

Book Review

Divorce American Style

Splitopia: Dispatches from Today's Good Divorce and How to Part Well by Wendy Paris

Review by NAOMI CAHN* & JANA SINGER**

I. Introduction

Splitopia is not a conventional legal divorce book. That is, it isn't a how-to-file-for-a-divorce book, it isn't a critique of the laws of divorce, and it doesn't give tips on how to be a better divorce lawyer. What it does do, however, offer is a positive view of divorce. It seeks to create a new narrative for the good divorce, replacing myths of crisis and contentiousness with images of cooperation and collaboration, and myths of depression and vindictiveness with images of self-growth and emotional stability.

Splitopia is the kind of book we would recommend to a friend considering divorce, fearful that the process would be nasty, brutish, and long, and worried about what might happen to a functioning family. Wendy Paris is like having an older, wiser friend who has just had a “good” divorce and who is cheerfully willing to share her advice and counsel. As we learn in the first five pages, Paris is a child of divorce who had good role models on how to prevent divorce from destroying a family. She remains close to both parents, and her parents are close to one another. Indeed, when Wendy and her “future ex-husband” decided to divorce, her father was living with his third ex-wife, and their relationship was a far more “symbiotic and laughter-filled friendship” than it was when they were married.¹

While the book might be particularly useful as a guide for clients, it also provides valuable insights for lawyers on how our clients might be

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1. WENDY PARIS, *SPLITOPIA: DISPATCHES FROM TODAY'S GOOD DIVORCE AND HOW TO PART WELL* (2016).

experiencing divorce and on the types of nonlegal advice we might provide to support them outside of our offices. It skillfully brings together the author's personal experiences in separating from her husband, research on the psychological and emotional aspects of divorce, advice on how to cope with being single, and, in an appendix, policy recommendations on how to improve American divorce. Throughout, Paris interweaves her own experiences and the perspectives of those whom she has met along her divorce path, with psychological insights and practical advice. In our review, we explore why the book should be useful to family lawyers and clients, and then discuss some of the book's limitations.

II. Managing Divorce

Almost fifty years ago, around the time of California's no-fault divorce law, anthropologist Paul Bohannon identified six distinct stages of divorce: the emotional, legal, economic, coparental, community, and psychic divorce.² These six stages each appear in *Splitopia*, and they serve as a useful way for exploring the book's themes. Rather than occurring sequentially, the six stages overlap. For example, if there are children, then the coparental divorce occurs as part of each of the other stages. While lawyers focus on the legal divorce, disentangling these overlapping aspects of the separation and divorce experience can help both lawyers and clients approach the entire process with more understanding and depth. Paris provides guidance on how to navigate each stage, and her message of "you can do it" is designed to be reassuring and empowering.

A. *The Emotional Divorce*

The emotional divorce is the process leading to the actual separation, as members of the couple realize that they no longer want to remain married. Paris describes when she and her future ex first began exploring divorce; ironically, it was at the wedding of a friend. As they listened to the bride and groom state their vows to one another, Paris realized that, unlike the newlyweds, she and her husband did not share the same expectations of marriage.³ Although they initiated the divorce conversation at that point, she and her husband remained married and began seeing a therapist, who specialized in marriage and divorce, to work on their relationship.

2. Paul Bohannon, *The Six Stations of Divorce*, in *DIVORCE AND AFTER* 29, 30–31 (Paul Bohannon ed. 1970); see Florence W. Kaslow, *Stages of Divorce: A Psychological Perspective*, 25 *VILL. L. REV.* 718, 720 (1979–80), <http://digitalcommons.law.villanova.edu/cgi/viewcontent.cgi?article=2284&context=vlr>; see also Clare Huntington, *Repairing Family Law*, 57 *DUKE L.J.* 1245, 1282 n. 157 (2008) (noting that the legal divorce is just one aspect of ending a marriage).

