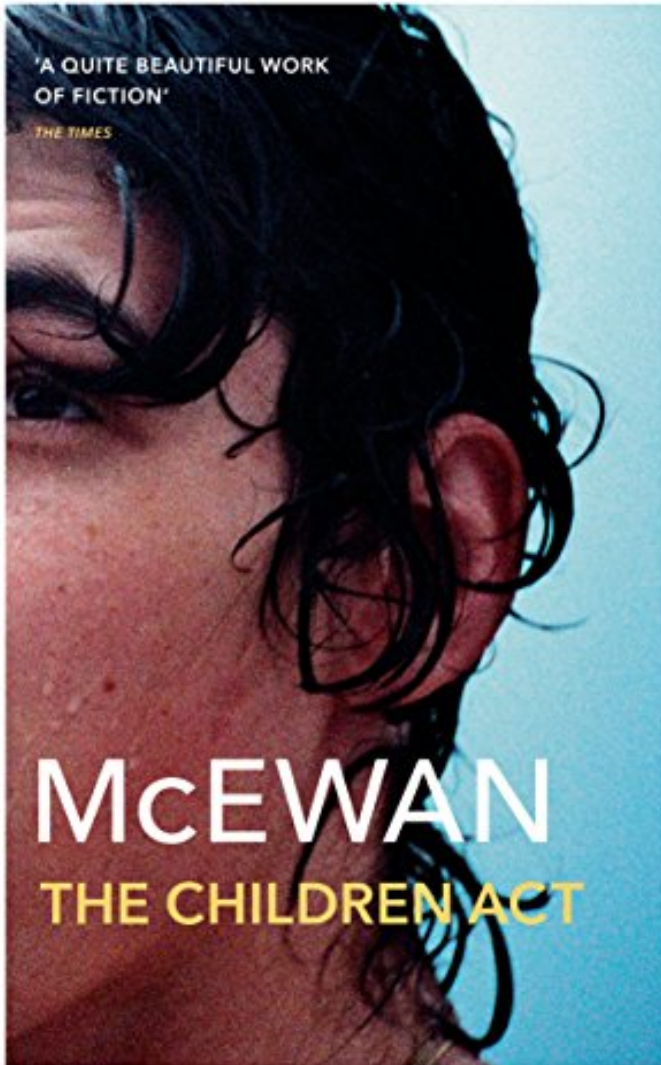


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# The Children Act



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## Description :

Prsentation de l'diteurA brilliant, emotionally wrenching new novel from the author of Atonement and Amsterdam.Fiona Maye, a leading High Court judge, renowned for her fierce intelligence and sensitivity is called on to try an urgent case. For religious reasons, a seventeen-year-old boy is refusing the medical treatment that could save his life. Time is running out.She visits the boy in hospital an encounter which stirs long-buried feelings in her and powerful new emotions in the boy. But it is Fiona who must ultimately decide whether he lives or dies and her judgement will have momentous consequences for them both.ExtraitONELondon. Trinity term one week old. Implacable June weather. Fiona Maye, a High Court judge, at home on Sunday evening, supine on a chaise longue, staring past her stockinged feet toward the

end of the room, toward a partial view of recessed bookshelves by the fireplace and, to one side, by a tall window, a tiny Renoir lithograph of a bather, bought by her thirty years ago for fifty pounds. Probably a fake. Below it, centered on a round walnut table, a blue vase. No memory of how she came by it. Nor when she last put flowers in it. The fireplace not lit in a year. Blackened raindrops falling irregularly into the grate with a ticking sound against balled-up yellowing newsprint. A Bokhara rug spread on wide polished floorboards. Looming at the edge of vision, a baby grand piano bearing silver-framed family photos on its deep black shine. On the floor by the chaise longue, within her reach, the draft of a judgment. And Fiona was on her back, wishing all this stuff at the bottom of the sea. In her hand was her second Scotch and water.

She was feeling shaky, still recovering from a bad moment with her husband. She rarely drank, but the Talisker and tap water was a balm, and she thought she might cross the room to the sideboard for a third.

