

## Introduction

The doctrine of the lesser evil deals with those situations where a moral agent is forced to choose between one of a number of competing claims to action, all of which involve breach of a moral principle or rule. Faced with this dilemma, the doctrine of the lesser evil states that one should do that which, in the circumstances, is the lesser of two or more evils.

Outside of the Judaeo-Christian tradition the doctrine was stated and approved by Aristotle<sup>2</sup> and endorsed by Cicero.<sup>3</sup> Within the Christian Church the doctrine was officially stated at the 8th Council of Toledo in AD 653,<sup>4</sup> as well as being the solution offered by numerous Christian writers when dealing with cases of conscience.<sup>5</sup> The purpose of the present study is to ascertain the specifically biblical basis for such a doctrine. Before considering the biblical material, however, it will be useful to clarify the precise points which are at issue and to make some brief general observations concerning ethical matters.

## I. The problem stated

The issue addressed in the present study concerns the choice which has to be made when moral principles or rules come into conflict. This type of situation needs to be distinguished from one to which it is closely related and with which it is frequently confused, namely, where circumstances are such that the honouring of a *moral principle* or obedience to a *moral rule* or *command* leads to evil consequences. Underlying this distinction is the fact that *sin* and *evil consequences* are not entirely congruent categories: while there may be

considerable overlap between the breaking of a moral rule or command and evil consequences, it is nevertheless the case that they are not synonymous. (I am using the term 'evil' as applied to 'evil consequence' as that which is not good, 'good' being defined here with reference to God's declaring that the original creation was 'good': Gen. 1:10, 12, 18, 21, 25, 31.) If we adopt, for working purposes, the definition of sin as being that which is contrary to God's law,<sup>6</sup> in the sense that a personal agent contravenes God's law, it should be clear that 'sin' and 'evil consequences' do not have identical referents. Some examples should elucidate this point.

Nobody with a modicum of moral sensitivity would deny that war is a great evil. Furthermore, it is an evil which is occasioned by sin and is, therefore, an evil consequence of sin. Moreover, as has frequently been observed, morality is one of the first casualties in war: much sin is attendant upon and committed during war. It is equally true, however, that, unless one adopts the untenable position that Scripture absolutely forbids the waging of war (the pacifist position), there are situations where it would not be sin to fight in a war. The categories of sin and evil consequence are not entirely congruent.

A clearer example might be where a man drives in such a manner as to knock down and kill a child. Let us imagine two different scenarios. In the first, the man intentionally drives in a dangerous manner: that is to say, he does not care what injury he may cause to other people and drives accordingly, knowing that he may kill someone. His killing of the child is an evil act and the death of the child is an evil consequence. In the second scenario the

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death results from a situation which is legally defined as *automatism*. The driver, through no fault of his own or of anyone else, loses control of his vehicle, thereby killing someone. This was because a swarm of bees flew into the vehicle, thereby leading the driver to lose control. He has committed no sin. The death of the child is a tragedy, or may be called *an evil*. Certainly death and suffering would not be in the earth had sin not entered in the first place. Here, then, is a case of an evil consequence (that is to say, something which is not good, in terms of God's pronouncement of the original creation as good), where no *specific sin* (that is, other than man's original sin which 'brought death into the world, and all our woe, with loss of Eden') has been committed.

The importance of the distinction between sin and evil consequence resides in the fact that the doctrine of the lesser evil is sometimes invoked to justify *sin* (the breaking of a command of God) in order to avoid an *evil consequence*. The following example illustrates this point. The intelligence service of a particular country gathers intelligence which indicates that a terrorist attack is imminent within its borders. It does not know the precise location of the attack nor the date of the attack. Furthermore, it is unable to identify those who will launch the attack. The information concerning these matters is in a code which it is unable to break. The intelligence service has discovered, however, that a twelve year old girl knows the code, although she is completely ignorant of any planned terrorist attack. When she was first taught the code, she took a vow never to disclose it to anyone. She has been taught that it pleases Allah that she keeps this code a secret

and that anyone who wants her to disclose the code does so for utterly malevolent reasons.

The girl is approached by the intelligence service but is unwilling to disclose the code. Attempts to persuade her to do so in order to save lives are unavailing *because she does not believe that there will be terrorist attacks*. She believes that those who want her to disclose the code do so for evil purposes. Consequently all attempts to get her to disclose the code fail. The intelligence service decides that the only way she will disclose the code is for her to be tortured. She proves to be extremely resilient and, eventually, the intelligence service resorts to extreme violence, permanently injuring and disfiguring her before she breaks. The code is disclosed, the terrorists are arrested, and an attack is averted. In fact, the attack would have been at a major sports event and would have led to the loss of about seventy five thousand lives. The intelligence service feels justified in its use of torture: although it has done something evil, it has saved lives.

