

“Unilateral forgiveness is unconditional. Unilateral forgiveness is always available to us, regardless of whether the other person apologizes, shows remorse, is deemed deserving, or is even alive.”

—Eileen Barker

While forgiveness is not relevant to every case nor to every client, from time to time, most lawyers have clients who would profoundly benefit from forgiveness. This doesn't mean every lawyer needs to be an expert, but in order to serve those clients whose best interests would be served by forgiveness, lawyers need to be aware of some basic principles. There are many misconceptions of what forgiveness is, and these misconceptions are often barriers to forgiving. So, we need to be clear about what forgiveness is, and what it is not.

There are many definitions of forgiveness. The standard dictionary meaning is: “a decision not to pursue resentment, retribution or revenge.” To this, I would add:

- Letting go of the desire to hurt the other person as much as they hurt you.
- Accepting life as it is; making peace with what has occurred.
- Telling a different story about what occurred.
- Going beyond the need to be right, in order to alleviate suffering.
- The courage to feel anger, hurt, pain and grief – without blaming anyone.
- Not allowing difficult experiences to define you.
- For the benefit of the one forgiving, not anyone else.
- Reclaiming your power.
- Always possible.
- A choice.

The last point is very important. Each person must arrive at the decision to forgive, or not to forgive, in their own time, without obligation or pressure.

Some people believe forgiveness shows weakness, however as Gandhi famously said: “The weak can never forgive. Forgiveness is an attribute of the strong.”

Why Forgiveness Benefits Our Clients

While forgiveness is a choice, lawyers can help clients make an “informed choice” by offering them information about the significant benefits of forgiveness, and the risks of unforgiveness.

Whether we realize it or not, we pay a very high price for unresolved conflict. Ample medical research conducted over many decades shows that holding onto grudges and resentment is extremely hazardous to one's health. In study after study, it has been shown that those who are unable to forgive are at increased risk of heart attack, stroke, cardiovascular disease, immune deficiency and many other stress-related diseases. Absent forgiveness, there is also an increased risk of depression, substance abuse and suicide.

The good news is forgiveness has been shown to reverse these risks and to contribute to improved health and well-being. This includes improved functioning of the cardiovascular system, nervous system, and immune system, decreasing stress, and increasing one's hope, trust and happiness. Significantly for our clients, forgiveness can help them function better in litigation or mediation settings in that it helps people think more clearly and creatively.

In sum, it takes courage to forgive, but the rewards are enormous.

Two Kinds of Forgiveness

Early in my forgiveness research, I discovered that there are in fact two types of forgiveness, unilateral and bilateral. “Bilateral forgiveness” is the one most people think of when they hear the word forgiveness. Bilateral forgiveness (also called conditional forgiveness) is forgiveness given in exchange for an apology or other demonstration of remorse. This type of forgiveness plays an important role in repairing a relationship when there has been a rupture.

The problem with bilateral forgiveness is that it is not always available. The other person might refuse to apologize or acknowledge any responsibility for causing harm. Or the other person may no longer be available or alive. Either way, the person harmed is “stuck.”

This is one of the reasons my work focuses primarily on the other type of forgiveness, “unilateral forgiveness.” Unilateral forgiveness is unconditional. Unilateral forgiveness is always available to us, regardless of whether the other person apologizes, shows remorse, is deemed deserving, or is even alive. It requires nothing from the other person. And, unilateral forgiveness is not done for the other person's benefit. It is a process done solely for one's own benefit.

Why We Resist Forgiveness

Despite the many benefits, there are many reasons people resist forgiveness. As noted above, these are often based on misconceptions which get in the way, so its important to dispel these myths:

Forgiveness is a sign of weakness. Some people believe forgiveness shows weakness, however as Gandhi famously said: “*The weak can never forgive. Forgiveness is an attribute of the strong.*” In fact, forgiveness takes great courage. Archbishop Desmond Tutu said: “*Anyone who thinks forgiveness is weak hasn't tried it.*”

Forgiveness means what happened is okay. People sometimes fear that forgiveness will be interpreted as excusing poor behavior, but this is not necessarily the case. Forgiveness does not mean poor behavior is condoned. It means that the person harmed wishes to free themselves. It means no longer wish to carry the burden of anger, hurt and resentment. This does not negate wrongdoing, and it does not remove the need for accountability and justice, or the right to seek reparation and wholeness.

Forgiveness means I have to forget what happened. “Forgive and forget” is a classic maxim, but it is wrong. Forgiveness does not mean living in denial. To the contrary, it is important to remember what happened, learn from the experience, and take steps to ensure it doesn't happen again.

Forgiveness means I'll have to deny my true feelings. The reverse is true. Forgiveness enables feelings to be expressed fully, often for the first time – including anger, fear, sadness and grief.

The other person doesn't deserve to be forgiven. Forgiveness is not done for the other person. It is done solely for the benefit of the one forgiving. It enables the release of toxic emotions that are incredibly destructive to one's health and well-being.

Forgiveness means reconciling with the other person. Forgiveness and reconciliation are two different things. When forgiveness occurs, it can open the door for reconciliation, but it is possible to forgive without reconciling.