Less Scotch, more water, for she was in court tomorrow and she was duty judge now, available for any sudden demand, even as she lay recuperating. He had made a shocking declaration and placed an impossible burden on her. For the first time in years, she had actually shouted, and some faint echo still resounded in her ears. "You idiot! You fucking idiot!" She had not sworn out loud since her carefree teenage visits to Newcastle, though a potent word sometimes intruded on her thoughts when she heard self-serving evidence or an irrelevant point of law. And then, not long after that, wheezy with outrage, she had said loudly, at least twice, "How dare you!" It was hardly a question, but he answered it calmly. "I need it. I'm fifty-nine. This is my last shot. I've yet to hear evidence for an afterlife." A pretentious remark, and she had been lost for a reply. She simply stared at him, and perhaps her mouth was open. In the spirit of the staircase, she had a response now, on the chaise longue. "Fifty-nine? Jack, you're sixty! It's pathetic, it's banal." What she had actually said, lamely, was, "This is too ridiculous." "Fiona, when did we last make love?" "When did they? He had asked this before, in moods plaintive to querulous. But the crowded recent past can be difficult to recall.

The Family Division teemed with strange differences, special pleading, intimate half-truths, exotic accusation. And as in all branches of law, fine-grained particularities of circumstance needed to be assimilated at speed. Last week, she heard final submissions from divorcing Jewish parents, unequally Orthodox, disputing their daughters' education. The draft of her completed judgment was on the floor beside her. Tomorrow, coming before her again would be a despairing Englishwoman, gaunt, pale, highly educated, mother of a five-year-old girl, convinced, despite assurances to the court to the contrary, that her daughter was about to be removed from the jurisdiction by the father, a Moroccan businessman and strict Muslim, to a new life in Rabat, where he intended to settle. Otherwise, routine wrangles over residence of children, over houses, pensions, earnings, inheritance. It was the larger estates that came to the High Court. Wealth mostly failed to bring extended happiness. Parents soon learned the new vocabulary and patient procedures of the law, and were dazed to find themselves in vicious combat with the one they once loved. And waiting offstage, boys and girls first-named in the court documents, troubled little Bens and Sarahs, huddling together while the gods above them fought to the last, from the Family Proceedings Court, to the High Court, to the Court of Appeal. All this sorrow had common themes, there was a human sameness to it, but it continued to fascinate her. She believed she brought reasonableness to hopeless situations. On the whole, she believed in the provisions of family law. In her optimistic moments she took it as a significant marker in civilization's progress to fix in the statutes the child's needs above its parents'. Her days were full, and in the evenings recently, various dinners, something at Middle Temple for a retiring colleague, a concert at Kings Place (Schubert, Scriabin), and taxis, Tube trains, dry-cleaning to collect, a letter to draft about a special school for the cleaning lady's autistic son, and finally sleep. Where was the sex? At that moment, she couldn't recall. "I don't keep a record." He spread his hands, resting his case. She had watched as he crossed the room and poured himself a measure of Scotch, the Talisker she was drinking now. Lately, he was looking taller, easier in his movements. While his back was turned to her she had a cold premonition of rejection, of the humiliation of being left for a young woman, of being left behind, useless and alone. She wondered if she should simply go along with anything he wanted, then rejected the thought. He had come back toward her with his glass. He wasn't offering her a Sancerre the way he usually did around this time. "What do you want, Jack?" "I'm going to have this affair." "You want a divorce." "No. I want everything the same. No deception." "I don't understand." "Yes you do. Didn't you once tell me that couples in long marriages aspire to the condition of siblings? We've arrived, Fiona. I've become your brother. It's cozy and sweet and I love you, but before I drop dead, I want one big passionate affair." Mistaking her amazed gasp for laughter, for mockery perhaps, he said roughly, "Ecstasy, almost blacking out with the thrill of it.

