

Peter McCormick

**Restraint's Rewards:  
Limited Sovereignties,  
Ancient Values, and the Preamble  
for a European Constitution**



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a European Constitution



*Peter McCormick*

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and the Preamble for a European  
Constitution

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*“What will become of nostalgia and mourning when archaic Greece – the Greece of the mother goddesses, of Mycenae and of Knossos, and especially of the Pre-Socratics – will have replaced classic Greece in our dealings with Mediterranean Antiquity . . . ? The mourning for classical Hellenism may be the presupposition . . . for that relation of extreme distance and extreme proximity between a consciousness become the critic of its own modernity and an immemorial time towards which a rediscovered archaic Greece gestures.”*

Paul Ricoeur<sup>1</sup>



For William Richardson, S. J.,  
Hans-Georg Gadamer  
and Paul Ricoeur

Extraordinary teachers,  
Inspiring friends

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# Preface

*“A long shear of light and then a series of low concussions . . . The cold and the silence. The aches of the late world carried on the bleak and temporal winds to and fro in the void. Carried forth and scattered and carried forth again. Everything uncoupled from its shoring. Unsupported in the ashen air . . . they stood and looked out over the great gulf to the south where the country as far as they could see was burned away, the blackened shapes of rock standing out of the shoals of ash and billows of ash rising up and blowing down country through the waste. The track of the dull sun moving unseen beyond the murk . . . the shape of a city . . . in the grayness like a charcoal drawing sketched across the waste.”*

—Cormac McCarthy<sup>2</sup>

These lines, from a contemporary distinguished work of fiction, represent a catastrophic devastation, a civilizational collapse imagined on a vast scale, and perhaps even a retribution, a Greek tragic *nemesis*.

If reflective persons, their social leaders, and their political masters in, say, Europe today cannot finally re-discover renewed ethical resources to be restrained enough in all things, could such fraught lines, in

what is very much still a nuclear age, prefigure a not implausible scenario of the future?

For some, these lines may recall the ancient devastation of Athens in the early fifth century BCE. And for others they may suggest the much greater devastations at the beginnings of Greece's long Dark Ages after the final collapse of an as yet inchoative European civilization in the late twelfth century BCE.

These lines, that is, may be a starting point for beginning yet again the arduous, unending process of trying to retrieve in, newly efficacious, ways the still frightening and difficult lessons today that those early Europeans had to begin learning so long ago.

Yet in their echoes of the dramatic and tragic poetry of the *Persians* of Aeschylus and the *Trachiniai* of Sophocles, these resonant lines do not just remind some persons of the threats of nemesis. They also point back to the first artistic representations of a quite radical although shadowy ethical innovation in the emergence of ethical thinking in Europe.

For but a short time after the birth of Aeschylus and later of Sophocles and yet well before the philosophical reflections of Socrates and Plato and Aristotle and the Stoics, some Athenian sculptural representations of the human figure between the two catastrophic Persian Wars may already have been adumbrating a novel and quite basic ethical virtue.

The invention of this new moral virtue – what was to become only later the philosophical concept of *sophrôsunê* or temperance or moderation – as first of all merely the faint traces only of a rational, reasoned, and critically measured restraint in all things for polities, societies, and individuals alike – was to be an ethical innovation.

Initially, this innovation consisted of several aesthetic and ethical sculptural figurations. Only afterwards did it come to comprise as well freshly forged verbal articulations of what had first to be learned unforgetably from those first devastating encounters with the civilization of ancient Iran.

These were those fateful encounters that left Athens and its Acropolis a blackened wasteland. Its once immensely self-assured citizens now standing bewildered on the shores of the nearby island of Aegina had

become no more than a muddled and confused mob of displaced persons. The unprecedented wealth of Athens was sacked, its sacred temples and statues desecrated, its city utterly destroyed, and the sky became imperceptible in the drifting, apocalyptic ash.

