

## AN AVANT-GARDIST OF THE GREAT UNION OF 1918: SIMION BĂRNUȚIU

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**Abstract.** *The present approach (announcing and signaling a first development devoted to the project The Encyclopedia of Romanian Political Thought: 1821-1918, of the Institute of Political Sciences and International Relations, “Ion I. C. Brătianu” of the Romanian Academy, Bucharest) brings to attention Bărnăuțiu’s work confirming him as an avant-gardist of the Great Union of 1918.*

*The article reconfirms the notes dedicated to the profile of the European Bărnăuțiu, seen by D. D. Roșca as the absolute partisan of the principles of righteousness and humanity, approaching the fact that the modern-Romanian direction is the direct result of the Revolution of 1848, accomplished by the Great Union of 1918.*

*The apparently non-chronological interest for Bărnăuțiu’s “The Public Law of Romanians” is justified by the pursuit of a method already announced and proclaimed by said volume – considering the “Discourse of May 2, 1848” as an essential part of the annexes on historical development and political relations, a document added to the acts and political correspondence drafted by Simion Bărnăuțiu.*

**Keywords:** *Simion Bărnăuțiu, The Public Law of Romanians, Internal Public Law, study of External Public Law, Bărnăuțiu’s Manifesto, Blaj Discourse of May 1848, Avant-Gardist of the Great Union of 1918.*

### *The Ideatic Laboratory of a Life*

*The Public Law of Romanians* brings together and documents the writings and thoughts of Simion Bărnăuțiu, justifying the real interest manifested by both publicists and politicians for his works, but also explaining the reason for presenting both his original work and the essence of a *committed life* (a result of “the laboratory of his whole life”) in a unified, united, impartial way – with the aim of finding pragmatic solutions for actual problems and political issues of vital interest. The *opus* also contains Simion Bărnăuțiu’s manuscripts, which were preserved and

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reconditioned by the care and direct effort of the “Association for the publication of Bărnăuțiu’s manuscripts,” a patriotic work based on scientific arguments. The guiding principle of the journalistic approach respects Bărnăuțiu’s desire to “merge past and future works” by introducing the “adaptation” of 1860 in the 1863 text, with indications and mentions that make sure “nothing is lost from his political choices.” Another editorial note references the *Discourse of May 2, 1848* as an essential part of the annexes on historical development and political relations, a document added to the acts and the political correspondence drafted by Simion Bărnăuțiu<sup>1</sup>.

The editorial project anticipates any notes dedicated to the profile of an *European Bărnăuțiu*, seen by D. D. Roșca as the absolute partisan of the principles of righteousness and humanity (“righteousness manifests itself in conformation of the law”<sup>2</sup>) and claims that any modern-Romanian direction is the direct result of the Revolution of 1848: “Bărnăuțiu’s direct predecessors have known the doctrine of natural law” (referring to Șincai, one of the scholars of the Transylvanian School who studied natural law in Vienna; S. Micu, translator of “Ethics and the Right of Being,” a work written by Baumeister; to the petition project of P. Maior; and to the “Suplex Libellus Valachorum,” in which “very important ideas of natural law, especially in the form that the French revolution gave them,” appeared. Among his contemporaries (“living in an atmosphere created by the doctrine of natural law and between the borders of the former bi-cephalic monarchy”), Simion Bărnăuțiu was able to formulate, clearly and deeply, that “the strong – the strongest – rights of the Romanian nation in Transylvania must be sought here, that is, what he called the right of being.” Also, says D. D. Roșca, Simion Bărnăuțiu was the only Romanian who knew how to highlight, “with demonstrative rigor, all the consequences implicated in the doctrine he had adhered to, as he was the one who extracted from it the safest rules of irrefutable and implacable judgment of the anachronistic political and social state in which the Romanians of Transylvania were to be found”<sup>3</sup>. Without ignoring or minimizing Bărnăuțiu’s decision to call upon *intermediaries* (Krug, Rottek, Müller), *only as a method* (we note), D. D. Roșca emphasizes the knowledge, the deepening and also the assimilation, in the sense of Bărnăuțiu, of philosophical ideas enunciated by H. Grotius, J. Bodin, J. Althusius, J. Locke, S. Pufendorf, J.-J. Rousseau or I. Kant. In the same intermediary score, Petre Pandrea<sup>4</sup> summarizes not only the common aspects that bring Bărnăuțiu and Savigny together, but also reveals the pivotal status of the former, by bringing to attention two essential moments (at a temporal distance) for the Habsburg state theory, with explicit reference to S. Bărnăuțiu and H. Kelsen.

Temporally, after the events of the 1848 Revolution in Transylvania, and contextually amid intense lobbying for the rights of the Romanian nation in Vienna,

<sup>1</sup> *Dreptulu publicu alu romaniloru, de Simeone Barnuti, Doptore în legi, profesore de dreptului naturale, de dreptulu gentiloru, de dreptulu publicu ale Româniloru si de filosofia la Universitatea dein Iasi*, Tipariulu Tribunei Române, Jassy, 1867, pp. III-V.

