**‘I Gave them Laws That Are Not Good’ (Ezek 20:25): Ezekiel’s Statutes of Death in Historical and Theological Context**

**Introduction**

One of the most difficult and disturbing passages in the book of Ezekiel is unquestionably that of Ezek 20:25-26. The text presents YHWH as stating:

I myself gave them laws that were not good and statutes through which they could not live; I defiled them through their gifts—when they devoted every firstborn—that I might make them desolate so they would know that I am the Lord.

This divine assertion is made within the context of a highly idiosyncratic presentation of Israelite history as a dreary chronicle of unmitigated sin and rebellion from the time of the people’s stay in Egypt and on (vv. 1-29).[[1]](#footnote-1) In spite of Israel’s recurrent disaffection, YHWH recounts, he persistently refrained from venting his wrath and eradicating them, so as not to profane his name in the sight of the nations (vv. 8-9, 13-14, 21-22). He did, however, inflict punishments. When the Israelites of the wilderness rejected his good and life-enhancing commandments, YHWH denied them entrance into the land (vv. 15-16). And when the second generation in the wilderness continued to reject the good commandments, he took an oath to disperse them, that is, their descendants, amongst the nations of the world (v. 23). It is in this context and at this juncture in the narration that YHWH relates that he gave Israel laws that were not good, and that he contaminated them with their sacred gifts so as to devastate them (vv. 25-26).

Ezek 20:25-26 has evoked a great deal of interest in recent decades.[[2]](#footnote-2) Much of the critical discussion focuses on the meaning of the not-good laws, and in particular surrounds the question of whether or not the divine voice as presented by the prophet or author makes the claim that child sacrifice was one of these laws, and, if so, why and to what end. The possibility that the prophetic author indeed attributes child sacrifice to a divine command is particularly perplexing in light of the widespread condemnation of this practice throughout biblical literature in general, and in the book of Ezekiel in particular.[[3]](#footnote-3) Various answers have been given to the questions raised by these verses. The present study will offer a critical review of some of the recent scholarly approaches to this material and will suggest a new way of understanding it. In brief, while almost all scholars interpret the verses in light of the preface of Ezek 20:1, which situates the material of the chapter in the Babylonian exile, during the final years of the kingdom of Judah, it will here be maintained that this material must be situated and interpreted within a different context – that of the Jerusalem community of the restoration period, probably sometime in the fifth century B.C.E. This recontextualization will allow us to understand the concerns of the passage in a new light.

**“Domesticating” Interpretations**

It should hardly come as a surprise that many scholars balk at the possibility that Ezek 20:25-26 seriously attributes not-good laws, and child sacrifice in particular, to the command of YHWH. Various interpretive strategies have been adopted to help sidestep this reading, with the obvious if unstated goal of “domesticating” the text.[[4]](#footnote-4) Note, for example, the comments of John W. Wevers:

“That Yahweh should have ordered the sacrifice of the firstborn by fire is a misunderstanding of what Yahweh did say in his law… The law is good but it becomes a statute ‘not good’ when people’s minds are willfully darkened so that it is misinterpreted to mean child sacrifice.”[[5]](#footnote-5)

Following this reading, YHWH does not claim to have given Israel a second set of laws in place of or in addition to the first one. He merely *allowed* the people to “misinterpret” the single set of good laws in an evil and destructive fashion. The effect of this reading, of course, is to preserve the goodness of YHWH and his law, and to place responsibility for the practice of child sacrifice on the misinterpreting Israelites. Other interpreters are willing to concede more. In their reading, YHWH actively instigated the Israelite misinterpretation of the one, good body of law.[[6]](#footnote-6) The text, however, emphatically speaks of a second and independent dispensation of not-good laws. The text makes no reference to the interpretation of the law, mistaken or otherwise. Another common strategy is to take the words that the prophet puts in YHWH’s mouth as a form of rhetoric, not meant to be taken literally. George C. Heider writes:

Then, in a baroque twist worthy of the prophet, Ezekiel turns the theological tables on the practitioners: very well, Yahweh did give the law they were citing, but it was given so that obedience would not bring life, but would “devastate” them… That Ezekiel did not believe any more than Jeremiah that Yahweh had really commanded child sacrifice is clear enough from chapter 16.[[7]](#footnote-7)

The assumption of Heider, and a host of others,[[8]](#footnote-8) is that the presentation of the law as a punishment indicates that it is not something that the deity really wants people to carry out. However, there is very little basis for this assumption.[[9]](#footnote-9) Commands are given to be obeyed. The appeal to Ezek 16:20 is beside the point, since that passage refers to the sacrificing of sons and daughters as food to idols, not the offering of the firstborns to YHWH.[[10]](#footnote-10)

**Why Did Ezekiel Claim that YHWH Commanded Human Sacrifice?**

In light of the overall failure of attempts to domesticate our passage, it is surely best to follow those scholars who affirm that Ezek 20:25-26 indeed refers to the sacrifice of firstborn humans and presents this practice as one example of several not-good laws given by YHWH in the wilderness. Though some have suggested that the intended beneficiary of this sacrifice was Molech or other foreign deities, there is little basis for this position.[[11]](#footnote-11) Molech sacrifices are never represented as limited to firstborns. Furthermore, it would make little sense for YHWH to have the Israelites sacrifice to Molech or other deities, “so that they would know that I am YHWH” (verse 26).[[12]](#footnote-12) The central question, then, that this understanding gives rise to is: why did the author make such a claim? What motivated him to claim that YHWH commanded Israel to sacrifice their firstborns? And what motivated the claim that YHWH gave Israel an entire set of not-good laws? As already noted, the questions raised here are heightened in light of the condemnations of human sacrifice found elsewhere in the bible, and in the book of Ezekiel in particular (Ezek 16:20-21; 20:31; 23:37, 39). Though the Ezekiel texts condemn the slaughter of “sons and daughters” in general, rather than firstborns, and speak of idols as the recipients thereof rather than YHWH, the texts nonetheless imply that child sacrifice of any kind is an intolerable violation. Our passage’s assertion that YHWH commanded the Israelites to slaughter their firstborn to him obviously undermines those condemnations, for it implies that child sacrifice per se is not an absolute offense to YHWH. The question may thus be posited as follows: How can the prophet, speaking in YHWH’s name, condemn and protest Israel’s practice of offering their children as sacrifices to idols whilst at the same time maintain that YHWH commanded the same sort of sacrifice, but with himself as the beneficiary?

