

LAW AND LITERATURE: INTERDISCIPLINARY REFLECTIONS FROM THE WORK *THE CHILDREN ACT*, BY IAN MCEWAN

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ABSTRACT: This study is about Ian McEwan's novel *The Children Act* (2014) and seeks to analyze how the author discursively reconstructs the legal sphere in fiction. The probing of the relations between reality and fiction makes it possible to formulate questions about social references, especially regarding the way narratives produce meanings in the sociocultural scope and recreate current economic policies from reality. In addition, the article verifies the relevance of literature as a possibility for critical reflection on Law.

KEYWORDS: Ian McEwan; *The Children Act*; Law and Literature; interdisciplinarity.

INTRODUCTION

Fiction is replete with examples of works that deal with Law-related themes, such as *Antigone*, by Sophocles; *The trial*, by Kafka; *Crime and punishment*, by Dostoyevsky; *Measure for measure*, by Shakespeare; *Angústia (Anguish)*, by Brazilian writer Graciliano Ramos, amongst so many others. This type of literature is a relentless fountain of research on both legal procedures and the human condition in the world, and these novels have the potential of helping readers develop a critical point of view of institutions and the discourses they articulate.

The study of the relation between Law and Literature has taken different directions in theoretical approaches, historically speaking and also regarding comparison and contrast made between the two areas. In the

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United States of America, in 1908, John Henry Wigmore collected around a hundred novels that dealt with the theme of Law in his *List of Legal Novels*. Later on, these relations gave origin and pulse to the movement *Law and Literature*, as from the 1960's on. In Europe, since the 1920's, the first articles appeared, such as *Il diritto nella letteratura* by Ferruccio Pergolesi. But it was only within the last two decades that the interest rate for interdisciplinarity has grown, which led to the association of different areas such as Literature, Law and Science of Language. In Brazil, references related to this approach are the productions by Arnaldo Sampaio de Moraes Godoy, Eliane Botelho Junqueira, André Karam Trindade, José Garcez Ghirardi, to mention a few.

This analysis is mainly based on studies that deal with comprehension and interpretation, since both Law and Literature are, above all, connected by the use of language, built by text and discourse and, thus, the studies by Paul Ricoeur are useful hereby.

The reflection by the French philosopher was structured around the problem of evil and explored in a dynamic and evolving way, in a dialog with other important thinkers such as Saint Augustine, Kant, Descartes, Husserl, Freud, Aristotle and Plato. His analysis was supported by three main lines of thought.

The first, as a phenomenological-structural one, considered the possibilities of evil in the fields of knowledge, of will and of human feelings, for the consideration that evil is in the structure of men, that longing is due to a lack of continuity and is also a mistake, because it implies the concept of volunteer action, which is correlated to the involuntary one, that leads to the limits of liberty and overcoming.

As for the second one, a phenomenological-hermeneutical one, Ricoeur started to deal with the problem in a way of considering that evil implies the existential condition of men, their relation with society, and examines the limits of human liberty by the analysis of symbols, myths and the language of confession, by which it would be possible to express the evil one makes and suffers.

In the third line of thought, the approach of the problem is supported by a hermeneutical-linguistic analysis, and it postulates that men can only

build knowledge in an indirect way, mainly by the means of symbolic language, as it requires interpretation and leads to a permanent reflection, since it has an ambiguous character, because it may mean on the same moment a reference and a dissimulation. It is necessary, hence, to interpret this symbolic language in order to get to know the meaning of evil².

This article does not intend to examine the complexity of the philosophical theory of Ricoeur, but to start from some of his assumptions, such as the one that claims evil to be an open question and that in order to analyze it, there is a need of approaching the symbol, more specifically, to interpret language in its symbolic concentration, as a mediator of interpretation of men with the world, which emphasizes the idea that the evil produced by human emptiness cannot be declared without mediation. According to him: “What could we know of love and hatred, of ethic feelings and, generally, of all we call *it*, if not referred to by language and articulated by literature?” (Ricoeur, 1988, p. 58).

It is needed, thus, to evaluate the essential structures of the text, the particularities of enunciation, of character description, of time, of space, of the environment that surrounds the author, of the marks of the historic moment in which the narrative is inserted.

This interpretative thought relates to Law, for example, in the work of Ronald Dworkin (2005), a North-American jurist, for whom the legal practice is an interpretational job, and Literature is able to contribute to the better comprehension of Law as it shares the same process of construction, that is, both the author and the judge need to know a previously existent story, interpret it and move it forward.