<sup>2</sup> *Ibidem*, p. 2.

<sup>3</sup> D. D. Roșca, “Europeanul Bărnăuțiu” [The European Bărnăuțiu], in *Luceafărul*, new series, 4<sup>th</sup> year, Sibiu, 1944, pp. 123-133.

<sup>4</sup> Petre Pandrea, *Filosofia politico-juridică a lui Simion Bărnăuțiu: monografie* [Political and Legal Philosophy of Simion Bărnăuțiu: a Monograph], România Press Publishing House, Bucharest, 2007.

Simion Bărnuțiu completed his studies at the Saxon Legal Academy in Sibiu, supporting his doctoral thesis *Argomenti di giurisprudenza e scienze politiche* in Pavia, Italy, on June 6, 1854 (an occasion that allows him to solemnly confess that Romanian is “the true sister of Dante’s angelic language”<sup>5</sup>). At the invitation of August Treboniu Laurian (when he was arrested by Austrian soldiers, Simion Bărnuțiu saved his life), following his Blaj teaching practice (1831-1832 and 1845), consisting in teaching philosophy and “the law of nature,” Bărnuțiu works as a professor in Iasi (in the philosophy and public and private natural law section) until the end of 1863.

Integral to the opus *The Public Right of Romanians, the biographical note* exposes, in a “full and complete” version, the life, the complex (scientific, revolutionary, political, ideological, cultural) activity, the moral attitude and the prestigious intellectual profile of Professor Bărnuțiu. The authenticity and vastness of information confirms the impossibility of dissociating Bărnuțiu’s philosophy from his political life and presents the *process* carried out between the group of seminarians consisting of Simion Bărnuțiu, Ladislau Pop, Dimitriu Boeriu, Iosif Pop, Dimitriu Moldovan, Ioan Rusu and Bishop Ioan Lemeny, an act indicating the “precursor moments of the war of Romanianism against Hungarianism.” The start of this conflict convinces Simion Bărnuțiu to constantly concern himself with the cause of the Romanian nation, causing him to “seriously lean” towards legal and political sciences<sup>6</sup>.

To annihilate the attempts to falsify the history of the Romanians in 1848, the *biographical note* invokes “the good faith of authorities” who praise Simion Bărnuțiu, considering him as one of the “men of the Transylvanian Romanian people who represented the culture, theoretical knowledge and practice of political sciences”<sup>7</sup>, a prominent revolutionary figure who, by tone and idea, founds the Proclamations and finalizes the “program of the Romanian national principles.” In this sense, one can reload the guiding ideas of the *Discourse of 14/2 May 1848* (published in *The Public Law of Romanians*, chapter *Romanians in Austria, Annex II*, pp. 330-405) with the purpose of denouncing, “hand in hand with history,” the avalanche of “calamities, degradation and injuries” suffered by the Romanian nation, but also to respond to the signs, accusations and threats of the time, by “encompassing everything” and by formulating “vows of a celebratory reunion of the ancient principles.”

An enlightened, competent and oriented professor, possessing solid and vast knowledge, adept of national and liberal ideas, modest, temperate and sober (refusing to be a school inspector and rector of the University of Iasi), eminent and illustrious scholar, revered by his disciples, Simion Bărnuțiu offered erudite lectures, admired and appreciated by his students as genuine repositories of “beauty, verity and sublimity”<sup>8</sup>.

<sup>5</sup> Bărnuțiu, *op. cit.*, p. XI.

<sup>6</sup> *Ibidem*, p. XIII.

<sup>7</sup> *Ibidem*, p. XIV.

<sup>8</sup> *Ibidem*, p. XXXI.

Among the list of works written and published by Simion Bărnuțiu we find: *Raporturile Românilor cu Ungurii – Relationships between Romanians and Hungarians* (1852); *Dreptul public al Românilor – The Public Law of Romanians* (1867); *Dreptul natural privat – Natural Private Law* (1868); *Dreptul natural public – Natural Public Law* (1879); *Psihologia empirică și logică – Logical empiric psychology* (1871); *Știința virtuții – The science of virtue* (1887); *Discursul de la Blaj – The Blaj Discourse* (1909); but also manuscript documents focusing upon *Dreptul public natural – Natural Public Law*, *Dreptul privat natural – Natural Private Law*, *Despre constituțiune – About the Constitution*, *Dreptul Ginților – About the right of nations*, or *Istoria Legislației române – A history of Romanian legislation*, *Declarația despre Statul României viitoare – Declaration on the status of future Romania*, *Argumente de jurisprudență și știință politică – Law practice and political science arguments*, *Studiu comparativ despre monarhia ereditară, monarhia electivă și republică – A comparative study of hereditary monarchy, elective monarchy and the republic*, *Storia del Diritto Maritimo*, *Estetica*, *Ethica*, *Fiziologia*, *Logica*, *Metafisica*, *Pedagogia* and *Didactica*, *Despre necesitatea Academiei Române – About the need for a Romanian Academy*, *Institutionem Theologiae Moralis* and *Despre soborul Făgărașului – About the Făgăraș vicinity*.

