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# WHAT LAWS WERE "NOT GOOD"? A CANONICAL APPROACH TO THE THEOLOGICAL PROBLEM OF EZEKIEL 20:25–26

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Ezekiel 20:25–26 is one of the most infamous interpretive cruxes of the book of Ezekiel. As Hartmut Gese put it, "Die Auslegung von Ez 20,25f., . . . ist schon seit den Anfängen alttestamentlicher Wissenschaft als besonders schwieriges Problem empfunden worden."[1] In these two verses, the writer of the book, whom we will call "Ezekiel" without prejudice toward debates about authorship, makes the shocking claim that the LORD gave Israel "laws that were not good," which not only failed to give the people life but actually defiled them:

וגם אני נתתי להם חקים לא טובים ומשפטים לא יחיו בהם[26] ואטמא אותם
במתנותם בהעביר כל פטר רחם למען אשמם למען אשר ידעו אשר אני יהוה

[25]Moreover, I gave them laws that were not good and rules by which they could not live: [26]When they set aside every first issue of the womb, I defiled them by their very gifts—that I might render them desolate, that they might know that I am the Lord. [NJPS][2]

[1] Hartmut Gese, "Ezechiel 20,25 f. und die Erstgeburtsopfer," in *Beiträge zur Alttestamentlichen Theologie: Festschrift für Walther Zimmerli zum 70. Geburtstag* (ed. Herbert Donner, Robert Hanhart, and Rudolf Smend; Göttingen: Vandenhoeck & Ruprecht, 1977), 140.

[2] Unless otherwise noted, English biblical quotations are from the NJPS *Tanakh*.

What were these "not good" laws to which Ezekiel refers? There has been no lack of proposals, as Daniel I. Block has shown in his recent commentary, where over a half-dozen interpretive options are ably summarized.[3] On the one hand, some interpreters opt to emend the text, like Johann Lust, who would delete most of v. 26 as a later (erroneous) interpolation. Similarly, Julius A. Bewer reverses vv. 25–26 and v. 27, so that Ezekiel's shocking claim merely echoes Israel's blasphemous misconstrual of the LORD's demands.[4] On the other hand, most scholars accept the text in its present form and explain it in terms of Ezekiel's ongoing prophetic revision of older Exodus traditions,[5] regarding either Israel's moral condition[6] or its deity.[7]

In this article we wish to suggest a new solution, which identifies Ezekiel's "not good" laws with the Deuteronomic law code. Our approach is primarily synchronic, based on a literary reading of Ezekiel in its final form and canonical setting; but we will also draw on recent historical-critical and literary-critical scholarship on Ezekiel's use of Priestly and Deuteronomic traditions in ch. 20.

In the following, we will first establish the correspondence of the laws with the Deuteronomic code through an analysis of the literary structure and narrative sequence of ch. 20. Second, we will attempt to explain why Ezekiel, who thinks and writes from a Priestly perspective, would consider at least certain laws of the Deuteronomic code to be "not good."[8] Third, we will propose an explanation for the bizarre statements of v. 26—which describe the LORD defiling Israel through the offering of their firstborn—in terms of the conflict between Priestly and Deuteronomic laws concerning the sacrifice of firstlings.

[3] See Daniel I. Block, *The Book of Ezekiel: Chapters 1–24* (NICOT; Grand Rapids: Eerdmans, 1997), 639–41.

[4] Johann Lust, *Traditie, Redactie en Kerygma bij Ezechiel: Een Analyse van Ez XX 1–26* (Brussels: Paleis der Academien, 1969), 134–46; Julius A. Bewer, "Textual and Exegetical Notes on the Book of Ezekiel," *JBL* 72 (1953): 159–61.

[5] Block, *Ezekiel*, 640.

[6] Moshe Greenberg, *Ezekiel 1–20: A New Translation with Introduction and Commentary* (AB 22; Garden City, NY: Doubleday, 1983), 369.

[7] According to David J. Halperin, Ezekiel's God is "a monster of cruelty and hypocrisy" (*Seeking Ezekiel: Text and Psychology* [University Park: Pennsylvania State University Press, 1993], 170).

[8] In this article we use the term "Priestly" in a broad sense, including the Holiness Code and the work of the "Holiness School," if there was one. On the characteristics of the Holiness School, see Israel Knohl, *The Sanctuary of Silence: The Priestly Torah and the Holiness School* (Minneapolis: Fortress, 1995). For a challenge to the existence of a distinct Holiness Code, see Volker Wagner, "Zur Existenz des sogenannten 'Heiligkeitsgesetz,'" *ZAW* 86 (1974): 307–16. We neither deny nor affirm a division between Priestly and Holiness sources and schools; for our purposes it is enough that they were at least closely related and share largely the same perspective vis-à-vis the Deuteronomic school. Ezekiel draws equally on both Priestly and Holiness texts (Risa Levitt Kohn, *A New Heart and New Soul: Ezekiel, the Exile, and the Torah* [JSOTSup 358; Sheffield: Sheffield Academic Press, 2002], 85), and it is not germane to our argument to emphasize the distinction.

## I. Narrative Flow and Literary Structure

There has been considerable debate over the literary structuring of Ezek 20, particularly concerning whether vv. 5–31 should be divided into three, four, or five sections.[9] In what follows we adopt Block's analysis of vv. 5–26; he identifies three "panels": vv. 5–9, 10–17, and 18–26. Five elements occur in each of these panels: a divine oath ("I lifted my hand," נשׂא ידי, v. 5; נשׂאתי ידי, vv. 15, 23); the statement "I am the LORD" (אני יהוה, vv. 7, 12, 20); a revolt by Israel (vv. 8, 13, 21); a threat of divine "wrath" or "making an end" (לכלות אפי, לשׁפך חמתי, vv. 8, 13 [לכלותם], 21); and divine restraint ("I acted for the sake of my name," אעשׂ למען שמי, vv. 9, 14 [אעשׂה], 22). Moreover, the three panels correspond to the three stages of Israel's exodus and wilderness wanderings: the first panel (vv. 5–9) concerns the LORD's dealings with Israel in Egypt; the second panel (vv. 10–17) with the first generation in the wilderness and the Sinai event; and the third panel (18–26) with the second generation in the wilderness and, we propose, the giving of the Deuteronomic law on the plains of Moab.[10]

In order to see how these correspondences can be made, let us start with the second panel (vv. 10–17) and see how the events mentioned by Ezekiel in ch. 20 follow the sequence known from the pentateuchal narrative. Verses 10–12 state that the LORD "brought them out of Egypt," "led them into the wilderness," and then "gave them My laws." This would describe the exodus event (Exod 12–18) and the giving of the law at Sinai (Exod 19–31). Next v. 13 insists, "the House of Israel rebelled against Me in the wilderness," probably an allusion to the incident of the golden calf (Exod 32). The LORD's wish to destroy Israel in the desert, but decision to refrain for the sake of his name (vv. 13b–14), is recorded in Exod 32:7–14, where Moses intercedes with God on behalf of the people. When in the following verse Ezekiel describes the LORD saying "I swore to them in the wilderness that I would not bring them into the land," this would refer to Israel's rebellion after the twelve spies

[9] For a review of the various divisions scholars have proposed for Ezek 20:5–26, see Leslie C. Allen, "The Structuring of Ezekiel's Revisionist History Lesson (Ezekiel 20:3–31)," *CBQ* 54 (1992): 448–62, esp. 448–51.

