**Chapter 15 Ethics**

 **A. The meaning of Right**

1. Right has two main meanings:

 a. Right as opposed to wrong (straight not crooked)

 b. Right as related to duty (That which is just)

 2. We cannot be obliged to keep the moral law and at the same time be

 deprived of the means necessary to this end.

 a. The obligation requires both the power to do things necessary for

 keeping the moral law ourselves and to restrain others from

 interfering with our observance of the moral law.

 b. No one can be obliged to do the impossible so if it is a fact that we

 are obliged, we must be empowered to fulfill the obligation.

 3. Power is of two kinds

 a. Physical power: Might is the bodily strength needed to secure an end.

 It comprises not only ourselves, but can also include others under our

 command.

 b. Moral Power: Rights works to appeal to the will of another through his

 intellect. It puts a moral bond on the free will of another so that even

 if he can physically infringe on my right, he cannot do so without

 committing an evil deed and incurring moral guilt with its sanctions.

 4. Right is defined as moral power over what is one’s own, or moral power to

 hold, do or exact something.

 a. To do means to commit some action

 b. To hold one’s own to keep or use something

 c. To exact means to demand that someone perform or omit some

 action.

 5. By a figure of speech, we transfer the word “right” form the person who has

 it and apply it to the thing over which one has a right.

 a. A right is founded on the law. It puts an obligation on the other to

 respect that right.

 b. Since all rights come from the law, they are natural, positive, divine,

 human, ecclesiastical or civil.

 **B.** **Component Parts of a Right**

 1. A right involves a system of relations in which there are three terms and a

 basis or foundation on which the relations are grounded.

 a. Subject: One possessing the right (eg. Worker)

 b. Term: those bound to respect or fulfill the right (eg. Employer)

 c. Matter: that to which one has a right (eg. Wages)

 d. Title: The reason why the subject possesses the right (eg. deed done)

 2. The subject of a right can only be a person.

 a. Rights exist because we are obliged to reach our last end by

 observance of the moral law.

 b. If we must guide ourselves to this end by the use of our own free will,

 we must be guaranteed immunity from hindrance in our choice of the

 necessary means.

 c. Since persons have free choice and are obliged by the moral law, only

 persons can have rights.

 d. While animals have no rights, cruelty to them would be a perversion

 to the relation that exists between man and animals and violates the

 duty man owes to himself and God.

 e. The subject of a right may not only be a physical or natural person

 (individual), but also a moral or juridical person (society, firm,

 corporation)

 3. The Term of the right must also be a person.

 a. The term is the one who is morally obliged to respect or fulfill the

 rights of another and that can only be another person.

 4. The Matter of a right can never be a person.

 a. A person has as his last end happiness in the possession of God and so

 cannot be subordinated to the interests of another to be used or

 consumed as a mere means for a person’s benefit.

 b. When people work for another, we purchase their labor and not their

 person. Labor is the matter of the right.

 5. The Title explains why the right exists.

 a. The purpose is to establish the connection between the subject and

 matter of the right.

 b. According to the Title, rights are congenital or acquired

* Congenital: come with birth
* Acquired: there is a contingent historical fact such as purchase or inheritance.

 **C. Natural Rights**

1. All laws suppose rights and all rights suppose law.

 a. There cannot be a right unless all others are bound by that right and

 what binds them is the law.

 b. There cannot be a law unless there is someone empowered to enforce

 it.

 2. What law is the origin of rights?

 a. Are there no rights but positive rights?

 b. Are there also natural rights?

 3. Moral positivists: If there is no natural law, there can be no natural rights,

 since there would be nothing to oblige people to respect such rights.

 a. Moral positivists may use the term “natural rights” but it only means

 that in the state of nature, a man had the right to do whatever he

 was able to do.

 4. Juridical positivists: they will not deny a natural moral law, but believe that

 civil law should be studied independent of it.

 a. There is a complete separation between the juridical order of rights

 founded on the civil law and the ethical order of morals founded on

 the natural law.

 b. They do not admit of any natural rights.

 5. The four possible chief sources of rights are:

 a. The political state

 b. A contract expressed or implied

 c. The concept of freedom, universal for all.

 d. Custom, manifesting the spirit of the people.

 6. *The Political state as the source of rights*: No one has any rights unless they

 are given to them by the state. **4 criticisms of this view:**

a. The state cannot be the source of its own right to existence. To admit

 that the state has a right to exist admits that there is some source of

 rights before the state.

 b. The right of the state to establish positive rights is a natural right,

 given it by the natural law that requires men to organize themselves

 into a civil society.

 c. If the state were the source of all rights, it could give or withhold any

 right it wished and could do no wrong. But the state does not give

 rights to life, food family, etc. God does.

 d. If the state were the source of all rights, then states could have not

 rights against another state.

 7. *The Contract as the source of all rights*. **4 criticisms of this view**

 a. The contracting parties must first have the right to enter into such a

 contract

 b. Contracts get their binding force from the natural law, which states

 that just contracts must be observed.

 c. The right to life is not a matter of contract.

 d. One cannot by contract acquire a right to do something intrinsically

 wrong.

 8. *Freedom as the source of all rights*: all men have equal shares in the

 external goods of the world and the right to use as much of them as is

 consonant with the equal right of every other man. People possess the right

 from inner or outer compulsion. **4 criticisms of this view**

 a. Rights are not limited to external acts. Voluntary human acts entail

 the external act and the inner motive.

 b. There can be no complete separation of legality from morality.

 c. Not all rights are deducible from the concept of freedom limited only

 by the equal freedom of all others.

 d. To say that there is a right to do whatever we want as long as it

 harms no one twists language.

 9. *Custom as the source of all rights:* Every people unconsciously develops

 their own speech, culture, etc., and rights are a part of this development

 and are grounded in the immemorial customs which are the cultural

 expression and unconscious product of the spirit of the people.