Remember that? I want one last go, even if you don't. Or perhaps you do." She stared at him in

disbelief. "There it is, then." This was when she had found her voice and told him what kind of idiot he was. She had a powerful grip on what was conventionally correct. That he had, as far as she knew, always been faithful made his proposition all the more outrageous. Or if he'd deceived her in the past he'd done it brilliantly. She already knew the name of the woman. Melanie. Not so remote from the name of a fatal form of skin cancer. She knew she could be obliterated by his affair with this twenty-eight-year-old statistician. "If you do this it'll be the end for us. It's as simple as that." "Is this a threat?" "My solemn promise." By then she had regained her temper. And it did seem simple. The moment to propose an open marriage was before the wedding, not thirty-five years later. To risk all they had so that he might relive a passing sensual thrill!

When she tried to imagine wanting something like it for herself her "last fling" would be her first she could think only of disruption, assignments, disappointment, ill-timed phone calls. The sticky business of learning to be with someone new in bed, newly devised endearments, all the fakery. Finally, the necessary disentangling, the effort required to be open and sincere. And nothing quite the same when she came away. No, she preferred an imperfect existence, the one she had now. But on the chaise longue it rose before her, the true extent of the insult, how he was prepared to pay for his pleasures with her misery. Ruthless. She had seen him single-minded at the expense of others, most often in a good cause. This was new. What had changed? He had stood erect, feet well apart as he poured his single malt, the fingers of his free hand moving to a tune in his head, some shared song perhaps, not shared with her. Hurting her and not caring that was new. He had always been kind, loyal and kind, and kindness, the Family Division daily proved, was the essential human ingredient. She had the power to remove a child from an unkind parent and she sometimes did. But remove herself from an unkind husband? When she was weak and desolate? Where was her protective judge? Self-pity in others embarrassed her, and she wouldn't have it now. She was having a third drink instead. But she poured only a token measure, added much water and returned to her couch. Yes, it had been the kind of conversation of which she should have taken notes. Important to remember, to measure the insult carefully. When she threatened to end the marriage if he went ahead, he had simply repeated himself, told her again how he loved her, always would, that there was no other life but this, that his unmet sexual needs caused him great unhappiness, that there was this one chance and he wanted to take it with her knowledge and, so he hoped, her assent. He was speaking to her in the spirit of openness. He could have done it "behind her back." Her thin, unforgiving back. "Oh," she murmured. "That's decent of you, Jack." "Well, actually..." he said, and didn't finish. She guessed he was about to tell her the affair had already begun and she couldn't bear to hear it. Didn't need to. She saw it. A pretty statistician working on the diminishing probability of a man returning to an embittered wife. She saw a sunlit morning, an unfamiliar bathroom, and Jack, still decently muscled, pulling a half-unbuttoned clean white linen shirt over his head in that impatient way he had, a discarded shirt tossed toward the laundry basket hanging by one arm before sliding to the floor. Perdition. It would happen, with or without her consent. "The answer's no." She had used a rising tone, like a flinty schoolmarm. She added, "What else would you expect me to say?" She felt helpless and wanted the conversation to end. There was a judgment to approve before tomorrow for publication in the Family Law Reports. The fates of two Jewish schoolgirls had already been settled in the ruling she had delivered in court, but the prose needed to be smoothed, as did the respect owed to piety in order to be proof against an appeal. Outside, summer rain beat against the windows; distantly, from beyond Gray's Inn Square, tires hissed on drenched asphalt. He would leave her and the world would go on. His face had been tight as he shrugged and turned to leave the room. At the sight of his retreating back, she felt the same cold fear. She would have called after him but for the dread of being ignored. And what could she say? Hold me, kiss me, have the girl. She had listened to his footsteps down the hall, their bedroom door closing firmly, then silence settling over their flat, silence and the rain that hadn't stopped in a month. First the facts. Both parties were from the tight folds of the strictly observant Haredi community in north London. The Bernsteins' marriage was arranged by their parents, with no expectation of dissent. Arranged, not forced, both parties, in rare accord, insisted. Thirteen years on, all agreed, mediator, social worker and judge included, that here was a marriage beyond repair. The couple were now separated. Between them they managed with difficulty the care of the two children, Rachel and Nora, who lived with the mother and had extensive contact with the father. Marriage breakdown had started in the early years. After the difficult birth of the second girl, the mother was unable to conceive again, due to radical surgery. The father had set his heart on a large family and thus began the painful unraveling. After a period of depression (prolonged, said the father; brief, said the mother), she studied at the Open University, gained a good qualification and entered on a career in teaching at primary level once the younger had started school. This arrangement did not suit the father or the many

