

The Happy Divorce - How to break up and make up - BY NORA UNDERWOOD

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For a decade, Tom Cruise and Nicole Kidman were Hollywood's patron saints of marriage. When not giving relentless interviews about how they were each other's best friend, they were swinging their two children between them on sunny afternoon walks, posing in couture or snuggling at film openings. Whatever it really was, the marriage seemed like something out of a fairy tale. When it ended -- suddenly, to the rest of the world -- there were predictions about how ugly the divorce proceedings were going to be. Reportedly there was nastiness behind the scenes, but in public the Hollywood couple seemed to do divorce as perfectly as they'd done marriage. In a few hours one day last November, together at a final meeting with their lawyers, they hammered out how their considerable assets would be split and how custody of the children would be arranged. They even parted ways with an embrace. "We are great friends," Cruise said of Kidman in an interview with People magazine shortly after their divorce was negotiated. "She is someone who I love and always will."

In a perfect world, we'd all live happily ever after with the people to whom we had pledged ourselves. Short of that, we'd divorce as (apparently) amicably as Kidman and Cruise did. In reality, 36 per cent of Canadian marriages are expected to end in divorce, a number that has remained relatively stable for decades; the average duration of a marriage that ends, according to Statistics Canada, is just under 14 years. (The oft-cited statistic of almost one in two marriages failing is in fact American -- the figure is 43 per cent.) According to Diana Shepherd, editor of Toronto-based Divorce Magazine, most North American couples manage to divorce in a civilized way; only 10 per cent are the nasty, bitter feuds that are the stuff of tabloids and made-for-TV movies. "If there are children or a business involved, a friendly divorce is the only way to go," says Shepherd. "And sometimes friendly means having to grit your teeth a little bit and get on with it, let it go."

Until recently there has been little recourse for couples who wanted to avoid the notoriously adversarial legal process for divorce. But a growing number of people are seeking out mediators to help broker a peaceful legal ending, or taking part in divorce ceremonies and rituals to help bring about emotional resolution. In addition, a kinder, gentler legal practice known as collaborative law, which started in the United States during the early 1990s, has moved north and is starting to spread through parts of Canada.

This evolution has been precipitated by a number of factors, not the least being the children of divorce. A growing body of research points decisively to the fact that kids have a much harder time adjusting to new family dynamics when their parents are bickering or engaged in full-scale war. "We did a video of children talking about the impact of divorce," says Rhonda Freeman, director of Families in Transition for the Family Service Association of Toronto. "A nine-year-old in the film said, with a very quizzical look on her face, 'If parents choose to live apart, why do they need to keep fighting?'" There is also strong evidence, Freeman says, that the kids who do best are the ones who feel free to have positive relationships with both parents -- particularly parents who have moved on in their own lives. "And that includes ending the conflict," adds Freeman. "Because while you're involved in the conflict, you just don't have the emotional energy or time to devote to your children."

Martin and Deborah (unless full names are given, people cited have been given pseudonyms on request) met when they were 12, got married eight years later, started a retail business together, and raised two children. But 10 years ago, after two decades of marriage, each became involved

with someone else. For the sake of the kids (now grown and away from home), as much as for their own, the Ontario couple decided to continue cohabiting -- they have never divorced. "I think it's possible that people can go in different directions sometimes without losing the love for the person," explains Martin, who still lives with Deborah and the man Deborah fell in love with a decade ago. "The fact that it hasn't worked out exactly right doesn't mean you should lose sight of what brought you together in the first place."

There are usually other casualties when a long-term relationship breaks up, but Martin and Deborah have managed to maintain positive connections with each other's families as well as with all their friends. And while the community has never fully adjusted to the couple's decision to continue living together, it was best for the kids. "For them it was better than living separately," says Deborah. "They found it difficult to explain to their friends, but their friends all grew to really care about us and all of the weird stuff that people thought was going on was forgotten. Our daughter told us she's really proud of us."