Simion Bărnuțiu defines *the natural right* in opposition to the positive one and finds that it contains in itself “those norms that derive logically from the ideas of rights,” that is, “from the idea of a peaceful and regular social life,” being in close correlation with morality and equity. He also insists on ethical coordination, stating that “the moral conduct of citizens is the necessary condition of a truly legal state”<sup>9</sup>. Rigorously classifying *natural rights* (with double meaning – the right that all animals learn from nature and rights which are born of natural reason), *gentium* and *civil rights*, Bărnuțiu operates with the categories of *public law* (internal law, the law of war and peace, jurisprudence – the latter “still inadequate to modern politics”) and *private law*.

### *The Public Law of the Romanians – or to Make History an Exact “Marker of Traces”*

Faithful to the *Introduction*, Bărnuțiu’s approach is one of terminology and definition clarification, which applies the comparative method to the study of Romanian and Roman law, and is focused on reviewing the fountains of legal and inexhaustible jurisprudence, on the insistence upon key terms (the kings, the republic, the senate), or on restoring and commenting on the significance of a historical path (from Augustus to Diocletian, from Diocletian to the death of Justinian), and on introducing into debate, in an already prepared and analyzed context, the *History of the Romanian Law*<sup>10</sup>. It reaffirms, in this sense, the noble, Roman origin of the Romanian people, “the descent of a nation destined to give laws of other nations and to not take them from others”<sup>11</sup>. The pragmatism of the central subject’s

<sup>9</sup> *Ibidem*, pp. 3-4.

<sup>10</sup> *Ibidem*, pp. 43-74.

<sup>11</sup> *Ibidem*, p. 43.

approach, but also its historical trajectory, requires complex knowledge and understanding of the nation's existence, with repercussions upon territorial restitution and the restoration of communal liberties, the appropriation of Romanian peasants and the strengthening of the national defense system. The study carried out by Bărnuțiu consists of an exact "historical inscription," chronologically mentioned: after the Romanization of Dacia by the Romans, the structure of Roman religion, the "constitution of the Romans under Trajan"; or, after "Aurelianus's departure" "under Justinian in the sixth century," the "change of the constitution," "under Constantine the Great," the division of the empire, the formation of "shires and duchies," to the legal status of Romanians under the barbarians and the Bulgarians, and until the "state of the coming of the Hungarians." Bărnuțiu thus proves the "continuity of the Romanian nation's domination and possession over the territory of Dacia and its republican Roman life," pleading in favor of its own institutions, its own language and its own domestic, religious, civil, political and military customs<sup>12</sup>. "The tenacity of the Romanians" is verified by the rejection of "foreign institutions and customs," through constant struggles not only for land but also for national existence. The "conservative nature" of the Romanians values the "ownership of the whole nation" and militates for the preservation of the Latin language and Roman law, all of which are realities which, only occasionally and accidentally, can be changed or altered<sup>13</sup>.

*Part I*, dedicated to *Public Internal Law*, operates with the synonymy *people-republic-fortress* and claims that the Romanian republic sanctifies the millennial existence of the Romanians placed on their own territory, associated with rights and debts, in order to "own their territory in eternity" in peace and happiness<sup>14</sup>. Bărnuțiu offers, as a conceptual alternative to *the state*, the republic in the "being of the language," suspecting the ambiguity of the state concept, easily diverted to a reverse of liberty, and considering *monarchy* as a form of disguised government "introduced in the forms of republic"<sup>15</sup>. The historical origin of the Romanian republic is a legal one – a sacred law of the social contract – germinating from the "agreement to settle in Dacia" given to the Romans, confirmed by Dacia's will and acceptance of being *a part* (with the status of an independent republic) of the Roman republic. Subsequently, this materialized in the desire of "dispatching the Roman imperators," of being released from the Byzantine and barbarian domination, threat, influence, and of deciding the formation of two larger republics/duchies – Wallachia and Moldavia. The objective of the Romanian republic is found "in its entirety" and is provided by the motto of the Republicans – to rule and govern only in the spirit of justice, freedom and independence, by (theoretical) supervision, but also by (practically) guaranteeing a physical and spiritual life lived in peace and prosperity<sup>16</sup>.

<sup>12</sup> *Ibidem*, p. 68.

<sup>13</sup> *Ibidem*, p. 75.

<sup>14</sup> *Ibidem*, p. 78.

<sup>15</sup> *Ibidem*, p. 79.

