Divine Justice in Want of Mercy: Deuteronomy 34:1-8 and its Implications

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Introduction

As we learn from many passages of the Scriptures, the justice of God is strongly tied with his mercy. God is a just God but he judges with mercy. The general expectation is to look out for his mercy in Justice and to look out for his justice in mercy. From the Old to the New Testament, the romance between divine justice and mercy appears to be so steady that the conventional appreciation of God is to see Him as a just but merciful God full of kindness and abounding in love. This research is based on such theoretical framework. However, there is this situation of the death of Moses in Deut 34:1-8 which seeks further analysis and interpretation to ascertain if and how much God's mercy can be traced in this justice. Was God justified in the death of Moses? Is there any aspect of mercy in God's actions here? If yes, where and how? If no, why and what explanations can be given against the general appreciation of God to be just and merciful?

The aim and objectives of this work would then include: to seek to confirm the general co-functioning of justice and mercy in God; to explore and analyze the death of Moses in Deut 34:1-8; to ascertain the level of co-functioning of justice and mercy in the circumstances of Moses' death; to employ the results of such analysis towards interpreting the nature of God's justice and mercy in the Old Testament; to apply the conclusions of this research to the objective appreciation of justice and mercy today even as the Catholic world celebrates the year of mercy.¹

In order to realize these objectives, we would use the Historical and Analytical method consistent with Biblical scholarship of this nature. After an objective exposition of the conventional co-relation of divine justice and mercy, a detailed analysis of Deut 34:1-8 would be used to determine how much this situation fits into the general picture. The findings, which propose to be revealing, would inform our conclusions and applications.

1. Conventional Assumptions on the Correspondence between Divine Mercy and Justice

Ordinarily, the general assumption is that, in God, there is a divine balance between divine Mercy and divine Justice. God is both a just God and a merciful God. This correspondence is appreciated from Biblical and Extra Biblical Foundations and it has been the theoretical framework of this research.

Biblical Foundations

The correspondence between Justice and Mercy is, more than anywhere else, much more prominent in the Scriptures. The Old Testament has a lot of passages which attest to or

¹ Based on an earlier promulgation by Pope Francis, the Catholic world in 2016 is celebrating an extraordinary Jubilee year of mercy to end on the 20th of Nov 2016. During this celebration, emphasis is placed on receiving mercy from God and ministering mercy to neighbor.

refer to God as both just and merciful. In the Old Testament, mercy is predicated of God.² Many would think of God in one way. But in the Scriptures, God is referenced and appreciated as both just and merciful. He is both a God who judges with justice and also a God of mercy. In Nahum, God is seen as both a refuge and a judge, cf. Nahum 1: 7. Generally, the Bible showcases that God is merciful but that he will also not fail to dispense justice where necessary. God's mercy is shown through His justice

Separately, the Bible speaks of Divine Justice and Mercy. There are more than 290 verses in the OT and over 70 in the NT which reference the mercy of God. In His graciousness and compassion, God forgave the Ninevites, cf. Jonah 4:2. God is 'slow to anger, abounding in love,' cf. Psa 145:8-9. In God, mercy is an essential quality. (Exod 34:6-7, Deut 4:31, Ps 62:12). God delights in showing mercy, Mic 7:18, 20 and the New Testament refer to him as the Father of mercies cf. 2Cor 1:3, rich in compassion, Eph 2:4. Mercy in God is not just pardon for offenders but an attitude from which such pardon actually proceeds. This is why God is always merciful.³

The Bible also speaks of justice. In some cases, it speaks of justification.⁴ God is upright, cf. Deut 32:4. He is upright and just, Is 45:21. Justice is rooted in the very nature of God cf. Isa 40:14. His wrath can be devastating, cf. Col 3: 5-6. God is just and He gives everybody His due. Deut 32:3-4; But the same Scriptures also attest to the mercy of God. God is merciful⁵ God's justice is a special attribute in the divine nature. Exodus 34:6-7 says a lot about the mercy of God. God is merciful, gracious, slow to anger and abounding in love yet not compromising His Justice.⁶ It is not abstract but seen in his relation to the world. It is very much associated with his mercy and in most cases the Scriptures sometimes looks at God's justice as the action of His mercy. His justice and mercy are constantly joined together. God's justice is redemptive. In the Old Testament, the judge is the savior. It is by the forgiveness of sins that God establishes righteousness.⁷