[10] See Block's layout of the divisions of the text (*Ezekiel*, 622–24). Corrine Patton also recognizes the correspondence between the narrative of Ezek 20 and the narrative sequence of the pentateuchal accounts of the exodus: "The clearest references to the exodus in the book of Ezekiel occur in ch. 20. The text shows clear familiarity with the exodus tradition: sojourn in Egypt (5–8), deliverance by the LORD (9–10), two generations in the wilderness (10–25), the giving of the law in the wilderness (11–13 and 25–26) and entry into the land (28). . . . The scheme certainly matches historical reviews present and presumed in Deuteronomic texts, including the historical review in Deuteronomy 1–11, the speech of Solomon in 1 Kings 8, and the speech of Joshua in Joshua 24" ("'I Myself Gave Them Laws That Were Not Good': Ezekiel 20 and the Exodus Traditions,'" *JSOT* 69 [1996]: 74–75).

scouted the land (Num 13–14), when the LORD did indeed swear concerning the first wilderness generation that "none of the men . . . shall see the land I promised on oath to their fathers" (Num 14:20–23, cf. Deut 2:14).

Ezekiel 20:18–26 now explicitly speaks of the second generation in the wilderness, corresponding to the pentateuchal narrative from Num 25 through the end of Deuteronomy. The rebellion of the second generation in the desert in v. 21 ("The children rebelled against Me") would refer to the sin of Baal-Peor (Num 25). Some scholars have argued, somewhat implausibly, that the participants in the orgiastic cult at Baal-Peor were the last aging survivors of the first generation.[11] We follow those commentators, for example, Thomas B. Dozeman, for whom "Numbers 22:1–36:13 describes the second generation of Israelites on the plains of Moab."[12] The juxtaposition of Baal-Peor in Num 25 with the second census in Num 26, together with the second generation's responsibility to avenge itself on the Midianites (Num 31), implies that it was the second generation rather than the first that fell into this sin. In fact, some commentators have argued that the sin of Baal-Peor was *the* catastrophic event for the second generation, as the golden calf was for the first.[13] Thus, the context of Ezek 20:23 is that of the second generation, and it is in v. 23 that clear allusions to Deuteronomic material first occur. Verse 23 says "I swore to them in the wilderness that I would scatter them among the nations." To what could this refer?

Ezekiel's expression "I swore" (lit., "I raised my hand," אשׂא ידי) occurs here in the third panel, just as it appears once in each of the first two panels (vv. 5, 15). There is an intriguing correspondence between these three references to God's oaths and the only three times where the same expression is used in the pentateuchal traditions to refer to God swearing: (1) the oath of Ezek 20:6 to bring the Israelites out of Egypt alludes to Exod 6:8, in the context of Israel's final days of residence and imminent departure from captivity; (2) the oath of Ezek 20:15 alludes to Num 14:30 and the surrounding context, where God swears to disinherit the first generation in the wilderness (cf. 14:21); and finally, (3) Ezek 20:26, the oath to scatter the people among the nations, draws on Deut 32:40.[14] This climactic verse of Deuteronomy comes after the closing section of the book (chs. 27–31), in which the eventual curse of Israel's exile is announced as not merely possible but inevitable (see Deut 27:15–26; 28:15–68; 29:1–4, 22–28; 30:1–3; 31:16–22).[15] Immediately after-

[11] E.g., Dennis Olson, *The Death of the Old and the Birth of the New: The Framework of the Book of Numbers and the Pentateuch* (BJS 71; Chico, CA: Scholars Press, 1985).

[12] Thomas B. Dozeman, "The Book of Numbers," *NIB* 2:4.

[13] See Jacob Milgrom, *Numbers* (JPS Torah Commentary; Philadelphia: Jewish Publicaton Society, 1990), xv, 211, 214.

[14] See Block, *Ezekiel*, 626 n. 63.

[15] See n. 19 below.

ward, the Song of Moses is heard by the second generation in the wilderness, where they are told of their future scattering and regathering (32:1–43).[16] At the climax of the song comes the dramatic divine oath of 32:40, which sets its seal not only on the song but on "all the words which I [Moses] enjoin upon you this day" (Deut 32:46 RSV) including the earlier passages which announced the inevitability of the scattering of Israel among the peoples.

Thus, Ezek 20:23 sums up the prophet's synthetic interpretation of this Deuteronomic material; the covenant curses in Deut 27–28 state that when Israel breaks the covenant, they will be scattered (28:64, הפיץ [hiphil of פוץ]). God then gave to Moses not only a guarantee of Israel's eventual disobedience and dispersion among the nations (Deut 27:15–26; 28:15–68; 29:1–4, 22–28; 30:1–3; 31:16–22) but also this command: "Therefore, write down this poem and teach it to the people of Israel; put it into their mouths, in order that his poem may be My witness against the people of Israel" (Deut 31:16–19). God's third and final oath comes at the climax of this song: "For I lift up my hand to heaven, and swear . . . I will take vengeance . . ." (32:40–41 RSV).[17] Thus, the mighty oath of Deut 32:40 confirms the LORD's intention to enact all the preceding promises, including the inevitable scattering of Israel. It is in this sense that Ezek 20:23 alludes to Deut 32:40.[18]

But how can we confirm that when Ezekiel says in 20:23, "I swore to them in the wilderness that I would scatter them," he refers to Deuteronomy and not just to the covenant curses of the Holiness Code of Lev 26? First, although Lev 26 threatens dispersal (26:33) as a possibility, it is *only* in Deuteronomy that Israel is *assured*—by, among other things, a divine oath sung by Moses—that they will be *inevitably* scattered.[19] Second, the word for scattering in Ezek

[16] The dispersion of Israel is implied by vv. 30, 36d; regathering is implied by vv. 26–27, 36a–b, 43.

[17] David Rolph Seely, "The Raised Hand of God as an Oath Gesture," in *Fortunate the Eyes That See: Essays in Honor of David Noel Freedman* (ed. A. B. Beck et al.; Grand Rapids: Eerdmans, 1995), 411–21, esp. 413.

[18] Another possibility, suggested by Kohn, is that Ezek 25:23 is a direct reference to Deut 4:27 (*New Heart*, 100 n. 32). The context of 4:26–27 includes language characteristic of oaths ("I call heaven and earth as my witness" [v. 26a]). If the כי introducing v. 25 is taken temporally ("When . . ." [see GKC §164*d*]), the whole passage 4:25–31 may be read in the indicative as sworn prediction of apostasy, exile, and restoration. Whether Ezek 20:23 is working from this passage, Deut 32:40 as proposed above, or both, it is notable that Ps 106:26–27 also knows of an oath sworn in the desert to scatter the people of Israel.