Still to follow as classical European civilization recovered its moral balance was what seems to have been the emergence in the sculptural arts of a novel and utterly basic ethical value. This basic ethical value was nothing so definite and assertive as a philosophical concept. Rather, this basic ethical value was yet but a quite tentative sculptural figuration only, a stone profile catching the moving shadows of something prior and perhaps to come, of what we may call here a manifold and critically measured restraint in all things.

In this philosophical and speculative essay I try to elucidate some only of those variegated backgrounds and contexts that lie rather far behind this extraordinarily fragile moment of deliberative and dubitive transition between the Late Archaic and the Early High Classical in the very long history of one of the most fundamental of European ethical values. These are the backgrounds and contexts that may in turn illuminate the last phases of the Bronze Age Aegean when a still emerging European civilization totally collapsed in widespread and still mysterious violent catastrophes.

In particular, in a reflective rather than strictly historical fashion, I try to explore the pre-history and the conceptual fruitfulness of the core idea here of a manifold restraint – political and social and individual – in the immediate and troubled contexts today of the European Union's so far unsuccessful search for a feasible, transnational idea of limited sovereignty.

This ancient manifold restraint in all things, I go on to suggest, is the basic and traditional European ethical value that, given the apparently unbounded self assertions of our own late modern times, may most need entrenching in the preamble to any eventually ratifiable first European written constitution.

Arising from this basic ethical value of a collective and personal manifold restraint, I will be suggesting further, may well become manifest several of the most important and illuminating ethical elements at



the origins of European culture. The light of such elements is yet to be made out in the still receding Bronze Age Aegean stellar representations of Mycenaean, Minoan, and Cycladic political, social, and individual ethical values.

Once captured and brought into sharper focus, these radiating elements turn out to be, respectively, Mycenaean political rules that anticipate notions of normativity, Minoan social hierarchies that announce ideas of pluralism, and Cycladic individualisms that tend even to notions of personal dignity. Each will be seen here as plausibly arising from a quite basic reasoned and critically measured restraint in all things as ancient instances of limited sovereignties whether political, social, or personal.

This informal essay, then, is an attempt to assemble several artistic, historical, and conceptual reminders of the origins and the problematic nature of some only of the fundamental European ethical values that the preamble to any eventual EU transnational constitution might incorporate. And these ethical values may be seen to emanate from the ancient but still pulsating core of a manifold restraint understood throughout the essay in the cardinal sense of ever maintaining all things within reasonable bounds.

Perhaps such reminders might even be taken as pointing to some of what may be called “restraint’s rewards,” that is, to such seminal fruits of a manifold restraint in all things as normativity, pluralism, and the indefectible dignity of the person. For each of these rewards may arguably be seen as arising from, although not strictly speaking historically deriving from, that basic core ethical value of a reasoned and critically measured restraint in all things.

This manifold restraint will be on view here then as just that basic ethical value that most probably suffuses the underlying and still insufficiently apprehended notion today of a limited sovereignty.

Accordingly, the aim here is to offer but several modest suggestions only for freshly informed critical discussion in EU institutions and elsewhere about the renewed and urgent need for a manifold restraint in all things. Such a manifold restraint is a maintaining of all things within reasonable bounds. And such a restraint is also a seminal European ethical

value that might sow the seeds of effective consensus about, if not the myriad details of any eventual EU constitution, at least several of the substantive contents of its preamble.

For, in the midst of its continuing and increasingly debilitating crises, how is Europe to ensure its proper place in the still accelerating integration of the geopolitical world tomorrow?

One basic element in any durable solution, the general argument and pervasive assumption runs here, must involve the entrenchment of not just European political and social values but, even more, of basic ethical values as well.

In particular, at the center of the preamble to any eventual new European Constitution should figure the cardinal ethical value of a manifold restraint in all things. This very early and quite basic inchoative ethical value – collective and individual – is what the essay tries to decline in two ways.