3. PARIS, *supra* note 1, at 19.

Even as they met with the therapist, they discussed the myths of divorce, those beliefs that might interfere with, or cause ambivalence about, moving forward towards separation. It's at this early stage in the divorce process—and in the back—that Paris begins to explore the history of divorce and to debunk the myths that “scare people into staying in bad [marriages].”⁴

So, she and her husband decided to move forward, announcing plans for a trial separation, facing the skepticism of friends, and preparing herself for the anticipated two years of misery that most people associate with divorce. In fact, it is those two years that become the basis for the rest of the book. Paris's experiences during this first phase of divorce result in her developing “Seven Principles of Parting” because, she explains, the divorcer needs a “vision” for managing the various changes caused by marital dissolution.⁵ Here, as is true in numerous other discussions in the book, Paris develops pithy, memorable taglines. These particular principles are focused on self-acceptance of the reality of the divorce process, and begin with the importance of self-compassion. The principles encompass both the emotional divorce—the transition out of a marriage—and the “psychic divorce,” the stage that Bohannon associates with each spouse moving on with his or her life, regaining autonomy.

Indeed, one of the strengths of the book's approach is that it acknowledges the strong emotions that often accompany divorce, without surrendering to those emotions. Unlike early no-fault reformers, who often attempted to ignore the emotional aspects of divorce, Paris recognizes the power of emotions, particularly negative ones. However, she emphasizes that divorcees can work to manage their emotions and, by doing so, can change the narrative of their divorce. In particular, her seventh principle of creating “positive moments” provides a concrete strategy for replacing negative with positive feelings by connecting with others and reframing divorce-related challenges as opportunities for personal growth. To be sure, Paris acknowledges that no-fault divorce is not easy; as she explains: “It's mind-bogglingly difficult to untangle a shared life” (p. 4). But her Principles of Parting serve as useful guideposts for managing the logistical and emotional challenges associated with the transition from married to single.

B. The Coparental Divorce⁶

In the early 1960s, about half of American women believed parents

4. PARIS, *supra* note 1, at 2.

5. *Id.* at 44.

6. As Bohannon pointed out, “the child's parents are divorced from each other—not from the child.” Bohannon, *supra* note 1, at 45; See MERLE WEINER, A PARENT-PARTNER STATUS FOR AMERICAN FAMILY LAW (2015).

should stay together for the sake of their children; that number dropped to twenty percent in 1977.⁷ Today, one-third of Americans believe that an unhappy couple should stay together for the sake of their children.⁸ Yet Paris's concern about her son caused her to question whether to divorce. As she discusses her decision to go ahead, she also reviews studies on children's adjustment to divorce. Relying on the work of psychologist Michael Lamb, she concludes that what children really need is not parents who are married to each other, but parents who are loving and nurturing and who do not fight with each other.

Of course, she notes parenting during and after divorce is challenging, so she provides some suggestions on how parents trying to achieve a good divorce can minimize risks to their children. For example, to achieve a good divorce, it is important to figure out how to cooperate with an ex, rather than criticize the ex's parenting. Moreover, because children crave stability, parents should work to establish new routines and should encourage the involvement of other adults who are important to their children. Paris also suggests that fighting for sole custody against a decent parent is rarely in a child's best interests. She acknowledges, however, that this is not an absolute rule, relating the story of a woman who "rightfully" sought and won sole custody because the father was a sometimes-violent drug addict.⁹

On this issue, many states have endorsed Paris's message, not only by encouraging shared postdivorce parenting, but also by moving away from traditional custody labels in favor of detailed parenting plans that specify how divorcing and separating parents will continue to share both legal decision-making and day-to-day caretaking responsibilities for children.¹⁰ Indeed, the Model Parenting Plan drafted by the American Academy of Matrimonial Lawyers avoids any mention of "custody" or "visitation," explaining that this choice of language is intended "to send an important message to parents about their ongoing responsibility and to be more reflective of what actually happens in families."¹¹

7. W. Bradford Wilcox, *The Evolution of Divorce* (Fall 2009), <http://nationalaffairs.com/publications/detail/the-evolution-of-divorce>.

8. *Don't Stay Together for the Kids* (2014), <https://today.yougov.com/news/2014/12/06/divorce/>.