Extra Biblical Foundations

Even outside the Christian Scriptures, the conventional understanding is that divine justice and divine mercy are just different aspects of the same divine disposition to save his people. In the Scriptures of other Religions and in the writings of Christian scholars, the common understanding is that God is both just and merciful. This is echoed especially in Judaism and even Islam. The concept of a merciful God appears in many world religions especially in Judaism and Islam. The writings of Theologians like St. Thomas Aquinas also reveal the subtlety of the relationship between Divine Justice and Divine Mercy. Both are so closely associated that it is difficult to think of one without thinking of the other. In God, mercy seems to be the quality which shapes God's Justice.

² Peter M. J. Stravinskas(ed.), "Mercy" in *Catholic Encyclopedia* (Indiana: Sunday Visitor, 1991), 638.

³ See W. L. Walker, "Mercy" in *ISBE Bible Dictionary* accessed electronically from Bible Works 9, Norfolk, VA: Bibleworks LLC, 2013.

⁴ Peter M. J. Stravinskas Ed., "Justice" in Catholic Encyclopedia(Indiana: Sunday Visitor, 1991) 549.

⁵ See Psalm 25: 6-7; Deut 4: 31; 2Sam 22: 66; 2 john 1: 3 etc

⁶ See Michael D Coogan, "Mercy of God" in *The Oxford Companion to the Bible*, edited by Bruce M. Metzger and Michael D Coogan(Oxford: University Press 1993)

⁷ See Harris Franklin Rall, "Justice" in *ISBE Bible Dictionary* accessed electronically from Bible Works 9,

⁸ Hamid NaseemRafiabadi, *World Religions and Islam: A Critical Study*, Part 1, (Mumbai: Sarup and Sons Publishers, 2003), 211.

St. Thomas Aquinas⁹ offers a brilliant explanation of the fact that, although mercy and justice are in every act of God, mercy always precedes justice:

"Whatever is done by God in created things, is done according to proper order and proportion wherein consists the idea of justice. Thus justice must exist in all God's works, Now the work of divine justice always presupposes the work of mercy; and is founded thereupon. For nothing is due to creatures, except for something pre-existing in them, or foreknown. Again, if this is due to a creature, it must be due on account of something that precedes. And since we cannot go on to infinity, we must come to something that depends only on the goodness of the divine will—which is the ultimate end. So in every work of God, viewed at its primary source, there appears mercy." (ST I, q.21, a.4)

2. Exegesis of the Death of Moses in Deut 34:1-8

The account of the death of Moses recorded in Deut 34:1-8 is one passage which, on face value, appears to contradict the conventional belief that in God, justice and mercy are inseparable. In order to appreciate this situation objectively, there is the need to analyze this passage more closely and later draw scholastic conclusions from the findings from such analysis. Below is the text in English.

1 Then Moses went up from the plains of Moab to Mount Nebo, to the top of Pisgah, which is opposite Jericho, and the LORD showed him the whole land: Gilead as far as Dan, 2 all Naphtali, the land of Ephraim and Manasseh, all the land of Judah as far as the Western Sea, 3 the Negeb, and the Plain -- that is, the valley of Jericho, the city of palm trees -- as far as Zoar. 4 The LORD said to him, "This is the land of which I swore to Abraham, to Isaac, and to Jacob, saying, 'I will give it to your descendants'; I have let you see it with your eyes, but you shall not cross over there." 5 Then Moses, the servant of the LORD, died there in the land of Moab, at the LORD's command. 6 He was buried in a valley in the land of Moab, opposite Beth-peor, but no one knows his burial place to this day. 7 Moses was one hundred twenty years old when he died; his sight was unimpaired and his vigor had not abated. 8 The Israelites wept for Moses in the plains of Moab thirty days; then the period of mourning for Moses was ended.

Analysis of the Text

Deuteronomy 34:1-8 is a complete block in itself. It addresses its message in a perfect manner. For the purpose of proper analysis, there is need to look into a few areas like authorship, textual criticism, remote and proximate backgrounds, division etc.

