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Encounter of Perplexed Human-Nature against Ethical Realism: A Critical Analysis of McEwan's "The Children Act"

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Abstract:

Ian McEwan's The Children Act is a powerful observation of the psychological impact of being empathetic in legal decision making while dealing with own emotional turbulence. The novel depicts the complicated interplay between the law-abided regulations and the complexities of human nature, raises significant problems regarding the limitations of the country-specific legal system. This study investigates how McEwan depicts the intricacies of human behaviour, emotions, and moral difficulties within the legal environment, using the theoretical framework of legal realism. This research examines the novel's depiction of legal realism through an in-depth examination of the protagonist, Fiona Maye, a high court judge, and the cases she presides over. Furthermore, it examines the portrayal of human complexity, including the character's complicated emotions, motivations, and ethical considerations, as well as their impact on legal decision-making. The research examines how legal realism interacts with the moral reasoning of the characters, revealing the difficulties and contradictions that develop when applying legal rules to complex human situations. It also discusses the ethical consequences of the character's moral evolution, as well as the function of empathy and contextual understanding in legal decision-making. This research provides insights into the issues faced by legal systems when confronted with the complexities of human conduct by examining the portrayal of legal realism and human complexity through the lenses of the psychological theory of Moral Development by Lawrence Kohlberg. The research helps to clarify the relationship between law, moral thinking, and the intricacies of human existence as described in literature.

Keywords: Human complexity, Ian McEwan, The Children Act, Lawrence Kohlberg, Theory of Moral Development, Moral reasoning, Moral Dilemmas, Legal decision-making, ethics.

Introduction:

The role of a judge bears enormous responsibility in society. They have the authority to shape the law, enforce the rule of law, protect rights, and affect public perception. Their decisions can have long-term consequences for individuals, communities, and in judicial system. Judges must

acknowledge the gravity of their position and wield their authority wisely, guided by legal principles, ethical concerns, and a commitment to justice. The consistency to foster public trust in judicial system and strengthen the notion that everyone is subject to law, regardless of their status or influence. They contribute to the stability and functioning of society by enforcing the rule of law. Their interpretations and judgments can have far-reaching consequences, influencing future legal proceedings and shaping the evolution of the law itself. The aim of judiciary is to be impartial, fair, and consistent in decision, as it shapes public trust in the court and the overall perception of justice in society.

The confrontation between troubled human nature and ethical realism provides a continuing difficulty in comprehending and addressing moral dilemma in contemporary society. The intricacies of human conduct, together with the wide diversity of ethical opinions, create a complicated terrain in which individuals frequently struggle with competing ideals and aspirations. Ian McEwan's, "*The Children Act*," probes this intricate interplay, exploring the ethical dimensions of human nature through the lens of the legal system. In an era of evolving moral values and diverse perspectives, individuals often face moral dilemmas that require navigating their own complex emotions, desires, and ethical convictions. This problem is further exemplified within the context of the legal system, where individual's moral choices can have serious implication. McEwan's "*The Children Act*" gives a unique prism through which the encounter between puzzled human nature and ethical realism within this greater societal challenge can be studied. The research intends to study Fiona, the protagonist, internal conflicts, emotional problems and the complexities of her moral decision-making process when she confronts ethical challenges in her personal and as well as in professional life. The objective of the paper is to investigate the concept of ethical realism and its consequences in moral judgment. The study intends to discuss the complexities and limitations of legal hermeneutics in understanding the tussles of human behaviour. The goal is to examine the extent to which ethical pragmatism can account for the intricacies, tensions, and contradictions inherent in individual human nature as portrayed by Fiona. Thus the major thrust of this research is to entails ethical and moral issues of story, commenting on the potential lessons and insights offers in understanding the complexities of moral decision-making and the interplay between individual human behaviour and ethical frameworks within the legal system.

In the realm of literature, legal realism serves as a framework that examines the law in its actual application, acknowledging the complexities and inherent subjectivity of legal systems. When merged with the intricacies of human nature, it gives rise to a captivating exploration of moral dilemmas and ethical considerations. Legal interpretation is a complex process that involves applying laws and concepts to real-world situations. The intricacies of human nature, on the other hand, frequently call into question the clarity and impartiality of legal frameworks. McEwan's "*The*

Children Act,” explores the complexity of legal interpretation and the disastrous impact it has on people associated with it. By delving into the moral reasoning and development of the characters within the legal context, this study aims to understand how legal interpretation is influenced by the complexities of human behaviour. It tries to investigate the ethical implications and issues given by the interaction of legal interpretation with the complexities of human nature. The intent of the study is to obtain readers attention on creating a reasonable understanding of law, moral thinking, compassion and entanglement of human brain as manifested in literature.

