer the sole template by which society is measured. Some boundaries that we might have assumed in the past were permanent features dissolve and allow new opportunities for creating a family from combinations of individuals. With much increased freedom, there is less certainty and less standardization.

In the space of my career, therefore, the old linear certitudes of psychic and social life have been transformed. There is no going back, I suspect, and this could also be seen as progress. Yet, as much as society's values have shifted, there is ample room for pain and conflict. Relational breakdown and divorce are a study in human disillusionment and its social and emotional consequences. This has not changed mainly because the human need for trusting, intimate connection, and the corresponding fears of aloneness and abandonment continue to drive human behavior.

I have used the central idea of ethics to help articulate the thesis that destructivity in divorce is linked to conduct as much or more than the loss of the relationship itself. Without a simple morality based on cultural taboos, ethics assumes greater importance precisely because there are no clear fixed standard ways of operating or treating others. This is especially significant during times of greatest uncertainty and catastrophe such as often occurs in divorce. What is important for adults and children is to retain hope in both human relationships and the future. Ethical thinking and judgment arise from inside the person. We must touch base, therefore, with what really matters to sustain hope and prepare for a future in the face of many difficulties. I have thus written the book to help foster ethical thinking and to consider values within the realm of divorce. In my understanding, ethics emerge from insight, which requires a deeper exploration of experience.

CHAPTER ONE

The good divorce

Marriages are essentially voluntary relationships and the time honored phrase "till death do us part" no longer applies in at least forty percent of cases. The reasons for this are legion but certainly include the secularisation of society, liberal "no fault" divorce laws and an undermining of marriage as the only context in which to bear children. Enhanced independence of women and an ethos built on comfort and consumerism also emphasize change over stability. If "love" has become the sole reason to unite in matrimony, then the consequence has been a much inflated divorce rate.

Of course this does not mean that divorce is taken lightly. It is a source of anxiety and pain for many ex-couples, those with children but also those without. It is a curious paradox of our postmodern society that although we have made divorce more possible, we have not made it less painful. This is especially true when the break-up reflects the intent of only one of the parties while the other must absorb the impact often without notice or real warning. This amounts to a traumatic rupture and is often just as stressful as the unexpected and sudden death of a spouse.

Even when the divorce is not a particular surprise, the psychological rupture can be hard to bear. What does it mean to no longer love someone that you felt strongly enough about to marry? If anything, it represents the final demolition of the dream with that person at the center of a shared life. What is left then when so much hope is dashed? There is much to recover with no simple prescriptive path to follow.

Although a failed marriage is never easy to swallow, it helps when the couple has worked hard to make sure that separation is the right road to follow. Separation with respect and dignity is still painful but does not constitute an assault on the partner's rights and vulnerable position in the couple. When the union ends dramatically, however, blindsiding the other partner due to lack of warning or process, emotional damage can be extensive. It is less that the union was doomed than the undeniable fact that the initiating spouse acted unscrupulously or at least refused to treat them honorably. In this regard, the leaving spouse ignored or failed to acknowledge and abide by the ethics of divorce.

Hence, this is our first topic for discussion.

It is much easier to be the spouse who ends a union than to be the one who had no idea that this "final solution" was percolating in the partner's mind. It is probably wishful thinking to believe that divorces mainly occur in the context of mutually desired action. In many cases, this is simply not true. If couples could agree that they indeed had a bad marriage needing to end for the good of the two individuals, this would, I believe, put them in the minority and imply a capacity for common action not shared by many separating spouses.

More likely, one partner perceived the end of the marriage as a necessity without sharing with the other until it has been worked through and decided in the leaver's mind. The groundwork may, therefore, have already been laid before the issue is formally raised. This could involve having started a new relationship but this is not essential to the process I am describing. The initiator might have already met with a lawyer, ascertained their rights and how to achieve legal ends before the left partner even knows this is coming. The emotional side of divorce might not be given its due particularly when the leaving spouse is resolute in their intention to leave.

Breaking up a marriage can definitely be the right step even when it is foremost in the mind of only one partner. In this regard, we should take no stand on whether divorce is the appropriate solution. It happens and sometimes this is for the best and at other times solves little.