Regarding authorship, this is one passage that poses a challenge to the conventional assumption that the Pentateuch was written by Moses. In the context of this chapter, it is very incredible to hold that Moses wrote this passage — meaning that he wrote about his death. Therefore, in looking elsewhere, it was discovered that this passage must have

⁹ Cf. Thomas Aquinas' teaching on Divine mercy and Divine Justice in his *Summa Theological*, Question 21 assessed on line on 20th October 2016 from www.newadvent.org.

been written in the late monarchic period¹⁰ by another person.¹¹ A few scholars have attempted some possibilities. Some give it to Joshua and others tend to give it to Ezra. Whatever the case, there is no agreed position except that Moses could not be the author of this passage. It must have been composed by an anonymous author but compiled around the 7th century.¹²

In the aspect of Textual criticism, though there is not much problem, it does appear that this passage was added later to Deuteronomy to introduce Joshua. This later redaction is what could justify the disjointed nature of the story line between Deuteronomy Chapters 3 and 34. This passage is more or less a continuation of chapters 31 and 32:48-52. It also appears to be a continuation of Numbers 27 where God commanded Moses to go up the mountain to survey the Promised Land. This disjointedness is an evidence of interruptive narration and so needs to be 'reconstructed.' 15

This passage has both a remote and proximate background. The remote background of Deut 34:1-8 is the covenant between God and Israel at Sinai. God entered into a special relationship with His people led by Moses. That relationship sustained the tolerance, concessions, justice and mercy of God to the people under Moses. But the proximate background of Deut 34:1-8 is the episode in the wilderness of Zin as recorded in Deut 3:20 when, out of anger, Moses and Aaron departed from God's instruction on how to get water for the murmuring people. "God did not allow Moses to enter the Land he viewed, either because of his own failure to provide proper recognition of God (Num 20:10-13; 27:12-14; Deut 32:48-52) or because of the sins of the people (Deut 1:37-38; 3:18-28)." As for the structure of the text, one can see an evident division of the text into 3 parts. We see these three in terms of *Introduction; Justification* and *Conclusion*. The first, verses 1-3, records *Moses' loyal leap unto the mountain and his resignation to God's will*. Verse 4 which is like the central connection of the text, records *the actual intervention of God and the explanation of His position*. Verses 5 -8 record *the death and burial of Moses*.

One would notice that the active role of Moses is very much reduced if not insignificant in this passage whereas the role of God is emphasized. Beginning from verse 1, it is the Lord who showed him the land of Canaan. It is also the Lord who, in verse 4, confirms the fate of Moses. The LORD said to him, "This is the land of which I swore to Abraham, to Isaac, and to Jacob, saying, 'I will give it to your descendants'; I have let you see it

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¹⁰ Sebastian Kizhakkeyil, *The Pentateuch: An Exegetical Commentary*(Mumbai: St. Paul's Press, 2013).420-421.

¹¹ M. Weinfeld, *Deuteronomy and the Deuteronomic School*(Oxford: Oxford University Press, 1972),244-281.

¹² Lawrence Boadt, Reading the Old Testament: An Introduction(New York: Paulist Press, 1984), 193.

¹³ See Ronald E. Clements, "The Book of Deuteronomy" in *The New Interpreter's Bible* Vol 2, Leander E Keck et al, eds.(Nashville: Abingdon, 1998), 271-290.

¹⁴ See Peter Craigie, *The Book of Deuteronomy*(Grand Rapids: Eerdmans, 1976), 1.

¹⁵ See Footnote on Deut. 34:1-12 in Michael D. Coogan et al (eds), *The New Oxford Annotated Bible*, 3rd Ed., (Oxford: University Press, 1989), 307. The needed reconstruction boarders on objective textual criticism.

¹⁶ There are some scholars who also think Moses' death was caused by the sin of the Israelites and not necessarily his own mistakes. See more in See John H. Hayes, "Moses" in *The Oxford Companion to the Bible*, 529-530.

¹⁷ John H. Hayes, "Moses" in *The Oxford Companion to the Bible*, 530

with your eyes, but you shall not cross over there." It is significant to note that this verse once again invokes the spirit of the covenant and God remembers His covenant. The use of the verb (ra'ah - to see) in the hiphil perfect $(her'itik\bar{a})$ which connotes a passive causative action on the part of another outside of the subject could suggest that a favour is being done for Moses. The manner in which the text records the position of God is instructive of this favour. "I have let you see it with your eyes but you shall not enter..." The use of the negative particle (l') is indicative of the reversal of a progressive cause. It is like saying, even though you were not supposed to see... I have let you see... However, one looks at it, it suggests a favorable action on the part of God and provokes the need to seek to discover what occasioned Moses' fall off grace.