McEwan’s “The Children Act”, is an interpretation of law, religion, science. The subject matter of the novel is perplexity of living a life motivated by unwanted religious practices in a secular nation. The story revolves around the life of a 60 years old Fiona Maye, who works as a High Court Judge. She lives in London and married to Jack, who is a professor of ancient History. Fiona is well known for her work of justice and an expert in piano. Their marriage is in trouble because Jack feels they lived together likely as siblings and he desired for a sensuous experience as an adult. McEwan is a realist writer, taken all the genuine proceedings faced by his Protagonist Fiona, is actually held in English Courts. The author recreated it in a fictional way, and connected it with the normal lives of the people and help in understanding theses judgment, as well as the socio-political situations of contemporary society. Not only the issues like child custody and education dealt in the novel but also of religious dilemma in health of minors is mentioned. Ian McEwan recreates the actual story of the Siamese twins, which had far-reaching consequences on English society. The conjoined twin brothers Matthew and Mark born to a Jamaican father and a Scottish mother. Mark is the one whose heart held them both, but it could not hold them for long duration. The other baby Matthew malformed and can hardly survive for six months. If they were separated, Mark shows the possibility to be a healthy child; but unfortunately, this surgery of their separation process would end up taking breath from Mathew. The biological parents of both the children’s were devout Catholics who wanted to give their children’s lives to God because as per their strong religious belief system the medical procedure is considered child murder. Fiona reminded everyone in the first few sentences of her decision: “The court is a court of law, not of morals, and our task has been to find, and our duty is then to apply, the relevant principles of law to the situation before us - a situation which is unique.” (26). Fiona's notion of the court's duty as one of law rather than morals. This viewpoint corresponds to the pre-conventional stage of moral growth, in which individuals' moral judgments are founded on deference to authority and adherence to rules. Fiona's statement illustrates her preference for applying relevant legal ideas rather than personal moral opinions.

The legal and moral space was tight and the matter had to be set as a choice of the lesser evil. Still, the judge was obliged to consider what was in Mathew’s best interests. Clearly not death. But nor was life an option. He had a rudimentary brain, no lungs, a useless heart, was

probably in pain and condemned to die, and soon. (The Children Act 27)

Moral dilemma about the question of whether to let a child, Mathew, to die owing to severe health conditions. Fiona acknowledges the narrow legal and moral space, suggesting that she is aware of competing ethical considerations. This indicates a shift toward the traditional stage of moral growth, in which individuals begin to weigh societal norms, duties, and expectations while making moral decisions. Fiona's commitment to consider Mathew's best interests reflects her notion of the moral responsibility that comes with being a judge.

Instead, she found her argument in the 'doctrine of necessity', an idea established in common law that in certain limited circumstances, which no parliament would ever care to define, it was permissible to break the criminal law to prevent a grater evil. (The Children Act 28)

The concept of the "doctrine of necessity" from common law is explained here. Fiona uses this legal basis to support her decision, demonstrating the use of higher moral reasoning beyond regulations or cultural expectations. This corresponds to the post-conventional stage of moral development, in which people form their own ethical standards based on abstract ideals like justice, human rights, and the greater good.

Regarding the all-important matter of intent, the purpose of the surgery was not to kill Matthew but to save Mark. Matthew is all his helplessness, was killing Mark and the doctors must be allowed to come to Mark's defence to remove a threat of fatal harm. Matthew would perish after the separation not because of his own he was incapable of flourishing. (The Children Act 28)

Fiona contends that the goal of the procedure is to save Mark rather than to kill Matthew, underline the importance of considering the repercussions and the motivation behind the action. This indicates a shift toward the post-conventional stage, in which individuals interpret the difficulty of moral decision-making, including their goals and outcomes.

Moral Development Theory of Kohlberg is a paradigm which evaluates how humans develop their moral reasoning and ethical decision-making abilities over time. According to him, individuals grow through six stages successively, with each stage building on the preceding one. As per the notion, not everyone reaches the highest levels of moral development, and individual's moral reasoning ability may differ depending on their experiences, cultural influences, and education. The theory provides a framework for explaining how individuals develop their moral ideals, reasoning abilities, and ethical decision-making processes. It sheds light on the intricacies of moral growth and how people resolve moral quandaries in varied settings.