Another study that supports our analysis is *The juridical unconscious – trials and traumas in the 20th century* (2014), by Shoshana Felman,

² The works by Ricoeur that better represent the first line of thought are: *Philosophie de la volonté, I: Le volontaire et L'involontaire* (1950); *Philosophie de la Volonté, II: Finitude et culpabilité, 1, L'homme faillible* (1960). As for the second one, the following books might be taken into account: *Philosophie de la Volonté, II: Finitude et culpabilité, 2, La symbolique du mal* (1960); *De l'interprétation: Essay sur Freud* (1965); *Le conflit des interprétations: Essais d'herméneutique* (1969). For the third line, the main works are: *La métaphore vive* (1975); *Temps et récit, I: L'intrigue et le récit philosophique* (1984); *Temps et récit, II: La configuration dans le récit* (1984); *Temps et récit, III: Le temps raconté* (1985); *Le mal, un défi à la philosophie et à la théologie* (1986).

which, among different approaches, articulates the literary production *The Kreutzer sonata* (1889), by Liev Tolstoy, to the legal case of O. J. Simpson, in 1995.

Simpson was a famous American football player and also a Hollywood film actor suspected of murdering his ex-wife Nicole Brown and her friend Ronald Goldman. This case took on a media scale in the 1990s, becoming known as "the judgment of the century". The defendant had previously been arrested for brutal violence against Nicole. He was black, and the process divided social opinion in such a way that white people considered him guilty and black people innocent. The jury, with majority of black people, declared him acquitted in 1995.

In her analysis, the author argues that the O.J. Simpson trial goes beyond the need to decide on the guilt or innocence of the defendant, since it reaches, on the prosecution side, the trauma of women who are violated, and on the defense side, The racial question about black people in the United States. In this way, it extrapolates the individual character and reaches historical consciousness.

The Kreutzer sonata is a novel about the murder of a wife by the husband, who went to trial and was acquitted. Pozdnyshv (the husband) tells the story in a confessional tone and associates his crime to the relation between marriage and domestic violence, based on what he calls male "sexual addiction", a propeller of jealousy, quarrels and possession, for him, a behavior rooted in the Russian culture. The narrative caused scandal in Russia and was soon prohibited by government censorship, considered immoral by the church and became subject of discussion in society.

Felman seeks to delineate to what extent the nineteenth-century Tolstoy narrative could shed light on O. J. Simpson's judgment a century later, and in what sense Simpson's case repeats the story contained in the Russian author's narrative. For her, both portray domestic violence, the verdict in both cases is that of acquittal, illustrate a "didactic story about murder", both convey a message to society and, finally, translate a failure of judgment: a lack of real comprehension of the cases, of understanding the obscure point that could not be seen within the legal framework. However, in Tolstoy's fiction this "blind spot" - the abyss - hatred, the invisible

relation between marriage and domestic violence, rooted in Russia at that time, becomes apparent:

A judgment is presumed to be a search for truth, but, technically, it is a search for a decision, and thus, in essence, it seeks not merely the truth but a purpose: a resolving force. A literary text is, on the other hand, a search for meaning, expression, high meaning, and symbolic understanding (Felman, 2014, p.90).

In this sense, according to Felman, literature clarifies the invisible abyss for the court, reveals what was hidden, recapitulates artistically what the trial cannot narrate, transmit or articulate in the juridical context: "Literature explains, in other words, why trials, like traumas, will be repeated (historically, traumatically)" (2014, 128).

This article also considers that the literary text reaches a role of instruction and personality formation. In *Vários escritos* (2011), Brazilian professor Antonio Candido reflects on human rights and literature as a universal necessity because it allows the reader to "shape their feelings". For him: "Literature can be a conscious instrument of unmasking, because it focuses on situations of restriction of rights, or denial of them, such as misery, bondage, spiritual mutilation" (2011, 188).

This analysis is in line with these assumptions, which consider literature as an amplifying device for the interpretation and understanding of legal processes, as a vehicle for transmitting historical consciousness, as well as a human rights education apparatus. In order to address *The Children Act* and part of the principle that in this novel, aiming at understanding human questions, the approach to Law is more than a simple theme, it is the means by which McEwan's literature approaches the enigma of existence because it throws its focus on human anguishes and also on discourses of domination, seeking to strip them bare of traditional truths, while at the same time constructing a picture of current English society.

THE CHILDREN ACT

Ian McEwan is considered by English critics and scholars as one of the greatest authors of fiction of the present time. He is the winner of the Booker Prize, the most prestigious British literature award. His books are often translated into many countries and sometimes adapted to the cinema,

such as *Cement garden*; *Enduring love*; *Atonement*, among others. In Brazil, the author has already become well known both by scholars and the media, as he has been twice in the country to present himself at FLIP (Literary Festival of Paraty) and recently returned to lecture at the Frontiers of Thought event in 2016.

His novel, *The Children Act*, was published in England in 2014 and two months later in Brazil under the title *A balada de Adam Henry* (*The Ballad of Adam Henry*). In addition to a collection of short stories and a book for children, it is the author's 13th novel translated by Brazilian publishers.