1. **To Explain a Puzzling Contemporary Reality**

According to one approach, the assumed historical reality of firstborn sacrifice to YHWH at the time of the prophet provided the impetus for the claims of our passage. Michael Fishbane writes,

“One may at least note from Ezekiel’s criticism in Ezek. 16:21 and 23:39 that **firstborns were sacrificed in fact**; and from 23:39 that the practice was believed to have had some official standing by those who performed it. Why else would they ‘come to my sanctuary’ without perceiving, as does the prophet, that they are defiling it? Under divine inspiration, **Ezekiel himself seems to offer an explanation for what he too undoubtedly perceived as a most puzzling matter.** His explanation, in fact, does not stop short of implicating the God of Israel…[[13]](#footnote-13)

In other words, the disturbing and puzzling reality of firstborn sacrifice needed to be explained within a Yahwistic theological framework. The prophet provided the necessary explanation. YHWH had indeed commanded this rite back in the days of the second generation of the wilderness, but he did so as a punishment for their rejection of his earlier good laws. Fishbane follows earlier scholars in further maintaining that this commandment to sacrifice every firstborn, given at the time that YHWH had decreed that Israel would eventually be punished with exile (vv. 23-24), was meant not only as a punishment, but also as a way to ensure that Israel would amass sufficient sin and guilt to warrant the execution of the predetermined punishment.[[14]](#footnote-14) In sum, the prophet explained the firstborn sacrifice that was taking place in his time as the continuation of a divinely legislated practice that prevailed throughout Israel’s history. It was legislated in order to provide YHWH with the full legal mandate “to devastate them” in punishment for their accumulated crimes in addition to their ancient crimes in the wilderness. The legislation thus provides Israel with further sin that serves as a kind of theodicy for the exile.

This approach, however, faces serious difficulty. First of all, the assumption that the sacrifice of every firstborn human to YHWH was sufficiently prevalent in the time of Ezekiel’s ministry to require special explanation has little basis.[[15]](#footnote-15) Micah 6:1-8, a text which is admittedly difficult to date, testifies to the act of sacrificing one’s firstborn to YHWH, but only exceptionally, in lieu of sin, and as an optional and desperate measure (cf. also 2 Kgs 3:26-27). The text implies that the sacrifice of firstborns was *not* thought of, at least at the time, as a fixed obligation.[[16]](#footnote-16) Fishbane points to Ezek 16:21 and 23:39 as evidence for the actual sacrificing of every firstborn in Ezekiel’s time. But, as already indicated, these texts refer to child sacrifice in general, not firstborns, and the recipients of these sacrifices are idols that represent foreign deities, not YHWH. Jer 7:31 is most often cited in conjunction with our passage. This text may well indicate both that child sacrifice took place at the Tophet in the valley of Ben-Hinnom at about the time of Ezekiel’s ministry, and that this rite was understood by its practitioners to reflect the will of YHWH. Yet this text, too, refers to the “burning of sons and daughters in fire,” not the distinct practice of the sacrifice of the firstborn. If the prophet of Ezekiel 20 was responding to the general child sacrifice that he witnessed, why did he focus specifically on the offering of the firstborns?

The accompanying claim that Ezek 20:25-26 presents the offering of the firstborn as the divinely enforced sin that ensures the implementation of the predetermined exile must also be challenged. Moshe Greenberg promoted this interpretation extensively, pointing to passages such as Gen 15:13-16; Exod 9:16; 10:2; 1 Kgs 18:36; Isa 6:9ff.; 63:17 and Ezek 14:9, most of which present YHWH as punishing people for sins he forces them to commit.[[17]](#footnote-17) Yet, in contrast to these passages, our passage does not clearly articulate the idea that the enforced negative behavior elicits a punishment. The interpretation assumes that the clause “so that I might make them desolate” refers to YHWH’s punishment of the people for their sin of sacrificing their firstborns. But it is much simpler to take this clause as referring to the desolation caused by the sacrifice itself.[[18]](#footnote-18) As opposed to the popular supposition that the sacrifice of the firstborn would increase fertility, YHWH’s true purpose in commanding this rite, the prophet pronounced, was to bring desolation! Furthermore, while YHWH punishes people after inciting them to act sinfully in the above listed passages, he is never presented as punishing them for obeying his commandments![[19]](#footnote-19) Again, in all the instances wherein YHWH incites people to sin, the sin does not accumulate over a protracted time period. The punishment, rather, comes swiftly.[[20]](#footnote-20) Finally, the narrative of Ezek 20 hardly provides grounds for a divine concern at the time of the decree of the future exile, that the Israelites might not, in the end, deserve this punishment. From the very beginning of their history, they sinned with idolatry, Sabbath desecration and repudiation of the commandments in general. Their sinning in these matters was continual and thorough, engendering every expectation that future generations would continue to walk in the same evil ways. Thus, YHWH hardly needed to give the Israelites the special new law of firstborn sacrifice to ensure that they would accumulate enough additional sin to deserve their eventual exile.[[21]](#footnote-21) In sum, it is best to assume that firstborn sacrifice, and the not-good laws in general, are presented in Ezek 20:25-26 as punishment alone, and not as enforced or commanded sin, justifying the exile. The latter interpretation is probably rooted in a theological concern to avoid the simple implication of the text, that the sacrifice of the firstborn is a YHWH commandment, and is not deemed a sin at all.

1. **To Explain a Puzzling Legal Tradition**

A slightly different approach is intimated by Jon Levenson, who presents the prophet as offering a theological explanation not only for the assumed contemporary reality of firstborn sacrifice, but also for the legal traditions that sanctioned it:

But it is the latter opinion [of Ezekiel, as opposed to Jeremiah] that **better fits the biblical data**: **YHWH once commanded the sacrifice of the firstborn but now opposes it.** Without recourse to modern historical reasoning, the only **explanation for this** that preserves the continuity of YHWH’s will **is the one that Ezekiel, in fact, offers**: YHWH’s command and Israel’s obedience to it were in the way of punishment, a means to bring about the death of **those who had turned away from the means to abundant life.**

Various other scholars also assume that the Ezekiel passage responds both to the child sacrifice taking place in the prophet’s time and to the legal texts and traditions that appeared to sanction it.[[22]](#footnote-22) Disturbed by these ancient texts, the prophet offered an explanation for them that would neutralize their contemporary, normative force. He attributed them, according to Levenson, to a *temporary* dispensation of bad laws given to the second generation of the wilderness alone, in punishment for their sins. The texts reflected YHWH’s punishment for them and were not meant for subsequent generations. Today, YHWH opposes this sacrifice.

However, even granting the problematic assumption that a significant number of Israelites were sacrificing their firstborns in fulfillment of what they perceived to be their religious obligation, one must wonder if the ancient prophet, in his attempt to oppose this practice, would have truly felt the need to “explain” the texts or traditions that supposedly grounded it? This reflects the presupposition that textual traditions and their interpretations played a significant role in the ritual practices of lay Israelites at the time. This, however, is extremely dubious.[[23]](#footnote-23) Also, unless we suppose that the Israelites were sacrificing their firstborns on the authority of texts that have not reached us, the relevant texts known to us are hardly so unequivocal as to force a prophet opposed to human sacrifice to concede that YHWH indeed commanded it. The law of Exod 22:28-29, for example, prescribes the donation of every firstborn son to YHWH and, uniquely, makes no reference to redemption. Yet it can readily be interpreted as requiring the *dedication* of the firstborn for labor or service in the Temple.[[24]](#footnote-24) The same may be said regarding Exod 13:2, 12-13 and 34:19-20. Even if we follow Fishbane in seeing these texts as merely *allowing* redemption without requiring it, there is still no reason to take this as indicating that unredeemed humans were to be slaughtered in sacrifice to YHWH.[[25]](#footnote-25) Further, if uniquely pious Israelites were truly sacrificing their firstborns to YHWH in the conviction that they were acting in compliance with an explicit divine command, one would hardly have been likely to dissuade them from continuing to do so with the unusual claim that that command was imposed on their ancient ancestors as punishment in order to desolate them, and that it does not apply to them today. The claim that they were misinterpreting YHWH’s command and that he always required the redemption of firstborn humans would surely have been more likely to succeed. The prophet would have no doubt realized this.