relatives. Within the Haredim, whose traditions were unbroken for centuries, women were expected to raise children, the more the better, and look after the home. A university degree and a job were highly unusual. A senior figure of good standing in the community was called as a witness by the father and said as much. Men did not receive much education either. From their mid-teens, they were expected to give most of their time to studying the Torah. Generally, they did not go to university. Partly for this reason, many Haredim were of modest means. But not the Bernsteins, though they would be when their lawyers' bills were settled. A grandparent with a share in a patent for an olive-pitting machine had settled money on the couple jointly. They expected to spend everything they had on their respective silks, both women well known to the judge. On the surface, the dispute concerned Rachel and Nora's schooling. However, at stake was the entire context of the girls' growing up. It was a fight for their souls. Haredi boys and girls were educated separately to preserve their purity. Modish clothes, television and the Internet were forbidden, and so was mixing with children who were allowed such distractions. Homes that did not observe strict kosher rules were out of bounds. Every aspect of daily existence was well covered by established customs. The problem had started with the mother, who was breaking with the community, though not with Judaism. Against the father's objections, she was already sending the girls to a coeducational Jewish secondary school where television, pop music, the Internet and mixing with non-Jewish children were permitted. She wanted her girls to stay on at school past the age of sixteen and to go to university if they wished. In her written evidence she said she wanted her daughters to know more about how others lived, to be socially tolerant, to have the career opportunities she never had, and as adults to be economically self-sufficient, with the chance of meeting the sort of husband with professional skills who could help to support a family. Unlike her husband, who gave all his time to studying, and teaching the Torah eight hours a week without pay. For all the reasonableness of her case, Judith Bernstein angular pale face, uncovered frizzy ginger hair fastened with a huge blue clasp was not an easy presence in court. A constant passing forward with freckly agitated fingers of notes to her counsel, much muted sighing, eye-rolling and lip-pursing whenever her husband's counsel spoke, inappropriate rummaging and jiggling in an outsized camel leather handbag, removing from it at one low point in a long afternoon a pack of cigarettes and a lighter provocative items in her husband's scheme, surely and lining them up side by side, on hand for when the court rose. Fiona saw all this from her advantage of height but pretended not to. Mr. Bernsteins written evidence was intended to persuade the judge that his wife was a selfish woman with anger-management problems (in the Family Division, a common, often mutual charge) who had turned her back on her marriage vows, argued with his parents and her community, cutting the girls off from both. On the contrary, Judith said from the stand, it was her parents-in-law who would not see her or the children until they had returned to the proper way of life, disowned the modern world, including social media, and until she kept a home that was kosher by their terms. Mr. Julian Bernstein, reedily tall, like one of the rushes that hid the infant Moses, apologetically stooped over court papers, sidelocks stirring moodily as his barrister accused his wife of being unable to separate her own needs from the children's. What she said they needed was whatever she wanted for herself. She was wrenching the girls away from a warmly secure and familiar environment, disciplined but loving, whose rules and observances provided for every contingency, whose identity was clear, its methods proven through the generations, and whose members were generally happier and more fulfilled than those of the secular consumerist world outside a world that mocked the spiritual life and whose mass culture denigrated girls and women. Her ambitions were frivolous, her methods disrespectful, even destructive. She loved her children far less than she loved herself. To which Judith responded huskily that nothing denigrated a person, boy or girl, more than the denial of a decent education and the dignity of proper work; that all through her childhood and teenage years she had been told that her only purpose in life was to run a nice home for her husband and care for his children and that too was a denigration of her right to choose a purpose for herself. When she pursued, with great difficulty, her studies at the Open University, she faced ridicule, contempt and anathemas. She had promised herself that the girls would not suffer the same limitations. The opposing barristers were in tactical agreement (because it was plainly the judges view) that the issue was not merely a matter of education. The court must choose, on behalf of the children, between total religion and something a little less. Between cultures, identities, states of mind, aspirations, sets of family relations, fundamental definitions, basic loyalties, unknowable futures. In such matters there lurked an innate predisposition in favor of the status quo, as long as it appeared benign. The draft of Fionas judgment was twenty-one pages long, spread in a wide fan faced down on the floor, waiting for her to take it up, a sheet at a time, to mark with soft pencil. No sound from the bedroom, nothing but the susurrus of traffic gliding through the rain. She resented