[19] Consider the following: (1) if the introductory כי in Deut 4:25–31 is taken as "when" rather than "if" (see n. 18), the passage reads as Moses' sworn prediction that Israel will break the Deuteronomic covenant and experience judgment (i.e., dispersion and exile); (2) although there ought to be corresponding blessings for the Levites to pronounce in ch. 27, only the curses are given (Deut 27:11–26); (3) the curses for disobedience (28:15–68) are two to three times longer than the promises for obedience (28:1–14) and are far more detailed and programmatic; (4) similarly, the threats for disobedience in 29:16–30:10 are oddly long and programmatic, as if the author

20:23a, "I swore . . . I would scatter them" (הפיץ, hiphil of פוץ) is the same term that is used in Deut 4:27, 28:64, and 30:3. When the Holiness Code speaks of "scattering," it uses the word זרה (see Lev 26:33; Ezek 20:23b). The occurrence of both terms in Ezek 20:23 suggests that Ezekiel has not only the covenant curses of Lev 26 in mind but also, and particularly, the curses of Deuteronomy.[20]

Thus, there are good reasons to think that, by the time we reach v. 25 in Ezekiel's narrative, Ezekiel is speaking about the Deuteronomic code. Verse 25 says, "Moreover, I gave them laws that were not good and rules by which they could not live." This is the second law-giving mentioned in the passage; we have related the first law-giving (20:11) to Sinai. This second law-giving should be associated with the delivery of the Deuteronomic code on the plains of Moab, which the interpretive tradition (witness the name "Deuteronomy") as well as the canonical text (Deut 28:69) both identify as a second giving of the law.[21] Although some miscellaneous laws are given to the second generation in Num 26–36, they are overshadowed in significance by the delivery of the Deuteronomic code, which was the great law-giving event explicitly for the second generation (cf. Deut 2:14–16). The relation of Deuteronomy to the second generation and particularly to the apostasy at Beth-Peor is underscored by the fact that, according to the narrative of Deuteronomy, Israel has not moved from Beth-Peor when Moses imposes on them the Deuteronomic laws (cf. Deut 4:44–46).

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is not really in doubt about which of the two options (obedience or disobedience) the Israelites will choose; (5) Deut 31:16–22 consists of a divine prophecy of Israel's inevitable disobedience and actualization of the covenant curses; (6) Deut 31:26–29 consists of Moses' solemn prediction to the Israelites of their future complete violation of the covenant; (7) the Song of Moses (32:2–43) castigates the Israelites so thoroughly for their rebelliousness against the LORD that when the LORD swears to "take vengeance on my adversaries and requite those who hate me" (v. 41), the reader is tempted to take this as a reference to the Israelites themselves, who from v. 5 through v. 38 have never responded to the LORD with anything but rebellion. Corinne Patton astutely comments that, according to Ezek 20:25, "Israel has been set up for failure" ("I Myself," 79). One can only agree, and the same conclusion could be drawn from a canonical reading of Deuteronomy. The end of the book "takes for granted that the people will indeed fail to be the true people of the covenant and that this will result in the full force of the curses of ch. 28 falling on them" (J. Gordon McConville, *Grace in the End: A Study in Deuteronomic Theology* [Grand Rapids: Zondervan, 1993], 135).

[20] This is a classic example of fusion of Priestly and Deuteronomic thought in Ezek 20, which Kohn has demonstrated at greater length (*New Heart*, 98–103). Ezekiel probably saw in the covenant curses of Deuteronomy the further extrapolation and augmentation of what was present already in Lev 26.

[21] Patton recognizes that Ezekiel presents multiple law-givings during the exodus and wilderness wanderings: "Ezek. 20.25–26 suggests that the giving of the law was not a one (or even two) time occurrence . . . ." ("I Myself," 75). On Deuteronomy as a second giving of the law, see Joseph Blenkinsopp (*The Pentateuch: An Introduction to the First Five Books of the Bible* [ABRL; New York: Doubleday, 1992], 209–10).

It is also significant that in 20:25 Ezekiel uses the masculine plural חקים to describe the "not good" laws, while everywhere else in the chapter he refers to God's "statutes" using the feminine plural חקות.[22] Likewise, the masculine form חקים is the term used in Deut 11:32 and 12:1 to introduce the Deuteronomic code proper (Deut 12–26). Masculine forms of this word occur elsewhere in Deuteronomy (4:1, 6, 40, 45; 5:28; 6:1, 20, 24; 7:11; 16:12; 17:11, 19; 26:12, 16, 17; 27:10) with twice the frequency of חקות (6:2; 8:11; 10:13; 11:1; 28:15, 45; 30:10, 16). In contrast, חקים occurs only twice in Leviticus (10:11; 26:46), while the feminine חקות occurs eleven times (18:4–5, 26; 19:19, 37; 20:8, 22; 25:18; 26:3, 15, 43). Moreover, חקים appears here in Ezek 20:25 paired with משפטים, and "the expression חקים ומשפטים is found exclusively in D."[23] This corroborates the sense that Ezekiel refers here to Deuteronomic rather than Priestly laws.[24]

When we continue tracing the narrative of the text (temporarily setting aside the difficult issue of v. 26), we encounter other evidence that Ezekiel has moved to speaking about the Deuteronomic code. The following section (20:27–29) clearly refers to Israel's entrance into the land: "When I brought them into the land . . . and they saw any high hill or any leafy tree . . . they slaughtered their sacrifices there and presented their offensive offerings there. . . ." These verses represent violations of the law of the central sanctuary in Deut 12, and Ezekiel alludes to this very chapter in a wordplay. Upon entrance to the land, instead of seeking out "the site that the LORD will choose" (Deut 12:5), the Israelites sacrificed promiscuously. The contrast with Deut 12 is brought out by the repetition of the word שׁם, "there." This word occurs repeatedly in Deut 12, in order to emphasize that it is *there*, that is, at the central sanctuary, that the Israelites should bring their gifts. But Ezekiel uses שׁם four times in 20:28, pointing out that it was *not* to the central sanctuary but *there,* to the high places and sacred groves, that the Israelites brought their sacrifices.[25] The contrast with and reference to Deut 12 are unmistakable.[26] In short, Israel failed to keep even the laws of the Deuteronomic code, which, as

[22] Block comments, "The masculine form, *ḥuqqîm*, contrasts with Ezekiel's consistent designation of Yahweh's covenant requirements in this chapter and elsewhere as feminine, *ḥuqqôt*" (*Ezekiel*, 636). Likewise Katheryn Pfisterer Darr, "the form is masc. pl., differentiating between these statutes and those given in v. 11" ("Ezekiel" *NIB* 6:1283). See also Gese, "Ezechiel 20,25," 140 n. 6.