The major difficulty with Levenson’s approach, beyond all the above-mentioned points, is that the Ezekiel passage never states that the not-good laws were given for the immediate generation of sinners in the wilderness alone. In fact, verse 23 implies the opposite. The verse speaks of the rebellion of the second generation of Israelites in the wilderness and presents YHWH responding to it by taking an oath “to spread *them* out amongst the nations.” Clearly, the people that are punished are in some sense thought of in this verse as one and the same with the people that sinned, though the actual exiles were obviously not those that provoked the deity to make his decree. This implies that the giving of the not-good laws, which also belongs to YHWH’s punitive response to the sins of the second generation, similarly extends beyond the limits of the generation that provoked it. Elsewhere, Levenson maintains, “In Ezek 20:25-26, the repeal of the law is unmistakably the repudiation of the law as well.”[[26]](#footnote-26) He implies that YHWH repealed the law of firstborn sacrifice in Ezek 20, so that it is “now” considered a sin to offer YHWH one’s firstborn. But where in the text is there mention of a repeal? The answer, alas, is – nowhere at all.[[27]](#footnote-27) In sum, the Ezekiel text hardly provides an explanation for why YHWH, who now opposes firstborn sacrifice, once commanded it.

1. **To Teach that the Law Cannot Save**

A modern-critical approach to our Ezekiel passage with an unmistakable Christian orientation takes the prophet as a theologian with “antinomian” tendencies. His concern was to promote the notion that salvation cannot be achieved through works of the law, as it is dependent rather on grace alone. Thus, Steven S. Tuell has recently written:

Obedience to the law in itself cannot save God’s people, because the law itself has become a cause of their defilement. There is no hope at all except in the action of the Lord based solely on God’s own character. Ezekiel’s astonishing, scandalous take on the law results in a situation not unlike that which the Christian doctrine of original sin poses: we cannot save ourselves, but we are absolutely dependent upon God’s deliverance.[[28]](#footnote-28)

In a different context, Tuell makes the further comment that “even the Sinai revelation itself was understood by Ezekiel as shot through with corruption (see Ezek 20:25-26).”[[29]](#footnote-29) In a related vein, Walther Zimmerli wrote that Ezekiel -

“dared to consider the mystery of a divine punishment, itself contained in the law, without dismissing such an idea. The Pauline recognition of the nature of the law (Rom 5:20; 7:13; Gal 3:19) is here hinted at a distance…”[[30]](#footnote-30)

It is worth noting a significant contrast between the approaches discussed until now and this last one. The previously mentioned approaches imply that the prophet constructed the new historical “tradition” of a punitive lawgiving as a way to account for a specific, problematic law and practice - that of firstborn sacrifice to YHWH. Following this last approach, however, the prophet cites the specific law and practice of firstborn sacrifice in order to illustrate and provide a basis for his broad notion of the law as punishment – as defiling, and superfluous. Child sacrifice in and of itself is, then, of secondary importance. What is essential is the theological principle that it is meant to illustrate.

Yet, does the prophet indeed present the Sinai law as “shot through with corruption” and as “the cause of their defilement”? Such formulations imply that YHWH gave the “not-good” laws to the rebellious second generation of Israelites in the wilderness, either to stand in place of the life-giving laws given earlier, or to sully them and render them obsolete at best. However, the not-good laws are said to defile *those who follow them*, not the earlier good laws! Sabbath observance hardly becomes defiling! The Sabbath, and the good laws in general, remain as authoritative and life-enhancing as they were before. Thus, YHWH responds negatively to Israel’s building of high places in the land, even though he had just given them the not-good laws (vv. 27–29). And he stands on the verge of taking all of the exiles into the “wilderness of nations,” where he will place them under the “obligation of the covenant” and separate out the rebels for death.[[31]](#footnote-31) Yet if all of the laws of the covenant are corrupt and obsolete, on what basis could YHWH distinguish between loyal and disloyal exiles? It is hard to avoid the conclusion that those exiles who observe the Sabbath (the “sign” of YHWH’s sanctification of Israel according to v. 12) and the good commandments in general are the ones expected to pass through the “obligation of the covenant” unscathed.

On a more fundamental level, the entire approach is anachronistic in that it presents the prophet as a “theologian” who seeks to communicate correct theological principles of an abstract nature. Note, for example, the comments of Ronald M. Hals:

“Statements about the essentially sinful character of human behavior are not intended as moral evaluation, but as doctrinal affirmation, to attest the point that salvation is *sola gratia*, by grace alone… The parallel with Ezekiel 20 is rather extensive… the point being made is one both Ezekiel and seventeenth-century orthodoxy felt to be essential to the survival and existence of the people of God.”[[32]](#footnote-32)

The author of Ezek 20, however, was not concerned with timeless doctrine. He addressed a specific audience in a concrete and specific historical situation. Though we may legitimately extrapolate abstract theological positions from his words, we must first understand them within the historical context in which they were put forward and in relation to the concrete agendas they were likely to have served.

**Towards a New Approach to the Not-Good Laws**

In a study entitled, “Ezekiel 20: A New Redaction-Critical Analysis,” I present extensive evidence for the secondary character of verses 15–27, that is, the entire section that outlines the eradication of the exodus generation in the wilderness and the further sins and punishments of the second wilderness generation.[[33]](#footnote-33) In the original form of the text, there was no motif of punishment in the wilderness at all. Rather, as implied in other biblical texts,[[34]](#footnote-34) the same Israelites that left Egypt entered the land, in spite of their sins. Verse 28 originally followed directly after verses 13b–14, producing the following continuous narration:

(13b) Then I said I would pour out my fury on them in the wilderness, to consume them. (14)But I acted for my name’s sake, that it should not be profaned before the nations, in whose sight I had brought them out, (28) so I brought them into the land concerning which I had raised my hand in an oath to give them, and they saw all the high hills and all the thick trees and they offered their sacrifices there and provoked me with their offerings…

Also secondary to the chapter is the wrathful promise of an eschatological weeding out of sinners in the wilderness (verses 32–38). These two blocks of material, with their virulent depictions of unleashed divine wrath, derive from a late, post-exilic redaction that was centered in Jerusalem. In the original material, YHWH was said to have always *contained* his wrath out of consideration for his divine name. Finally, the original material spoke of the divine bestowal of good laws in general, without specific reference to the Sabbath. The Sabbath was introduced by the late editor(s) in verses 12, 13 (ואת שבתתי חללו מאד), and throughout the addition of verses 15-27 (cf. vv. 16, 20, 21, 24). This analysis of the redaction of Ezekiel 20 is of immediate relevance to our concerns here, for it means that the assertion that YHWH gave Israel “not-good” laws such as firstborn sacrifice in order to contaminate and decimate them (vv. 25-26) does not go back to the original oracle and should not be analyzed within the context of Ezekiel’s ministry in the seventh year of the exile of Jehoiachin (v. 1). The text of vv. 25-26 must be studied and interpreted, rather, within the much different and later context of the post-exilic community.[[35]](#footnote-35)