While Martin knew rationally the new arrangement was for the best, it still took him about five years to feel completely comfortable with it emotionally. "But I was lucky that her partner was a person I found to be a very good man, who understood how it would be difficult for me for the love of my life to be with a different person." Martin, meanwhile, has had relationships; one girlfriend even joined the family for a while, but there was friction with Deborah over parenting issues. Overall, says Martin, the struggle was worth it. "Continuity is really important," adds Martin, who still runs a business with Deborah. "For me, a journey through life is far more interesting if you don't force dislocations into it that aren't necessary."

Calgary couple Kate and Tom had been married for 18 of their 20 years together. They had two children, now 17 and 14, and lived happily for a number of years. After a while, though, Kate started to feel lonely in the marriage -- that Tom "wasn't there emotionally" -- though she concedes she also played a role in the marriage's demise. Finally, just before Christmas two years ago, she asked him to move out.

Despite the grief and anger they both felt as they were separating, Kate and Tom discussed how they needed to manage the situation for the children's sake. "We've worked really hard at being civilized," says Kate, now 47 (Tom is 55). "We never, ever say anything bad about each other because of the kids and because it doesn't pay." The children spend more time with their mother, but Kate makes sure Tom knows everything that's going on at school and at her home. She even suspects the time may come when she and her ex-husband will be good friends. "We were together a very long time," she says, "and I don't think you stop loving someone."

The couple were clear from the beginning that an acrimonious parting wouldn't benefit anyone. "I don't think you can move on and build a life and have any fun if you're putting energy into being mean or being difficult -- or even being right," Kate adds. "It just doesn't pay. Living and loving takes enough energy. Living and hating is just a huge waste of time."

Children may be one of the strongest incentives for divorcing couples to be civil to -- or even friends with -- each other. But there are other potent factors, among them the very real differences between how this and previous generations view divorce. "Many of the people who are getting divorced today were in fact children of parental divorce, so it does, in a sense, become normalized in a culture," says Robert Glossop, co-executive director of the Ottawa-based Vanier Institute of the Family. "One might speculate that having had the experience of divorce, they do understand how difficult or traumatic it can be. We may be maturing a little bit as a society that recognizes that relationships are fragile, vulnerable and do break up, and that we need to minimize the effects of divorce on children."

Glossop also speculates that because people tend to get married later than they used to, they might approach divorce more maturely. Until recently, there were few options to help people who weren't able to get along in marriage to make a proper go of divorce. But in recent years, more and more couples -- and lawyers -- are dropping their weapons and abandoning the court system. Divorce mediation is becoming increasingly prevalent, and a growing number of family lawyers are opting out of litigation.

Talking to a collaborative lawyer is like speaking to someone who has just seen the light. For many of the divorce and family lawyers who switch over to collaborative law, there's a profound sense of relief. Years of dealing with angry couples and displaced children take their toll. Traditional divorce, says Brampton, Ont.-based lawyer Victoria Smith, "is so expensive, it takes so long and the outcomes are so unpredictable." A collaborative divorce typically costs between \$5,000 and \$10,000, while a divorce that ends up in court could cost as much as \$70,000. Ultimately, she adds, the things people really care about often aren't dealt with. "Most people who go into family law do it because they want to help," says Smith. "I was really having a sense that we lawyers are often making things worse. Our training is to get the biggest piece of the pie for our client, and in family matters that doesn't work. Relationships were damaged. We often made them worse."

Morrie Sacks's passionate desire to practice family law stemmed from the lingering effects of his own parents' divorce during the 1950s. But he often felt frustrated by the way the system worked. "In the adversarial model, you're waging war and there's this whole idea of victors and losers -- the wife looking for maximums and the husband trying to part with minimums," says the Vancouver lawyer. "In the collaborative model, the shift is to interest-based negotiation, how can problems be resolved. A win-win solution is the goal." Sacks found out about collaborative law two years ago from a client. "This was a gift from God as far as I was concerned," he adds. "We talk about a paradigm shift but that hardly does it justice. It's more like a quantum leap."

