Second and Third Thoughts on Cato

Augustine vs. Maimonides

During a recent discussion of Shakespeare's Julius Caesar, the topic of Cato (Cato Minor, 95 BCE, Rome – April 46 BCE, Utica) came up. He was Brutus' wife's father. In that discussion I rejected the contention that Cato was a Stoic. My rationale was a gut-level understanding that a Stoic should care nothing for things beyond his control, since the Stoic should only value what cannot be taken away from him. But politics seems to be beyond control, and so Cato should have endured rather than taken his own life.

Nonetheless, in his day people regarded Cato as a Stoic. We have no writings, and so he doesn't enter into the history of philosophic Stoicism, which is why his Stoic reputation came as a surprise to me. Part of this flows from a distinction between Greek theoretical Stoicism and Roman practical Stoicism, but also from the fact that civic virtue and its preservation becomes an ideal in Roman Stoicism, more than for the more individual-oriented Hellenic Stoicism. In other words, if wisdom and virtue are the only goods, which is a famous Stoic doctrine, and wisdom and virtue can only be fostered in a virtuous and wise state, it would be possible to be a Stoic politician.

Cato began his career as a good government gadfly, but became the chief political voice against the encroaching tyranny of Caesar. He fought bitterly against all of Caesar's policies. Eventually, Cato joined General Pompey in the civil war against Caesar. After their defeat at Pharsalus, 48 BCE, Cato found sanctuary for the cohorts under his command in the walled city of Utica, not far from Carthage: but the situation was bleak. He maintained the walls, but dismissed the soldiers one by one until he was essentially alone, and took his life. It's not entirely clear what his rationale was. Was it that he could not stand to see the destruction of the Roman Republic? Did he feel that he could no longer live under what he regarded as tyranny? Or was he concerned about the infamy of being paraded through the Forum in Caesar's Triumph? According to David Sedley, the Romans had a tradition of "honorable suicide," reflected in Roman Stoicism. The guarantee of freedom was to be able to choose ones own moment to die, a rational exit from life, rather than to compromise with an immoral tyrant.

Augustine, in *The City of God* (Book 19, page 304 through 306 in volume 2 of the Marcus Dods translation), uses this as his fulcrum to attack Stoicism generally. "I am at a loss to understand how the Stoic philosophers can presume to say that these (weakness, plague, disease, evil, lust) are no ills, though at the same time they allow the wise man to commit suicide and pass out of this life if they become so grievous that he cannot or ought not to endure them. But such is the stupid pride of these men who fancy that the supreme good can be found in this life, that they can become happy by their own resources..." Augustine goes on to criticize Cato in particular: "was it, I would ask, fortitude or weakness which prompted Cato to kill himself? For he would not have done so had he not been too weak to endure Caesar's victory. Where, then, is his fortitude?" Earlier (Book 1, 34 through 35), he says that Cato's example is appealed to, "not because he was the only man who did so (to commit suicide), but because he was so esteemed as a learned and excellent man, that it could plausibly be maintained the what he did was and is a good thing to do.... Indeed Cato condemns himself by the advice he gave to his dearly loved son. For if it was a disgrace to live under Caesar's rule why did the father urge the son

to this disgrace, by encouraging him to trust absolutely to Caesar's generosity? Why did he not persuade him to die along with himself?.... Why did conquered spare his conquered son, though he did not spare himself? ...Cato then cannot have deemed it to be shameful to live under Caesar's rule; for had he done so the father's sword would have delivered his son from this disgrace." On the next page he says "our opponents are offended that we are preferring to Cato the saintly Job, who endured dreadful evils in his body rather than deliver himself from all torment by self-inflicted death..."

To strengthen his case, Augustine tells us of two examples, that of Regulus (*circa* 307 BCE–250 BCE) and of Lucretia (Died: 510 BCE). Of Regulus he writes that "He had formerly conquered the Carthaginians, and in command of the Army of Rome had won for the Roman Republic a victory which no citizen could bewail, and which the enemy himself was constrained to admire; yet afterwards when he in his turn was defeated by them, he preferred to be their captive rather than to put himself beyond their reach by suicide. Patient under the domination of the Carthaginians, and constant in his love of the Romans, he never deprived the one of his conquered body nor the other of his unconquered spirit." The Carthaginians let him return to Rome with their proposals. Regulus persuaded the Senate to turn those proposals down, but to allow him to honor the terms of his parole by returning to Carthage, where he died a death of torture. Augustine argues that, in terms of the Roman civic virtues, Regulus was Cato's superior.