Obviously, it is impossible to reproduce here all of the arguments for the late, secondary character of verses 15-27 (and 32-38). It may nonetheless be noted, specifically with regard to the section of verses 21-26, that it precedes the condemnation of the ancestors for worshipping YHWH at the high places (vv. 27-29) awkwardly. Following the depiction of the severe sinning of the second generation of the wilderness (vv. 21, 24), the climactic declaration of the future exile (v. 23) and the punitive bestowal of death-dealing laws (v. 25), there is something quite anticlimactic in the belated return to the theme of Israel’s sinning (especially given the relatively trivial character of the added sin). Particularly awkward is the condemnation of worship at the high places just after the discourse about the divine command of firstborn sacrifice in verse 26. Are we to understand YHWH as protesting that the children that he commanded to be sacrificed should have been offered at a central sanctuary and not throughout the countryside? These disjunctive features have led some scholars to posit the secondary character of verses 27–29.[[36]](#footnote-36) Verses 27–29 (or 28–29), however, should not be removed, as it raises a theme that is emphasized later on in the text - the worship of YHWH specifically at the holy mountain (vv. 40-41). What must be removed, rather, is the entire presentation of the death in the wilderness of the exodus generation (verse 15) and what follows. It may further be noted here that this analysis provides a resolution to the difficulty noted earlier, that the notion that YHWH commanded firstborn sacrifice stands in tension with the vehement condemnations of child sacrifice that appear elsewhere in Ezekiel. Since the entire section of verses 15-27 is secondary, there is no need for vv. 25-26 to coincide with those materials.

Accordingly, verses 25-26 should not be taken as a polemic against an actual contemporary practice of firstborn sacrifice to YHWH. The assertion that YHWH commanded this practice early on in Israel’s history is clearly counterproductive to such a concern. And firstborn sacrifice to YHWH was certainly not an issue in post-exilic times.[[37]](#footnote-37) More compelling is the assumption - implicit in the third approach discussed above – that the author cites the specific law and practice of firstborn sacrifice of pre-exilic times in order to support his broader claim that YHWH gave Israel a full set of bad laws as a form of punishment. Indeed, this assumption would explain why he refers to the sacrifice of the firstborn alone, and not of “sons and daughters” in general. For it is specifically the offering of the firstborn that can be identified, at least nominally, with traditional, Yahwistic law.

This understanding also emerges from a comparison of verses 25-26 with Psalm 106: 37- 39, which, I suggest, was its main source.[[38]](#footnote-38) There are some indications that Psalm 106 as a whole served as a source for the late supplementor of Ezekiel 20.[[39]](#footnote-39) Foremost among these is the fact that Ezek 20:23’s attribution of the exile to a divine decree made in the wilderness appears otherwise in Psalm 106:26-27 (reading להפיץ instead of להפיל in verse 27) alone, and in nearly identical language. But while Psalm 106 presents this decree as an appendix to YHWH’s single oath to destroy the sinful Israelites in the wilderness, the supplemenor of Ezekiel 20 presents it as an additional oath, made in response to the conduct of the second generation, who, in his extended narrative, continued to rebel against YHWH, in spite of having witnessed the punishment of the first generation. The effect of this reconfiguration is to present YHWH as even more justified in decreeing Israel’s exile than in Psalm 106. In light of this relationship between the two texts, the (implicit) presentation in Ezek 20:26 of the Israelites offering their firstborn in sacrifice from the time of their entry into the land should also be seen against the backdrop of Psalm 106. According to verses 37-39 of the Psalm, the Israelites that entered the land sacrificed their sons and daughters to ghosts and became “contaminated” by their deeds. (The reference to the sacrifice of sons and daughters to Canaanite idols in verse 38 is almost certainly a gloss.)[[40]](#footnote-40) It thus seems extremely likely that the supplementor of Ezekiel 20 took up this historiographic point, but altered the type of sacrifice that the Israelites were said to have offered. Rather than offering sons and daughters to ghosts they offered firstborns to YHWH.[[41]](#footnote-41) This modification could have had only one purpose – to allow the writer to attribute Israel’s contaminating and destructive cultic activity in the past to YHWH’s own set of laws of punishment.

But why would the supplementor have been interested in promoting such a claim? What practical end might it have served? I believe that the post-exilic prayer of Nehemiah 9, which may also have served as a source for the supplementor in Ezekiel 20, provides an important clue.[[42]](#footnote-42) There are some striking affinities between the final form of Ezekiel 20 and this prayer. First, these are the only historical reviews in the Hebrew Bible that mention the giving of the commandments and the giving of the Sabbath as twin acts of grace performed for Israel in her early history. Further, according to Nehemiah 9:29, Israel “sinned against your ordinances, *by the observance of which a person shall live.*” This way of referring to the commandments appears repeatedly in Ezekiel 20 (vv. 11, 13, 21). Most important, Nehemiah 9:13 refers to the laws that YHWH gave Israel as “regulations and laws that are just and right, and *decrees and commands that are good* (v. 13).” Against this background, Ezekiel 20’s assertion that only the laws given to the first wilderness generation were good while those given to the second generation were “*not good*” (v. 25) has the appearance of an incisive qualification.[[43]](#footnote-43) Now it is clear that the presentation of the law as just and good in Nehemiah 9 comes not only to highlight divine grace in general, but more specifically to underscore the value of obedience. One complies with the law not only because it is a divine command, but also because it is intrinsically beneficial. In this sense, the prayer of Nehemiah 9 provides an extremely apt introduction to the ceremony of commitment to the law that follows (Neh 10:29-40).[[44]](#footnote-44) Other biblical acclamations of the law and its goodness, such as those found in Deuteronomy (cf., e.g., 4:6, 8; 30:11-14) or the Psalms (19:8-14; 119:39, 72, 86, 103, 137), similarly aim at bolstering commitment to its observance.[[45]](#footnote-45) If so, the objective of Ezek 20:25-26 must be to problematize the observance of the law. Though much of the divine law promotes life and is good (vv. 11, 13, 21), some of it is not good and even brings death. YHWH gave Israel these bad and contaminating laws in the wilderness as a punishment at the same time that he pronounced their future exile (cf. vv. 23-26). The congruence of these acts implies that the two punishments worked hand in hand. The bad laws served as an interim punishment, which slowly contaminated and decimated the population during their stay in the land, until the final punishment of the exile was enacted. Thus, though the laws of punishment were “authoritative” for the pre-exilic community, they surely have no force after the exile. In sum, Ezek 20:25-26 came to indicate to its post-exilic audience that not every injunction given by YHWH in ancient times is worthy of observance. Since some of the ancient laws were given as a defiling punishment in anticipation of the exile, care must be taken to weed them out from the good laws. Only the laws that were given to the first generation in the wilderness should regulate the life of the post-exilic community.[[46]](#footnote-46)