This is not, however, strictly speaking an application of the doctrine of the lesser evil. An evil act (torture) has been committed (and, be it noted, against an utterly innocent person) in order to prevent an evil consequence (the loss of many lives). But the death of many people, though an evil, and an evil which would not have been in the world had sin not entered, is not sinful: people die every day and are not sinning by dying. It may, of course, be said that one has prevented the terrorists from sinning. This is true but is not the reason for the torture: the reason for resorting to torture is to prevent the *consequences of the terrorists' evil act*, a large number of deaths. (Let us assume that the terrorists

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attempt to detonate their bombs but, for technical reasons, the bombs do not detonate and no one is injured. The terrorists have still performed an evil act but there are no evil consequences to that act. Were the intelligence service to know in advance that the bombs would not detonate and that there would be no injury, they would not intervene by torturing the girl: their focus of interest and concern is not the evil act per se but the evil consequences.) One may say that to save lives is a morally good act. Therefore, the torture of the child, while considered as an act-in-itself is evil, considered in the context in which it occurs it is morally good. It is, therefore, morally good as well as morally bad: it is a lesser evil. It is better to save lives than to allow them to be needlessly slaughtered. Is this so?

Let us change the example a little. Let us assume that the young girl dies as a result of the injuries which she has sustained while being tortured. Let us further assume that a terrorist attack has been averted, but the nature of the attack was that only one person would have been killed. Let us further assume that the intelligence service knew that the planned attack would result in the death of one person. They have committed an evil act (torture) to prevent an evil consequence (death of a person). They have indeed saved an innocent life but have had to take another innocent life to do so. It is difficult to see how this is a case of a lesser evil.

This last point requires elaboration. Let us assume another purely hypothetical type of situation. The police know that a criminal, C, is intent on travelling from point X, in the countryside, to point Y to murder V. C intends to walk two miles, where he will be taken by a taxi, which he has booked, to

his destination. The taxi driver, T, is unaware of C's plan to murder V. The only way in which C can undertake the journey is by T's taxi. The police learn of the plan at a time when it is too late to alert and protect V, or to travel to intercept C. However, one of the police, P, who has learned of the plan sees T speeding on his way to point X to collect C. P, we shall assume, is on foot and can do nothing to intercept T and alert him to what is afoot. He is, however, a police marksman and we shall assume that he has his gun with him. He shoots T in the belief that this will prevent him from reaching X, thereby giving the police time to intercept C. T dies from the gun shot wound. What has happened here is that one person, P, has committed an evil act (shooting an innocent person) in order to prevent another person, C, from killing another innocent person, V, and to prevent the evil consequence of V being killed. This, of course, would be regarded as an outrageous act: murdering one person to prevent another murder.

The foregoing is intended simply to illustrate the importance of the distinction between a sinful act and an evil consequence. It would not be difficult to think of some fairly emotive types of situation where lesser evil arguments are advanced in an inappropriate way: where one innocent life, which is regarded as of the same ontological and moral status as another innocent life, is taken for the sake of the other life. The present study will not address the question as to whether it is ever biblically permissible to commit sin in order to prevent evil consequences. Many complex issues arise in such a study, not the least of which is the problem of specifying exactly what is an evil consequence. It may, however, be worth

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observing that Paul states that those who argue that evil should be committed that good may result are deserving of condemnation (Rom. 3:8). In this passage it is clear that when Paul refers to those who say, 'let us do evil', he is referring not to an evil consequence but to an evil deed, to sin, whereas good refers, in this passage, not to the doing of something which is good but to the opposite of an evil consequence, namely, a good consequence. Fundamental to biblical ethics is the fact that there is not complete congruence between sin and evil consequences, nor between obedience and good consequences. This naturally leads to the need to define some terms.

## II. Definition of terms

1. *Deontological*: this is the approach to ethics which states that moral principles are to be adhered to regardless of consequences. Certain things are right and should be done and do not require justification in terms of the consequences.

2. *Consequentialism*: this is the approach to ethics which says that one determines what is the right course of action with reference to the consequences which follow. Of course, a consequentialist who assesses an action with reference to whether the consequence of the action is good or bad inevitably has a *prior* understanding of what is a *good* consequence or what is a *bad* consequence. And this means, of course, that the *nature* of what is good or bad cannot simply be determined with reference to the consequences of the action because one is assessing the consequences as *good* consequences or *bad* consequences. Some values are already operative, therefore, by which to evaluate the consequences. Thus utilitarianism, which is a consequentialist

approach to ethics, assesses a good consequence as that which will bring about the greatest happiness of the greatest number of people.

The example given by Quinton and cited in note 8, below, could be understood in terms of utilitarian philosophy. On the other hand, if the drowning person were a hermit, utterly self absorbed and without family or friends, and (though not committing suicide) not really valuing his life, it might be possible to argue that on the utilitarian calculus of happiness caused, greater happiness would be caused by keeping one's appointment at the tea party and leaving the hermit to his fate. Presumably Quinton would demur to such a position; if so, this would demonstrate that lying back of his assessment of the moral quality of an action with reference to its consequences would be a commitment to certain *values* by which consequences are assessed. The point which I am seeking to make is that consequentialism is a more complex approach to ethics than is sometimes realised.