[23] Kohn, *New Heart*, 99 n. 24.

[24] Block argues that the laws of v. 25 are clearly distinguished from the Sinaitic laws mentioned earlier in the chapter, for four reasons: (1) they are given to the second generation; (2) they are characterized as non–life-giving; (3) they fundamentally contradict the earlier laws; and (4) they are called חקים rather than חקות (*Ezekiel*, 640). These four points are characteristics of the Deuteronomic code, even (2), considering our argument in n. 19 above.

[25] Block, *Ezekiel*, 644

[26] Greenberg, *Ezekiel*, 385.

we shall argue below, Ezekiel viewed as a lower law than the Priestly legislation.[27] Thus, from Ezekiel's Priestly perspective, the nation clearly brought the Deuteronomic curse of exile upon itself.

To summarize, the narrative sequence of Ezek 20 strongly suggests the correspondence of the "not good laws" with the giving of the Deuteronomic code. Ezekiel 20:23–26, which describes a second law-giving to Israel, is sandwiched between the rebellion of the second generation in the wilderness (20:21–22, which should be identified with the apostasy of Baal-Peor), and the entrance into the land (20:27–29). In the pentateuchal narrative, Moses delivers the Deuteronomic code at this very point. Ezekiel's reference to the *inevitability* of scattering, which is unique to Deuteronomy, along with the use of Deuteronomic diction (הפיץ and חקים), serve to corroborate that Ezek 20:23–26 refer to this body of law.

## II. Why Would Ezekiel Consider the Laws of D "Not Good"?

If indeed Ezek 20:25 is referring to the Deuteronomic code as the "not good" laws, why would the prophet regard D as "not good"? Perhaps because Ezekiel writes from a Priestly perspective that views many of the distinctive laws of Deuteronomy as clearly inferior or even offensive.

That Ezekiel represents a Priestly viewpoint is hardly controversial. Risa Levitt Kohn, the author of a recent study of the subject, comments, "The Priestly Torah appears to be the standard by which Ezekiel evaluates Israel's successes and failures. As a result, Ezekiel's indictments of the people are based precisely and directly on the words of the P text."[28] The affinities of Ezekiel's language with P and particularly the Holiness Code are well documented.[29]

[27] Cf. Kohn: "Essentially, Ezekiel's contemporaries did not follow the precepts of *either* Torah" (*New Heart*, 113).

[28] See Kohn, *New Heart*, 77. Kohn does not distinguish between P and H.

[29] See Patton, "I Myself," 81: "It is clear that the author of Ezekiel knew some legal corpus in pre-exilic Israel. . . . To be sure, these laws resemble those in P, particularly in the Holiness Code, more often than their counterparts in Deuteronomy or the Covenant Code." For older scholarship examining the relation of Ezekiel and P/H, see August Klostermann, "Beiträge zur Entstehungsgeschichte des Pentateuchs," *Zeitschrift für lutherische Theologie und Kirche* 38 (1877): 401–45; Henning Graf Reventlow, *Das Heiligkeitsgesetz formgeschichtliche untersucht* (WMANT 6; Neukirchen-Vluyn: Neukirchen-Vluyn, 1961), esp. 30; Louis Horst, *Leviticus xvii–xxvi und Hezekiel: Ein Beitrag zur Pentateuchkritik* (Colmar: Eugen Barth, 1881); and Leonard E. Elliot–Binns, "Some Problems of the Holiness Code," *ZAW* 67 (1955): 26–40. More recent studies of Ezekiel and P/H include Menachem Haran, "The Law Code of Ezekiel XL–XLVII and Its Relation to the Priestly School," *HUCA* 50 (1979): 45–71; Avi Hurvitz, *A Linguistic Study of the Relationship between the Priestly Source and the Book of Ezekiel* (CahRB 20; Paris: Gabalda, 1982); Robert Polzin, *Late Biblical Hebrew: Toward a Historical Typology of Biblical Hebrew Prose*

Recent commentators have also begun to recognize the influence of D language and thought patterns in Ezekiel. As Kohn remarks, "Despite his apparent affinities with P, Ezekiel was also influenced by the language and concepts of D."[30] She singles out Ezek 20 for extended analysis as "one of the most striking examples of the fusion of Priestly and Deuteronomic language and theology" in the book.[31] Jacques Pons has also devoted an essay to the literary relation of Ezek 20 to Deuteronomic and Deuteronomistic material, concluding that the presence of D language is "incontestable" but ironically serves to subvert Deuteronomistic theology.[32]

Moshe Weinfeld, in his thorough analysis of the differences between Priestly and Deuteronomic thought,[33] describes D as engaged in a "secularization" of P laws. If, as Weinfeld and others argue, much of P represents an older theology than that of D, adherents of Priestly thought may have found the "secularization" of the Deuteronomic legislation both threatening and deficient.[34]

Several laws of D degrade from the standard of P: for example, *ḥerem* war-

(HSM 12; Missoula, MT: Scholars Press, 1976); Mark F. Rooker, *Biblical Hebrew in Transition: The Language of the Book of Ezekiel* (JSOTSup 90; Sheffield: Sheffield Academic Press, 1990). For an overview of the classic positions of Julius Wellhausen, Yehezkel Kaufmann, G. R. Driver, and others concerning the relationship of Ezekiel and P/H, see Kohn, *New Heart*, 6–29.

[30] Risa Levitt Kohn, "A Prophet Like Moses? Rethinking Ezekiel's Relationship to the Torah," *ZAW* 114 (2002): 246. See also Patton, "I Myself," 83–84: "On the other side, Deuteronomic influence can be seen in the 'outstretched arm' of 20.33, and the root *bḥr* (20,5). Additionally, the book of Ezekiel characterizes Israel's sin as rebellion (the verbs *mrh* and *mrr*, as well as the noun *mry*). While the term appears in Numbers . . . the use there is quite different. . . . However, the word appears seven times in Deuteronomy to refer to the sin of the people as a whole. . . . Ezekiel's use of the term, then, mirrors that in Deuteronomy, rather than that of P. . . . Ezekiel shows familiarity with Deuteronomic tradition, whether as a school of thought in Israel or in exile, or through contact with the Deuteronomic prophetic schools (Hosea and Jeremiah)."

[31] Kohn, *New Heart*, 98; see her six-page analysis of Ezek 20 (pp. 98–104). Unfortunately, owing to typographical error or some other cause, Kohn's text of Ezek 20 repeatedly misidentifies the phrase חקותי ואת־משפטי as Deuteronomistic, whereas it is Priestly, as Kohn herself recognizes (p. 99 n. 24).