While it is difficult to know precisely which laws were deemed objectionable by the supplementor of Ezekiel 20, the statement that YHWH “contaminated them with their (sacred) gifts” may well indicate that much of the disaffection centered on laws that legislated communal support for the Temple and its clergy. The above mentioned ceremony of Neh 10:29-40 obligates the people to contribute an annual tax for the upkeep of the sanctuary (vv. 33-34), a wood offering for the altar (v. 35; cf. 13:31), first-fruits (v. 36; cf. 13:31), firstborns (v. 37), the prime produce of the dough, fruits, wine and oil (v. 38), and tithes for the Levites (vv. 38-39; cf. 13:10-14). These requirements are implemented within the framework of a commitment to observe “*all* the commandments of YHWH our Lord, his laws and rules” (verse 30). This enactment must have placed a significant burden on the struggling post-exilic community (cf. also the demand for the payment of tithes and offerings in Mal 3:8, 10).[[47]](#footnote-47) Opposition, we may assume, was appreciable. Particularly noteworthy within this context is the requirement of Neh 10:37 that the Israelites bring their firstborn *sons and animals* to the temple - “as written in the Torah.” While the continuation of the verse clearly implies that the sons and unclean animals were supposed to be redeemed,[[48]](#footnote-48) the fact remains that both human and animal firstborns were part and parcel of a significantly costly temple tax. It may further be noted that Ezek 20:26 similarly fails to distinguish between human and animal firstborn offerings. All of them are said to have contaminated and decimated those that offered them. The bold insinuation that the ancient law demanded the actual sacrifice not only of firstborn animals but also of firstborn humans may have thus constituted a veiled expression of opposition to contemporary attempts to reinstate this and other putatively ancient regulations. If we revive *all* of the ancient laws, implied the author of Ezek 20:25-26, we will have to revive child sacrifice! These laws were indeed given long ago by YHWH, as those who seek to impose them correctly aver. But they were laws “by which one could not live” then, and they are laws by which we cannot live today.

**Conclusion**

In this study we have considered the question, not always addressed clearly in the scholarly literature, why the author of Ezek 20:25—26 claimed that YHWH commanded the Israelites to sacrifice their firstborns to him. After noting the weaknesses of various previous suggestions, we put forward the suggestion that the text must be interpreted within the context of the post-exilic setting. The immediate goal of the claim was not to provide an explanation for a contemporary Yahwistic practice, but to present the pre-exilic law as a whole as a combination of good commandments, meant to promote life, and bad commandments intended as punishment. The intention behind this presentation seems to have been to qualify wholesale assertions of the goodness of the law made at the time, which sought to buttress the law’s absolute authority. The assertion that parts of the pre-exilic law were actually given in order to punish the pre-exilic community indicated that that law needed to be scrutinized and screened before it could be appropriated as law for the post-exilic community. Perhaps the prophetic author of the Ezekiel passage saw it as within his own jurisdiction to fulfill that very important task.

**Bibliography:**

Notes:

-Inconsistent use of abbreviations for journal titles (e.g. *HUCA* rather than *Hebrew Union College Annual*, but *Ugarit Forschungen* rather than *UF*). I would abbreviate everything unless it’s obscure or too new for the SBL Style Guide to have an abbreviation listed for it.

-Inconsistent application of initials for people’s first names (e.g. Heath D. Dewrell vs. F. Stavrakopoulou). This is also the case with middle names. As a general rule, I would give the full first names and use initials for middle names)