This death of Moses is most likely associated with the stiff-necked of the Israelites. ¹⁸ The background, as we saw, can be traced to the incidents at the desert of Zin as accounted for in the book of Numbers chapters 17 to 20. The Israelites murmured against God when they had no water and when Moses interceded on their behalf, God commanded Moses to go and speak to the rock for water to flow but probably in annoyance, Moses and Aaron made two mistakes. They did not only strike the rod instead speaking to it as instructed by God, but they also addressed the people as if the favour came from themselves – human beings – without presenting it as a favour from God, thereby retaining for themselves the glory that was God's. This made God to be angry with Moses and Aaron and said: "Because you did not trust in me enough to honour me as holy in the sight of the Israelites, you will not bring this community into the land I gave them" (Num 20:12). It would be recalled that soon after that, Aaron's death is recounted in verse 22 of the same Chapter. This early death of Aaron also provokes ideas about what the delay in Moses' death could have pointed to.

However, we also see in Deut 3 that Moses entreated the Lord to allow him see the Promised Land but God denied that request. This provokes the debate about the correspondence between justice and mercy in this circumstance of the death of Moses. It is most likely that Deut 34:1-8 is the climax of the fulfillment of God's punishment on Moses for his mistakes at the desert of Zin. This conclusion is consistent with God's rejection of Moses' appeal (Deut 3:23-28).

It is most likely that this is the background for verse 4 of chapter 34 where the Lord declared that He had made Moses to see the Promised land but that he would not enter into it. In consistency with His word, Moses died. But why did Moses die? Was it because of his mistake or the mistake of the people? The phrase in Deut 3:24 where Moses asserts: "the Lord was angry with me on your account..." could also suggest that Moses died because of the sin of Israel. But given the heavy evidence that tilts to Moses' mistake in the desert of Zin, it is safer to understand the disobedience of Moses as the reason for his death. In this way, "on your account" could mean that the people of Israel were the remote cause of Moses' mistake. When the death of Moses is seen as a result of what he had committed, God was being just in his treatment of Moses. The question that has become our research problem has to do with whether, why and how God's original

¹⁸ John Gill, "Commentary on Deuteronomy 34:1" in *The New John Gill Exposition of the Entire Bible*, 1999, assessed on line from www.studylight.org on 20th October 2016

sentence was not softened on Moses. We need to find out whether or not one can ever situate divine mercy in this whole circumstance of the death of Moses – given that God is a God of justice and mercy. The basis of this concern is the past of Moses: He was a Godchosen leader of God's people and for a long time would successfully intercede for them and gain God's mercy for them. But it sparks off curiosity that when he – the intercessor needed mercy, there was nobody to intercede for him as he used to do for people. Besides, when he made the mistake in the desert of Zin and after God declared the sanction that he would die and not enter the land, Moses did appeal personally for mercy. In fact, it does appear that he used to make such personal appeals more often that once. Surprisingly God's response was that of anger: "Enough from you! Never speak to me of this matter again! Go up to the top of Pisgah and look around you to the west, to the north, to the south, and to the east. Look well, for you shall not cross over this Jordan." (Deut 3:26-27) With the consequent scene recorded in Deut 34:1-8, where Moses is shown around the Promised land without being allowed to enter and with this eventual death of Moses in Deut 34:5, one would ask: is God's justice not in want of mercy – at least in this passage?

3. The Place of Mercy in the Just Punishment that led to the Death of Moses

If by divine justice we mean the steadfastness of God to treat each and everyone the way he or she deserves; including giving him or her the right reward for good living and punishment for evil, with the circumstance of the death of Moses, one can possibly conclude that the justice of God was allowed to prevail. But given the correspondence of Justice and Mercy in God, there is need to explore the place of mercy in this conventionally just punishment which led to the death of Moses.