[32] Jacques Pons, "Le vocabulaire d'Ézéchiel 20: Le prophète s'oppose à la vision deutéronomiste de l'histoire," in *Ezekiel and His Book: Textual and Literary Criticism and Their Interrelation* (ed. J. Lust; BETL 74; Leuven: Leuven University Press, 1986), 214–33. Pons's conclusions are quite in line with the thesis of the present article: "Nous pensons avoir montré dans cet exposé que: —Éz 20 ne pouvait pas être l'œuvre d'un rédacteur dtr. —La présence incontestable d'un vocabulaire Dt/dtr venait d'un emploi voulu par le prophète. —Éz utilisait ce vocabulaire pour s'opposer à la théologie dtr" (p. 232). Pons also recognizes the affinity between Ezek 20 and Ps 106 (pp. 232–33).

[33] Moshe Weinfeld, *Deuteronomy and the Deuteronomic School* (Oxford: Clarendon, 1979), 210–24.

[34] Kohn notes, "Much of D . . . would have been anathema to the priestly writer: general Levite priesthood, the importance of the king and prophet; the tradition of Aaron as sinner. Yet Ezekiel is not shy about deriving terminology and ideas from D" ("Prophet Like Moses?" 246).

fare (Deut 20:16–18), the extermination of the inhabitants of a region, is not to be found anywhere in the Priestly laws, which seem content with the expulsion of the land's previous occupants. Divorce is implicitly permitted by D (Deut 24:1–4), but never mentioned in P. The fallow laws of the sabbatical year (Lev 25:1–7) are very important to P, intimately tied up with continued inhabiting of the land (Lev 26:34–35), but D completely omits them, substituting a seven-year cycle of debt release (Deut 15:1–6).[35]

But most of all, it is the provision for profane slaughter in Deut 12:15–25—a necessary corollary of D's centralization of the cult—that has the greatest potential for offending P sensibilities.[36] In the Priestly tradition (Lev 17:1–9) all slaughter of clean sacrificial animals must take place at the sanctuary, where the blood is dashed around the altar to make expiation for the offerer (v. 11). Even the blood of clean but nonsacrificial animals, that is, game, must be poured out and carefully covered with earth (Lev 17:13).

The contrast with Deut 12 is potentially shocking. Here, clean sacrificial animals may be slaughtered like game, and not only is the blood *not* dashed against the altar, but it is poured out on the ground like water (Deut 12:16) without even being covered with earth. The blood of clean sacrificial animals in D is treated with less care than the blood of game animals according to P. Arguably, this mistreatment of the sacred expiatory substance would result—from a Priestly perspective—in the defilement of both the land and people. Thus, Ezekiel's problem with the Deuteronomic code would have been not simply that it lowered the legal bar but that it actually sanctioned defiling practices.[37]

## III. The Meaning of Ezekiel 20:26

If we can accept that the Deuteronomic code contained provisions offensive to Priestly sensibilities, we may have the resources to address the thorny issue of the meaning of Ezek 20:26, where the prophet states on behalf of the LORD, "When they set aside every first issue of the womb, I defiled them by their very gifts—that I might render them desolate, that they might know that I am the LORD."

[35] See Weinfeld, *Deuteronomy and the Deuteronomic School*, 223. For discussion of other differences between P and D legislation, see Scott W. Hahn, "Kinship by Covenant: A Biblical Theological Study of Covenant Types and Texts in the Old and New Testaments" (Ph.D. diss., Marquette University, 1995), 95–119.

[36] See Weinfeld, *Deuteronomy and the Deuteronomic School*, 213–14.

[37] See Patton, "I Myself," 79: "In a divinely granted law code, if only one law was granted in order to lead the people into sin, then the whole legal collection can never bring life; it is a law code that cannot be the basis for any restoration. . . . Israel is literally 'damned if they do and damned if they don't.'" See n. 19 above.

To what could this statement possibly refer? One common interpretation sees this as a reference to worship of Molech. The strength of this case is the use of the Hebrew word העביר (hiphil of עבר), "to cause to pass over, to consecrate, to offer," which is associated with child sacrifice to Molech in other contexts (see v. 31). However, העביר is also used in contexts that refer to legitimate sacrifice to the LORD (Exod 13:12). Furthermore, verbs other than העביר are frequently used to describe worship of Molech; therefore, as Hartmut Gese concludes, העביר "ist also als kultischer Terminus gar nicht auf den Molochkult beschränkt."[38] The mere use of the word is insufficient to establish that the verse refers to child sacrifice; Ezekiel himself uses the term frequently in contexts having nothing to do with such practices (5:1; 14:15; 20:37; 37:2; 46:21; 47:3–4 [3x]; 48:14).[39]

Moreover, v. 26 does not comport with worship of Molech, since Molech did not demand the firstborn of man or beast, being a rather omnivorous and unparticular god from all accounts.[40] Yet v. 26 clearly refers to the firstborn, without further specifying humans (*contra* NJB, REB): the Hebrew reads כל־פטר רחם, "every opener of the womb."[41] Gese emphasizes, "In sämtlichen

[38] Gese, "Ezekiel 20,25" 146. Gese counts ten or eleven cases where sacrifice to Molech is designated by העביר (Lev 18:12; Deut 18:10; 2 Kgs 16:3; 17:17; 21:6; 23:10; Jer 32:35; Ezek 16:21; 20:31 [Gese considers the text doubtful]; 23:37; 2 Chr 33:6) and nine cases where a different term is used (Lev 20:2–4 [3x]; Deut 12:31; Jer 7:31; 19:5; Ezek 16:20; 23:39; 2 Chr 28:3). George C. Heider, too, notes that העביר is not limited to the Molech cultus (*The Cult of Molek: A Reassessment* [JSOTSup 43; Sheffield: JSOT Press, 1985], 256).

[39] Curiously, some English translations, for example, the RSV, translate העביר in v. 26 as "offer *by fire*," although the word אש, "fire," does not occur in v. 26, as it does in v. 31 and other biblical uses of העביר, for example, 2 Kgs 23:10; Deut 18:12.

[40] Gese, "Ezechiel 20,25," 144–45. The relevant passages are Lev 18:21; 20:2–5; Deut 12:31; 18:10; 2 Kgs 16:3; 17:17; 21:6; 23:10; Jer 3:24; 7:31; 32:35; Ezek 16:20; 20:31; 23:37–39; 2 Chr 28:2–3; 33:6; Ps 106:37–38. Gese comments, "Wenn in den historischen Fällen des Ahas- und Manasseopfers ein Sohn erwähnt wird (2Kön 16,3; 21,6), so ist das als Faktum und nicht als bedingung des Molochopfers zu verstehen; denn in der algemeinen Darstellung 2 Kön 17,17; 23,10 werden die Töchter ausdrücklich erwähnt" (p. 145). Heider remarks on Ezek 20:26: "This is the only passage in which the cult of Molek is explicitly described as of firstborn, presumably male children. Otherwise, the cult is said to involve both sexes (2 Kgs 16:3; 17:17; 21:6; 23:10) and even multiple members of a single family (2 Chr 28:3; 33:6) . . ." ("A Further Turn on Ezekiel's Baroque Twist in Ezek 20:25–26," *JBL* 107 [1988]: 722 n. 10; see also *Cult of Molek*, 254). But Heider merely assumes that Ezek 20:26 refers to worship of Molech. Milgrom demurs: "The suggestion that the Molek cult was dedicated to the sacrifice of the male firstborn must be dismissed out of hand . . . . Daughters as well as sons were sacrificed to Molek (Deut 18:10; 2 Kgs 23:10; Jer 7:31; 32:35) . . . . Children of the same family were sacrificed [2 Chr. 28:3; 33:6]" ("Were the Firstborn Sacrificed to YHWH? To Molek? Popular Practice or Divine Demand?" in *Sacrifice in Religious Experience* [ed. A. I. Baumgarten; Leiden: Brill, 2002], 54), concluding, "There is no connection between the firstborn and Molek" (p. 55).