Lucretia (*City*, pages 28 through 30), was raped by King Tarquin's son. She made the crime known to her son and to her husband, but nonetheless, "heartsick, and unable to bear her shame, she put an end to her life. What shall we call her? An adulteress, or chaste? There is no question which she was." He brings her to the imaginary bar of justice for the crime of suicide, but pronounces her innocent of guilt. "Or perhaps she is not there, because she slew her self conscious of guilt, not of innocence? She herself knows her reason; but what if she was betrayed by the pleasure of the act, and gave some consent… And then was so affected with remorse that she thought death alone could expiate her sin? Even though this were the case she ought still to have held her hand from suicide….However, if such was the state of the case, and if it were false that there were *two* [guilty parties, the rapist and the consenting victim], but only one committed adultery; if the truth were that both were involved in it, one by open assault, the other by secret consent, then she did not kill an innocent woman; and therefore her erudite defenders may maintain that she is not among (those) who guiltless sent themselves to doom." Augustine pushes the point on page 30, "she was ashamed that so foul a crime had been perpetrated upon her, though without her abetting; and this matron, with the Roman love of glory in her veins, was seized with a proud dread that, if she continued to live, it would be supposed that she willingly did not resent the wrong that had been done her. She could not exhibit to men her conscience, but she judged that her self-inflicted punishment would testify her state of mind; and she burned with shame at the thought that her patient endurance of the vile affront that another had done her should be construed into complicity with him."

This is all very well for Augustine, but he misses the proverbial elephant in the room: Socrates quaffing the hemlock as martyr for philosophy. Socrates coupled aristocratic civic virtue with his fight to question everything. In the *Crito*, we learn that his aristocratic political allies provided Socrates an opportunity to escape. Indeed, they expected that he would. The legal proceeding, while procedurally correct, was

deeply unjust. The real reasons for the prosecution had been obliterated by a general amnesty called the Act of Oblivion, which acted as an *in limine* obstacle to his accusers' explaining their charges against him. Nonetheless, despite this advantage, the jury still voted to convict him. Yet Socrates refused to escape: "… Do not think more of your children or of your life or of anything else than you think of what is right; so that when you enter the next world you may have all this to pleading your defense before the authorities there." Because, "as it is, you will leave this place, when you do, as the victim of a wrong done not by us of the Laws, but by your fellowmen." Running away merely returns evil to evil. Having enjoyed the bounties of his state, for all the years he grew old in it, he could scarcely be seen to be revolting against what he implicitly agreed to. The Laws harmed him not, he was only harmed by the men who enforced them. It were better to die to ennoble respect for the law. Moreover, by escaping, he would gainsay his own teaching of the soul's immortality. He would be defending his physical life, a small value, only to lose the greater value of his soul's virtue.

The remarkable thing, from Augustine's perspective, is that, while sidestepping the discussion of Socrates suicide in the obvious context of that of Cato, Regulus, and Lucretia, Augustine surprisingly limns Socrates (Book 7, page 309): "Illustrious, therefore, both in his life and *in his death* Socrates left very many disciples of his philosophy, who vied with one another in desire for proficiency in handling these moral questions which concern the chief good (*summum bonum*), the possession of which can make a man blessed…" Was Augustine practicing what Leo Strauss would call "persecution and the art of writing" by camouflaging his criticism of the sainted Socrates in what might have been thought of as the easier case of Cato's suicide? But it would be odd indeed to consider Augustine an esotericist in fear of persecution from lovers of philosophy! Or was Socrates more like Lucretia in that he rejected the shame of being thought to value his physical life over the ascent to wisdom, or the shame of being thought to value life over the Laws that gave him a home for his mission? Or was Socrates more like Regulus, the martyr of civic virtue for generations of Roman republicans?

Maimonides' position diverged from Augustine's in several major respects. First of all, the plight of the Jews regarding persecution generated ongoing problems. Their suicides would have been different from the suicides of other nations, but that difference should not exclude them from philosophical consideration. A subset of problems was generated by differences *between* their persecutors, i.e., between the Muslims and the Christians. Secondly, Maimonides' position was necessarily conditioned by the fact that he was the major legislator of his day, and that halachic legislation is very much defined by precedent, especially the precedents set by Talmudic era materials. Third, while Augustine's emphasis was on the distinction between what the Stoics and the Christians took as the major *good*, i.e., whether it was sufficient to define virtue as being merely this-worldly; Maimonides, who certainly would have conceded Augustine's general point, focused on the *practicality* that life precedes virtue, in that virtue cannot be obtained when dead.