<sup>16</sup> *Ibidem*, p. 81.

The elements of the Romanian republic are mentioned in the triad *people-territory-power*. *The people* are not equated by Bărnăuțiu with determined numbers or with the principles of arithmetic security, but they are invested with the value of *legal persons* who “obey the laws and the censors chosen by themselves,” both in the form of a class created by nature, and a non-privileged constituent element (the republic admits privilege only for the public good). “No nation can be free without its own territory” is the assertion that argues the premise that civil, political rights (in this case the voter, deputy or magistrate right) and the official right to use the national language must be doubled by *consensus juris aequabilis*. The “nation on the territory of another nation,” deprived of its own living space and, implicitly, of freedom, is nothing more than an “alien, tolerated, inarticulate parasite”<sup>17</sup>. If *territory* “offers the most necessary things for national subsistence,” *the powers* of the Romanian republic are defined and classified, by various criteria, in categories. These, by their nature, may be intellectual or moral, can be determined by talent or established through education. Sovereignty denotes what is supreme in society, but the theory of constitutionalism amplifies the confusion of the concept, so that semantically delimiting the two concepts, political power and sovereignty, results in the existence of two sovereignties and two sovereigns – the prince and the people.

S. Bărnăuțiu proposes a parallel analysis of the American and European models based on existing comparisons. The rationale for the application of such a method lays in the amendment of the non-functional investigation, with no historical-legal arguments, in the Romanian space, for the Republican concept (in this way “the hereditary principality would be united with modern constitutionalism, the new guarantee of the Romanian Union”)<sup>18</sup>. The terms of the Union legally refer to six fundamental clauses: the union of Moldavia and Wallachia in the form of a “federation” under the leadership of a Duke; the realization of the Union is based on Roman law; the obligation to alienate neither the “majesty of the Romanian nation nor its territory”; the compulsory restitution of properties to the expropriated; prohibiting the formation of “non-Romanian communes” and banning the colonization of foreigners (except for Italians, French and Spanish); the rejection of the denomination of the Romanian Union through the United Principalities (the principality denies freedom), and the acceptance of the United Romanian Lands alternative. “The Majesty of the Romanian people is one and inseparable,” possessing supreme sacred power; the absolutely necessary mention made by Bărnăuțiu is that power must not be either endless or omnipotent. The portrait of the authentic Romanian is faithful to the concept of Romanianism and respects the following clarifications: “Any man born of Romanian parents and siding with the Romanians, with Romanian law, with Romanian language, with Romanian religion and with any other Romanian institutions”<sup>19</sup>. The Romanians, according to Bărnăuțiu, ceased to be Romanians when they accepted a series of compromises: they replaced the national principle with cosmopolitanism when they accepted Slavic, Greek, Hungarian, German and

<sup>17</sup> *Ibidem*, p. 83.

<sup>18</sup> *Ibidem*, p. 88.

<sup>19</sup> *Ibidem*, p. 97.

French as diplomatic, church and common languages; and when the Romanian intelligence perished (with reference to the intellectuals of Bukovina and Bessarabia).

*The Romanians' natural rights* are found in their personality, and their *civil rights* correspond to natural private rights. "True political rights" are the result of sacred laws and social pacts, being inviolable: each Romanian knows and respects the laws (meant to support the functional capacity of the state, being promulgated in order to achieve the goals of the Romanian republic), rightly claims the division of tasks and benefits according to the principle of equality and of right proportions, and participates in the "uttering of the consensus and the public will of all in the national assemblies"<sup>20</sup>. The "majestic rights of each nation" are born from the concepts that define it – as well as from the civil dictates of reason, which are essential and grounded by a positive decree – *majesty* and *political power*. The "politically-modern Constitution" defines state bodies and targets magistrates who exercise the political power entrusted to them by the nation "for its own use," using particular forms destined for this purpose<sup>21</sup>. Romanian territory is inalienable; the whole Romanian land forms the "house of the Romanian nation"; the "majesty of the Romanian nation" extends exclusively to the entire Romanian territory; the nation and the Romanian republic are the owners and masters of the territory; all places that are not in private possession are universal; all places that cease to be private property are returned to "the university of the commune, the land or the nation"<sup>22</sup>.