Generally, the leaving spouse has made a decision that terminating the union is in their own and perhaps the couple's best interests. Some assume that the spouse must, or at least should be, of the same mind. Often, however, this is far from the case. Even so called "bad" marriages might not lead everyone to conclude that a union should end. The soon to be left partner might never imagine taking such a step particularly if there are children involved. In this context, one partner takes the lead while the other is often playing catch up in the divorce process.

To be sure, such an imbalanced dynamic is a source for much of the unnecessary grief, hurt, fury, and retaliatory vengeance mental health professionals often see in these complicated divorce situations. This leads me then to offer a first principle of responsible or ethical divorce.

Every spouse deserves the opportunity to know they have a bad marriage before being left

So what does it mean to deserve to know about a bad marriage? The essence of this standard is that unhappy spouses need to communicate this state of the union to their partners in order to give them a real opportunity to address what is wrong. Simply announcing that one intends to leave and then taking the shortest path out does not amount to the due process expected.

As such, everyone deserves a heads-up about a bad marriage if only as an opportunity to either address what is wrong or be reconciled to the fact that the marriage should end. When spouses are forced to bear the impact of their partner's action in failing to consult them, it tends to put a lie (in the left partner's mind) to the belief that they were ever a couple in a committed relationship in the first place.

Therefore, it is one thing to have a relationship fail despite one's best intentions and efforts but it is another to be

discarded, as if one is the last to know and there was never a treasured union to be safeguarded.

This might sound self-evident but is frequently observed not to be the case. Marital therapies where one spouse has already decided to leave are essentially faux treatments and are basically a waste of time. Equally fraudulent are those situations where the leaving spouse already has a new relationship but has failed to inform the one person who most deserves to know: the spouse.

I have been surprised over the years by how many cases feature a unilateral initiative taken by one partner who undertakes a solo initiative not shared with the spouse until the final stage of implementation. "He/she had to know", is the common refrain but, in fact, the left partner might have had no idea that the marriage was actually ending or at least was not ready to accept this conclusion. Of course, the leaving spouse proffers a decisive argument: "We haven't had sex for a year", or "We agree on nothing." The argument amounts to a rationalization for taking a unilateral action in what is, for better or worse, a partnership that deserves to be treated as such whether it fails or succeeds.

One factor to keep in mind is that people differ in their tolerance of relationships and what would be considered grounds for ending a marriage. For instance, insufficient sex might sound the death knell for some while others would view this as unfortunate but never a sufficient cause to actually end a marriage. The same could be true for lack of intimacy, support, kindness, or any dimension of marital life.

Divorce is a remedy provided by society to deal with a failed marriage. In its rightful place, divorce makes sense and couples should not need to be chained together where both could face years of unhappiness, turmoil, and conflict. Violence whether episodic or ingrained and systemic are valid reasons for divorce. No one should face the threat of injury or severe emotional damage at the hands of another person even if one agreed to marry this person.

It would be foolhardy, therefore, to ever suggest that divorce does not have its rightful place. Marriages are based

on a balance of needs and mutuality. Intimacy is the dividend of a good marriage. It grows with time and evolves in a shared space that the couple happily and trustingly perceives and designate as their marriage. Sexuality remains a powerful current that touches all aspects mentioned above: mutuality, needs and intimacy. Over the years sexuality suffuses through the couple's togetherness even when it becomes less genitally focused. Nonetheless, it remains a wonderful part of life that greases the wheels.

What designates a bad from a good marriage is a vast subject and must be individually assessed or understood. In other words, it is hard to generalize. On the other hand, the kernel of truth that runs through the gamut of examples is that in bad marriages there is a failure to create or preserve the shared space called the marriage. It can only be mutually created and it is not reducible to either protagonist. Hence, the partner who feels entitled to exit the union without really consulting their spouse precisely exemplifies the absence of this shared space that is deemed worth preserving.