Even before its release, the newspaper Folha de S. Paulo, on October 12, 2014, brought an extensive article written by Ian McEwan himself and translated by Jorio Dauster, who is also the translator of the latter novel. In the text “Como reza a lei – Nos tribunais, a moral é matéria de romance” (“As the law says - In the courts, the moral is a matter of romance”), the author talks about the course of composition and the theme of novels.

He explains that he attended a dinner party with some of his friends who are jurists and judges, and heard their comments on verdicts handed down by them and other magistrates. In addition, he had access to a bound volume of verdicts and started to analyze the parallels between the professions of judge and writer. Some stories from family Law involved cases of divorce, fortune-making, the fate of the children of conflicting couples, medical treatment and illness, and moral and religious differences. The author points out:

Family Law is rooted in the same terrain of fiction, where all the essential interests of life reside. With the luxury of not having to pass any verdict, a novel could depart from there, reinvent the protagonists and circumstances, and begin to investigate an encounter between love and belief, between the secular spirit of the Law and faith professed with sincerity (McEwan, 2014a, p. 5).

It was due to the correspondence between court decisions on family Law cases and the fictional production that Ian McEwan made *The Children Act*. It is a work about Law, religion, science and novels itself, as a vehicle capable of interpreting these instances. The most relevant theme of this book is the dilemma of directing life within religious practice in a secular state.

In summary, the thematic axis focuses on the life of Fiona Maye, about 60 years old, judge of the High Court of the English Court, more specifically of the Family Court. Admired for her work in justice and as a pianist, she lives in London with her husband Jack, a professor of ancient History. Their marriage faces problems because Jack claims they were living together almost as siblings and he wanted to live a sensual experience with a young statistician. Around the crisis of the couple, the cases judged by Fiona appear.

In court, the legal occurrences that the protagonist is dealing with are based on facts that really happened in English courts and were recreated by Ian McEwan in his novel, which shows, in a fictional way, how they are diluted in a symbolic universe and how they help with the understanding of these verdicts, as well as of the socio-political conditions of present times.

The Children Act is a work committed to its time, as it evaluates the temporality that surrounds juridical procedures, highlighting the contemporary context prevailing in the novel, and comparing it to procedures of other historical moments, although it is possible to connect the past and the future. It is characteristic for novels as a genre to allow the writer to explore the transformations in progress in his/her time, as well as allowing writers to advance to future times or retreat to the past. The transition between the past, the present and the future, which is fundamental to the understanding and interpretation of certain facts, is also a link between Literature and Law, because they are not static instances, insofar as they consider social customs, always in continuous modification.

There is an example of this circumstance, in which the protagonist, Fiona Maye, deals with a case involving a child. The description of the fact is diverted to the reflection on the transformations of the legal procedures in similar cases and different times:

Back in the 1980s a judge could still have made the teenager a ward of court and seen him in chambers or hospital or at home. Back then, a noble ideal had somehow survived into the modern era, dented and rusty like a suit of armour. Judges had stood in for the monarch and had been for centuries the guardians of the nation's children. Nowadays, social workers from Cafcass did the job and reported back. The old system, slow and

inefficient, preserved the human touch. Now, fewer delays, more boxes to tick, more to be taken on trust. The lives of children were held in computer memory, accurately, but rather less kindly (McEwan, 2014b, p. 35-36).

As seen in the previous fragment, the author exemplifies, through the digression, changes in British legal procedures; how they were in the 1980s, what has been maintained and what has changed at the present time. The protagonist considers that, if, on the one hand, contemporary technology allowed Justice to accelerate the solution of processes, on the other, it made it less human. It is evident that the author uses Fiona's reflection to instill in the reader questions about these transformations in the legal field and how they apply to people's lives.

At the beginning of the 21st century, European society is faced with the extreme increase of immigration. England faces a problem not only about the cultural differences between Poles, Afghans, Pakistanis, Chinese, Romanians, Indians, among other peoples, who live in the country today, but also about the religions brought by these immigrants.

In the essay published by Folha de São Paulo on January 23, 2015, Ian McEwan stated: "In the cities of the West, with their wealth of races and religions, the only guarantor of freedom of religion and tolerance is the secular state. It respects all religions and believes in all - or none at all" (McEwan, 2015, p. A3).

The author refers to the circumstances in which the discord caused by distinct cultural and religious thoughts needs to be settled in justice, so that the Law has the mission of establishing a kind of stable kingdom functioning as an ideal of civilization, although this implies the repression of emotions and beliefs of an individual or group in the name of the uniformity of values that seek to guide humanity to the civilizing principle.

In the cases held by Judge Fiona, Anglican, Catholic, Protestant, Islamic, Jehovah's Witness and Jewish beliefs often appear as a central element of family separation and the lack of definition of children's rights. The title, *The Children Act*, refers specifically to the set of laws enacted in England in 1989 to establish the limits and duties of aid provided by the authorities for the well-being and education of minors and is equivalent, in Brazil, to the Statute of the Child and Adolescent.