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1. For a higher-critical analysis of Ezek 20 with multiple references to earlier scholarship see David Frankel, “Ezekiel 20: A New Redaction-Critical Analysis,” *HUCA* 90 (2019). [↑](#footnote-ref-1)
2. For a good, recent bibliography of scholarship on this passage see Heath D. Dewrell, *Child Sacrifice in Ancient Israel*, Explorations in Ancient Near Eastern Civilizations 5 (Winona Lake, Indiana: Eisenbrauns, 2017), 178-179, nn. 59-61. For early Jewish and Christian interpretations see Pieter Willem Van Der Horst, “I Gave Them Laws That Were Not Good: Ezekiel 20:25 in Ancient Judaism and Early Christianity,” in *Sacred History and Sacred Texts in Early Judaism: A Symposium in Honour of A. S. Van der Woude*, ed. J. N. Bremmer and F. Garcia Martinez, Contributions to Biblical Exegesis and Theology 5 (Kampen: Kok Pharos, 1992), 94-118. [↑](#footnote-ref-2)
3. The negative references to child sacrifice are varied in nature. Deut 12:29-31 presents the “*burning* of sons and daughters in fire” as a Canaanite practice so obviously abominable that Israelites should realize that Canaanite ritual as a whole is an unworthy subject of investigation. Similarly, 2 Kgs. 17:31 presents the “burning of children” as the offensive practice of the Sepharvites in honor of their deities (bearing names that are strikingly Molech-like). In contrast, Jer 7:31 profusely denies that the burning of sons and daughters, which is presented as occurring at the high places in the valley of Ben-Hinnom, was commanded by YHWH, implying that the rite was seen by its practitioners as standing in accord with YHWH’s will. Scholars are divided as to whether the slightly different phrase, “*passing* sons and daughters in fire,” appearing in Deut 18:10 and elsewhere, refers to the same lethal rite, or only to a non-lethal, divinatory or dedicatory rite. For a concise summary of this issue see Jeffery H. Tigay, *Deuteronomy*, The JPS Torah Commentary (Philadelphia and Jerusalem: JPS, 1996), 464-465. It seems likely, however, that the special mention of this practice in 2 Kgs 16:3, 17:17, 21:6 as a particularly grievous sin indicates that child sacrifice is indeed thought of, at least in these passages, though the recipient of the sacrifice is left unstated. A related issue concerns how child sacrifice to YHWH and “passing sons and daughters in fire” relates to Molech worship. Lev 18:21 and 20:1-5 presents the “giving/passing of one’s seed” למלך as a grievous sin, which desecrates YHWH’s name. Passages that combine the language of “passing sons and daughters (in fire)” with the term למלך include 2 Kgs 23:10 and Jer 32:35. However, while some scholars think of Molech as a separate deity, others take למלך to mean “as a Molech sacrifice,” which is a type of child sacrifice, with YHWH as the presumed recipient. Finally, some passages unambiguously refer to Israel as offering their children as sacrifices to demons, Baal, or Canaanite idols, without mentioning Molech (Psalm 106:37-38; Jer 19:5; Ezek 16:20-21; 23:37, 39). For Molech as an underworld deity independent of YHWH see, e.g., John Day, *Molech: A God of Human Sacrifice in the Old Testament*, UCOP 41 (Cambridge: Cambridge University, 1989). For the (minority) opinion that Molech worship was non-lethal, see M. Weinfeld, “The Worship of Molech and of the Queen of Heaven and its Background,” *Ugarit Forschungen* 4 (1972), 133-154. For Molech as the name of a sacrifice see P. G. Mosca, “Child Sacrifice in Canaanite and Israelite Religion: A Study in Mulk and מלך,” Ph.D diss., Harvard University, 1975. For a good review of scholarship on Molech worship and a defense of the position that it designates a type of sacrifice see Dewrell, *Child Sacrifice*, 4-36, 119-147. See also the excellent study of F. Stavrakopoulou, *King Manasseh and Child Sacrifice: Biblical Distortions of Historical Realities*, BZAW 338 (Berlin: De Gruyter, 2004). [↑](#footnote-ref-3)
4. See on this Ellen F. Davis, *Swallowing the Scroll: Textuality and the Dynamics of Discourse in Ezekiel’s Prophecy*, JSOTSup 78 (Sheffield: Almond Press, 1989), 110-13. [↑](#footnote-ref-4)
5. John W. Wevers, *Ezekiel*, The Century Bible (London: Nelson, 1969), 156. [↑](#footnote-ref-5)
6. See Walther Eichrodt, *Ezekiel: A Commentary*, OTL, trans Cosslett Quin (Philadelphia: Westminster John Knox, 1970), 271-272. [↑](#footnote-ref-6)
7. George C. Heider, *The Cult of Molek: A Reassessment*, JSOTSup 43 (Sheffield: JSOT Press, 1985), 371 and n. 737. See also George C. Heider, “A Further Turn on Ezekiel’s Baroque Twist in Ezek 20:25-26,” *JBL* 107 (1988), 721-24. A similar approach is promoted by John Goldingay, who writes that the prophet’s deceitful statements “are nevertheless designed to lead people to turn back to Yhwh, and the extravagance of their statements is designed to shock people in that direction.” See John Goldingay, *Old Testament Theology*, Vol. 1*: Israel’s Gospel* (Downers Grove, Ill.: IVP Academic, 2003), 652-653. Jon Levenson also takes the Ezekiel text as a rhetorical expression of opposition to child sacrifice, though he implies that this opposition becomes clear only when the reader reaches verses 30-31. He writes, “Jeremiah denounces all burning of children… Ezekiel, as we have seen, goes further: he subsumes the gift of ‘the first issue of the womb’ (kol-peter raham) under ‘the laws that were not good’ that YHWH gave Israel in the wilderness (Ezek 20:25-26), implying that the gift of the firstborn was no better than the presentation of children to Molech (vv 30-31).” See Jon D. Levenson, *The Death and Resurrection of the Beloved son: The Transformation of Child Sacrifice in Judaism and Christianity* (New Haven: Yale University Press, 1993), 43. When Ezekiel condemns his contemporaries for offering child sacrifices to idols (Molech), he states that they contaminate themselves *in the fashion of their ancestors* (v. 30). This indicates, according to Levenson, that the earlier contaminating sacrificing of the firstborn to YHWH was just as offensive to YHWH as the idolatrous child sacrifice of the present, even though YHWH had commanded it. Levenson, however, ignores the fact that the wordsבהעביר בניכם באש of verse 31 are missing in the LXX and are most likely secondary. See Walther Zimmerli, *Ezekiel 1: A Commentary on the Book of the Prophet Ezekiel, Chapters 1-24*, trans. Ronald E. Clements, Hermeneia (Philadelphia: Fortress, 1979), 402, textual note b to verse 31; Timothy P. Mackie, *Expanding Ezekiel: The Hermeneutics of Scribal Addition in the Ancient Text Witnesses in the Book of Ezekiel*, FRLANT 257 (Göttingen: Vandenhoeck & Ruprecht, 2015), 164-166. The “gifts” that the verse refers to are those dedicated by the people in exile to YHWH (cf. vv. 39-40), which are rendered impure by their simultaneous idolatrous worship. It is their idolatry that makes them comparable to their ancestors, not their participation in child sacrifice. [↑](#footnote-ref-7)
8. Note, for example, the following statement of Jacob Milgrom: “Thus, Ezekiel does not contradict Jeremiah’s view that the people were mistaken in believing that God demanded human sacrifice; he supports it by the example of the firstborn males, whom the people sacrifice because they erroneously assume it was God’s will (or because they did not realize it was God’s condign punishment).” After suggesting that Ezekiel, who agrees with Jeremiah in denying that God demanded human sacrifice, speaks only of the people’s erroneous assumption that God commanded child sacrifice, Milgrom adds parenthetically that he may also refer to their failure to understand that God commanded it as a punishment. Milgrom seems to take it for granted that if God commanded human sacrifice as a punishment then he did not really demand it. See Jacob Milgrom, “Were the Firstborn Sacrificed to YHWH? To Molech? Popular Practice or Divine Demand?” in *Sacrifice in Religious Experience*, ed. Albert I. Baumgarten, SHR 93 (Leiden: Brill, 2002): 53. See also Dewrell, *Child Sacrifice*, 182. Dewrell avers that Ezekiel “avoided the conclusion that this was something that Yahweh actually wanted by transforming the command into a form of divine punishment.” [↑](#footnote-ref-8)