So in the *Mishneh Torah* (*Yesodei haTorah*, chapter 5), Maimonides summarizes certain basic principles. The first is the principle of life, quoting Leviticus 18:5 that the commandments, "if a man do them, he shall live by them," noting the teaching "*live* by them, and not to die by them." Thus, in many cases of religious coercion it would be a greater transgression to accept martyrdom: "if he suffered death rather than commit a transgression he himself is to blame for his death."

However, three Commandments exist where one must accept death before their transgression: idolatry, unchastity, and murder. If commanded to do these terrible things or accept death, "he should suffer death rather than transgress." Nonetheless, even in the previous case (where the big three were not involved), where life trumps the consequences of coercion, that would *only* be true if the idolater's motive is personal advantage, or took place privately, such that ten Jews were not present. The preceding principles apply only in cases where *public apostasy* does not become an issue. In other words, public apostasy is so detrimental to the belief of the community that in some cases it overwhelms the principle of life.

Thus, if "a wicked king arises like Nebuchadnezzar… And issues decrees against Israel, with the purpose of abolishing their religion or one of the precepts, then it is the Israelites' duty to suffer death and not violate any one, even of the remaining Commandments, whether the coercion takes place in the presence of ten Israelites or in the presence of idolaters." Nonetheless, duress is a complete *defense* to conviction and punishment, even in those cases of public apostasy, and perhaps even with the three cardinal sins (*Yesodai* 5:4), despite the individual's guilt.

Maimonides' other major statement on the subject comes in his *Epistle to Yemen.* There he tells the Yemenite community, suffering terrible oppression and religious coercion, "God has, however, promised never to forsake his people. Every persecution directed against the Jewish people and its religion has failed and every persecutor has been destroyed by God. In the current instance, one must not lose heart but instead accept that the ordeal is a trial and purification in which the faithful can demonstrate their mettle. To suffer and lose one's possessions for the sake of God is an honor, and therefore everyone should, if need be, *forsake* family and possessions and *flee* into the desert. Any who are delayed in doing so must be careful not to transgress a single divine commandment; for each transgression whether large or small will be punished even if committed under duress. As for those who submit to the enemy and forsake the law [after the reasonable delay noted above], they declare for all to hear that they are not descendents of the men and women who were present at Sinai when the Law was given to the Israelites." The essential point is that one can put up briefly with coercion, but still must try to escape rather than accept martyrdom or commit suicide.

In *Mishneh Torah*, *Yesodai* 5:4, he says, by way of emphasis, "However, if an individual is able to save himself and escape from the power of the wicked king and does not do so, he is like a dog that returns to its vomit. He is called the willful idolater, is excluded from the world to come, and descends to the lowest depth of *gehinnom.*" There seems to be a vague sense in Maimonides that a minimal acceptance of Islamic coercion is not so damaging, particularly if done privately, but he does not appear to be specific on the point. Whether he would reach the same result regarding Christianity is not so clear to me. He probably would have adopted some of Islam's prejudices against Christianity, particularly on the employment of images during worship, and on Christianity's somewhat more obvious departures from what he would have regarded as strict monotheism.

Herbert Davidson is probably correct in his strenuous denial that the more liberal *Epistle on Religious Persecution* (*Igeret ha*-Shmad) was not a work of Maimonides (Moses Maimonides, the man and his Works, Oxford 2005). Its radical conclusions seem unMaimonidean, and certainly not based on halachic

precedents, i.e., that one may get away with merely mouthing the Islamic *shahada* while continuing, even over time, to privately and secretly perform the 613 mitzvot. Nonetheless, there does seem to be a significant difference between the Sephardic practice, which pays more attention to Maimonides, and Ashkenazic practice, which tended to glorify sometimes horrifying acts of martyrdom, as occurred during the Rhineland massacres of the 11th century.

It seems to me that if a case like that of Cato arose, Maimonides would not have thought it an exceptions to the law against self murder, but I do not know how he would have regarded a case like that of Lucretia. If her husband truly suspected her of adultery, they would have to endure the peculiar legal ordeal of *Sota* (bitter waters, Numbers 5:11-31). Since she would survive the bitter water, no one, including her husband, would have the *legal* or *moral* right to doubt her innocence. As for Socrates, since Maimonides equated law with Torah, "where one is enjoined to die rather than transgress, and suffers death so as not to transgress, he sanctifies the name of God. If he does so in the presence of 10 Israelites, he sanctifies the name of God publicly, like Daniel, Chananiah, Mishael and Azaria, Rabbi Akiva and his colleagues. These are the martyrs then whom none ranks higher" (*Mishneh Torah*, *Yesodai* 5:4).

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