[41] The phrase פטר רחם is synonymous with the word בכר, which is made clear by passages

Texten des Alten Testaments, die vom Molochopfer sprechen, wird die Erstgeburt nie erwähnt!"[42]

Parenthetically, many scholars recognize that the phrase is a reference to Exod 13:12, since Ezek 20:26 uses virtually the same diction.[43] Notably, Exod 13 goes on to refer specifically to "every first-born (בכר) of man" (v. 13 RSV), only to exclude them from the consecrated "firstlings" mentioned in the previous verse. In other words, Exod 13:13 distinguishes human firstborn from "every opener of the womb" in order to exclude them from being offered. Thus, in the closest biblical parallel to Ezek 20:26a, the context makes clear that human sacrifice is *not* the referent. This supports our reading of Ezek 20:26 as referring to the sacrifice of *animal* firstlings, not humans.

Some scholars suggest a variation on the Molech-cult interpretation of v. 25, positing that the verse refers to the sacrifice of firstborn human children to the LORD; this reading is based on an overly literal interpretation of Exod 13:1–2; 22:28b; 34:19, or similar passages.[44] However, there is no biblical or archaeological evidence for the practice of child sacrifice to the LORD in ancient Israel;[45] it is simply posited as the background for the legal and prophetic texts that state that child sacrifice is not part of the worship of the LORD.[46] In all the relevant passages from both Jeremiah and Ezekiel, child sac-

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that place the terms in apposition: Exod 13:2; Num 3:12. Neither term applied to females (cf. Exod 13:11–16; 34:19 [according to the LXX, Vulg., Theodotion, and Targums]; Num 3:11–15).

[42] Gese, "Ezechiel 20,25," 145.

[43] See Heider, "Further Turn," 723 n. 11.

[44] The most prominent recent proponent of this view is 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), 3–17.

[45] Greenberg comments: "Outside of our passage no evidence *for such an interpretation of these laws*, or *for such a practice*, exists; indeed, it is intrinsically improbable. . . . The charge that the Israelites regularly offered up every firstborn as a sacrifice . . . [is] unprecedented and incredible . . . [a] manifest exaggeration" (*Ezekiel 1–20*, 369–70, emphasis added). Likewise, Gese remarks, "Es ist so gut wie ausgeschlossen, daß die hinter dem Auslösungsgebot stehende Anschauung in Israel je zu einer allgemein geübten Praxis eines menschlichen Erstgeburtsopfers geführt hat; nur in Ausnahmefällen könnte es zu einem solchen Opfer gekommen sein, wie es etwa der moabitische König nach 2Kön 3,27 darbringt" ("Ezechiel 20,25," 144). Milgrom concurs ("Were the Firstborn Sacrificed?" 55). Even Levenson points out that no human society is known to have practiced the human sacrifice of every firstborn son and admits that there is no explicit evidence for child sacrifice to the LORD in the Bible (*Death and Resurrection*, 3). He does, however, see Mic 6:6–8; Judg 11:29–40; 2 Kgs 3:27; and Gen 22 as implicit evidence of an ancient Israelite belief in the sacrifice of firstborn sons. Yet on closer examination, Mic 6:6–8 is a poetic rhetorical question; Judg 11:29–40 concerns a daughter; 2 Kgs 3:27 concerns a Moabite king; and Isaac is never actually sacrificed in Gen 22, wherein he is characterized as the "only son" (את יחידך אתבנך), never the "firstborn" (בכר or פטר רחם). Thus, none of the texts he cites is suitable to demonstrate Levenson's hypothesis. Ezekiel 20:26 cannot be used as evidence for his view, since whether the verse refers to child sacrifice at all is the point under dispute.

[46] This is Greenberg's approach; while admitting that there is no evidence for the practice of

rifice is connected to the worship of other deities, usually explicitly.[47] If child sacrifice was practiced as part of the cult of the LORD, it seems odd that these prophets, the others (or their "schools"), the Deuteronomistic Historian, and the Chronicler all refrain from mentioning or condemning the practice.

Instead of positing an otherwise unattested practice of the sacrifice of firstborn children to the LORD, or insisting that the sacrifice of firstborn must refer to the worship of Molech, who is known to have had no such restrictions on his diet, we propose to understand Ezek 20:26 according to our working hypothesis that Ezek 20:23–26 is an Ezekielian polemic against the Deuteronomic code. When we begin to approach the interpretation of the verse from this perspective and suddenly discover that, in fact, Deuteronomy *does* make adjustments to the laws of the firstlings that would offend Priestly sensibilities, it seems to be more than mere coincidence.

The Deuteronomic code introduces three changes to the regulations governing the firstlings. The first is the allowance of profane slaughter. Whereas under the Priestly legislation the people were required to visit the sanctuary or sanctuaries[48] for the slaughter of any and all animals (Lev 17:1–8), the Deuteronomic code required the sanctuary visit *only* for the (annual)[49] slaugh-

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ritual sacrifice of the firstborn to the LORD (see previous note), he sees behind Deut 12:29–31; Jer 7:31; 19:5; and 32:35 the popular belief that "YHWH accepted, perhaps even commanded, it" (*Ezekiel 1–20*, 369). But the child sacrifices condemned by Jeremiah in 7:31, 19:5, and 32:35 were offered to Baal/Molech at Topheth in the valley of Ben-Hinnom, and it seems unlikely that the Judahites were claiming that the LORD had commanded child sacrifice to Molech (see following note).

[47] E.g., Jer 3:24; 7:31; 32:35; Ezek 16:20–21; 20:31; 23:37–39. The fact that child sacrifice took place at the high place of Topheth in the Valley of Hinnom (Jer 7:31)—dedicated to Baʿal and Molech (Jer 32:35)—shows that it was separate from the cult of the LORD at the Temple. Still, Levenson argues that the worship at the high place of Topheth was understood by the people as to the LORD, whereas Jeremiah ascribes it to Baʿal and Molech (*Death and Resurrection*, 4–5, 10). If this were so, however, one would expect the one to whom the worship at Topheth was offered to be a point of dispute between Jeremiah and his contemporaries, yet it never appears as such. Furthermore, even if the child sacrifice at Topheth were to be shown to be to the LORD, it still does not provide an example of the sacrifice of firstborn sons, since the sacrifices there were nondiscriminatory with respect to gender or birth order (see n. 40 above).