One of the examples of religious disagreement in the novel is the Jewish couple who were divorcing and vying for the education of their daughters Rachel and Nora. Their mother had moved away from the Haredi community, becoming a teacher, and wanted her daughters to attend a more open Jewish school where students of both sexes could study together, watch television, access the internet and contact non-Jewish children. The father wanted the girls to be educated at a Kosher-based school where only girls were admitted, and fashionable clothes, television, internet, and socializing with non-haredis children were forbidden. The judge gave a favorable opinion to the mother: "Above all, the duty of the court was to enable the children to come to adulthood and make their own decisions about the kind of life they wanted to lead" (McEwan, 2014b, 38).

Another similar example is that of the Muslim couple, whose father failed to comply with the court order and fled with his daughter to live in Rabat, Morocco, in order to remove her from the "bad influences" of the West and educate her within the precepts of Islam. The mother, psychologically affected, seeks help from the court to bring her daughter back.

In addition to issues such as child custody and education, the religious dilemma has another very relevant circumstance in relation to the health and well-being of minors. Ian McEwan recreates the true case of the

Siamese twins, which had high repercussions in English society. In the novel, children of a Jamaican father and a Scottish mother, the brothers Matthew and Mark were born together, and Mark's heart held them both and would not stand for long. Matthew was malformed and would hardly live for more than six months. If separated, Mark had the potential to be a healthy child, however, the separation surgery would culminate in Mathews's death. The parents were Catholic and wanted to leave the twins' lives in the hands of God because they considered the surgical procedure as the murder of a child. The hospital appealed to the court, and Fiona based her argument to allow the operation in the “doctrine of necessity”:

An idea established in common law that in certain limited circumstances, which parliament would never care to define, was permissible to break the criminal law to prevent a greater evil. She referred to a case in which men hijacked a plane to London, terrorized the passengers and were found innocent of any crime because they were acting to avoid persecution in their own country (McEwan, 2014b, 28).

In order to define a judgement like that of the twins, the judge counted on previous procedures, studying cases already tried and also with scientific data from the doctors, presented through the arguments of the lawyers. She considered the paradoxical situation of violating the law in order to establish it. Even scientific knowledge can sometimes function as a minefield because it is susceptible of misunderstanding and error. To highlight the deviations that may occur in science-based judgment, McEwan fictionalized a fact that shows the misleading medical statistics and consequently a misjudgment.

Judge Sherwood Runcie, Fiona's co-worker, tried a murder case that became known as “one of the greatest miscarriages of justice in modern times” (McEwan, 2014b, p. 50) and sentenced the architect Martha Longman to prison for the murder of her two children. The magistrate took as base statistical data of theorists and epidemiologists, considering that

the chances of a child dying from Sudden Infant Death Syndrome were said in court to be nine thousand to one. Therefore, the prosecution's expert pronounced, the chances of two siblings dying was this figure multiplied by itself. One in eighty-one million. Almost impossible, and so the mother must have hand in the deaths (McEwan, 2014b, 51).

Just as the secular state cannot commit itself to religions, it is necessary that it does not adopt medical statistics as indisputable truths. In the previous example, it was found late that the pathologist had withheld evidence of a bacterial infection in the second child. When the misunderstanding was broken and the architect's innocence tried, it was too late for her, for she had succumbed to depression and subsequently died of alcoholism. The same press that had demonized the mother went on to mar the medical and legal classes for the destruction of Martha Longman's life.

McEwan thus emphasizes the destructive nature of erroneous judgment and condemnation because they give rise to failures with catastrophic implications. By drawing attention to the possibilities of failure in scientific statistics and juridical history, the author emphasizes the difficulty of establishing a stable kingdom in contemporary times, pointing to the need to question all discourses, beliefs and ideologies that claim to be truth-keepers.

The reader is thus led to a rather slippery terrain, because if religion can produce discord, and legal practices may fail, in what instances could the contemporary subject sustain itself to maintain ethics? What system could encompass conditions to guarantee the freedom of individuals and the social order with security? It seems that the path pointed out by the author is exactly that of doubt, questioning and uncertainty as the enablers of some relief. In this respect, the novel is valued, which is by nature a kind of fraud.

In *Origins of the novel*, Marthe Robert (2007) examines the novel as an undefined genre, focusing on the question of truth and false, that is, on the limits of freedom and ethical responsibility. For her, the novel can embrace all kinds of expression, can handle everything:

Being the most innocent lie also the most eye-catching, the novel is only able to convince about its intimate relationships with the truth when it lies deep, with enough skill and seriousness to ensure the best chances of success of its achievement. This is one of the causes of its megalomania - it can do everything without having to say what it makes (Robert, 2007, 27).