9. PARIS, *supra* note 1, at 80.

10. See, e.g., Jana B. Singer, *Bargaining in the Shadow of the Best Interest Standard: The Close Connection Between Substance and Process in Resolving Divorce-Related Parenting Disputes*, 77 LAW & CONTEMP. PROBS. 188 (2014); J. Herbie DiFonzo, *From the Rule of One to Shared Parenting: Custody Presumptions in Law and Policy*, 52 FAM. CT. REV. 213, 247-48 (2014).

11. Mary Kay Kisthardt, *The AAML Model for a Parenting Plan*, 19 J. AM. ACAD. MATRIMONIAL LAW 223, 229 (2005).

Paris recommends parenting classes and she emphasizes that caregivers need care as well. In another chapter, she offers tips on how to tell children that the divorce is happening, such as tailoring the story to their age. She told her own son, who was four, that his father was going to live near a firehouse that they could visit any time they wanted.¹² Her most helpful tool turned out to be a guide that she downloaded from Sesame Street. She draws on other parents' experiences in telling their children, and she points out that other adults, professionals, and religious groups can help children process their emotions.

C. The Community Divorce

This stage involves managing relationships with the outside world; divorce leads to changes in social groups and friendships, and Paris takes on this task in several different chapters, including one titled, "The Opposite of an Engagement."¹³ She finds that "emotional flexibility" is key to shaping others' reactions to the divorce.¹⁴ To help her respond appropriately when members of her community asked about the divorce and to prevent intrusive questions, she developed an "elevator speech"—a clear, succinct statement that provides just enough, but not too much, information.¹⁵ While elevator speeches are typically used in a professional context, such as by a job applicant, Paris advocates using the technique to avoid awkward social situations and to take control of the divorce story that others hear.

Friends are not the only community members who need to hear an individual's divorce story, so Paris offers suggestions on how to inform parents of the divorce and make sure that they realize it is your divorce story, not their fault. For example, to prepare parents to be accepting of the divorce, Paris draws on studies of self-affirmation theory, which posits that affirming some of an individual's core beliefs may help that individual accept information that might otherwise seem threatening. In other words, letting the divorcing individual's folks know that they are not only the parents of a child facing divorce, but also beloved grandparents, good cooks, and sage advisors may help them be more open and less critical of your decision to divorce, even if they are strong proponents of lifelong marriage.

For Paris, the community divorce also meant recognizing that existing

12. PARIS, *supra* note 1, at 111

13. *Id.* at 95.

14. *Id.* at 101.

15. See, e.g., *The 30 Second Elevator Speech*, <http://sfp.ucdavis.edu/files/163926.pdf>; Katherine Arline, *What Is an Elevator Pitch?* (BUS. NEWS DAILY) (Jan. 26, 2015), available at <http://www.businessnewsdaily.com/3937-elevator-pitch.html>.

friendships would be affected and that, as with other major life changes, separation and divorce are a time to make new friends. She begins a chapter on “Friends . . . and the Lack Thereof” by exploring the loneliness she felt during her first year without her ex. She labels her new emotional state “Divorce Onset Social Insecurity,” a feeling that reminded her of the insecurity of middle school students struggling with popularity contests.¹⁶ To manage this form of social unease, she offers advice on “How to Be Popular: The Adult Version.”¹⁷ Such advice is useful, Paris explains, because married people often turn inward, toward each other, rather than initiating new friendships, and “social skills are like muscles—you have to use them to keep them strong.”¹⁸

D. The Legal Divorce

As Paris and her ex-husband prepare to file the divorce papers themselves, Paris recounts how even the dry, no-fault petition stirred up emotions, perhaps because of the imminence of the actual legal event. Yet they persist in seeking a modified “DIY divorce . . . the IKEA version of dissolving your marriage: you can get a great divorce for a fraction of the usual price, but you have to build it yourself,”¹⁹ she advises. Building it yourself does not mean dispensing with professional advice, so in a chapter titled “Don’t Buy Your Lawyer a Country House,” Paris explores the trend in family dispute resolution away from an adversarial model toward a gentler, problem-solving approach. Her examples include the rise of mediation, the collaborative divorce movement, and unbundled legal services (the “drop-in divorce shops”). She provides a useful introduction to each of these alternatives, and offers additional resources for both divorcers and professionals at the end of the book. Paris also highlights the out-of-court model developed by the Resource Center for Separating and Divorcing Families at the University of Denver, which opened in September 2013 and has since evolved into the off-campus Center for Out-of-Court Divorce.²⁰ It provides a holistic suite of services to help families