Many philosophers hold that a deontological approach to ethics and a consequentialist approach are mutually exclusive.<sup>7</sup> I have tried to demonstrate in the previous two paragraphs that this is an area which needs thorough exploration because important points and distinctions are frequently blurred by the statement that these two approaches to ethics are mutually exclusive.<sup>8</sup> This, however, is also beyond the scope of the present study.

## III. Biblical material

**Observations on the teaching of Jesus and Paul**  
The Scriptures teach that some commands of God are of greater weight than others.

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Jesus put this very clearly in Matthew 23:23. In speaking of 'weightier' or 'more important matters of the law', it is evident that Jesus did not regard each aspect of God's law as of equal importance. Care, of course, is needed in how one employs this distinction. In Matthew 23:23 Jesus makes it quite plain that the less important matters of the law should have been practised as well as the weightier matters. In Matthew 5:19 He speaks of 'the least of these commandments', again implying that He did not regard all divine commandments as being of equal importance; yet the same verse indicates that greatness in God's kingdom is as much to do with observing the least commandments as it is with observing the greatest commandments.

Jesus taught that the two greatest commandments were to love the Lord our God with all one's being and to love one's neighbour as oneself (Matt. 22: 34-40). He taught that these commandments were foundational. Since all the Law and the Prophets hang on these, it follows that to remove these or not to practise them will make it impossible to live the life which is laid down in the Law and the Prophets. The relative importance of different commandments underpins Jesus' graphic picture of those who strained at gnats but swallowed camels (Matt. 23:24). In other words, He was concerned that we have a due sense of proportion, something which was evidently lacking in the case of the Pharisees and the teachers of the law. How one grades different commandments is a huge subject and well beyond the scope of this study. All that is necessary for our present purposes is to note that a distinction exists in the commandments.<sup>9</sup>

It is clear that Jesus sometimes resorted to an *argumentum ad hominem* when engaged in controversy. The present writer takes the view that Jesus never broke the Sabbath commandment, though He broke with man-made traditions which had been added to that commandment. However, it is interesting to note that in some of the discussions with the Pharisees over the question of the Sabbath, Jesus did not defend Himself by distinguishing between God's Word and human tradition (as He did in Matt. 15: 1-9 over the issue of ceremonial hand washing) but by employing His opponents' arguments and demonstrating that they were double edged. This is what is really going on in Matthew 12:1-8. A superficial reading of this passage leaves one asking what is the relevance of David eating the consecrated bread reserved for the priests to the issue of the alleged Sabbath breaking on the part of Jesus' disciples. It is a question which has occupied commentators on this pericope. The point of Jesus' response, however, is that He is employing a well known type of rabbinical argument. It went something like this. Since the priests must work in the Temple on the Sabbath, the Temple is greater than the Sabbath. David ate the presence bread because the preservation of his life was more important than the Temple. Jesus' argument thus proceeds as follows: if the Temple is greater than the Sabbath and the preservation of life is greater than the Temple, then, *a fortiori*, the preservation of life is greater than the Sabbath. It was permissible, therefore, for Jesus' disciples to pluck corn on the Sabbath.<sup>10</sup>

Certain traditions of Christian thinking have distinguished three elements in the Mosaic Law:

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moral, civil, and ceremonial.<sup>11</sup> Other scholars have pointed out that the New Testament always refers to 'the law', rather than to 'the laws'<sup>12</sup>. While it is true that the New Testament routinely refers to the law as a complete package and does not neatly divide it into moral, ceremonial, and civil, it is nevertheless the case that Jesus distinguished between what are normally identified as the 'moral' aspects of the law and those which were 'ceremonial' or ritual and cultic. The following two passages clearly indicate this: Matt. 5:23-24; 9:13. Again in Matthew 15:3-9 Jesus appears to teach that it was a lesser evil to break a vow of dedicating one's substance to the Temple than to break the command to honour one's parents.<sup>13</sup> Of course, there was nothing novel about this aspect of Jesus' teaching; it was entirely in line with that of the Old Testament prophets. They regularly inveighed against the LORD's people for being punctilious about matters concerned with the cultus while having hearts which were far from God and hard towards their fellow men and women: see, for example, Is. 29:13. This teaching was then reaffirmed by Paul: Rom. 2:27-29; 1 Cor. 7:19.

Three comments are in order at this point. First, we should not think that the Old Testament prophets or Jesus had a cavalier attitude towards cultic matters. Ps. 51:17,19 explain the perspectives of the prophets and of Jesus: cultic and ritual observance were worthless without a right heart and obedience. Secondly, it appears to be indisputable that cultic and ritual matters were regarded by Jesus and the prophets as less weighty than what may be called the 'moral' aspects of the law. Thirdly, by the time of Paul, the observance of physical circumcision can be set in contrast to keeping the law's requirements

and obeying God's commands: Rom. 2:25-29; 1 Cor. 7:19. This aspect of Paul's teaching is to be understood in terms of the history of salvation and the Bible's 'time line'. Significantly, physical circumcision predated the giving of the law; nevertheless, Paul is quite clear that physical circumcision was no longer mandatory.