Ezekiel, for his part, castigates the people for entering the LORD's sanctuary on the same day on which previously they had offered their children as sacrifices to idols (Ezek 23:38–39). It is clear from his statements that child sacrifice was not taking place in the temple nor as part of the cult of the LORD: he rebukes the people for defiling the temple by *entering* it on the same day they were involved in child sacrifice, not for *offering* child sacrifice to the LORD or in the temple. If such things were being done, he would have phrased his rebuke differently, in order to address those issues.

[48] On the possibility of multiple sanctuaries in H, see Milgrom, "Does H Advocate the Centralization of Worship?" *JSOT* 88 (2000): 59–76

[49] See Deut 15:20, "year by year" (שנה בשנה).

ter of the firstlings (Deut 12:6, 17; 15:19, 20) and voluntary sacrifices.[50] Therefore, the annual sanctuary pilgrimage to offer tithes and sacrifice firstlings (Deut 14:22–23) became a, if not *the*, distinctive practice of the Deuteronomic legislation when it was instituted, replacing the more frequent visitation of the sanctuary or sanctuaries mandated beforehand. Gese observes:

> Mit der deuteronomischen Kult-zentralisation und der not-wendigen Freigabe der Profanschlachtung veränderte sich nun auch die Möglichkeit, die Erstgeburtsopfer vor anderen aus-zuzeichnen, grundlegend. . . . Dem ursprünglichen Text in c. 20 aber ist ohne Zweifel zu entnehmen, daß *das Gebot des tierischen Erstgeburtsopfers für die nicht zum Leben führende Zweitoffenbarung so typisch ist wie das Sabbatgebot für die wahre Sinai-offenbarung.*[51]

The converse, or implication, of the Deuteronomic limitation of sanctuary visitation to the sacrifice of firstlings and voluntary offerings was the profane slaughter of non-firstlings (Deut 12:15–28). The offensiveness of this practice to Priestly sensibilities is summarized by Weinfeld:

> Whereas before the reform all slaughter—except that of game animals—was deemed to be a sacral act and was prohibited even for non-sacrificial purposes unless the blood was sprinkled upon the altar (Lev. 17:1–7; cf. I Sam. 14:32–5), it was now permissible to perform non-sacrificial slaughter without being obliged to sprinkle the blood upon an altar (Deut. 12:15, 16, 20–4). It need hardly be said that the sanctioning of profane slaughter freed a significant aspect of Israelite daily life from its ties to the cultus. The more crucial import of the law, however, is that by sanctioning non-sacrificial slaughter it repudiates the hallowed Israelite dogma which ascribed a sacral quality to the blood and prohibited one from pouring it upon the ground. According to the Priestly document or, to be more precise, the Holiness Code, the blood of slaughtered animals potentially valid for sacrifice must be sprinkled upon the altar . . . (Lev. 17:13): for all spilt blood, even of fowl and beasts of prey, cries out for vengeance and satisfaction. . . . The author of Deuteronomy, on the other hand, declares that the blood of all animals slaughtered for non-sacrificial purposes may be poured upon the ground like water (12:16 and 24), thereby asserting that blood has no more a sacral value than water has.[52]

[50] By "voluntary" is meant those sacrifices that Milgrom describes as arising "in answer to an unpredictable religious or emotional need" (*Leviticus 1–16: A New Translation with Introduction and Commentary* [AB 3; New York: Doubleday, 1991], 134), but are not mandated on a regular basis. None of the types of non-firstling sacrifices explicitly mentioned in Deut 12:6, 12, 17, 26, 27 are obligatory. Curiously, the expiatory sacrifices (traditionally translated "sin" [חטאת] or "guilt" [אשם] offerings), which would be obligatory if an Israelite had committed sin or become ritually unclean, are not mentioned in Deut 12. It is unclear whether their omission is intentional.

[51] Gese, "Ezechiel 20,25," 148, 147 (emphasis added).

[52] Weinfeld, *Deuteronomy and the Deuteronomic School*, 213–24.

A priest like Ezekiel observing the crowds of Israelites coming to the Jerusalem temple to perform their annual sacrifice of firstlings would be struck by the mute testimony these visits bore to the *absence* of these same crowds the rest of the year—in the same way that the overflowing crowds on important holy days today make the year-round absence of those same congregants all too obvious to the modern clergy person. During the rest of the year, as Ezekiel knew, the Israelites were slaughtering clean animals promiscuously and pouring out the sacred blood upon the ground like water (*contra* Lev 17:1–9). In that sense, the annual sacrifice of firstlings was a painful reminder for a priest trained in the Holiness Code of the deficiency of sacrificial practice among the populace, which was actually defiling both them and the land.

The second change in the law of firstlings allowed for the substitution of animals. The relevant texts of the Holiness Code seem to rule out the substitution or redemption of dedicated clean animals (Lev 27:9–10, 28). While the text is not absolutely explicit, the most logical reading of Lev 27 would be that the laws forbidding substitution and redemption of dedicated animals apply *a fortiori* in the case of firstlings, who are innately dedicated to the LORD apart from human action (Lev 27:26), and this reading of Lev 27 seems confirmed explicitly by another Priestly text, Num 18:17. The Deuteronomic code, however, seems clearly to permit the redemption of firstlings and other offerings for money, which can be used to purchase substitute sacrificial animals at the site of the central sanctuary (Deut 14:22–26). From the Priestly perspective of Lev 27, however, such transactions are just not possible. The firstborn belongs *innately* to the LORD, and one cannot simply transfer the animal's status to a different animal via an economic transaction.[53] Even if one tried illicitly to substitute or exchange one animal for another, the result according to Priestly law would be not the transfer of status from one to another but the consecration of both animals (Lev 27:10). Thus, when the Israelites who lived at a distance from Jerusalem gathered at the central sanctuary annually to offer the animal substitutes they had purchased in place of their firstlings, from a strict Priestly perspective the whole offering would be a charade. Even if the animals, as illicit substitutes, also had consecrated status (Lev 27:10), their sacrifice did not fulfill the worshipers' obligation, since the original consecrated animals (i.e., the firstlings)—still owed to the LORD—remained unsacrificed back at the worshipers' homes. Furthermore, substitution and redemption applied only to unclean animals (Lev 27:11–27). It follows that to exchange the firstlings for cash and purchase substitutes at the central sanctuary were to treat the clean as an unclean thing.[54] Therefore, Israelites who followed the prescriptions of

[53] See ibid., 215.

[54] Ibid.; Milgrom, *Leviticus 23-27: A New Translation with Introduction and Commentary* (AB 3C; New York: Doubleday, 2000), 2388–91.