The artifice used by McEwan to take elements of the empirical world as cases of people judged by a court and to insert them in the novel attests to this conception, since the novel works with a parallel, made up reality in which the reader is instigated to take the literary construction as a kind of scenario capable of recreating the crisis.

If McEwan's world view is skeptical of the possibility of understanding between men, his work seeks to point out a route to the constitution of the subject in the present world and to a possible dynamic of social coexistence, which is exactly the acceptance of the fact that the stable kingdom is not possible and, on the face of it, the perception of differences and flexibility alone can offer some relief.

The very composition of the novel indicates this realization, from the accelerated rhythm of the plot, which refers to the malleability, to the choice of the enunciative focus. The novel is narrated in the third person by an omniscient narrator who, in addition to presenting the facts, immerses himself in the thinking of the characters, composing their conflicting identities, either with themselves or in the counterpoint between the postures and ideologies they present, constructing a dense story, interspersed with psychic and historical elements. The research of empirical elements and the highly realistic construction of the characters and their circumstances help build this dynamic.

THE CASE OF ADAM HENRY

In order to compose the longer and more detailed history of the work, the author relied on a trial of a minor referred to as "E," a case of the English Family Court in 1993 in which a hospital asked for judicial authorization to perform blood transfusion in the 16-year-old leukemic adolescent, who, because he was a Jehovah's witness, did not accept the medical procedure. The Judge gave a favorable sentence to the hospital.

The character Adam Henry is the symbolic construction of "E". Thus, in the fictional frame, Adam, 17, was raised by parents within the religious precepts of the Jehovah's witnesses from birth. Away from contact with people of other faiths, as well as from televisions, cinemas, theaters, the internet, in short, from all surroundings that were not in accordance to the bounds of his faith, he had no grounds for questioning his own condition in the world. This characterization allows the reader to identify a naivety in the traits of the boy, the result of a worldview ruled solely by religion. On the other hand, he is very intelligent and interested in literature and music. While staying in hospital, he writes poems and teaches himself to play violin.

In contrast to Adam's naivety, Fiona Maye is portrayed as a woman with a comprehensive knowledge and power to deliberate over other people's lives. In addition to being a judge of the Family Court in London, she is a scholar who participates in piano concerts, demonstrates an independent personality, but also reveals her uncertainties, guilt and regrets. She can give sentences about family conflicts and determine about the lives of other people; on the other hand, from the beginning of the narrative, she faces a problem in her own family: the imminence of separation with her husband.

When Adam is in the hospital to treat his leukemia and does not want to undergo a transfusion, he receives Fiona's visit. She suspended the trial in court to speak to him personally, since the defense of the boy's parents relied on the *Family Law Reform Act of 1969*, which says that competent persons over the age of 18 have the right to decide on consenting medical treatment, and individual freedom makes it impossible to force one to

accept them. In the cases of adolescents between 16 and 18 years old, the "Gillick competence" weighed, considering that they can make decisions about medical treatment, when they present sufficient knowledge and intelligence capable to understand what is proposed to them, thus making it an error of the court to interfere over their will via legal intervention. Thus, the purpose of the judge was to assess this competence of the minor.

Accompanied by Marina Greene, a social worker who helped on the case, Fiona talked to Adam, and he was very clever, able to explain the doctrines of his faith and his irrevocable decision to refrain from transfusion. At the same time, he was very interested in the world of the arts.

In dialogue, the characters interpose their views of the world, that of Adam, conditioned by faith, and Fiona's, by rationality. These perceptions seem irreconcilable. At that moment, the author creates an intervention of artistic discourse. It is one of the most important passages in the focus of this article, because in this scene, a connection between the characters occurs, exposing the power of the art to transit through different ideological spheres and to break conventions. The boy presents to the judge a song he was learning to play on the violin. She recognizes the composition of Benjamin Britten for the poem of W. B. Yeats (1865-1939) and accompanies the song by singing the verses of the poet:

In a field by the river my love and I did stand,
And on my leaning shoulder she laid her snow-white
hand.
She bid me take life easy, as the grass grows on the weirs;
But I was young and foolish, and now am full of tears.
(McEwan, 2014b, p. 117).

The combination of rhythm and rhyme gives the poem a light musicality, imposing on the text a tone of melancholy. The poem is the lament of a man who, as a young man, found a woman in a garden of willows and lost it, for disagreeing with what she said: so that he would live lightly. He regrets not having followed her advice and considers, "But I was young and foolish and today I can only cry".

When they finish the song, Adam comments: "On my leaning shoulder" is good, isn't it? Let's do it again". And Fiona repeats the following verse: "She bid me take life easy." Adam's "leaning shoulder" expression, which can mean inclined shoulders and also inexperienced shoulders, refers to the weight of the decision taken and places him in the position of a martyr, in choosing to die in the name of his faith, appears in opposition to the words chosen by Fiona: "take life easy", that is, "take life lightly", expressing the opposite idea of self-inflicted martyrdom. In this case, it is clear the intention of the characters to use excerpts from the verses of the modernist poet and apply them to their own circumstances.