16. PARIS, *supra* note 1, at 124.

17. *Id.* at 133.

18. *Id.* at 132.

19. *Id.* at 182.

20. *Id.* at 182. It is now called the Center for Out-of-Court Divorce.; *see also id.* at 194. For a description of the Center, *see* The Center for Out-of-Court Divorce, <http://centerforoutofcourtdivorce.org/>; William J. Howe, III & Elizabeth Potter Scully, *Redesigning the Family Law System to Promote Healthy Families*, 53 FAM. CT. REV. 361, 362 (2015). The Center trains students to provide an interdisciplinary range of services to divorcing families. *See* Melinda Taylor et al., *The Resource Center for Separating and Divorcing Families: Interdisciplinary Perspectives on a Collaborative and Child-Focused Approach to Alternative Dispute Resolution*, 53 FAM. CT. REV. 7 (2015).

“disentangle the threads of marriage,” including parenting education, financial planning, mediation, and a divorce workshop for children. Then, when the soon-to-be ex-spouses have clarified their goals and mapped out a strategy for the transition, a judge comes to the Center to make it legal by officially dissolving the marriage—all without ever having to set foot in court.

E. The Economic Divorce

Paris does not provide extensive discussion of the economic divorce, which Bohannan defined as the transfer of money, whether it takes the form of property distribution, alimony, or child support.²¹ But Paris does address fears of women’s postdivorce impoverishment. She points out that Lenore Weitzman’s oft-cited statistic that mothers would see a seventy-three percent drop in their standard of living upon divorce has been roundly criticized, and that even Weitzman “acknowledged her mistake.”²² While divorce still has a depressing impact on finances, Paris suggests that the laws of equitable distribution provide some protection that property will be split fairly, regardless of the spouses’ roles during marriage. She also notes that some people may become more productive after divorce, once they are free to concentrate on their careers, rather than coping with a spouse’s criticism or ruminating about a troubled marriage.

Perhaps one reason that Paris does not dwell on the economic impact of divorce is that she and her ex had not experienced significant changes in their earning abilities as a result of their marriage. The financial ramifications of dissolving a marriage can be much more challenging where spouses have significantly different incomes or earning prospects, particularly if the disparities are the result of actions taken during the marriage, such as one spouse stepping off a career track or scaling back on labor market participation to care for young children.²³ Determining how much (if any) of the spouses’ postdivorce income should be shared or

21. At the time Bohannan was writing, he noted that alimony was based on “the prevailing idea . . . that the husband, as head of the family, has an obligation to support his wife and children, and that property settlements were ‘based on the assumption that a man cannot earn money to support his family if he does not have the moral assistance and domestic assistance of his wife.’” Bohannan, *supra* note 2, at 43, 44.

22. PARIS, *supra* note 1, at 22; see also Felicia R. Lee, *Influential Study on Divorce’s Impact Is Said to Be Flawed*, N.Y. TIMES (May 9, 1996). Paris provides documentation for the studies she discusses in a nicely organized set of notes at the end of the book. While not in law review citation/endnote format, they are keyed to phrases in the book.

23. See CYNTHIA STARNES, *THE MARRIAGE BUYOUT* (2014).

transferred, and for what period of time, can be contentious, even under the least adversarial divorce regime.