9. In Deut 32:48-52, YHWH commands Moses to ascend Mt. Nebo, see the land, and die there as punishment for his sin at the Waters of Meribah. It is clear that the command is meant to be obeyed in spite of the fact that it constitutes a punishment. [↑](#footnote-ref-9)
10. Other recent interpretations that I would consider “domesticating” include Kelvin G. Friebel, “The Decrees of Yahweh That Are ‘Not Good’: Ezekiel 20:25-26,” in *Seeking Out the Wisdom of the Ancients: Essays Offered to Honor Michael V. Fox on the Occasion of His Sixty-Fifth Birthday*, ed. Ronald L. Troxel, Kelvin G. Frievel and Dennis R. Magary (Winona Lake: Eisenbrauns, 2005), 21-36; Scott W. Hahn and John S. Bergsma, “What Laws Were ‘Not Good’? A Canonical Approach to the Theological Problem of Ezekiel 20:25-26,” *JBL* 123 (2004), 201-218. Limitations of space prevent me from offering a detailed critique. [↑](#footnote-ref-10)
11. See Rashi and Radak [what source?? put in bibliography too]. For the rejection of this position see Day, Molech, 67; Milgrom, “Were the Firstborn Sacrificed to YHWH?” 54. [↑](#footnote-ref-11)
12. It is possible, however, that the final clause of verse 26 is secondary, as it is missing in the LXX. [↑](#footnote-ref-12)
13. Michael A. Fishbane, *Biblical Interpretation in Ancient Israel* (Oxford: Clarendon, 1985), 185. [↑](#footnote-ref-13)
14. Eichrodt, *Ezekiel*, 272; Greenberg, *Ezekiel 1-20*, AYB 22 (New Haven: Yale University Press, 2011), 368-69; idem, “Ezekiel 20 and the Spiritual Exile,” *Oz LeDavid: Studies in Bible Presented to David Ben-Burion* (Jerusalem: Kiryat Sepher, 1964), 433-442; Yeḥezkel Kaufmann, *The History of Israelite Religion,* 4 vols. (Tel-Aviv: Bialik and Dvir, 1937-1956), vol. 1, 452-55; vol. 3, 512-13, n. 43 (Hebrew). [↑](#footnote-ref-14)
15. See, Karin Finsterbusch, “The Firstborn between Sacrifice and Redemption in the Hebrew Bible,” in *Human Sacrifice in the Jewish and Christian Tradition*, ed. K. Finsterbusch, A. Lange, and K. F. D. Romheld, SHR 112 (Leiden: Brill, 2007), 87-108. Finsterbusch allows for the possibility of a regular requirement of the sacrifice of all firstborns only in the early stages of Israelite religion. [↑](#footnote-ref-15)
16. See Dewrell, *Child Sacrifice*, 107. [↑](#footnote-ref-16)
17. See Greenberg, *Ezekiel 1-20*, 368-69. Mention may also be made of 2 Sam 24:1. [↑](#footnote-ref-17)
18. One may compare Lev 26:22, “I will send wild animals against you, and they will rob you of your children, destroy your cattle and make you so few in number that your roads will be desolate.” [↑](#footnote-ref-18)
19. Cooke thus interprets our passage as punishing the Israelites for refusing to comply with the demand to sacrifice the firstborn. See George A. Cooke, *The Book of Ezekiel*, ICC (Edinburgh: T & T Clark, 1985), 218. This, however, contravenes the statement of the text to the effect that YHWH contaminated Israel with their gifts. The clear implication is that they offered these gifts and became contaminated thereby. [↑](#footnote-ref-19)
20. In Gen 15:13-16, YHWH merely allows the Amorites to accumulate sin over time. He in no way incites them to do so. In fact, the very idea that the needs of theodicy could be served by claiming that YHWH incited those punished to sin is paradoxical at best. [↑](#footnote-ref-20)
21. It is true that YHWH contaminates Israel through the offering of the firstborn. This, however, is part of Israel’s punishment. Contamination in and of itself is not a sin so long as one does not enter the sanctuary. Indeed, one is at times obligated to become unclean, as in attendance to the dead. [↑](#footnote-ref-21)
22. See, Dewrell, *Child Sacrifice*, 179-181, who follows the assumption that Ezek 20:25-26 responds to the non-Priestly law of firstborn of Exod 22:28b-29, which has no redemption clause. He asserts that “the issue at stake concerns wrestling with a text that is broadly recognized as of divine origin in some sense…” [↑](#footnote-ref-22)
23. According to Deut 31:9-13, the priests were required to read the law before the Israelites only once in seven years. What is more, in contrast with Neh 8:7-8, this pre-exilic text makes no reference to the matter of explaining the law to the public. For the new development of community-wide Torah study in later, post-exilic times, see Michael A. Fishbane, “From Scribalism to Rabbinism: Perspectives on the Emergence of Classical Judaism,” in *The Sage in Israel and the Ancient Near East*, ed. John G. Gammie and Leo G. Perdue (Winona Lake, Indiana: Eisenbrauns, 1990), 439-456. [↑](#footnote-ref-23)
24. Fishbane (*Biblical Interpretation*, 183-184) argues convincingly for the secondary character of verse 28b (כן תעשה לשרך לצאנך). However, he renders this, “you shall do *likewise* for your ox and sheep.” This allows Fishbane to promote the idea that the final form of the text makes no distinction between animals and humans and thus implies that both were intended for sacrifice. It seems unlikely, however, that a late scribe saw the original text as laconic in that it referred to child sacrifice alone and failed to include mention of animal firstlings. More likely, the original text was seen as alarmingly susceptible to the understanding that it sanctioned child sacrifice. The secondary clause came to clarify that the text speaks *exclusively* of ox and sheep, in spite of “your sons” of verse 28a. The phrase indicates “you shall do as stated *specifically* for your ox and sheep.” The כן תעשה clause carries the same type of restrictive force at Deut 20:15. As far as the original form of the law is concerned, Fishbane himself concedes that it may refer to non-sacrificial donation of infants as (future) assistants. Dewrell (*Child Sacrifice*, 74) argues that this is unlikely in light of the fact that the firstborn is given over on its eighth day, well before it can be of use to the sanctuary. This argument, however, is not decisive. Hana gives her son Samuel to the sanctuary of Shiloh at the time of his weaning (perhaps at the age of two or three; cf. 2 Macc. 7:27), when he is still useless as a Temple worker. [↑](#footnote-ref-24)
25. Again, Fishbane concedes this as a possibility. See idem, *Biblical Interpretation*, 186-187 and n. 58. The fact that the unredeemed ass is killed by the breaking of its neck clearly shows that impure creatures that were not redeemed were still not sacrificed to YHWH. On the non-sacrificial character of the breaking of the neck see Gerhard von Rad, *Deuteronomy*, trans. Dorothea Barton, OTL (London: SCM, 1966), 136. Fishbane also mentions Num 18:15, which he attributes to the “earliest stratum,” presumably, without the qualification of the second half of the verse regarding redemption. However, the fact that the text assigns firstborn animals and humans to the priest makes it clear that even this isolated fragment does not imagine human sacrifice. [↑](#footnote-ref-25)
26. Levenson, *Beloved Son*, 113. [↑](#footnote-ref-26)
27. So, also, Milgrom, “Were the Firstborn Sacrificed to YHWH?” 53. [↑](#footnote-ref-27)
28. Steven S. Tuell, *Ezekiel*, NIBC 15 (Peabody, Mass.: Hendrickson, 2009), 130. [↑](#footnote-ref-28)
29. Steven S. Tuell, “Divine Presence and Absence in Ezekiel’s Prophecy,” in, *The Book of Ezekiel: Theological and Anthropological Perspectives*, ed. Margarit S. Odell and John T. Strong, SBL Symposium Series 9 (Atlanta: SBL, 2000), 106. [↑](#footnote-ref-29)
