

Collaborative Law

I was at an international conference on collaborative family law over the weekend. Collaborative Law is a relatively new development in legal practice that aims to create an environment within which solicitors and couples can collaborate together to reach an agreement or solution regarding their conflicts. It represents an alternative to the traditional adversarial system within which solicitors and spouses fight against each other for maximum gain. Rather than fighting against this model offers a structure and mechanism within which solicitors can work together toward a common goal. One of the unique parts of this approach is that there is a commitment by both solicitors and their clients to not go to court. In other words, all parties are committed to finding the best solutions for the family by agreement rather than through conflict.

It is indeed a most welcome development in the field as it is a model that recognises the destructive and traumatic effects that court procedures have on families. The effect of having to go through a court process is enormous. It demands an adversarial and hostile approach that can traumatise not just the immediate parties involved, but their children and their extended families. The wounds inflicted by this traditional process spread down generations and across the family tree like emotional shock waves.

One of the most invisible and insidious effects that the adversarial legal system has on couples and families is to induce a level of paranoia in otherwise healthy functioning people that escalates conflict out of all proportion. Each partner becomes suspicious of the others motives and therefore reacts defensively to every new yet benign behaviour exhibited by the other. This results in a counter-response of equal intensity fuelled by the outrage that the other person questions their motives. And it goes on and on in an ever increasing cycle of negativity, paranoia, and distrust. This is all fuelled by a legal system that can escalate rather than soothe distress.

Collaborative Law offers an alternative model. In many ways it is the humanization of the legal process that works toward agreement through collaboration rather than looking for victory through legal conquest.

The conference in Fota was organised by the Irish Group of Collaborative lawyers, in particularly the group from Cork who hosted the occasion spectacularly. Indeed it appears that our Cork group of collaborative lawyers are the envy of many a city in Ireland and internationally. To their credit the organizers arranged for the conference to be opened by President Mary McAleese, to be addressed by the Attorney General John Gallagher, and to be closed by Brian Linehan, Minister for Justice. To have such heavy hitters endorse and support this process was indeed most encouraging.

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Symbol

Aside from all of that, to change the subject a little, the reason I wanted to write this piece was really to try to give expression to the meaning of the President to our country. In my latter years in life I find I am getting more emotional about a lot of things and found myself deeply affected by the presence and arrival of the President at the conference. I find ritual and ceremony to be deeply affecting. As a lover of the great psychologist Carl Jung, who was a great scholar of symbols and their meaning, I

find myself always moved by rituals, ceremonies, and symbols that seek to represent the invisible dignity, history, meaning, relevance, and majesty of various invisible aspects of our life. Symbols, rituals, and ceremonies seek to reveal something about life that is largely invisible.

The dignity of the president, and the ceremony and respect shown to her, had my mind flooding with images of Irishness – the famine, myth and legends, Cu-chulainn and Fionn, St. Patrick and our Celtic history, the skelligs rocks, the famine, the national game, immigration, heroes who have died in the past, Daniel O’Connell, Michael Collins, and a host of other people and events all funnelled through my consciousness as I applauded the president. I was standing, with others because, unbeknownst to myself until afterwards, I was applauding our history and the people who have made us who we are. I thought of my late father and my deceased grandparents and my applause for the president was for them. This was not all logically thought out but just felt. She spoke a little Irish and I realised also that our language is not just a literal tool to be maintained but a symbol of our history and heritage. So we would lose all of our symbols at our peril.

But we relate to symbols not just like flags, anthems, and people but our lives are draped with the symbols that give meaning to our lives. In fact we are, at heart, symbolic people.

A crucifix in someone’s pocket, an old rosary beads hanging in the kitchen, a memoriam card sitting in a diary, a bunch of near wilting flowers on a hospital window, a child’s painting on the wall of the prisoners cell, a ring on an aging finger, a rosette on a three-year-old’s t-shirt, a cup raised high by the captain of a team, a small toy on the grave of a child, a flag over Kosovo, a Red Cross on the t-shirt of an aid-worker, a statue of a hero in the market place, a cross on a distant hill.

We are a spiritual people seeking to give meaning to our lives and when we find that meaning we do not express it verbally or in words, we do it through symbol. A warm cup of tea when your friend and lover arrives home tonight!

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