In addition to what has been said thus far, one should also observe that there are situations where one is not in the realm of right and wrong but, rather, of good and better. This distinction runs through Paul's argument in 1 Cor. 7:25-39. Furthermore, Paul's counsel is heavily contextualised: what he says is in view of 'the present crisis' (v.26). From these data we may deduce the principle that certain situations require counsel which would not be needed in other situations. Furthermore, we must avoid reducing all situations, especially where Christians may feel in a dilemma, into those where a straight black or white choice is to be made.

### **Examples of biblical endorsement of 'lesser evil' choices**

#### **Old Testament**

##### **(1) Leviticus 10:16-20**

Leviticus 10:1-2 records the offering by Nadab and Abihu, two of Aaron's sons, of 'strange' or unauthorised fire to the LORD and His consequent judgment upon them. In verse 3 Moses explains to Aaron that the LORD would show himself holy amongst his people and would be honoured by them: this was why He took action against Nadab and Abihu. In verses 4-5 Moses gives instructions for the removal of the dead bodies, while in verses

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6-7 he stresses that neither Aaron nor his surviving sons were to let the mourning, which would have been natural, interfere with their continuing to fulfil their responsibilities as priests. If they did, they too would die, thus incurring a similar fate to Nadab and Abihu. Verses 8-11 prohibit the priests from drinking fermented beverages when going to minister in the Tent of Meeting and emphasise the importance of distinguishing the holy from the common. In verses 12-15 Moses gives Aaron and his remaining sons instructions concerning the eating of the grain offering and the wave offering.

In verse 16 Moses enquires about the sin offering and learns that it had been burned up rather than eaten. In 6:26, 29-30, we learn that a sin offering whose blood had not been taken into the Tent of Meeting to make atonement for the Holy Place was to be eaten by Aaron or his sons in the courtyard of the Tent of Meeting. In 10:17-18 Moses stresses to Aaron that it should have been eaten and not burned up. Understandably, he was angry: judgment had already fallen on the family of Aaron for failure in priestly duties. Might judgment now fall on Aaron and his remaining sons? Aaron answers that it would have been inappropriate to have eaten it in view of what he had experienced that day (v.19). As Matthew Poole comments, the sin offering was 'not to be eaten with sorrow, but with rejoicing and thanksgiving, as appears from Deut. 12:7; 26:14; Hos. ix:4; and I thought it fitter to burn it, as I did other sacred relics, than to profane it by eating it unworthily'.<sup>14</sup> In other words, Aaron was faced with a dilemma: either eat the sin offering, but not do so in the way in which it was to be eaten (that is, with joy), or, since it could not be eaten with joy, not to

eat it at all but burn it up, in clear contravention of the LORD's command. Aaron chose the latter course of action and verse 20 informs us that Moses, as the divine representative, was satisfied.

Here, therefore, is a clear case of a lesser evil type situation. Evidently Aaron believed that it was better not to observe the outward form of the offering than to observe it in the wrong spirit.

## 2 Chronicles 30

Hezekiah's father was Ahaz and his had been something of a decadent reign. Hezekiah sought to reform and purify things. In 2 Chronicles 29 we read of his purifying of the temple. Chapter 30 records the great Passover which was celebrated during his reign. The books of Chronicles, written after the return from exile, have a particular interest and focus on cultic purity and the importance of Jerusalem as the central place for the worship of God. The Chronicler fastens attention on numerous deviations from the Mosaic law which led to the exile. Given his general emphasis, this makes the account of the great Passover in chapter 30 all the more significant.

First we learn that the king and his officials and the whole assembly decided to celebrate the Passover in the second month (v. 2). The Passover, of course, was to be celebrated in the first month: Exod. 12:1-3. However, 'case law' during Moses' life allowed for the celebration of the Passover in the second month in certain situations: Num. 9:9-11. This permission arose from the situation of some who were ceremonially unclean on account of a dead body (vv. 6-7). Therefore, the permission granted in vv. 9-11 is expressed to be applicable where someone is

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unclean on account of a dead body or on account of having been away on a journey. The significant point in 2 Chronicles 30, therefore, is that while there was Mosaic permission for celebrating the Passover a month later, it is clear from v. 3 that Hezekiah's Passover did not come within the terms of the Mosaic permission: v.3 specifically states that not enough priests had consecrated themselves and the people had not assembled in Jerusalem. This was all part of the spiritual decline which Hezekiah had begun to address. Evidently, however, in the circumstances Hezekiah, his officials and the whole assembly thought that it was better to celebrate the Passover a month late, even though they did not, strictly speaking, come within the terms of the Mosaic permission, than not to celebrate it at all. Here was a clear irregularity.