F. The Psychic Divorce: Working Toward Being Single

Accepting one's new status, developing autonomy and actually separating emotionally from an ex, is another critical stage in the divorce process. Much of the book is focused on fostering confidence and self-sufficiency, creating a new life that does not rely on, and is not defined by, the ex-spouse. Paris offers numerous chapters and suggestions on moving forward, such as by developing an internal elevator speech to make sense of a new unmarried life.²⁴ The good divorce also involves detaching from an ex and remembering and relearning the divorcer's own preferences. In Paris's case, moving forward meant physically relocating; she was fortunate that her ex was willing to relocate as well, to ensure the continuation of their coparenting partnership. Such joint relocations are not typical.²⁵ She even offers advice on dating again.

Paris does not sugarcoat her new life. She admits that being alone was difficult, that she was indecisive, that she was jealous of her almost-ex's new girlfriend, and that Paris even felt nostalgia for her marriage. Her candid acknowledgement of her emotions takes her into a brief view of grief research,²⁶ which then leads into a discussion of resilience and of how sadness and trauma may lead to growth. To help that process along, she offers concrete suggestions for how to "cop[e] like a champion" including setting mini goals for recuperation and visualizing victory, which Paris accomplished with the help of a divorce coach.²⁷

As a final ritual to make the transition from married to single, she suggests a divorce, or "unwedding," ceremony. These ceremonies, which are becoming more popular,²⁸ provide some of the "pomp and significance" that is missing in sterile court papers.²⁹ Some of the people she interviewed for the book described how meaningful they found their uncoupling ceremonies; Natalie and Mike, co-owners of an organic vegan restaurant, revised their wedding vows to indicate that they were no longer spouses, but remained partners.³⁰ For Charlotte, a divorce ceremony attended by a

24. PARIS, *supra* note 1, at 115–16.

25. See generally Merle H. Weiner, *Inertia and Inequality: Reconceptualizing Disputes over Parental Relocation*, 40 U.C. DAVIS L. REV. 1747 (2007).

26. PARIS, *supra* note 1, at 156.

27. *Id.* at 161.

28. See Abby Ellin, *Untying the Knot, and the Bonds, of Marriage*, N.Y. TIMES (Apr. 27, 2012), http://www.nytimes.com/2012/04/29/fashion/weddings/leaving-a-spouse-behind-for-good.html?pagewanted=all&_r=0. There are even "divorce party planners" (p. 206).

29. PARIS, *supra* note 1, at 202.

30. *Id.* at 205.

hundred supportive guests helped ease ongoing unhappiness and provided a source of strength and confidence. For those who do not believe in such rituals, Paris suggests other, more private ways to make the transformation to postdivorce status.

In her final chapter, “Happily Ever After Divorce,” Paris reminds her readers that divorces, like marriages, evolve over time and that even a turbulent divorce relationship may improve. She notes the power of expressions of appreciation—even belated ones—and the role that grown children can play in restoring connections between ex-spouses. Consistent with her overall theme, she cautions that maintaining a good relationship with an ex-spouse is not something that just happens; rather, it requires ongoing attention and work—just like maintaining a good marriage.

Following the final chapter are a series of useful appendices with resources for readers and professionals. Then, Paris ends her book with a set of “Policy Suggestions & Reforms.” Although many of her suggestions make sense (and we have advocated for similar reforms as well), this Appendix seems a bit tacked on. Indeed, it is the least compelling portion of the book, in part because Paris does not have the same personal connection to many of the issues she raises. A few of the suggested reforms, such as decriminalizing nonpayment of child support by the poor, seem only tangentially related to the narrative sections of the book. Ironically, this is one of the few places where Paris focuses explicitly on the impact of divorce on low-income parents and children, but her discussion of the problems with current child support rules lacks the context and detail it needs to be convincing. For one thing, it is never-married parents, rather than divorcing ones, who are the primary target of aggressive child support enforcement policies, and these policies thus raise broader questions about the source and extent of parental obligations to children.

A number of Paris’s other reform ideas—such as moving more non-adversarial divorces out of court, creating new models for family lawyers, and updating law school curriculum to train family lawyers for today’s divorce—track more detailed proposals made by family law scholars and reformers (many of whom Paris credits). Still, her suggestions are useful because they remind readers that achieving a “good divorce” is both an individual and a societal project. As feminism taught us, “the personal is political.” Legislators and other policymakers construct the legal and societal framework within which individuals dissolve their marriages and reorganize their families, and the actions of those individuals determine how successfully that framework achieves its policy goals.