the way she was listening out for him, her attention poised, holding its breath, for the creak of the door or a floorboard. Wanting it, dreading it. Among fellow judges, Fiona Maye was praised, even in her absence, for crisp prose, almost ironic, almost warm, and for the compact terms in which she laid out a dispute. The Lord Chief Justice himself was heard to observe of her in a murmured aside at lunch, Godly distance, devilish understanding, and still beautiful. Her own view was that with each passing year she inclined a little more to an exactitude some might have called pedantry, to the unassailable definition that might pass one day into frequent citation, like Hoffmann in *Piglowska v. Piglowski*, or Bingham or Ward or the indispensable Scarman, all of whom she had made use of here. Here being the limp, unperused first page hanging from her fingers. Was her life about to change? Were learned friends soon to be murmuring in awe over lunch here, or in Lincolns or Inner or Middle Temple, And then she threw him out? Out of the delightful Grays Inn flat, where she would sit alone until at last the rent, or the years, mounting like the sullen tidal Thames, swept her out too? Back to her business. Section one: Background. After routine observations about the family's living arrangements, about residence of the children and contact with the father, she described in a separate paragraph the Haredi community, and how within it religious practice was a total way of life. The distinction between what was rendered to Caesar and what to God was meaningless, much as it was for observant Muslims. Her pencil hovered. To cast Muslim and Jew as one, might that seem unnecessary or provocative, at least to the father? Only if he was unreasonable, and she thought he was not. Stet. Her second section was entitled Moral differences. The court was being asked to choose an education for two young girls, to choose between values. And in cases like this one, an appeal to what was generally acceptable in society at large was of little help. It was here she invoked Lord Hoffmann. These are value judgments on which reasonable people may differ. Since judges are also people, this means that some degree of diversity in their application of values is inevitable... Over the page, in her lately developing taste for the patient, exacting digression, Fiona devoted several hundred words to a definition of welfare, and then a consideration of the standards to which such welfare might be held. She followed Lord Hailsham in allowing the term to be inseparable from well-being and to include all that was relevant to a child's development as a person. She acknowledged Tom Bingham in accepting that she was obliged to take a medium- and long-term view, noting that a child today might well live into the twenty-second century. She quoted from an 1893 judgment by Lord Justice Lindley to the effect that welfare was not to be gauged in purely financial terms, or merely by reference to physical comfort. She would take the widest possible view. Welfare, happiness, well-being must embrace the philosophical concept of the good life. She listed some relevant ingredients, goals toward which a child might grow. Economic and moral freedom, virtue, compassion and altruism, satisfying work through engagement with demanding tasks, a flourishing network of personal relationships, earning the esteem of others, pursuing larger meanings to one's existence, and having at the center of one's life one or a small number of significant relations defined above all by love. Yes, by this last essential she herself was failing. The Scotch and water in a tumbler at her side was untouched; the sight of its urinous yellow, its intrusive corky smell, now repelled her. She should be angrier, she should be talking to an old friend she had several she should be striding into the bedroom, demanding to know more. But she felt shrunk to a geometrical point of anxious purpose. Her judgment must be ready for printing by tomorrow's deadline, she must work. Her personal life was nothing. Or should have been. Her attention remained divided between the page in her hand and, fifty feet away, the closed bedroom door. She made herself read a long paragraph, one she had been dubious about the moment she had spoken it aloud in court. But no harm in a robust statement of the obvious. Well-being was social. The intricate web of a child's relationships with family and friends was the crucial ingredient. No child an island. Man a social animal, in Aristotle's famous construction. With four hundred words on this theme, she put to sea, with learned references (Adam Smith, John Stuart Mill) filling her sails. The kind of civilized reach every good judgment needs. And next, well-being was a mutable concept, to be evaluated by the standards of the reasonable man or woman of today. What sufficed a generation ago might now fall short. And again, it was no business of the secular court to decide between religious beliefs or theological differences. All religions were deserving of respect provided they were, in Lord Justice Purchess phrase, legally and socially acceptable and not, in Lord Justice Scarman's darker formulation, immoral or socially obnoxious. Courts should be slow to intervene in the interests of the child against the religious principles of the parents. Sometimes they must. But when? In reply, she invoked one of her favorites, wise Lord Justice Munby in the Court of Appeal. The infinite variety of the human condition precludes arbitrary definition. The admirable Shakespearean touch. Nor custom stale her infinite variety. The words derailed her. She knew the speech of Enobarbus by heart, having played him once as a law student, an