Deuteronomy 34:1-8 leaves room for assumptions regarding this possibility or otherwise of the mercy of God. Where divine mercy includes the loving disposition of God to grant, allow or permit some reprieve from merited punishment or imminent misfortune, then divine mercy must be the handmaid of divine justice. Such would naturally be desired in this circumstance of the death of Moses because it would be the place of such loving disposition to balance the justice of God. Considering everything, there is still a school of thought that still believes God was not merciful enough in deciding the fate of Moses. They argue that the mere permission to see and not enter Canaan was terrible and amounted to a lack of mercy on the part of the just God.

But there are a few situations in this passage that tend to point, even if implicitly, to the fact of divine mercy. First of all, the fact that God decides to remain the most prominent subject of the passage suggests readiness to accompany and assure Moses and others of his compassion. It was God who showed him to the Promised Land in verse 1; It was the Lord who reminded him of the covenant and the gift of the Land;²⁰ It was God who allowed him see the promised Land in verse 4; It was God who purportedly buried him in Moab.

¹⁹ In justice it was only right that God would insist and go further to ensure Moses' death. This is because Aaron with whom Moses made the mistake which angered God, had already been allowed to die. In justice, Moses also needed to be allowed to die.

²⁰ It is Moses that used to invoke the import of the Hebrew verb *zakar*(to remember) in order to remind God of His covenant. But in this case, it is God who is taking the initiative to remind Moses of His covenant and gift of the Land. This could be a pointer to the fact of disposition to 'soften' punitive terms.

Secondly, the calmness with which Moses moves alone and without further complaint up to the mountain to die suggests some sort of appreciation of God's final and imminent will – his death. Could it be that there was something Moses saw and knew which others did not and we, today, have not known? Verse 1 presents Moses actions as one who is already a beneficiary of God's mercy.

Thirdly, the import of the verb-form (*to cause to see*) in verse 4 is suggestive of either a favorable initiative by a superior (as when someone would say, I made you what you are...) or it could also suggest a merciful reconsideration of initial stand. "I have *let* you see it with your eyes..."²¹ Whichever possibility holds the impression that is consistent with what can be considered as divine mercy.

Furthermore, humanly speaking, allowing Moses to see the Promised Land would not only encourage him but would also give him the fulfillment that the journey he started would not be abandoned half way. These are all possible indications of mercy but what could truly confirm at least some level of mercy is the gap between the pronounced punishment of Moses and the final experience of such punishment. When God pronounced the punishment in Numbers 20:12, He said: "Because you did not trust in me enough to honour me as holy in the sight of the Israelites, you will not bring this community into the land I gave them." The import of the verb r'b in the hiphil connotes incapacity and disability and not unwillingness to act. It connotes death. It is interesting that at this point no concessions are suggested. Besides, Aaron the collaborator of Moses who had the same sentence with Moses is made to serve his sentence 'diluted.' He died in Numbers 20:22.²² Moses' sentence – as pronounced – was a death sentence without concessions. When he even appealed, God appeared to be saying: 'Do you not remember the original sentence?' Moses' plea was to be allowed to 'cross over' (cf. Deut 3:25) but God said "Look well for you shall not cross over' (Deut 3:26). But his actual and eventual punishment was milder than earlier pronounced. Moses had the company of God who took the initiative to show him the Promised Land and even pronounced that he allowed him to see it even when the original sentence did not accommodate any concessions. From this point of view, it is safe to assume that, though more would have been desired, God's justice, as always, had a considerable accompaniment of mercy in the circumstances of the death of Moses. It has become clear that the fullness of divine mercy is not just a matter of automatic reward for past goodness but more so a divine response to concerted mutual pleas and intercessions by people today.

4. Evaluation

Going by the fruits of our exegesis of the Text of Deut 34:1-8, it is now possible to objectively evaluate the assumption whether divine justice is in want of mercy or whether and if yes, how divine justice is full of mercy. From here, lessons could be drawn for the better appreciation of the correspondence between justice and mercy in God.

Divine Justice in want of Mercy

²¹ The verb-form here, $her'i\underline{t}i\underline{k}\bar{a}$ is a hifil perfect, 1st person common singular, with a suffix, 2nd person masculine singular and it shows that the action was caused. "I let you see; I caused you to see…"

²² Terrence E. Fretheim, *Deuteronomic History* (Nashville: Abingdon, 1983), 1.