With punctual reference to the property law of the Romanians, encompassing the surface of seeded land, as well as the status of liberty and property of "*urbs*" and Romanian villages, Bărnuțiu believes that "it is time for emancipation," a moment needing to be speculated and consummated through: reducing the number of foreigners; the obligation to give trade and industry back to the Romanians; granting of special importance to border areas and territorial borders; a ban on the formation of any foreign colonies on Romanian soil; granting proper status to the term "Romanian" by reforming the entire Constitution, so it "would respond to the principles, nature and needs of Romanians." If the form of state organization of Romanians is republican (the leadership of the country belongs to a Romanian ruler or duke, invested with the prerogatives of the nation's body, arguing with historical arguments that the Romanian space did not have the experience of hereditary aristocracy; the obligatory maintenance of the free-republican status of all Romanian communities; the enrollment of elections in the sacred public law and an appeal to the language of the Romanians – the language of a republican people), Bărnuțiu debates, in a modern spirit, the great theme of "the best form of government." In fact, the philosophical-political interrogation is reopened; referring to Plato, Aristotle and Cicero's view of the form of government, Bărnuțiu invites all those dealing with the nation's policy to a compulsory Ciceronian reading, stating that the optimal form of governance is neither the monarchy nor the

<sup>20</sup> *Ibidem*, pp. 106-107.

<sup>21</sup> *Ibidem*, p. 114.

<sup>22</sup> *Ibidem*, pp. 118-120.

aristocracy or democracy, but the model of “Rome during the Republic”<sup>23</sup>. Bărnăuțiu’s warning insists that Romanians should have only “Romanians rulers, elected from their bosom, if they want to be and to live as a free nation”<sup>24</sup>, denouncing the favoritism, privilege, penury, artificiality and superfluity of heredity.

*Part II* proposes a clarifying explanatory excursion for the usefulness of the “study of external public law,” exploited by the didactic approach devoted to the act of learning and knowing the rights of the Romanian nation, by reference to the common elements of the *gints*, but also by extracting from such a perspective its particular elements. The positive impact of the study consists in knowing the real position of Romanians relative to other nations, which allows one to identify the practical directions of reaffirmation and awareness of their own powers. The rationality and the personality, which are impossible to separate from the historical rights and which are estimated as chances to dynamize a “retarded regeneration,” to reinvigorate a “fallen and lost consciousness,” are being valued by the debated ideas. According to Bărnăuțiu, inequities are solved in two ways: by applying the appropriate methods to the situation, or by the way of arms and the intervention of the political factor (“these evils can be cured only with the appropriate weapons and politics”), accepting the two lexical elements with the role of concepts, in an absolute novelty sense: the *arms* are expected to form, apart from the system of European principles, the *national army*, and through *politics* they are delimited from the perfection, the prejudice or the intrigue of those who mimic the good of the nation, and from patriotic actions committed by statesmen loyal to national ideals and devoted to the good of the nation: “real statesmen who know and work in accordance with, and according to the needs of the nation”<sup>25</sup>.

*The law of peace* rests on the idea that a nation represents for another nation not only a juridical person, but also a “political university,” constituting, according to Cicero, a unity by *the consensus of law* and by *the communion of utility*. Bărnăuțiu’s interpretation emphasizes the “political ordering of the idea of law,” operated by righteous laws and magistrates – true organs in the service of the nation – which reconfirms the fact that the nation is compelled to guarantee and respect the rights of other nations<sup>26</sup>. In the system conceived by Bărnăuțiu, the historical correspondence – Romanian law = Roman law – insists on the elements and essential aspects of historical periodization, with decisive stages in its evolution: from the foundation of Rome and the establishment of the monarchy through Octavian to Aurelian; from Aurelian to Constantine the Great; from Constantin the Great to Justinian and the formation of the republics; from the creation of the Romanian republics to the emergence of the States, the alliance with the Turks (1240-1393), the Phanariotes (1394-1716) or the restoration of Romanian princes (1716-1820); from the Organic Regulation to the Paris Convention (1833-1858).

If historical arguments converge towards the necessity of the Romanians’ pact of unification, Bărnăuțiu draws attention to negative aspects that should be

<sup>23</sup> *Ibidem*, p. 146.

<sup>24</sup> *Ibidem*, p. 155.

<sup>25</sup> *Ibidem*, pp. 188-189.

<sup>26</sup> *Ibidem*, p. 194.

totally contested: the union must not be a conspiracy against the Romanian element nor a centralization (of the legislative, the executive, treasury and national army) for the benefit of a hereditary dynasty or oligarchy; excessive centralization or total lack thereof are equally dangerous variants, leading either to absolutism or despotism or to anarchy. Hence, the imperative of “accommodating union through federation,” because the union bears the meaning of a valid and sustainable pact, realized and accepted by all Romanians<sup>27</sup>. The Powers of Europe can recognize the union of the Romanians, but they cannot decree it, admitting both individual freedom and that of communes, lands and Romanian regions. In modern terms, Bărnuțiu insists on the category of “higher public rights,” and especially on the right of association and on the problems of towns and communes, launching, terminologically, the dissociation of meaning between *society – university of persons – college – body*<sup>28</sup>.

The conclusion that Bărnuțiu unleashes and launches in answer to the question regarding the quality of Unionist actions undertaken by the Romanians (modest, for the positive ones; and disputable, for the negative ones) is trenchantly-objective.

