

# IAN MCEWAN



## The Children Act

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## ABOUT THE BOOK

Fiona Maye is a leading High Court judge, presiding over cases in the family court. She is renowned for her fierce intelligence, exactitude and sensitivity. But her professional success belies private sorrow and domestic strife. There is the lingering regret of her childlessness, and now her marriage of thirty years is in crisis.

At the same time, she is called on to try an urgent case: for religious reasons, a beautiful seventeen-year-old boy, Adam, is refusing the medical treatment that could save his life, and his devout parents share his wishes. Time is running out. Should the secular court overrule sincerely held faith? In the course of reaching a decision Fiona visits Adam in hospital - an encounter which stirs long-buried feelings in her and powerful new emotions in the boy. Her judgment has momentous consequences for them both.

## ABOUT THE AUTHOR

Ian McEwan is the author of fourteen novels and two collections of stories. His first published work, a collection of short stories, *First Love, Last Rites*, won the Somerset Maugham Award. His novels include *The Child in Time*, which won the 1987 Whitbread Novel of the Year Award, *The Cement Garden*, *Enduring Love*, *Amsterdam*, which won the 1998 Booker Prize, *Atonement*, *Saturday*, *On Chesil Beach*, *Solar* and *Sweet Tooth*. In 2011 he was awarded the Jerusalem Prize.

ALSO BY IAN McEWAN

First Love, Last Rites  
In Between the Sheets  
The Cement Garden  
The Comfort of Strangers  
The Child in Time  
The Innocent  
Black Dogs  
The Daydreamer  
Enduring Love  
Amsterdam  
Atonement  
Saturday  
On Chesil Beach  
Solar  
Sweet Tooth

To Ray Dolan

# The Children Act

Ian McEwan



JONATHAN CAPE  
LONDON

When a court determines any question with respect to . . . the upbringing of a child . . . the child's welfare shall be the court's paramount consideration.

Section 1(a), the Children Act  
(1989)



# ONE

LONDON. 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 towards the end of the room, towards 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, centred 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 civilisation'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 towards 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 cosy 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, assignations, 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 towards 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, tyres 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 Chareidi 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 unravelling. 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 Chareidim, 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 Chareidim 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.

Chareidi 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 co-educational 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 forwards 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 Bernstein's 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