Secondly, although the Mosaic law laid down that the worshippers were to kill the sacrificial lamb (Exod. 12:6), at Hezekiah's Passover many of the people had not consecrated themselves in accordance with the Mosaic law and were ceremonially unclean (v.17). Since this was so, the Levites slaughtered the lambs for those worshippers who were unclean (v.17). Verse 18 goes on to state that most of the people who came from Ephraim, Manasseh, Issachar, and Zebulun had not purified themselves, 'yet they ate the Passover, contrary to what was written'. This was, therefore, an extraordinarily irregular Passover, breaching a number of the provisions which the LORD had given through Moses. The significance of this Passover, however, was that, during the time of the divided kingdom Hezekiah sent a proclamation calling on all the tribes of Israel to celebrate the Passover (v.5) and many came (v.18).

In v.19 Hezekiah acknowledges that although there were those who were not clean according to the rules of the sanctuary, they may nevertheless have set their hearts on seeking God, the LORD, the God of their fathers. This fact, coupled with the truth that the LORD is good, was the basis of Hezekiah's prayer in vv.18-19 that the LORD would pardon them. Verse 20 informs us that the LORD heard Hezekiah and healed the people.

Matters did not rest there. Verse 23 tells us that the whole assembly then agreed to celebrate the festival seven more days, while v.26 states that there had been nothing like this since the days of Solomon – a reference to the high point of the kingdom, prior to its division during the time of Jeroboam son of Nebat. Verse 27 tells us that God heard the prayer of the priests.

Here, if anywhere in Scripture, is clear teaching that the spirit is more important than the letter, and that it can be a lesser evil to do something irregularly which God commands rather than not to do it at all. Here, then, is clear biblical teaching on the doctrine of the lesser evil. It was an evil not to have obeyed the letter of the law: hence Hezekiah had to pray for the people to be pardoned (v.18), something which was hardly necessary if no evil had been involved. But it would have been a greater evil not to have celebrated the Passover. This, too, would have involved disobedience to a clear command of the LORD. It is the point to which Jesus referred when He spoke of those who strained out gnats but swallowed camels (Matt. 23:24). Nobody particularly wants a gnat in his soup. But it is far less unpalatable to swallow a gnat than a camel, with its furry hump and knobby legs.

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Therefore, we may lay down the general principle: there is such a thing as a doctrine of a lesser evil; it arises when it is impossible to keep a command of the Lord without breaking another; in deciding which is the lesser evil, we shall need to consider which is the weightier commandment and which more honours the spirit of the Lord's teaching.

### **New Testament material**

While there are numerous New Testament passages which touch on this subject (for example, our Lord's quoting of the words from Hosea, 'I desire mercy not sacrifice' and Paul's words in Romans 13:9-10), we shall limit our treatment of New Testament material to just two passages.

#### **2 Corinthians 8:10-12**

These verses occur in a section which spans the whole of chapters 8 and 9 and which is concerned with the collection for the poor saints in Jerusalem. 8:12 expresses an extremely important principle: there may be things which one wishes to do but which it is impossible for one to do. In its context this surely refers to the fact that the Corinthians might have wanted to have given more than they were physically able to do: they may not have had sufficient money to give all that they had wanted to give. The principle which Paul expounds is that it is the willingness to do something which God accepts. In other words, desire and motivation are relevant to the assessment of actions, as well as the actions themselves.

#### **Matthew 15:1-9**

In this passage Jesus contrasts the teaching of the word of God with that of the traditions of men. He fastens attention upon the way in which the

Pharisees and teachers of the law used the provisions with respect to gifts devoted to God to avoid honouring their parents (vv.3-6). He makes it clear that this was hypocritical (v.7); He also states that the Pharisees and teachers of the law were teaching rules taught by men. It is perfectly possible that under the influence of such a false teaching some might have devoted gifts not in a hypocritical way but have been left unable to provide help to their parents. In these circumstances if they were then made aware of the need to use the money thus vowed to God's service to help their parents, something of a dilemma of conscience would arise. To go back upon a vow is a serious matter (Eccl. 5:1-7). On the other hand to break the command to honour one's parents is also serious. Here, again, would be a situation where one obligation would come into conflict with another obligation. It seems clear from our Lord's teaching that this would be one of those situations where the vow would have to be broken.<sup>15</sup>

#### **Practical applications**

There are many situations where the doctrine of a lesser evil will be applicable. I shall briefly identify some which could well arise in pastoral life and church practice.

The first example concerns Paul's prohibition of women teaching or exercising authority over men in a church context.<sup>16</sup> Let us imagine that a married couple are working in a pioneer missionary situation, the husband in church planting and the wife working with women. There are no other Christian workers in the whole of the region. A time of spiritual awakening occurs and hundreds are

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suddenly brought into God's kingdom. News of this reaches the country where the missionary couple are from and the result is that workers arrive in the country who teach a deviant and distorted gospel, which is no gospel at all. It is imperative that the infant church is protected from these influences. However, at this precise point the husband is taken ill, needs surgery and will be some months convalescing. His wife is well taught in Scripture and has a good grasp of theology and how it is to be applied. Does she simply allow the false teachers to move in, hoping that some months later her husband will be able to undo the damage, or does she, rather, start herself to teach the young believers? While the present writer is fully committed to the position that the ruling and teaching office in Christ's church is confined to men, it is submitted that this would be a lesser evil type of situation. Commands to care for Christ's people and to love one another would, in these circumstances, in my view, override the prohibition of a woman to teach and to exercise authority over a man. Of course, the situation would be far from ideal and, hopefully, steps might be taken to ensure that this would be very much a 'holding situation' which would soon be replaced. Nevertheless it is the doctrine of the lesser evil which would allow for this course of action.