Some things are simply unforgivable. We often resist forgiveness on the grounds that what happened is too egregious to be forgiven. Forgiveness expert Dr. Fred Luskin of Stanford University says: *Our major obstacle is not the offenses themselves but the lack of tools with which to work. We imagine it is the nature of the offence that is unforgivable. However, if any of us look around we will find people who have forgiven the very same offense.*

In other words, nothing is per se unforgivable. This point is underscored by truly horrific situations in which forgiveness has been successfully applied, such as survivors of Rwanda who forgive those who killed their family, holocaust survivors who forgave the Nazis, mothers and fathers who forgave the person who killed their children, and war veterans who forgave those who maimed them during war. For any harm or injury you can name, someone has forgiven.

The real questions to ask are these:

Do you *want* to forgive?
Would you want to forgive if you knew how?
Are you *ready* to forgive?
Are you *motivated* to forgive?
If you are not ready or motivated, *what stands in your way?*
What would you need in order to able to forgive?

Barbara Monty: ACT – the forgiveness acronym

I find it useful to condense forgiveness into three parts, in the form of the acronym “ACT”. ACT stands for: “Anything” can be forgiven, forgiveness is a “CHOICE” and forgiveness may take “TIME”.

**“A” is for,
ANYTHING can be forgiven.**

Parties (and lawyers) often proclaim that what happened in their case is “unforgivable.” But is this really true?

Victims of apartheid in South Africa, some of whom were tortured and suffered gross human rights violations, forgave the perpetrators and worked alongside them in order to create a more just society and new government.

Mothers in Northern Ireland have publicly forgiven the murders of their children, in order to heal themselves.

Rape survivors work in therapy specifically to forgive the rapists.

Victims of crime approve of prison term for the defendants, while being able to let go of the need to hate the criminal.

Certainly, plaintiffs in civil cases may still want monetary compensation, even with forgiveness, but they can let go of the need to punish the defendant. Sometimes parties need only learn that “letting go” does not mean “giving in” or condoning bad behavior.

**“C” is for,
Forgiveness is a CHOICE.**

People can choose to hold on their anger, victimhood or need for revenge. Or they can choose to let go and lower their blood pressure, decrease the risk of heart disease, be able to heal faster and become emotionally healthier. Sometimes explaining the benefits that forgiveness can bring is enough to help the client move forward. Sometimes understanding that forgiveness does not mean to condone bad behavior, or does not mean that the wrong doer “gets away with it” is most useful.

Pushing someone to forgive is not useful, but being a model of forgiveness may be. I find when I specifically put forgiveness on the menu as a possible

outcome of conflict, it opens up the discussion. Considering the appeal of being the hero instead of the victim is also useful.

**“T” is for,
Forgiveness may take TIME.**

For some people forgiveness has been part of their culture or religious tradition and thus they come to this concept easily. For these people just the discussion of this concept may be enough for them to let go and get on with their lives. For others, particularly those involved in litigation, forgiveness can be seen as a weakness or as losing the fight. I have found that the more I work on myself, either through reading, therapy, meditation, forgiveness workshops or twelve step work, the more forgiveness informs my professional work. I had to first intellectually understand that forgiveness does not necessarily involve the other person, but this was something I could do for myself. Then I had to see the physical and mental benefits of forgiveness. Only then could I honestly look at myself and how I was holding on old injustices. Now, I can feel physically when I experience anger or resentment. Identifying these emotions actually helps me to think and letting go of them opens up clearer rational thought. I now also better understand that emotions fuel many legal conflicts. I also see first-hand how forgiveness can help all of us heal and be free.

In the last parts of this four-part series, Eileen and Barbara will provide specific tips on how to use principals of forgiveness in law and mediation.



Eileen Barker is a lawyer/mediator and forgiveness teacher. She has developed a unique process that enables people to transform conflict into peace, and move from anger and resentment to forgiveness. Eileen has taught extensively on mediation, conflict resolution and forgiveness at UC Berkeley School of Law, UC Hastings College of Law, Sonoma State University and elsewhere. She currently serves as “of counsel” to Monty White LLP. Since 2007, Eileen has led numerous courses and retreats throughout the US and Europe. Eileen is the author of *The Forgiveness Workbook*, which contains her ground-breaking process. In 2016, Eileen received a lifetime achievement award from the Worldwide Forgiveness Alliance, along with Nelson Mandela and Desmond Tutu. Read more at WWW.THEPATHOFFORGIVENESS.COM



Barbara Monty is a mediator and litigation partner with Monty White LLP in San Rafael California. She has been recognized by the California Bar Association for her cutting edge work in elder abuse and was one of the first lawyers litigating sexual harassment cases against the US Government. Barbara has mediated cases for clients from fortune five hundred clients to violence among gang members. She has been an early leader for the legal rights of the LGBTQ community and is now working to incorporate the principals of Forgiveness into her mediation and litigation practice.

Monty White LLP provides assertive, professional, responsive legal services. Monty White attorneys, many of whom have practiced for over 30 years each, have expertise in a wide variety of practice areas, including personal injury, immigration, criminal defense, commercial, employment, estate planning, elder law, business, intellectual property, construction and family law. This experience allows Monty White to provide clients with early evaluation, efficient litigation and successful results.