Historically, such a manifold restraint in all things is described recedingly with respect to various kinds of limited sovereignties in the three earliest European cultures in the Bronze Age Aegean – Mycenaean, Minoan, and still earlier Cycladic. And philosophically, this manifold restraint in all things is also analyzed progressively with respect to various kinds of limited sovereignties in their political, social, and personal dimensions.

The result, I would hope, is a novel, substantive, and perhaps renewed understanding of at least some of the rewards of a communal and individual restraint in all things, a dynamic core restraint that continues to emit its varied forms as properly limited political sovereignties, properly circumscribed social autarchies, and properly bounded individual autonomies.

The rewards of restraint turn out here finally to be just those deepened capacities for rational, reasonable, and imaginative self-restriction that may strongly enable political states and their governing social and individual elites to reach durable compromise and consensus on truly central matters. Among such matters are just which ethical values are those that now need to be entrenched in any new European constitution.

And when examined still more closely, the rewards of restraint manifest themselves as the primacy not of political but of legal norms, the richness not of abstract relativisms but of social pluralisms, and the pre-eminence of the moral and ethical value of personal dignity.

\*\*\*

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Peter McCormick  
Paris, December, 2013



# One: Orientations

“(Agamemnon:)

*Never cross my path with robes and draw the lightning.  
Never – only the gods deserve the pomps of honor  
and the stiff brocades of fame. To walk on them . . .  
I am human, and it makes my pulses stir with dread.*

*Give me the tributes of a man  
and not a god, a little earth to walk on,  
not this gorgeous work.*

*There is no need to sound my reputation.  
I have a sense of right and wrong, what’s more –  
heaven’s proudest gift. Call no man blest  
until he ends his life in peace, fulfilled.  
If I can live by what I say, I have no fear.”*

...

*“Let someone help me off with these at last.  
Old slaves, they’ve stood me well.*

*Hurry,  
and while I tread his splendors dyed red in the sea,  
may no god watch and strike me down with envy  
from on high. I feel such shame –*

–Aeschylus”<sup>3</sup>

By way of initial orientation, consider a distinguished comment on the Nobel Peace Prize Committee's very surprising award of their coveted prize in 2012 to the European Union (EU).<sup>4</sup> Among other matters, the comment indicates the importance and the necessity of specifying further the cultural backgrounds – witness Agamemnon's failed attempts as he finally treads on the crimson red carpet to resist the temptations of a mortal *hubris* – of such cardinal political concepts today as sovereignty, autarchy, and autonomy.<sup>5</sup>

Thus, “basing Europe on a veritable cultural project,” this comment runs, “constitutes the principal responsibility of the generation in power. Nourished by the common cultural roots of democracy, human rights, technical rationality, and monotheism, this common patrimony in the last fifty years has become a peaceful dynamic for constructing not just a market but a future. This is the reason why the Nobel Peace Prize was awarded to the European Union.”<sup>6</sup>

But just how this responsibility is to be fulfilled in the face of endless temptations and just where this “common patrimony” comes from the commentators do not try to say. Some recent historical background may help in understanding this heavy silence.

## §1. The European Union Draft Constitution

In 2005, Europe's strenuous attempts to adopt its first constitution failed. Some European nation states did indeed approve the very carefully crafted draft constitution. But referenda in France and the Netherlands in late May and early June 2005 definitively rejected the lengthy and complicated draft that the ad hoc European Constituent Assembly under former French president Giscard d'Estaing had finally agreed on after almost two years of difficult discussions.<sup>7</sup> One of the several major sticking points was just what sort of elements should finally figure in the draft constitution's preamble.

At first glance, the debate seemed to turn on whether the constitution's preamble should or should not explicitly mention, among other matters, Europe's Christian backgrounds. But the underlying and more important issues were two. The first was the nature of the limited sovereignty<sup>8</sup> any acceptable EU constitution would require of its nation states. And the second underlying issue was just what European ethical values<sup>9</sup> if any should be entrenched in the preamble at all.<sup>10</sup>

Before stepping back in Part Two of this essay and reflecting on some of the original sources of the common European patrimony that the Nobel Peace Prize Committee highlighted and the connections of that patrimony with the key notions of sovereignty, detailing several more of these recent historical contexts proves useful.