A second type of situation concerns unmarried women with children. In our present climate in the West it is far from uncommon for a woman who is in a stable relationship with a man and who has children by him to be converted and then to seek baptism and church membership. The proper thing to do, of course, is for the woman to marry the man.

But what if the man, for whatever reason, is unwilling to do so? The present writer has known of numerous situations of this type. The man is a good father to the children, in that he provides for them financially and provides emotional support to them and is interested in all their concerns. For their part the children are devoted to him, as well as to their mother. What are the options if the man is unwilling to marry the woman? Let us consider them one by one.

The first is for the woman to leave him. This immediately means that the children no longer live with their father and mother but only with one parent. One obeys one command (not to live with someone with whom one is not married) but upsets the biblical pattern of children having a mother and a father. In effect, such a decision will break up the home, with the inevitable emotional and psychological upheaval which are, alas, experienced by the children who are the innocent sufferers. This has to be set against the fact that the mother and father are husband and wife in all but name. Indeed, in one case known to the writer the mother had even taken the name of the father, and the children had the father's name. This is surely a lesser evil type of situation: it is submitted that it would be a lesser evil for the couple to continue to live together than for the home to be broken up simply because a marriage ceremony has not been gone through. To insist otherwise is to say that failure to go through a ceremony, which can be over and done with in a matter of minutes and which will be evidenced in a marriage register book, is a greater evil than to break up what may be a very happy, loving and caring home. This, it seems, is a classic case of

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straining gnats and swallowing camels.

The objection might be made that the breaking up of the family is an evil consequence rather than an evil deed. The evil consequence is *occasioned* by a morally good deed (the woman refusing to continue to live with a man in an unmarried state) and is *caused by* the whole complex of events which included an evil deed in the first place (living together in an unmarried state).<sup>17</sup> But this is a superficial analysis of the situation. Whatever be the case with respect to evil consequences, it can easily be argued that it is an evil act for a woman to leave her partner and thereby to break up the home and cause emotional suffering to her children. This is not to deny that she helped to create the complex situation in the first place by going to live with the man. It is to acknowledge, however, that there are situations which it was sinful to bring into being but which, having been brought into being, it would be more sinful to break. Furthermore, there may be situations which it was sinful to bring into being but which could be subsequently regularised. Where, however, it is not possible to regularise the state of affairs, it may still be more sinful to break the state of affairs than to allow them to continue.

The question may be raised as to why the man is unwilling to marry the woman. Strictly speaking, this is beside the point; it may, however, be worth pointing out that many men have come from broken homes and feel that since their parents were married and divorced, there is little point in getting married. I would, of course, disagree with a man who held such a view. Furthermore, it is surely a failure of love on his part to do that which his partner so desires. Nevertheless, while this may be

failure of love on his part, this does not mean that he does not love her at all and it certainly does not mean that he does not love his children. Pastoral practice requires that we deal with people in the situations in which they are, not in those in which we would like them to be.

It may not be amiss to point out that the situation is even more complex than might, at first, have been realised: for if she does marry the man, she is then marrying an unbeliever. The general tenor of Scripture, as well as 1 Cor. 7:39, would forbid such a marriage. Yet presumably those who think that she should marry the man and, if not, she should leave him, regard such a marriage as a lesser evil: it is a lesser evil to regulate an existing state of affairs by marrying than to refuse to marry because the man is an unbeliever.

Let us assume, however, that the woman stays with the man. Does this mean that she should not be baptized and accepted into membership? On what grounds would one refuse to baptize her and receive her into membership?<sup>18</sup> Given the fact that the New Testament commands baptism for those who have repented and believed, and that the church is charged with the obligation to baptize those who have been made disciples, one can only conclude that the sole reason for refusing to baptize her would be the belief that her unwillingness to leave the man renders her profession of faith to be suspect or to be so inconsistent with a Christian profession that refusal of baptism is tantamount to an excluding act of church discipline. There is, however, surely a difference between a professing believer who refuses to render what the Puritans described as that 'universal obedience' which is an essential element of

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true conversion and the conscientious decision of a vulnerable, young Christian to do that which, she believes, is best for her children in the circumstances. And once one accepts that she is truly converted and is rendering universal obedience, albeit that this necessitates her having to make a lesser evil choice, does this not mean that there is an obligation upon her to be baptized and upon the church to baptize her and to receive her into membership? Are not Paul's words in Rom. 15:7 supremely relevant here? Does not the fact that she has the desire to marry but is unable to do so bring her within the scope of the principle laid down in 2 Cor. 8:12, and does not this distinguish her from someone who adopts a cavalier attitude to marriage?