From our analysis of the Text, it can be confirmed generally that justice does not only desire but also needs mercy. Therefore whenever justice is in want of mercy, it sounds like a departure from the ideal. In the circumstances of Moses' death, even if it is not explicit, the divine justice of death for Moses was in need of mercy and the eventual concessions highlighted above prove that divine justice in Moses' case could not have been without mercy especially since the justice of God ordinarily gets appreciated in his mercy.

But if we argue that Moses who used to intercede and win forgiveness and mercy from God for Israel deserved to be shown mercy too, how do we understand the fact that nobody is ever accounted to have interceded before God on Moses' behalf? Divine mercy must be sought after as a need. We have no evidence or account of Aaron seeking after mercy. He died immediately with no concessions to the original sentence. Moses sought after it by appealing his sentence and we can confirm that he had some concessions even if implicit. We are moved to believe that the absence of other (external) intercessors for Aaron and especially for Moses who used to intercede for other people, was a major setback in the possibility of having more significant concessions for Aaron and especially for Moses. In the circumstance of the death of Moses, divine justice can be said to be in want of mercy only to the extent in which it drops short of the desired maximal experience of God's loving forgiveness. But in so far as some concessions were available to reduce the initial sentence, divine justice was not entirely devoid of mercy in the death of Moses. However, Moses' final plight shows that mercy must be a continual prayer point until it is fully realized.

Divine Justice is Full of Mercy

Our theoretical framework was based on the Biblical fact that God, even in His justice, is always full of mercy. This means that divine justice should be full of mercy and it really is full of mercy in every case. The fact that more concessions could have been desired in the circumstances of Moses' death does leave us with the challenge of explaining whether, why and how divine justice can still be said to be full of mercy.

Divine justice is full of mercy in the sense that God is always on the best side of justice. The only way that this works is to allow his mercy to serve as a handmaid for his exercise of justice. This is why the 'little concessions' amounting to an experience of mercy in the circumstances of the death of Moses are still enough to talk of God being full of mercy. The word 'full' here connotes fullness, completeness, wholeness as in 'not-withholding' back any necessary concessions due in justice to his creature. Divine justice is full of mercy because God would always make his loving kindness available. If God's mercy is full, then it implies that man must not ever stop at exploring such fullness in his search for mercy and concessions. Both the person concerned and the interceding voices of the community are necessary for the fullness of God's mercy to be achieved.

Lessons for Divine Mercy in the face of Justice

In the face of divine justice especially when man errs, it is important to appreciate the workings of divine mercy. The evaluation above, following from the findings drawn from our exegetical analysis of the text, would propose the following lessons for the Church and State, as institutions associated with the dispensation of mercy; and for individual

faithful even as the Catholic world celebrates this Jubilee of mercy.²³ In order to continue to appreciate the correspondence between divine justice and divine mercy, the following recommendations would serve a great lesson:

- ❖ Even the righteous is in need of divine mercy and should seek after it.
- ❖ God is ever merciful but it is only meaningful for divine mercy to be sought by people
- ❖ Personal intercession for oneself is good but it is better for intercession to be external of the expected beneficiary.
- ❖ It is safe to see every act of divine justice as being already preceded by God's merciful initiative
- Divine justice is always positive because of the accompanying love of divine mercy.

Conclusion

At this point, it is safe to conclude from the above analysis that divine Justice is one with mercy. It is also important to conclude that divine mercy does not override justice. It only qualifies it and as such, it must be sought after as a need. Interestingly, we can also confirm that when divine mercy is sought for and appreciated, the effects of such mercy precede and refine the provisions of divine justice. The circumstances of the death of Moses have revealed that in executing his justice, God expresses His mercy. This is why it is still safe and right to employ faith and understanding in upholding the Biblical scholarship of the correspondence between divine justice and divine mercy. The lessons drawn from the circumstances of the death of Moses here would help the pastoral appreciation of the concepts of divine justice and mercy. They will also constitute a motivation and a relevant starting point for more research into this and related areas.

²³ Pope Francis announced an extraordinary year of Mercy in the Universal Church between March and November 2016. This celebration has evoked renewed scholarship and devotion regarding divine mercy but the more involved people are, the greater we realize that a lot still needs to be learnt about the correspondence between divine justice and mercy.