30. Walther Zimmerli, *Ezekiel 1: A Commentary on the Book of the Prophet Ezekiel, Chapters 1-24*, Hermeneia, Ronald E. Clements, transl. (Philadelphia: Fortress, 1979), 411-412 [note: you already give the full citation in n. 7 on p. 4]. The statement of Zimmerili is cited approvingly by von Rad, who writes that Ezekiel’s pronunciation is “a slap in the face to all previous ideas about the nature of the divine commandments, and can only be accounted for by the new view of the world which Ezekiel developed.” See Gerhard von Rad, *Old Testament Theology,* Vol. 2, trans. D. M. G. Stalker (London: SCM Press, 1965), 402. [↑](#footnote-ref-30)
31. The crux of במסרת הברית of verse 37, and the *hapax* *maswret*, is much discussed. For a review of ancient interpretations and modern emendations see Zimmerli, *Ezekiel 1*, 403, n. 37b. Zimmerli, following the LXX, removes הברית as a dittography of וברותי and emends במסרת to במספר. See, however, M. Greenberg, *Ezekiel 1-20*, 372-73, who presents strong reasons for rejecting this position. Greenberg follows a medieval suggestion that the root of the *hapax* is *>sr*, to obligate, and that the *>alep* has elided between the *mem* and the *samek*. Following this conjecture, he takes the phrase to mean “the obligation of the covenant.” I suggest repointing מסרת to מוסרות (*mwserwt*), cords of a yoke. See, e.g., Jer 2:20; 5:9, 27:2; Ps. 2:3 et al. The yoke is most often used as a metaphor for political subjugation and in that sense, it couples naturally with ברית, which often indicates imposition of terms of submission on a vassal. See Josh 9:15; 1 Sam 11:1-2. The rebels of the exile are thus eliminated and only those who maintained their allegiance are allowed to live. [↑](#footnote-ref-31)
32. Ronald M. Hals, *Ezekiel*, FOTL 19 (Grand Rapids: Eerdmans, 1989), 142. [↑](#footnote-ref-32)
33. See n. 1 above. [↑](#footnote-ref-33)
34. See especially Deut 5:2-3 and the discussion in Richard Adamiak, *Justice and History in the Old Testament: The Evolution of Divine Retribution in the Historiographies of the Wilderness Generation* (Cleveland: J. T. Zubal, 1982), 43–75. See also the recent discussion of Jeffrey Stackert, “The Wilderness Period without Generation Change: The Deuteronomic Portrayal of Israel’s Forty-Year Journey,” *VT* 70 (2020), 696-721. [↑](#footnote-ref-34)
35. The recognition that vv. 25-26 must be understood within the post-exilic context helps us realize that the scholarly quest after the specific Pentateuchal source for its claim about the divine commandment of firstborn sacrifice is largely misguided. Several scholars have shown that it was common in Ezra and Nehemiah, and later Second Temple writings, to ground thoroughly new or significantly innovative legislation in the conceit that they were inscribed in the law. See, *inter alia*, Hindy Najman, “Torah of Moses: Pseudonymous Attribution in Second Temple Writings,” in *The Interpretation of Scripture in Early Judaism and Christianity: Studies in Language and Tradition*, ed. Craig A. Evans, Studies of Early Judaism and Christianity 7 (Sheffield: Sheffield Academic Press, 2000) 202-16; Sarah Japhet, “Law and ‘The Law’ in Ezra-Nehemiah,” *From the Rivers of Babylon to the Highlands of Judah: Collected Studies on the Restoration Period* (Winona Lake, Indiana: Eisenbrauns, 2006), 137-151; Michael LeFebvre, *Collections, Codes and Torah: The Re-characterization of Israel’s Written Law*, LHB/OTS 451 (New York and London: T & T Clark, 2006), 105-138; Jonathan Vroom, *The Authority of Law in the Hebrew Bible and Early Judaism: Tracing the Origins of Legal Obligation from Ezra to Qumran*, JSJSup 187 (Leiden: Brill, 2018), 174-201. For a succinct and broad overview see James L. Kugel, “The Emergence of Biblical Interpretation in Antiquity” in *Interpreting Scriptures in Judaism, Christianity and Islam: Overlapping Inquiries*, ed. Mordechai Z. Cohen and Adele Berlin (Cambridge: Cambridge University, 2016), 25-34 [did you mean to only give a range of pages in the article? the full article is 25-45]. In light of this, there is no reason to assume that the author of vv. 25-26 based his claims on a specific Pentateuchal (or otherwise unknown) text, which he interpreted in earnest. Nor is it legitimate to argue, as Milgrom at least implicitly does (“Were the Firstborn Sacrificed to YHWH?”), that the author of these verses cannot to be taken literally since no Pentateuchal passage can truly support the idea that the sacrifice of the firstborn to YHWH was indeed commanded. In fact, the author of vv. 25-26 could make the claim that YHWH gave such a commandment, along with other bad commandments, and that the Israelites of the pre-exilic era observed them, regardless of whether or not these claims had any textual or historical basis. [↑](#footnote-ref-35)
36. See Zimmerli, *Ezekiel 1*, 404; Franz Sedlmeier, *Das Buch Ezechiel 1: Kapitel 1–24* (Stuttgart: Katholisches Biblewerk, 2002), 270–71; Dalit Rom-Shiloni, “Facing Destruction and Exile: Inner-Biblical Exegesis in Jeremiah and Ezekiel,” *ZAW* 117 (2005), 200–201. [↑](#footnote-ref-36)
37. It is clear that Israelites did not sacrifice their firstborns to YHWH in post-exilic Jerusalem. The parallel between verses 26 and Psalm 106:37-39 (see below), where child sacrifice is mentioned as Israel’s pre-exilic sin, further strengthens the understanding that this verse similarly depicts the cultic worship of the past and not of the author’s present. [↑](#footnote-ref-37)
38. Most scholars situate Psalm 106 in the post-exilic era. See Frank-Lothar Hossfeld and Erich Zenger, *Psalms 3: A Commentary on Psalms 101-150*, Hermeneia, trans. Linda M. Maloney (Minneapolis: Fortress, 2011), 86; Frank C. Fensham, “Neh. 9 and Pss. 105, 106, 135 and 136: Post-Exilic Historical Traditions in Poetic Form,” *JNSL* 9 (1981), 35-51. The supplementary verses in Ezekiel 20 can hardly be earlier. [↑](#footnote-ref-38)
39. *Pace* Gili Kugler, “The Dual Role of Historiography in Psalm 106: Justifying the Present Distress and Demonstrating the Individual’s Potential Contribution,” *ZAW* 126 (2014), 546-553. Kugler notes the close affinities between the two texts but assumes that Ezek 20 influenced the Psalmist. [↑](#footnote-ref-39)
40. See Hans-Joachim Kraus, *Psalms 60-150: A Continental Commentary*, transl. Hilton C. Oswald (Minneapolis: Fortress, 1993), 316. [↑](#footnote-ref-40)
41. It should be noted that Ezek 16:20-21 similarly presents “Jerusalem” sacrificing sons and daughters as food for phallic idols. This text may also have served as a source for our supplementor. [↑](#footnote-ref-41)
42. For the post-exilic setting of the prayer of Nehemiah 9 see Mark J. Boda, *Praying the Tradition: The Origin and Use of Tradition in Nehemiah 9*, BZAW 277 (Berlin: De Gruyter, 1999), 189-195; Fensham, “Neh. 9.” [↑](#footnote-ref-42)
43. Sara Japhet notes the pointed contrast between Neh 9:13 and Ezek 20:25, but assumes that the author of the prayer in Nehemiah seeks to reject the statement in Ezekiel. See Sara Japhet, *Ezra-Nehemia: Introduction and Commentary*, Miḳra Le-Yiśraˀel (Tel-Aviv: ˁAm ˁOved, 2019), 390-391 (Hebrew). [↑](#footnote-ref-43)
44. See the fine observations of David A. Glatt-Gilad, “Reflections on the Structure and Significance of the >ˀamanah (Neh 10,29-40),” *ZAW* 112 (2000), 386-395. [↑](#footnote-ref-44)
45. See Moshe Greenberg, “Three Conceptions of the Torah in Hebrew Scriptures,” in *Studies in the Bible and Jewish Thought* (Philadelphia and Jerusalem: JPS, 1995), 20-22. [↑](#footnote-ref-45)
46. Of course, the author of this material gives no clear indication as to how one is supposed to know how to distinguish the good laws from the bad ones or who might be authorized to distinguish between them. [↑](#footnote-ref-46)
47. For the connection between the ceremony of Neh 10:29-40 and Malachi 3:8-10 against the background of the economic difficulties of the times see Sara Japhet, “The Temple in the Restoration Period: Reality and Ideology,” in *From the Rivers of Babylon to the Highlands of Judah: Collected Studies on the Restoration Period* (Winona Lake, Indiana: Eisenbrauns, 2006), 226-228. [↑](#footnote-ref-47)
48. See Hugh G. M. Williamson, *Ezra, Nehemiah*, WBC 16 (Waco, TX: Word Books, 1985), 337; Sara Japhet, *Ezra-Nehemia*, 415-416. [↑](#footnote-ref-48)