Romanians have managed several private gatherings and several programs, but have just escaped the essential project and rethinking notes. Bărnuțiu condemns, in this sense, the perpetuation of disinterest for the form and the background of historical law: “If the Hungarians restored their Committees in 1848, the Romanians did not remember the Romanian Nation’s Committee, but formed a confederation lacking a historical and natural foundation”<sup>29</sup>.

### *An Old Scriptor – Thinker of Modern-European Extraction*

The volume *The Public Law of the Romanians* is annexing what Bărnuțiu considered to be primordial and necessary “to being printed in a brochure”: *The Protocol of the Romanian Assembly of Blaj from 3-15 May 1848*; *Notes on the political cause of the Romanians in Austria* (annex opened by the republication of the *Discourse of 14-2 May 1848*); extracts from *three epistles of D. addressed to Bărnuțiu* (September 1861, October 1861 and January 6, 1862 respectively) and *the answer given to the first of them* (September 27, 1861); *the epistle and the answer given by Bărnuțiu to Mr. J. Mureșianu* (October 7, 1861), the latter “completed, printed without my consent” and truncated in the publications *Sheet for the Mind*, *Concordia* and *Tribuna Română* from Iași. The reason, the purpose and the necessity of their publication lies in their exhaustive commentary, adequate to the essential problem of independence of the Romanian nation, which insists on the principle of union, the direction to be followed and the objective to be achieved<sup>30</sup>.

<sup>27</sup> *Ibidem*, p. 318.

<sup>28</sup> *Ibidem*, p. 314.

<sup>29</sup> *Ibidem*, p. 327.

<sup>30</sup> *Ibidem*, p. 421.

The reception and exegesis of the manuscript texts appreciates the author's choice of applying the *conceptual deployment formula*, able to reconfirm, politically, the historical organicity of Romanian ideals, by "rightful justification," condemning feudal order, restoring the right to bourgeois-democratic freedoms and solutions, and offering responses to the demands of the people. In close contact with the universal requirements of the *saeculum*, the Republic designed by Bărnăuțiu, based on the Ciceronian spirit, possessed a democratic form, completed and retouched with social reflexes.

By accepting Savigny's general consensus, which confirms that "the state acquires power through private rights," Bărnăuțiu discovers and consolidates the concepts of Romanian law, succeeding in solving their constitutional problem, which correlates with an equal feeling of internal necessity. Far from the peculiarities of European *pan-revolutionarism*, Bărnăuțiu approves the Krugian approach of *passing from the person of man to the person of the nation*, doubled by the Savignyan approach – *nations perceived as real-psychic existences*. This interpretation sets the benchmarks of Bărnăuțiu's political thinking in the vicinity of theories of European liberalism (via Rotteck).

"The first philosopher of Romanian law," the author of demonstrations of a romantic nature<sup>31</sup>, who holds the central role in the "birth of a nation"<sup>32</sup>, the historical prototype of Romanian thinking<sup>33</sup>, Simion Bărnăuțiu represents, for Corneliu Coposu<sup>34</sup>, the singular case of enlivening "the ideas of natural law opposing political despotism, economic exploitation and the injustice of the ages."

Near the critical Maiorescian premise of denouncing the method that places Romanian history in the prolongation of the Roman one, through "an absurd chronology identifying one with the other," Al. Zub<sup>35</sup> notes the preparatory stage and the extensive documentation process that are so important in designing public law studies. From this perspective, the constant concern and increased interest shown by Bărnăuțiu for an exhaustive study of the national problem is appreciated, and the remarkable doctrinaire is included in the gallery of illustrious scholars captivated by everything that defines the moral being of the people<sup>36</sup>.

In fact, Simion Bărnăuțiu demonstrates, in an erudite manner, the unitary evolution of historical and civic consciousness, recalling the profile of *the old scriptor – writer*, able to comprehend the uncomplicated qualities of the *modern-European thinker*.

<sup>31</sup> Mona Mamulea, "Toposuri romantice în fundamentarea filosofică a naționalismului românesc. Gânditorii de la 1848" [Romantic topos in the philosophical foundation of Romanian nationalism. Thinkers of 1848], in *Philosophy Magazine*, Tome LI, no. 1-2, 2004.

<sup>32</sup> Cristian Ivaneș, *National ideology and the making of a nation: Simion Bărnăuțiu and the Romanian Revolution of 1848-1849 in Transylvania*, Eikon, Cluj-Napoca, 2010.

<sup>33</sup> Ionuț Isac, *Dicționar al personalităților de la 1848* [Dictionary of personalities from 1848], Romanian Academy Publishing House, Bucharest, 2008.

<sup>34</sup> Corneliu Coposu, *Semnele timpului. Articole politice, meditații, atitudini* [Signs of time. Political articles, meditations, attitudes], Editura de Vest Publishing House, Timișoara, 1997.