all-female affair on a lawn in Lincolns Inn Fields one sunny midsummers afternoon. When the burden of bar exams had recently been lifted from her aching back. Around that time, Jack fell in love with her, and not long after, she with him. Their first lovemaking was in a borrowed attic room that roasted under its roof in the afternoon sun. An unopenable porthole window gave a view east of a slice of Thames toward the Pool of London. She thought of his proposed or actual lover, his statistician, Melanie she had met her once a silent young woman with heavy amber beads and a taste for the kind of stilettos that could wreck an old oak floor. Other women cloy/The appetites they feed, but she makes hungry/Where most she satisfies. It could be just like that, a poisonous obsession, an addiction drawing him away from home, bending him out of shape, consuming all they had of past and future, as well as present. Or Melanie belonged, as Fiona herself clearly did, with other women, the ones who cloy, and he would be back within the fortnight, appetite sated, making plans for the family holiday. Either way, unbearable. Unbearable and fascinating. And irrelevant. She forced herself back to her pages, to her summary of the evidence from both parties efficient and drily sympathetic enough. Next, her account of the court-appointed social workers report. A plump, well-intentioned young woman often out of breath, uncombed hair, untucked unbuttoned blouse. Chaotic, twice late for the proceedings, due to some complicated trouble with car keys and documents locked in her car and a child to collect from school. But in place of the usual please-both-parties dither, the Cafcass woman's account was sensible, even incisive, and Fiona quoted her with approval. Next? She looked up and saw her husband on the other side of the room, pouring another drink, a big one, three fingers, perhaps four. And barefoot now, as he, the bohemian academic, often was indoors in summer. Hence the quiet entrance. Likely he had been lying on the bed, regarding for half an hour the lacy ceiling moldings, reflecting on her unreasonableness. The hunched tension of the shoulders, the way he returned the stopper a smack with the heel of his thumb suggested that he had padded in for an argument. She knew the signs. *Revue de presse* "Compulsively readable... McEwan's prose keeps its cutting edge and his books are the ones the reading public still crave A masterly balance between research and imagination One feels an immediate pleasure in returning to prose of uncommon clarity, unshowiness and control" (The Times) "Classic McEwan Its a pleasure from start to finish, one not to be interrupted" (Guardian) "A powerful, humane novel" (Evening Standard) "One of the finest writers alive" (Sunday Times) "McEwan writes as beautifully and elegantly as ever, his prose quintessentially English in its restraint, one meticulously chosen word hinting at depths of emotion" (Washington Post)