The poetic expression articulates, in this passage, an annulment of the differences between the characters, without, however, completely unifying the differences. In this way, the contradictions between Adam and Fiona are more linked to the individuality of each one. The effect of the spontaneity with which the poem awakens in both the emotion reaches beyond their individual understanding, reaching the understanding of the other.

When Ian McEwan chooses to assimilate Yeats' poem in his novel and to clarify the scope of the artistic intervention in the characters, he makes clear his intention to punctuate the capacity of literature to operate as an element of understanding of the other, and therefore of a means to reflect on ethics and human behavior.

Yeats' verses convey an experience lived by the lyrical self in the past, of which he regrets. This circumstance points to a possibility in the future of Adam, that of regret. The idea of the poem is rewritten in the advice of a woman to the young man.

The consideration that an attitude taken by an inexperienced young man may be devoid of solid foundation and cause future regrets was used in the case of "E" by Judge Ward to compose the sentence argument that contradicted the child's desire:

When making this decision, which is a decision of life or death, I have to take account of the fact that teenagers often express views with vehemence and conviction – all the vehemence and the conviction of youth. Those of us who have passed beyond callow youth can all remember the convictions we have loudly proclaimed which now we find somewhat embarrassing. I respect this boy's profession of faith, but I cannot discount at least the

possibility that he may in later years suffer some diminution in his convictions. There is no settled certainty about matters of this kind ([1993] 1 FLR 386).

It should be noted to what extent the case of Adam Henry and the poem of Yeats can shed light to understand the trial of "E" by the English court. The legal text lacks a fundamental point so that the reader can interpret the boy's attitude, as well as that of his parents, to refuse a medical procedure, which meant, at that moment, to save the life of "E". This point is exactly the story of this family, the construction of the identity of the minor, their view of a monochromatic world. This composition of the other can be accessed in McEwan's novel, in the inventive and creative process of the character Adam and the surrounding environment.

Within this universe, an important issue in this work is that human conflicts do not necessarily stem from psychological drifts or evil in their pure form, but also from dissonances in the perception of the world and friction between discordant points of view. McEwan's novel warns the reader to consider the origins and scope of the other's gaze, so that the existential problem of the present day is sustained by the focus of each individual, or a group of individuals, in the world.

DIVERGENT POINTS OF VIEW - THE COURT

The insertion of diverse points of view functions in this McEwan novel as the driver for the reader to observe the practice of discourses and question them. The narrative favors the perception that the more limited an individual's world view, the more difficult it will be for him or her to produce questioning. This was one of the strongest arguments used by Fiona in court to complete the judgement of Adam Henry.

After the visit to the minor in the hospital, the judge returned to court and deliberated on the case, drawing attention to the fact that Adam knew very little outside the realm of religious ideas, that is, his point of view was

based on a sole perspective. For her: "His childhood has been an uninterrupted monochrome exposure to a forceful view of the world and he cannot fail to have been conditioned by it" (McEwan, 2014b, p. 122-123).

The position of the judge leads the reader to consider that a monochromatic worldview cannot be effective for the well-being of the individual in society. It is necessary to have openness to obtain and evaluate different points of view. This seems to be a central issue today, in which the theme of religious fundamentalism invades the news of many countries and scares society with the ills of terrorism. The multiplicity of points of view therefore presents itself as a path to well-being and social peace.

However, the author casts doubts on the competence of multiple vision as a guarantee to ensure this path and starts to construct situations of failure in this finding. In dialogue with Adam, Fiona Maye ponders that, since the monochromatic vision is dangerous for the attempt to reach the truth, it would be expected that distinct people with a plurality of worldviews could come to the truth on the same subject more safely, but that does not always occur. One must consider the human condition with its cracks. There are cases where different people, with discordant points of view, can be led by the same false idea to awaken fascination in collective fantasies and illusions.

During the 1980s, a panic about a satanic ritual of child sexual abuse arose in the United States, which later proved itself unfounded, and the phenomenon spread to other countries. In the United Kingdom, in 1991, the British government received more than one hundred claims of the practice. In the towns of Rochdale, Nottingham and Broxtowe, the incident took on huge proportions, and the authorities eventually removed children from families and kept them in shelters, until the allegations proved untrue. This fact appears in the novel in an account by Fiona for Adam:

Some years ago in this country children were taken away from their parents by the authorities, and the parents were prosecuted for what was called satanic abuse, for

doing terrible things to their children in secret devil-worshipping rituals. Everyone piled in against the parents. Police, social workers, prosecutors, newspapers, even judges. But it turned out there was nothing. No secret rituals, no Satan, no abuse. Nothing had happened. It was a fantasy. All these experts and important people were sharing a delusion, a dream. Eventually, everyone came to their senses and was very ashamed, or they should have been. And very slowly, the children were returned to their homes (McEwan, 2014b, p. 101).