III. Using the Book

For clients contemplating divorce, *Splitopia* provides reassurance that life continues and often improves. For lawyers who want to offer counsel to their clients on the emotional and psychological aspect of the divorce process, *Splitopia* provides extremely useful guidance. It might also be useful to family lawyers in their own lives.

The book, however, should also be placed in context. Paris and her future ex-husband began their journey with a number of advantages that enhanced their chances of achieving a good divorce. First, both of them wanted—or at least accepted—the dissolution of their marriage. Their divorce was what many family lawyers would call a “mutual consent” divorce. This is the type of divorce that the shift from fault-based to no-fault rules was designed to facilitate, and this is the kind of divorce that the no-fault system handles best. Paris’s narrative assumes that both spouses have agreed to end their marriage.

But today’s no-fault divorce regime also allows for divorce at the option of one party, even where the other party does not want the marriage to end. These one-sided partings, often referred to as unilateral divorces, tend to be much more difficult for both individuals and the legal system to navigate. Indeed, research psychologist and mediator Robert Emery points out that many of the most acrimonious divorce-related disputes are fueled not by the legal and practical complications of family reorganization, but rather by differences in the grieving processes of a spouse who decides to end a marriage and a partner who is left behind.³¹ Additional attention to this category of divorces would have strengthened Paris’s book. Paris’s sole example of a couple initially in this predicament involves a wife who went from being “vehemently opposed” to divorce and “threatening the worst,” to accepting her husband’s unilateral decision to move out within the space of a single weekend—a scenario that seems particularly unrepresentative.

Second, Paris and her future ex had the financial means to access professional assistance in navigating the dissolution of their marriage and the reorganization of their parenting partnership. Paris writes that, before the couple separated, they traveled from Hoboken to Manhattan for bi-weekly sessions with a therapist who specialized in the effects of marriage and divorce on children. Later, the couple consulted a “divorce counselor” to help them negotiate a plan for introducing new partners into their child’s life. Paris also mentions a “divorce coach” who helped her see her own signs of growth during difficult moments in the separation process, and a “therapy group” that helped her deal with her husband’s offer to have

31. ROBERT E. EMERY, *RENEGOTIATING FAMILY RELATIONSHIPS: DIVORCE, CHILD CUSTODY AND MEDIATION* 67 (2d ed., 2012).

a second child together, using the embryos that the couple had created during marriage. These resources undoubtedly helped, but many divorcing couples do not have access to them, at least not at market rates. Court systems are struggling with how to make comparable resources available to individuals and families of more modest means. Australia's system of community-based Family Relationship Centres, which Paris mentions among her "Policy Recommendations," is one promising model, but those centers were created with a massive infusion of government funds, and such a government-funded effort is extremely unlikely in the United States.

Paris and her husband also had the psychological and other personal resources to engage in the hard work of divorcing well. Other couples are not so fortunate or comfortable with the collaborative work required. While Paris acknowledges that her book does not address "marriages that end due to addiction, abuse, or mental illness,"³² these, unfortunately, are the cases that generate the most acrimony and take up a disproportionate share of judicial resources. It is difficult to make good policy without taking these hard cases into account.

IV. Conclusion

Splitopia lives up to its subtitle, providing both a witty memoir and sage advice from someone who really has experienced a good divorce and who is committed to using her experience to help others move forward with their own lives. It shows how changes in divorce law and procedure can support this new image of divorce. It is grounded in real life, offering perspective on how to manage the logistical and emotional challenges that accompany the dissolution of a marriage. While many of its reform suggestions are somewhat unmoored from the personal experiences that frame the rest of the book, they serve as the author's acknowledgement that the "good divorce" is both a personal and a communal journey, and that both individual and societal efforts are necessary to change the narrative of divorce.

32. PARIS, *supra* note 1, at 10.