Another area where the doctrine of the lesser evil is applicable is with respect to inter church relationships. One may believe that a number of doctrines are taught in Scripture which another true gospel church may not hold. It may nevertheless be the case that the doctrine of the lesser evil is applicable: it would be a greater evil not to have fellowship with such a gospel church than it would be to hold that such fellowship might compromise one's doctrinal purity. This is an extraordinarily complex area: clearly there are situations where such fellowship might so compromise doctrinal purity that it would be a lesser evil not to have fellowship. What one cannot do is to legislate for every conceivable type of situation, since there will always be circumstances where one has to grade which principles apply in any given situation and which are the most important.

## Conclusion

The Scriptures clearly teach a doctrine of the lesser evil. This doctrine has been recognized throughout the history of the church. The reason for such a doctrine is that there will frequently be less-than-ideal situations which are bound to arise in a fallen world. In particular, situations will arise where obedience to one biblical command will inevitably entail disobedience to another biblical command. In such circumstances a choice has to be made as to which command will be broken. Such a choice can only be made in a responsible way by assessing the relative weight of the commands in question. While this requires careful exegesis and an informed understanding of biblical ethics, this does not mean that this kind of issue is purely theoretical and academic, in the pejorative sense of that word. Quite the contrary! Pastoral practice and church life will regularly throw up these types of situation, and as society moves further away from God's standards made known both in general and special revelation these types of situation will become increasingly common. If pastors and preachers are to help the people of God whom it is their privilege to guide, teach, and help, then it is essential for them to understand the biblical basis of the lesser evil doctrine and the boundaries within which it operates.

## References

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1. I was first stimulated to think along these lines by a paper given by Graham Harrison at a BEC Study Conference on the subject, *What constitutes a New Testament Church*, which was subsequently published in *The Evangelical Magazine of Wales*. Some of the biblical material considered in the present study was touched on in that paper. Mr Harrison's paper was concerned with fellowship between gospel churches. Since he dealt with that subject so helpfully, I have only touched upon it briefly in this study.
2. *Nicomachean Ethics* ii.9.4
3. *de Off.* iii. 28 (102)
4. Can. 2
5. Gregory the Great stated it thus: 'He who is encircled by walls on every side and tries to escape, throws himself down where the wall is lowest,' *Mor.* in *Hiob.* xxxii. 20 (35). Thomas Aquinas adopts this approach in *Summa Theologiae* ii. 2, q. 104, a. 5 in corp. Richard Baxter gives an illustration of the doctrine from the marital and domestic sphere: *Christian Directory*, ii. c. 9. A brief reference to historical material, including that which is cited in this note, will be found in Kenneth E. Kirk *Conscience And Its Problems* (London) Longmans, Green and Co., 1936, p. 332, n. 2.
6. I shall not argue or develop this point. John defines sin as 'lawlessness' (anomia). Whether this denotes more than a breaking of the law is an important question but beyond the scope of the present study. Similarly, the question as to which law John is referring to is extremely important and has engendered considerable discussion. Consideration of that question is also beyond the scope of the present study.
7. This is the position taken by Julia Annas in her standard and justly praised introductory study to Plato's Republic: J. Annas *An Introduction to Plato's Republic* (Oxford), OUP, 1981.
8. A good example is provided by the philosopher Anthony Quinton. Writing in the context of political philosophy, he summarises a deontological approach in the following words: 'They' [i.e., moral principles] 'do not need justification in terms of the valuable results of general adherence to them and are only harmed and enfeebled if such justification is attempted. . . one should keep a promise even though no-one will be better off for one's doing so. . . But few deontologists are brazen enough to insist that a trivial promise should be kept whatever happens, that one should leave someone drowning in a lonely spot to his fate in order to make a promised appearance at a tea-party' (Anthony Quinton (Ed.) *Political Philosophy* (London) OUP, 1967, p.11). But three points are in order here. First, a deontologist might respond that this is a classic case of lesser evil. Two principles come into conflict: respect for truth and preservation of life. In such a situation one principle must be sacrificed for the other. Secondly, it is possible for a deontologist to argue that when two moral principles conflict, one way of resolving the issue is with reference to the consequences. In other words, a form of consequentialism comes into play in those situations where the deontologist is caught in a dilemma. Of course, as I have already indicated in the body of this article, this will inevitably mean that in the case of such a dilemma, one is operating with a certain set of values or principles by which to assess the goodness of consequences. Thirdly, Quinton is approaching the whole matter in merely human terms. The Christian's concern will be with what God requires of him/her in the situation.
9. This distinction is noted in Question 83 of *The Westminster Shorter Catechism*. The question asks, 'Are all transgressions of the law equally heinous?' The answer states: 'Some sins in themselves, and by reason of several aggravations, are more heinous in the sight of God than others' (emphasis mine). The italicised words indicate that some breaches of God's law are more heinous than others; it is not unwarrantable to infer that one reason for this might be that some commandments are of greater weight than others. Interestingly, the Catechism does not specify which sins are more heinous. Those who use this catechism to teach Christian people inevitably have to address this question; this being so, such Christians are likely to be well grounded in the truth of the fact that some commands are weightier than others.
10. The evidence for this line of reasoning will be found in Hilton and Marshall *The Gospels and Rabbinic Judaism: A Study Guide*, (London) SCM Press Ltd, 198
11. For example, *The Westminster Confession* ch.19.
12. For example, D.J. Moo "Law", "Works Of The Law" and "Legalism In Paul" in *Westminster Theological Journal* 45 (1983) pp. 73-100. While Moo's article deals with the teaching of Paul, the same argument applies to the teaching of Jesus, namely that He refers to 'the law' as a total 'package': e.g., *Matt.* 23:23.
13. Further discussion of this pericope will be found in note 15, below.
14. Matthew Poole *Commentary on the Holy Bible* Vol. 1 (London) The Banner of Truth Trust, 1962, p.220.
15. The issue of vows is one where entanglements of conscience can easily arise and where lesser evil choices have to be made. A Christian who has certain financial obligations to a number of creditors may be well able to meet those obligations as well as his obligations to his family. If he is easily influenced emotionally, he might attend a meeting where certain needs of the developing world or needs of gospel work are powerfully presented, leading him there and then to pledge money. The next morning he realises that he cannot honour his pledge and pay his creditors. He has, of course, done that which is wrong by pledging money to which others had a prior claim. He is now faced with the dilemma of honouring his pledge but not honouring his financial obligations to his creditors or, alternatively, of paying his creditors but dishonouring his pledge. In the circumstances the lesser evil, though evil it be, would be for him to pay his creditors but dishonour his pledge. The reason is as follows: his creditors have a prior claim on his money and, this being so, he was effectively pledging their money, rather than his own, to world mission or whatever. Clearly he should try to explain this rather than simply dishonour his pledge. In other words, even where one has to choose a lesser evil, the way in which one does so is all important. The question of vows became particularly acute at the time of the Reformation. In particular, could those who had taken a vow of celibacy break the vow in order to marry? While there is no