Deut 14:22–26 that allowed for the purchase of substitutionary sacrificial animals at the central sanctuary would, according to the Priestly legislation, not only fail to fulfill their original obligation but would indirectly be treating their innately holy firstlings with contempt.

The third and final change in the laws for firstlings concerned the agent who conferred consecrated status on the animal. The Priestly legislation forbids humans from consecrating the firstlings:

אך בכור אשר־יבכר ליהוה בבהמה לא־יקדיש איש אתו אם־שור אם־שה ליהוה הוא (Lev 27:26)

> A firstling of animals, however, which—as a firstling—is the Lord's, cannot be consecrated by anybody; whether ox or sheep, it is the LORD's.

On the other hand, the Deuteronomic code expressly commands what P forbids:

כל־הבכור אשר יולד בבקרך ובצאנך הזכר תקדיש ליהוה אלהיך (Deut 15:19a)

> You shall consecrate to the LORD your God all male firstlings that are born in your herd and in your flock . . .

The two codes operate according to different logics concerning by whom and how the firstlings achieve their consecrated status. According to P, God consecrated all Israelite firstlings to himself in the exodus event; they come from the womb already divinely consecrated, and no person may further consecrate them:

כי לי כל־בכור ביום הכתי כל־בכור בארץ מצרים הקדשתי לי כל־בכור בישראל מאדם עד־בהמה לי יהיו אני יהוה (Num 3:13)

> For every firstborn is mine: at the time that I smote every firstborn in the land of Egypt, I consecrated every firstborn in Israel, man and beast, to Myself, to be Mine, the LORD's.

The Deuteronomist, on the other hand, while recognizing that the firstlings should be offered to the LORD, does not seem to regard them as having innately consecrated status; rather, they require a human act of consecration.[55] Whatever kind of rite may have been implied by "consecration" (הקדש), from a Priestly perspective it was unnecessary and presumptuous, since it

[55] Thus Weinfeld notes: "The author of Deuteronomy instructs the Israelites to consecrate the first-born of his animals to the Lord (Deut. 15:19), a command which openly contradicts the injunction in Lev. 27:26. . . ." According to P, "man can neither make the firstling holy nor secularize it by redemption" (*Deuteronomy and the Deuteronomic School*, 215).

implied that an already holy animal was non-holy and in need of a human—indeed, a layperson—to sanctify it. Just as redeeming the firstlings for money and purchasing substitutes at the sanctuary treated a clean animal as unclean, so consecrating the firstlings treated the holy as non-holy.

Thus, the distinctively Deuteronomic practice of making an annual pilgrimage to the central sanctuary represented a defiling concession (i.e., a cultic sin of omission): the sacrifice of (only) the firstlings—with its corollary, the profane slaughter of all non-firstlings—was completely deficient by stricter Priestly standards, especially concerning the handling of blood. Furthermore, the consecration of firstlings that was commanded by the Deuteronomic code and the substitution that was allowed were totally inadequate from the Priestly perspective.

The logic of Ezek 20:25–26 now becomes apparent. Ezekiel refers to the Deuteronomic code as "not good laws" and "rules by which they could not live," because, on the one hand, they degraded the pristine Priestly standards and, on the other, they were interwoven with predictions of human disobedience and inevitable divine judgment. In this defective Deuteronomic sacrificial system ("I defiled them by their very gifts"), Ezekiel singles out for special censure the distinctively Deuteronomic practice of the annual pilgrimage to present tithes and firstlings ("when they offer [only] all the firstlings"),[56] since the Deuteronomic regulations governing firstlings were so wholly deficient. All this was "so that I might render them desolate," a sentiment that seems quite in keeping with (at least the canonical form of) Deuteronomy, which, despite its protestations of making a well-meant offer of life to Israel (e.g., Deut 30:11–20), is filled with threats and outright promises of the inevitable actualization of the covenant curses.[57]

To summarize: from Ezekiel's Priestly perspective, the laws of the Deuteronomic code were defiling in their effects; though not intrinsically "evil" (רעים), they were most certainly "not good" (לא טובים).[58] Just as the previous verses repeatedly single out the Sabbath as a characteristic and representative law of the (Priestly) revelation from Sinai, so v. 26 mentions the changed provisions concerning the offering of the firstlings as characteristic and representative of the "not good" laws given on the plains of Moab (Deut 4:44–49; 29:1).

What is shocking about Ezekiel's formulation is that he accepts the divine authority of both the D and P legal corpora and concludes that the D laws were

[56] Our translation.

[57] The root שמם, "to desolate" (and the related noun שממה), is heavily associated with covenantal curses (cf. the use the word[s] in Lev 26:22, 31–35, 43). We concur with Darr, Greenberg, Block, and Heider that אשמם ought to be translated here as "I might desolate" or "devastate" rather than "horrify." The sense is not that the LORD intended to produce a subjective emotion in the Israelites (horror), but to render them utterly destitute in fulfillment of the covenant curses.

[58] The distinction is made by Block, *Ezekiel*, 636.

*intentionally* given to render Israel so defiled that exile would be inevitable. Scattered among the nations, Israel would thus be compelled to recognize the LORD's sovereignty ("that they might know that I am the LORD" [v. 26; cf. Deut 29:22–30:6]).

## IV. Conclusion

The identity of the "not good" laws of Ezek 20:25 has vexed biblical scholarship for centuries. We have argued that the literary structure and narrative sequence of Ezek 20 place the giving of the "not good" laws in the same narrative position that the Deuteronomic law-giving occupies in the hexateuch, between the rebellion of the second wilderness generation and the entrance to the land. This conclusion of narrative analysis is confirmed by the fact that the oath to scatter the Israelites referred to in v. 23 is best explained as an extrapolation from God's pledge in Deut 31–32 that Israel would break the covenant and thus actualize the attendant curses, among which was dispersal to foreign lands. Additional confirmation is provided by Ezekiel's use of terms favored by D rather than P in vv. 23–26, namely, הפיץ for "scatter," and חקים rather than חקות for "laws."

We have shown how several provisions of the Deuteronomic code would be perceived from a Priestly perspective as violations of a higher standard of holiness.[59] This applies specifically to the Deuteronomic provisions limiting sacrificial slaughter to firstlings and voluntary offerings and allowing the redemption of firstlings and the purchase of substitutes for sacrifice at the central sanctuary, which would be illicit and offensive according to the Holiness Code (Lev 17:1–9; 27:9–33). Strangely, in Ezek 20:26 Ezekiel seems to attribute these defective provisions of the Deuteronomic code to the LORD as an intentional method of defiling the Israelites, thus provoking the covenant curses and the eventual recognition of the LORD's sovereignty.

[59] For a review of the rabbinic and patristic approaches to Ezek 20:25, some of which have certain similarities to our own, see P. W. van der Horst, "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 Honor of A. S. van der Woude* (ed. J. N. Bremmer and F. García Martínez; Kampen: Kok Pharos, 1992), 94–118.