 **4 criticisms of this view**

 a. While some rights do originate in custom, it is not the basic source of

 a right.

 b. Many repeated acts of themselves do not generate laws.

 c. customs can be either good or evil.

 d. Man is superior to his acts and customs. He measures them, not the

 other way around.

 10. *Proof for natural rights:* syllogistically

 a. There is a natural law which imposes obligations on man: to tend to

 his last end and confirm his conduct to the norm of morality as the

 only means to the end.

 b. Man cannot have these obligations unless he has a right to fulfill them

 and a consequent right to prevent others from interfering with the

 fulfillment of them.

 c. Therefore, there are rights which stem from the natural law, and

 these are by definition natural rights.

* God, the Author of the natural law is also the author of natural rights.

 11. God-given laws

 a. He who wills an end also wills the means necessary to the end.

 b. God wills the natural law and natural rights are means necessary for

 keeping the natural law.

 c. God therefore wills natural rights and is their ultimate source.

 **D. Right and Might**

1. The separation of rights from morals is practically equivalent to identifying

 might with right, since if rights do not rest on moral obligation, they rest on

 physical force of the threat of it.

 a. Might and right are not the same

 b. Some right imply the right to use might.

 2. Right and Might are two different things because there can be might without

 right and vice versa.

 a. Natural law gives to each the means necessary for keeping the natural

 law but does not grant each the physical force necessary for securing

 and defending these means.

 b. Since all men are equal in their ultimate destiny and in the

 obligations that the natural law imposes on them, but unequal in the

 physical strength as well as wealth and authority to command the

 strength of others, the natural law must provide a safeguard against

 the encroachment of physical force.

 c. This is done by the conferring of rights by the positive law.

 3. While Might and Right are not the same thing, there is a connection between

 them because violated rights can be redressed only by the use of force.

 a. The first use of force against a free thing is a crime.

 b. Right implies a second use of force repelling the first unjustified use

 of it. There are two objections to this:

* It seems to restrict rights to external physical acts and objects only when the right is also a moral power as well.
* There is a confusion between the essence of rights with a property of some rights.

 4. Coercive rights are those which are upheld by recourse to might, force of

 coercion.

 a. These are also juridical rights.

 **E. Duties**

1. One of the properties of rights is limitation.

 a. Limitation is that point beyond which a right cannot be exercised

 without violating the right of another.

 b. In the order of creation, no one may seek his own end in such a way

 as to frustrate the end of the whole.

 2. Right is limited by duty.

 a. Duty is defined as the moral obligation to do or omit something.

 b. Rights and duties are complementary.

 3. If we have a right, then everyone else has the duty to respect my right, thus

 the TERM of the right becomes the SUBJECT of a duty.

 a. If I have a duty, I have the right to fulfill that duty and to do all things

 necessary for that fulfillment; otherwise, it is not a genuine duty.

 b. If I have a right, I do not necessarily have the duty to exercise that

 right. No one can exercise all his rights at the same time since some

 are simultaneously incompatible.

 c. All duties, like rights come from the law, for all duty is a moral

 obligation and all moral obligations come from the law.

 4. There are two classifications of rights:

 a. Alienable rights: These rights can be waived or given up.

 b. Inalienable rights: These rights are necessary to the attainment of

 man’s end or to the fulfillment of a moral duty.

 5. Two kinds of duties:

 a. Affirmative duties: these require the performance of an act. There is

 a lasting obligation, but not a constant fulfillment.

 b. Negative duties: These require the omission or avoidance of an act.

 Constant fulfillment is required.

 **F. The Conflict of Rights and Duties**

1. There can be no real conflict between rights and duties, either with one

 another or among themselves.

 a. All rights and duties are derived from the law and all law is derived

 from the natural law based on the eternal law of God.

 b. The conflict is only apparent. The stronger right or duty prevails. The

 weaker simply ceases to be a right or duty at all.

 c. The stronger right extinguishes the weaker ones.

 2. What is the means for determining the stronger right or duty? The stronger

 right or duty can be determined through the following schema:

 a. **Subject**: 1. *The nobler person*: God before men, parents before

 children.

 2. *The closer relationship:* closer before remote relatives;

 friends before strangers

 b. **Term:** 1. *The more common good*: public safety before private gain

 2. *Wider social order:* country before family; family before

 individual.

 c. **Matter:** 1. *Grave*: soul before body; life before property

 2. *Greater urgency*: saving the living before burying the dead

 d. **Title:** 1*. Higher Law*: natural before positive; inalienable before

 alienable

 2. *Clearer Title:* Certain before doubtful; paying a debt before

 giving a gift.

 **G. Excuses from Duty**

1. Duty is imposed by law and it is reasonable and for the common good.

 a. Nevertheless, there are causes that can excuse from duty because it

 in fact invades our rights.

 2. No one can do the impossible. Norms can be made for putting together

 three elements:

 a. Kinds of hardship: Inherent or incidental

 b. Kinds of Duty: Affirmative or Negative

 c. Kinds of Law: Natural or positive

 3. Incidental hardship excuses from a duty. It comes from a particular

 circumstance of the person concerned such as sickness or disability.

 a. If hardship in a duty could excuse, there would be no duties.

 b. To be an excuse, it must be excessive or out of proportion to the

 importance of the duty.

 4. A negative duty from the natural law allows for no excuse at all.

 a. An affirmative duty from the natural law gives an excuse do to

 impossibility or excessive hardship.

 b. Acts can be postponed for more favorable circumstances when

 hardships will not be present.

 5. A duty from the human positive law, either affirmative or negative allows

 for excuse due to impossibility or excessive hardship.

 a. No violation of negative natural duty can be involved.