In this way, once again, the author suggests the condition of human instability to elect secure findings and the fragility of the law as a stable instance. If, on the one hand, the authorities protect children from discord between parents and abuse, on the other hand, there is a limit to be established, since the family can fall victim to illusions and errors postulated by the courts. The right of the child needs to be equated between the power exercised by the state and that of the family itself, and this is not an easy target, insofar as it encompasses the human condition, which is so flawed.

The limitations that cause disharmonies can be produced by manipulative discourses, even from pluralized visions, although it seems more acceptable that the more limited an individual's reach to a wider worldview is, the more susceptible he or she is to persuasion.

According to Fiorin,

The ultimate purpose of any act of communication is not to inform, but to persuade the other to accept what is being communicated. Therefore, the act of communication is a complex game of manipulation in order to make the listener believe in what is transmitted. Language is always communication (and therefore persuasion), but it is communication insofar as it is production of meaning"(2001: 52).

In addressing the problem of the prohibition of blood transfusion by Jehovah's Witnesses, the author offers the reader a juxtaposition of

persuasive speeches that reach the ranks of the opposition, as can be seen from the diversity of viewpoints inserted in the narrative.

Ian McEwan builds the hearing on Adam's case in court, featuring a discursive cross between the boy's parents, the hospital's attorneys and Adam's attorneys and his parents.

Edith Cavell General Hospital is appealing to the court for permission to take care of Adam and make the transfusion. Fiona Maye has little time to try the case because it is an emergency. Mark Berner and two other lawyers represent the hospital. Adam is represented by John Tovey and an assistant family member. The boy's parents rely on the experience of lawyer Leslie Grieve.

Through direct speech, these lawyers make their arguments at Court, exposing different points of view about the same circumstance. The hospital's lawyer summons Adam's hematologist as a witness. Thus, an example of scientific discourse is given by Dr. Rodney Carter's exposition.

Briefly, the physician displays his point of view presenting numerical data on hemoglobin and white blood cell counts in the patient's blood and considers that the chance of healing, if allowed, is about eighty to ninety percent. For him, if the transfusion is not authorized, Adam can have a terrible death, having internal bleeding, kidney collapse, loss of vision or stroke, and makes explicit that each case is different from another, and therefore difficult to determine exactly how it would be with this patient. Dr. Carter reiterates that the boy is a minor, and professes the "sect" of his parents, and considers that the procedure, nowadays and in the hospital, is very strict, with well trained personnel, minimizing the risks of infection.

Adam's father's lawyer, Dr. Grieve, uses legal discourse and argues that "the freedom of choice of medical treatment is a fundamental human right in adults" (McEwan, 2014b, 68). He also says that the boy will reach adulthood in just three months. Based on the formulation of "Gillick's competence", whereby a person under the age of sixteen can authorize

medical treatment if he or she demonstrates sufficient understanding and intelligence to understand the procedure, he argues that the young man has the discernment to decide. He also points out the cases of diseases coming from the procedure and that in the twenty-seven stages between collection and transfusion errors can occur. It also exposes a medical paradox by reporting that a surgical patient who loses a third of a pint of blood with undergo the procedure, while "a donor gives up a whole pint and goes straight back to work afterwards, and no harm done" (McEwan, 2014b, 71). He notes that Jehovah's Witness patients already have a treatment called bloodless surgery, which has proved to be a very good practice, as attested by the publication in a scientific journal.

Adam's father, Kevin Henry, expounds his point of view through religious discourse. For him, the child's leukemia was inflicted by God to test their faith. He states that "Mixing your own blood with the blood of an animal or another human being is pollution, contamination" (McEwan, 2014b, 76). It also says that God forbids this practice in Genesis, Leviticus, and Acts, and that even though it was instituted late, prohibition already existed in the mind of God.

To counter argument, hospital lawyer Mark Berner explains that the books cited by Mr. Henry prohibit believers from "eating" blood and cites Genesis: "Only flesh with its soul - its blood - you must not eat" (McEwan, 2014b, 78). He explains that at the time the texts were written, there was no transfusion and that Jehovah's witnesses were ordered to refuse it only after 1945, after deliberation by a committee that met in Brooklyn. He pointed out that Adam did not have "Gillick's competence" because he had only a vague notion of the death he would have and that, even if he had, it would still not give him the right to refuse a life-saving treatment in that respect, the law itself guaranteed the protection of the child under the age

of 18. He also points out that opinions about the refusal were not those of Adam, because he was born and raised within the precepts of the faith of his parents, so he had no other points of view to question.

Adam's lawyer remained neutral, urging that, faced with the arguments of both sides, the judge would decide the matter.