In November 2012, just after the United States and China, Europe's most important global partners, had in one case re-elected their incumbent president for a second and final four year term and in the other had appointed a new party leader for a ten year term, where Europe had to steer in order to restore its rapidly declining global status was increasingly unclear.<sup>11</sup>

For as detailed reports at the time from the Organization for Economic Cooperation and Development, the International Monetary Fund, and the World Bank amply demonstrated, the European Union



was still struggling with the financial, economic, social, and political crises that began in the United States some five years previously.<sup>12</sup>

Indeed, for the first time since 2009, Europe as a whole had fallen into recession. By April 2013 average unemployment in the then 27 member states of the EU had reached more than 12.2% with more than 19 million people out of work.<sup>13</sup> And by September 2013 more than 7.5 million young people in the EU between the ages of 15 and 24 years were unemployed or without job formation groups.<sup>14</sup>

At roughly the same time, widespread demonstrations of thousands of people had broken out in Athens, Madrid, Rome, and Paris. And negotiations among the 27 member states of the EU<sup>15</sup> regarding the all-important budget for 2014-2020 as well as those for the annual budget for 2014 were deadlocked for months.<sup>16</sup> Worryingly, new EU elections were scheduled for May 2014.

The deadlock was not over the common good for Europe as a whole, however. Rather, the deadlock was essentially connected with *hubris*, with inflated national, social, and individual egoisms in general,<sup>17</sup> and with the necessary yet apparently politically unacceptable limitations on state sovereignties in particular.<sup>18</sup>

Still, all deeply concerned parties agreed at the time that, without closer union among the EU states, Europe itself would almost certainly continue its global decline. Moreover, most of the EU nation states seemed to realize that the key to such closer union would require something more substantive than, as perhaps too often in the past, just one more treaty revision.<sup>19</sup>

In fact, what would be required is effective surrender of at least some substantive state sovereignty and the adoption of a more restricted idea of political sovereignties, social autarchies, and individual autonomies. But just which of the several kinds of sovereignty, autarchy, and autonomy were truly at issue remained obscure. And this was unfortunate.

For before what the Nobel Peace Prize Committee called Europe's "common patrimony" can be properly understood, the central require-

ment for nation states to have a patrimony in common needs to be understood.

To have such a freely subscribed commonality, individual EU nation states must first assent to yield some substantial part of their almost absolute political sovereignty to the European Union. What is more, EU nation states must also restrict their apparently still unbounded ideas of social autarchy and individual autonomy. And that triple requirement continues to be an extraordinarily contentious, divisive, and challenging one.

### *Bounded Sovereignties*

Very probably then the preamble to any eventual new European Union Constitution<sup>20</sup> will require the EU's nation states to cede some of their sovereignty to the EU. The preamble<sup>21</sup> will also need to include references to basic European values, including not just political, social, and individual values, but ethical values as well.

But both the nature of the limited sovereignties that the eventual EU constitution will entail and the nature of the personal ethical<sup>22</sup> and not just collective social and political values that should figure in its preamble remain obscure.

Still, some developed, effective, and ratifiable form limited sovereignty appears today to be the unavoidable price the EU's nation states will have to pay for any greater union that will be effective enough to ensure a major role for the EU as a global player in the future. Part of such an eventual substantive change will most likely involve EU's nation states developing some political form of so-called limited "trans-national sovereignty."<sup>23</sup>

This inchoative and as yet insufficiently understood form of limited sovereignty will very probably need to be entrenched not just in still another EU treaty but in an EU constitution finally ratified by member nations. Yet the very nature of any transnational limited sovereignty and its connections with properly circumscribed social autarchies and limited personal autonomies for nation-states, for societies, and for individuals remain problematic.<sup>24</sup>