<sup>35</sup> Al. Zub, *De la istoria critică la criticism* [From Critical History to Criticism. Romanian Historiography Under the Sign of Modernity], Editura Enciclopedică Publishing House, Bucharest, 2000.

<sup>36</sup> *Ibidem*, p. 91.

### *Founding Vocation and Initiating Skill*

Published and reissued in Vienna by G. Gerold and Sons in 1852, and later included in modern text form by Petre Pandrea in *Bărnuțiu's political philosophy: a monograph* in 1935, his *Discourse* resonates with the “spirit of an Europe reborn through freedom” of a “happier state” of the Romanian nation, demanding the dynamism of re-imbuing the Romanian people with “the divine spirit” of liberty, of national awakening and of affirming, with dignity, the principles of peaceful coexistence and creation of a “wondrous union.”

Spiritual scholar, formed in the Blaj Schools, continuing his studies in Vienna and Pavia, Simion Bărnuțiu was an idealist historian and philosopher, a celibate Greco-Catholic priest, a professor at the Mihaileana Academy and the University of Iași, an exponent of the Revolutionary Movement in Transylvania, an ideologist of national struggle, vice-President of the National Assembly of Romanians, outstanding politician, doctrinal orator and conciliator (decorated by Franz Josef in 1850). An enthusiastic supporter of the Romanian nation's right to freedom, he led the national movement of emancipation and, being an enlightened scholar and thinker of encyclopedic formation with a European vision, he represented “one of the most powerful figures of Romanian philosophy,” able to “stand with great honor next to the highest moral concepts of mankind.” A suggestive model of “Romanian equilibrium,” the complex system (ideological, political, philosophical, ideological) elaborated by Simion Bărnuțiu confirms its timeliness, and implicitly the perennially that resides in an evocation formula built on the serious basis of capital events, persevering interpretations and a consistent application of the “political happenings of the nation”<sup>37</sup>.

As system creator, the work of Simion Bărnuțiu is not original in a novelty sense, but has the attribute of the founding vocation and the initiating skill, with the merit of analyzing the destiny of the European nations, of “clearly seeing” Europe (“for the first time with complete lucidity”) and thus attracting universal reason into “the support of national rights and realities”<sup>38</sup>.

Compared, from the perspective of the applied method, with the creation of Adam Smith and the engaging themes of Kantianism, the thinking system created by Simion Bărnuțiu, familiar to W. T. Krug, analogous to Kelsen and influenced by Savigny, was widely presented and interpreted by Nicolae Iorga, Ioan Rațiu, G. Barițiu, A. D. Xenopol. Polemically received by Maiorescu and equivocated as a force by Lovinescu, insistently named, distinctly and permanently praised in histories of Romanian philosophy, critically reevaluated but also hijacked and confiscated for its pre-Marxist nuances, Simion Bărnuțiu confirms his status as illustrious and visionary scholar of 19<sup>th</sup> century Romanian thought. Integrated with reference works, dictionaries and encyclopedias, engraved with generous

<sup>37</sup> G. Bogdan-Duică, *Viața și ideile lui Simion Bărnuțiu* [Life and Ideas of Simion Bărnuțiu], Cultura Națională Publishing House, Bucharest, 1924.

<sup>38</sup> D. D. Roșca, “Europeanul Bărnuțiu” [The European Bărnuțiu], in *Luceafărul*, new series, 4<sup>th</sup> year, Sibiu, 1944, pp. 123-133.

biographical notes and medallions<sup>39</sup>, Bărnăuțiu's personality attests to the measure and value of a "comprehensive disciplinary system"<sup>40</sup>, which harmonizes, under the sign of the "birth of a nation," history, philosophy, aesthetics and pedagogy.

### *Bărnăuțiu's System: A Plea for the National Cause*

In *The History of Romanian Language and Literature*<sup>41</sup>, Aron Densusianu considers the *Blaj Discourse* of May 1848 as a "masterpiece of eloquence," and Marin Stefanescu identifies, in the discourse dedicated to the national cause, Bărnăuțiu's way of "demanding freedom for his nation, not against others, but for the benefit of all": "the fruit of Romanian philosophy" constitutes "the crowning of Simion Bărnăuțiu's system."

Essentially patriotic, but easily and clearly integrated into a non-biased world concept, the enthusiastic *Discourse* responds, in the reading key proposed by D. D. Roșca, to the offensive felt from the significance of the aphorism "homo homini lupus," with the guiding spirit of regaining normality and its peaceful order, circumscribed both to "the law that overpowers force" and to "the primacy of justice over the conventions and treaties that others may impose." Bărnăuțiu doctrinally formulates, in full knowledge and consciousness of Romania's situation, the reasons and concepts of the imperative "it must be different"<sup>42</sup>.

Seriously concerned about the fate of his people, but also connected to the realities of a favorable historical context, Bărnăuțiu attests to the general movement of emancipation: liberation from censorship, extinction of the "owner of despotism," the fall of privilege and monopoly, the disappearance of the "friend of darkness," proposed and realized through laws and judgments that will "be made by the elect of people"<sup>43</sup>.