In addition to the intertwining of the speeches of the lawyers and Adam's father in court, Ian McEwan inserts in the novel the opinion of characters who do not appear in the legal process, like the two nurses to whom Fiona talks when she visits the patient in the hospital. Both present their views on the young person's refusal to transfuse. The Caribbean nurse believes that God does not need the boy to die, on the contrary, he wants him to live. The Filipina thinks that the decision must be respected because it is part of his principles.

From this profusion of disparate speeches and the impression caused by the visit to Adam in the hospital, the judge pronounces the sentence authorizing the hospital to perform the blood transfusion on the young person, without the need for the approval of the minor or his family.

THE VERDICT

The verdict of a legal reality carries the weight of the resolution itself, although an issue remains open: can a verdict completely resolve the facts judged?

After the conclusion of the court, the medical procedure was carried out, Adam recovered from the disease but came into contact with a shock, the rupture of his fully built identity in the sieges of his faith. For him, an incomprehensible emptiness opened up, a fissure in his own personality.

In order to cure himself of this emptiness, he begins to look for Fiona insistently, because he has the perception that only she could fill the gap created by the circumstance. He tells her, "I don't know where I am really. I mean, the thing is, once you take a step back from the Witnesses, you might

as well go all the way. Why replace one tooth fairy with another?" (McEwan, 2014b, p. 165). He even asks her to go and live with her, still testifying to his naivety for believing that Fiona would give him new directions: "I could do odd jobs for you, housework, errands. And you could give me reading lists, you know, everything you think I should know about..." (McEwan, 2014b, p. 166-167).

It is noteworthy that, in explaining to the judge that he had abandoned his faith and left the parental home, he blamed both her and Yeats' verses for the beginning of the collapse in his beliefs, stating that the revelation about his identity began with "The Salley Gardens". The poem worked for him as a kind of starting point for the uncovering of his condition in the world. When he asks her to orient him, passing him a list of books, he makes clear his "belief" in literature as an enabling one to fill his emptiness. However, she says no.

Fiona learns, months later, that Adam's illness had recurred. This time, he had already turned 18, and as an adult he refused to receive blood transfusion and he subsequently died. She then finds herself guilty for refusing to do what he had asked her to do:

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 that 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. (McEwan, 2014b, p. 212-213).

Thus, this questioning of Fiona, through free indirect speech, reveals that the verdict did not close the case. What the law cannot solve or remove does not appear in court judgment books. For Felman, this is the role of the literary text, exposing the violence that hides in court, the

spiritual mutilation of the one who was sentenced: "The artistic judgment is committed to transmit the force of history that cannot be narrated (or could not be transmitted or articulated) in the legal judgment" (2014, p. 128).

Throughout the narrative, the conflicting cases brought before the court were handed down in order to provide resolutions to discord and institute social peace, even though this stable world is always a utopian one, requiring legal deliberations that determined the conduct of individuals to maintain the civilizing principle, however, these same individuals or groups find no option other than submission to power and, consequently, the delimitation of individual freedom as a supreme value.

In fact, as Mário Vargas Llosa pointed out in his conference at the Frontiers of Thought Porto Alegre, held in May 2016:

Bringing paradise to Earth can only be accomplished through monstrous violence, because humans are different. To establish a kind of norm is to introduce frightening coercion. All the philosophies that tried to organize life are the ideologies that created the worst hells. [...]

If we want to have critically minded citizens, who do not allow themselves to be manipulated by the operations of power, we need a society in which literature plays a fundamental role in the formation of citizenship (2016).

The Children Act represents a possibility to make readers aware of the fact that they arouse their attention to questioning the truth imposed by manipulative discourses.

FINAL CONSIDERATIONS

The literary bias of legal approach represents a source of analysis of the manipulation of power discourses, contributing to elucidate that language management is a powerful persuasion tool. The analyzed novel also reiterates the manipulative force of artistic discourse, since it makes apparent the strategies used by McEwan, such as the structuring of space, time, characters, perspectives and focuses that hold their worldview and instigate the reader to a reflection that befits the author. The difference

between this artistic discourse and the discourses of power is that the former does not position itself as having an unquestionable ideology, nor does it need to present a resolution.

According to Aguiar e Silva,

Literary fiction relevant to our legal reflections is not so much or just that which focuses on the institutional issues of a juridical order, but it is above all that which is capable of contributing to our knowledge of the human condition. That which is capable of contributing to deepening our capacity for empathic understanding and tolerance, to foster our capacity to imagine ourselves in the other's shoes (2010, p. 211).

The Children Act reveals itself precisely because of this tendency, through reflection on the juridical instances, to address important issues to the problem of human conduct in relation to social conflicts arising from cultural and religious diversity, by presenting the reader with a means of getting comfortable within one's own skin and the skin of the other, for being a source for the study of language and existential reality today and, above all, for the pictoric and poetic beauty of McEwan's style.

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