How it works -- and it only works for people who are looking for a peaceable resolution, not for those hiding assets or out for revenge -- is that each person hires a collaborative lawyer and all four proceed through the divorce as a team. Typically, collaborative lawyers also have like-minded child specialists, financial advisers and business valuers on call to help deal with particularly troublesome aspects. Going to court is not an option. "The belief is that people can make their own decisions," explains Smith. "You're still acting as that person's lawyer, but in addition you're acting as a facilitator, providing people with the support they need to make those decisions, making sure they have an opportunity to go beneath the positions they bring in the door and think about what's important in the long term."

John and his wife separated last summer after almost 10 years of marriage. The 36-year-old construction supervisor living in Brampton loves her but found they had little in common apart from their three children. "I could've stayed for the kids," says John. "But between the time I was 12 and 24, my parents went through that. They shot daggers at each other, and I hated it with a passion so I was not going to put my kids through that." Despite how angry his wife was with him -- he had an affair before he and his wife separated -- she wanted to mediate a settlement together. The couple's primary objective was to remain friends with each other. "It hurt, but the fact that we could sit at a table -- and yes, there were tears shed -- was a very positive experience," says John. "It was four people, all friends, trying to find solutions and coming up with suggestions."

In the end, according to Calgary mediator Janis Magnuson, that is really what most people prefer. "People want their marriage to end decently," says Magnuson, who runs a business called Constructive Divorce. "They don't want it to cost an arm and a leg and they don't want to hate each other. This process allows people to end relationships respectfully, effectively and efficiently."

A handful of couples are even turning to divorce ceremonies, rituals that signal the end of a relationship and the beginning of a new life apart. Such a ritual has existed in Judaism for millennia: traditionally, a husband gives a get (the Hebrew word for the divorce document) to his wife to free her to remarry; now, in liberal congregations, either spouse can initiate a get. Phil Penningroth and his wife of 25 years, Barbara, whom he divorced in 1997, drew on that and other ceremonies for *A Healing Divorce*, their 2001 book about how to symbolically seal a divorce. "I don't think any relationship ends without a lot of strong feelings," says Phil, who lives in Longmont, Colo. "We did not want to let our conflicts carry us away into acrimony and bitterness and estrangement. There were a lot of good things in our relationship and we wanted to do our best to preserve those things, even as we decided to divorce."

In their ceremony, attended by friends, the Penningroths played a video tribute to the marriage, spoke of forgiveness and regrets and of the gratitude they felt for the relationship they'd had. "Marriages, funerals, bar mitzvahs -- there are scads and scads of different rituals," he says. "The symbols involved in a ritual speak far more powerfully than the words in a divorce decree." Adds Penningroth: "When my father got divorced in the mid-1950s, as far as he was concerned it was just a fight. How can anyone be against something that creates harmony and peace, especially when there are children involved?"

But like any healthy marriage, a good divorce requires commitment and a lot of hard work. "It's still a relationship," says Divorce editor Shepherd. "Your marriage is ending but your relationship isn't ending if you have children. It needs to change but it's not over." The payoffs are big for divorced couples who have struggled through the anger and grief and made peace with each other. Judy Moody's first husband was her childhood sweetheart. She married him at 18, after she got pregnant, and within a couple of years they had a second child. But after about five years, the marriage fell apart, and Moody left. They struggled through a few years of arguing and bitterness, and even tried to reconcile once, but ultimately decided to build a post-marital friendship.

Around her Christmas table seven years ago were Moody and her children, her first husband, his wife, Moody's second husband, her in-laws and her former in-laws. "I was never so happy in my whole life because my whole family was there," recalls Moody, who lives in Sutton, Ont. Over the years since their divorce -- Moody is now 56 -- she and her ex-husband have been through a lot together, including the death of their son, Andrew, in 1996. "Bill comes over and we sit and we talk about Andrew and what could have been and what was, and we cry and we laugh and we have a bond. He's the only person I can sit and talk to like that." To Moody and to others who have worked at having a good divorce, the relationship is a natural. "I have a history with him that I don't have with anyone else," says Moody. "When I see him, it's like seeing the best, oldest friend in the world, and I love him with all my heart."