In "The Children Act", Fiona Maye the protagonist is proficient enough to make an influence in others lives. She is a Family Court Judge in London, loves piano and a scholar performing in piano concerts, and she has an independent personality, but she also expresses her vagueness, remorse, and self-condemnation. She can make judgments regarding family conflicts and paas a

verdict on the others lives; yet, she encounters a difficulty in her own family life from the start of the narrative; the impending separation from her husband. Fiona pays Adam a visit while he is in the hospital being treated for leukaemia and refuses to have a blood transfusion. She unknowingly plays the role of a parental figure who wants the best for the child from the time she enters Adam's hospital room since she convinced Adam's real parents fail to achieve. She couldn't understand Adam's amorous feelings for her at the same time. Fiona's motherly attitude towards Adam is visible can be seen.

Fiona is interested in this case because she recognises her untapped mothering potential in her connection with Adam. She is totally unaware of this, but her motherly desire put her in that situation, Fiona sees Adam, who she shares a love of poetry and music with, as a youngster she must protect him. "...a fresh and excitable innocence, a childlike openness that may have had something to do with the enclosed nature of the sect... Adam's unworldliness made him endearing, but vulnerable. She was touched by his delicacy." (The Children Act 108-9). Here, Adam's character highlights his innocence and openness. Fiona's view of his unworldliness and sensitivity indicates that she understands his delicate nature. This can be interpreted as a statement of empathy and care for Adam's well-being, indicating a higher degree of moral growth that includes taking into account the emotions and needs of others.

Fiona's viewpoint on the role of the law is more profound. She does not blindly follow the textualism of legal terminology. Instead, the court emphasises that the law's job is to protect children's well-being, which is also the foundation for Grieve's principle. Fiona rendered the following decision in Adam's case:

This court takes no view on the afterlife, which in any event A will discover, or fail to discover, for himself one day. Meanwhile, assuming a good recovery, his welfare is better served by his love of poetry, by his newly found passion for the violin, by the exercise of his lively intelligence and the expressions of a playful, affectionate nature, and by all of life and love that lie ahead of him. In short, I find that A[Adam], his parents and the elders of the church have made a decision which is hostile to A's welfare, which is this court's paramount consideration. He must be protected from such a decision. He must be protected from his religion and from himself. (The Children Act 123)

The given text analyses the moral reasoning exhibited by Fiona Maye, a judge, in her decision-making process. Here, she is considering the welfare and best interest of Adam, who is influenced by his religious community decision. According to Kohlberg's Theory, Fiona demonstrates a higher level of moral reasoning by shielding Adam from the decisions of his parents and religious organisation. Fiona's higher level of moral reasoning includes evaluating the repercussions, potential harm and ethical principles at work place. Her judgment reflects an understanding of the complexity of moral dilemmas and the necessity to priorities the wellbeing of

the individual in some circumstances.

Fiona discovers months later that Adam's condition has returned. He was already 18 at the time, and as an adult, he refused a blood transfusion, and as a result, he died. She then feels awful about refusing to do what he asked of her:

Adam came looking for her and she offered nothing in religion's place, no protection, even though the Act was clear, her paramount consideration was his welfare. How many pages in how many judgments had she devoted to the term? Welfare, well-being, was social. No child is an island. She thought her responsibilities ended at the courtroom walls. But how could they? He came to find her, wanting what everyone wanted, and what only free-thinking people, not the supernatural, could give. Meaning. (The Children Act 212-13)

Fiona questions the limitations of religion in providing protection and meaning to a child. She implies that there may be other sources of support and well-being beyond religious beliefs. Her viewpoint undermines the widely held idea that religion gives intrinsic protection and significance. Instead, she appears to classify the child's welfare based on a broader understanding of social well-being and the responsibility of the court. The emphasis on free-thinking individuals who can provide meaning through their own critical thinking indicates a greater level of moral development. She appears to appreciate individual autonomy and the opportunity to find personal significance on her own.

Conclusion:

The novel raises a question whether an objective judgment of a child welfare is conceivable, as well as where the limits of the court's participation - and obligation - lies. Through a critical analysis of the text, we have delved into the complexities of moral dilemmas and the interplay between human nature and ethical considerations. Throughout the story, Fiona Maye faces difficult decisions that put her understanding of the law, morality, and the intricacies of human nature to the test. The exploration of ethical realism raises thought-provoking questions about the limits and challenges of legal interpretation in the face of moral ambiguity. The story also encourages thought on the legal system's role in handling moral issues. It emphasises the difficulties that exist between the court's obligation to maintain the law and its responsibility to handle the complexities of human nature. This tension raises serious concerns regarding the potential consequences of legal choices on people and society as a whole. The novel serves as a catalyst for critical thinking and provokes readers to question their own beliefs and values. The critical analysis offered in this research article leads to a better understanding of the novel's ethical quandaries and encourages future investigation of these issues in both literary and real-world contexts.

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