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command to marry, there is biblical teaching to the effect that not everyone has the gift of continence (1 Cor. 7:8-9). Every Christian, of course, whether possessed of the gift of continence or not, is called to be chaste. However, in the case of those without the gift of continence, to persist in the single state may well lead to 'burning', and, as Paul says, it is better to marry than to 'burn' (v. 9). In such a situation to vow perpetual celibacy is to go against the biblical counsel which states that it is better to marry than to burn. This being so, it would, therefore, be a lesser evil to break such a vow than to honour it but thereby to give way to burning. Similarly, a couple who, through ignorance, vowed perpetually to refrain from sexual relations would be vowing something contrary to Paul's teaching in 1 Cor. 7:1-7. Again, such a vow would have to be broken.

16. 1 Tim. 2:11-12. These verses have, of course, been the subject of intense and sustained exegetical and theological debate. I shall not address those issues here since they are beyond the scope of the present study; rather, I shall simply assume, what has been cogently argued for by numerous scholars, that the prohibition is rooted in creation and fall and means exactly what it appears to mean.

17. The notions of causation and consequence are far from straightforward, and they raise profound and complex questions. David Hume gave detailed consideration to the whole notion of causation, arguing that there cannot be logically necessary connections between successive events (D. Hume *A Treatise of Human Nature*, vol. 1 (London, 1911), pp. 163-164). The notion of causation is one which has occupied the minds of lawyers and legal philosophers, particularly in the areas of criminal law and the law of torts. The notion of consequence has occupied philosophers, particularly with respect to the so called principle of 'double effect'. A stimulating treatment of the notion of causation in the legal realm, and which interacts with Hume's ideas, will be found in H.L.A. Hart and A.M. Honore *Causation in the Law* (Oxford) Clarendon Press, 1959. An exposition of the entailments of Hume's position with respect to induction will be found in Bertrand Russell *The Problems of Philosophy* (Oxford) OUP, 1967, ch. 6, while a critique of Hume's position is supplied by Nicholas Maxwell *Can There Be Necessary Connections Between Successive Events* in Richard Swinburne (Ed.) *The Justification of Induction* (London) OUP, 1974. For a criticism of the principle of double effect, see John Harris *On Cloning* (London) Routledge, 2004, pp. 130-131. I respond to Harris's arguments in a book which is still 'work in progress' on issues of life and death but which I hope will be completed within the next eighteen months.

18. Although the writer believes that only professing believers should be baptized, he realises that a powerful argument, based on covenant theology, can be advanced for the baptism of children of a believer and believes that a convinced paedo-baptist, who believes that he was validly baptized as a child, should be welcomed into membership of a church which does not practise infant baptism, provided that the paedo-baptist is aware of this and does not seek to overthrow the church's position. In the present example, however, I am assuming that the woman has not come from a believing family and has never been 'baptized'.