It is not surprising perhaps that couples seeking marital therapy, who have this fundamental shared space but who face relationship or family problems, have a good chance of succeeding in their efforts. In contrast, couples that expect the therapist to help them actually build a shared marriage with its dividend of intimacy and healthy mutuality will be disappointed. Of course, no marriage meets all needs but good marriages must meet emotionally fundamental needs and this positive synergy serves as the foundation for the shared space created together.

In today's world with later unions and second marriages common, women in their late thirties facing a biological limit often pair with men with family ambitions without taking into account that real relationships only evolve slowly and solely as a result of shared experience. They marry and multiply only to flounder when life demands require them to have an authentic union on which to draw strength and solve problems. In many cases, there is a child before there is a valid relationship and certainly not one that has had the chance to develop the shared space required to face life together.

Everyone has egg on their face when a marriage ends. In other words, it is a personal as much as a relational failure in our minds. It is no surprise therefore that marital break-ups create enormous guilt. This brings me to my second principle for an ethical divorce.

Avoid blame

Those professionals who work in the area of divorce are well aware of the scourge of blame that best characterizes high conflict divorce. Indeed, high conflict represents at its core the failure to divorce. In this instance, blame serves as toxic glue that holds the couple together while they flail at each other inside and outside of the courts.

Excessive blame undermines interpersonal relationships and erodes a capacity for empathy and collaboration. On the other hand, externalization can feel more tolerable than guilt: better to blame the other than accept the painful truth of personal failure and the damage caused someone we willingly married.

But why is guilt so prominent in divorce? There are not many decisions in life that carry such a social, emotional, and otherwise wide-ranging impact. Indeed, in marriage there is an emotional contract that precedes a legal one. We undertake to care for our partner and fundamentally to take responsibility for their welfare. Of course this does not mean that the other is absolved of self-responsibility but it does imply that the duty of care is high when it comes to marriage. Thus, even if society has made it easier to divorce, there has not been a concomitant lowering of the expectation placed on marriages. Marriage is no trifling matter.

As such, marriages are not merely friendships, which can come and go. They take their cue from our earliest most primal relationships with caregivers, which underscores why they do not simply end with a whimper but rupture, figuratively at least, with blood on the floor. The rip and tear of divorce that seems to be the norm more than the exception speaks to the elementary nature of marital unions and why divorce is so painful and heart wrenching over such a long period of

time. Is it any wonder then that guilt is the primary emotion associated with divorce?

Nevertheless, we should be clear when describing the specific quality and kinds of guilt manifested in divorce. First, there is the guilt of wrongdoing. This is the case, for instance, when the initiating spouse covers up the existence of an extramarital liaison, which has shifted the balance towards leaving. Guilt in this instance is quite real and reflects the understanding that our actions were harmful to someone we were supposed to love and care for.

Some guilt for sure is inevitable in divorce because we cannot leave a partner without bearing some responsibility. This is healthy guilt. It is part of atoning for what failed and our personal role in that failure. Mixed with guilt though is often sadness and mourning. Even willingly ending a union does not necessarily mean that the partner is not missed or that parts of the relationship were gratifying and painful to lose.

There are some who instigated divorce only to experience a subsequent depression when they cannot bear the rebound of aloneness and emptiness that unexpectedly surfaces. This occurs most often when there is a history of prior psychic trauma usually in the leaver's childhood background. It is as if two parts of the person collide. The adult decides that it is best to end the marriage while the residue of a traumatized child is terrified to be alone and unprotected.

As an example, Ben had little positive to say about his wife. He was a gruff, almost disagreeable man who lacked respect or affection for his spouse. There was little time for exploration before Ben left his wife. Quickly, however, his mood and confidence collapsed. He felt abandoned even though he had pushed for the separation. Ben's mother had suffered repeated hospitalizations for depression when he was a child and a sister committed suicide as a young adult. Ben's father had been consistently unfaithful and openly devalued his "useless" wife. Hence, the lack of nurturing and the history of repeated and traumatic losses had scarred his psyche. He could neither be married nor leave his wife.

In terms of other complications, for some individuals guilt is particularly harsh. Admitting guilt would be (in their mind)