Bărnăuțiu's method, as appropriate to the "formula" of unraveling and *enlightened solving*, with historical, institutional, political and legal arguments, of the "labyrinth" created and maintained by the "Hungarian neighborhood," mainly targets the benchmarks and directives of a general framework of the obvious ("do you know what changes were underway in the neighboring country for the last two months?"; with insistence upon "untying" politics – Hungarians are no longer bound to the Vienna Government, they have their own Minister; on the release of censorship – "the young will have the will and forgiveness to speak, to write, to defend themselves, to discover their feelings in any legal way"; on the constitutional

<sup>39</sup> Titus Lateș, "Simion Bărnăuțiu – Profesorul filosofiei – în lumina auzitorilor români" [Simion Bărnăuțiu – Professor of philosophy – in the light of Romanian audiences], in *Revista de filosofie*, Tom LXI, no. 6, Bucharest, 2014, pp. 597-612.

<sup>40</sup> Alexandru Surdu, "Simion Bărnăuțiu în actualitate" [Simion Bărnăuțiu in actuality], in *Mărturiile anamnezei* [Testimonies of the anamnesis], Paideia Publishing House, Bucharest, 2004.

<sup>41</sup> Ar. Densusianu, *Istoria limbii și literaturii române* [History of Romanian Language and Literature], Tipografia Națională Publishing House, Jassy, 1885.

<sup>42</sup> D. D. Roșca, "Europeanul Bărnăuțiu" [The European Bărnăuțiu], in *Luceafărul*, new series, 4<sup>th</sup> year, Sibiu, 1944, pp. 123-133.

<sup>43</sup> Simion Bărnăuțiu, *Reporturile romanilor cu ungurii și principiile libertateinationali desfășurate de Simeone Barnutiu la 14/2 maiu 1848 in sedinti`a preliminare a Adunarei Natiunali in Biserica Catedrale din Blasiu*, Editiunea II, Viena, cu literelului C. Gerold și fiui, 1852, p. 4.

order and laws of a Diet which operates all year round, with elected deputies and law provisos transmitted to all men; on the status of the free citizen, abolishing serfdom; on the “forwarding and flowering of industry and commerce”<sup>44</sup>), but also the need for firm correction and rejection of notes belonging to a particularly flammable topic – the union of Transylvania with Hungary – an “act of boiling disorder” which forces merging with “the great nation and the Hungarian country”<sup>45</sup>.

Operating with analogies (confirming the indispensable relationship between nationality-freedom, culture and life of the people – nations function according to the rule of two people who cannot help each other except by knowing and accepting their character flaws and bad temper); and being thoroughly built in the spirit of “the history of light and freedom,” the *Discourse* supports, with historical arguments, the principles included in the Romanian King’s response to the Mauretians (referring to Salust. Jugurtha, cap. CIV), about the long co-existence (since 1291), about increasing levels of tyranny, culminating in the Union of the Three Nations of 1437, and the unfortunate Tripartite Decree, totally contested, creating “heavy and shameful institutions”<sup>46</sup>.

Anathematized, calumnious, barbaric, draconian, Hungarian law defines the Romanian nation in offensive terms (calling it *lowly*), and Bărnuțiu’s answer lies in the insinuating recognition of the total lack of culture of both Hungarian aristocrats and common people; a fundamental flaw explained by the absence of freedom; freedom is the primordial condition and mandatory affirmation of culture (culture cannot exist when “people are stripped of freedom”)<sup>47</sup>.

In terms of the “influence of Hungarian laws” in the given social context, Bărnuțiu explicitly indicates their effect on all social classes, organizing his *Discourse* on metaphorical-organismic coordinates: Hungarian politics pursued a weakening of the whole body of society, the destruction of its elements (“no members remain healthy,” from priests to nobles), by isolating the individual from the crowd (by cutting the limb from the flesh); the conclusion is bleak: thus “the body suffers” and “can no longer live”<sup>48</sup>.

In a pathetic crescendo, the *Discourse* conveys enthusiastic, passionate tones. To achieve them, Bărnuțiu calls either upon comparisons and analogies, often with biblical allusion (hardships comparable to the suffering inflicted on the Jews by Egypt’s Pharaoh), or uses a wider perspective, achieved through the method of overview observation (in Germany, servitude is abolished in 1688, and in Borussia colony property is removed from royal property), establishing that the Hungarian Diet of 1832 does not bring about any change in the state of fact and law, but, on the contrary “envenoms the killing of a nationality.” By the end of the 17<sup>th</sup> century, the situation of Romanians was disarming: the people incurred a cruel oppression (“the calamities of the Romanians were beyond measure, people wept under the hard yoke”); Romanian nobility did not benefit from any

<sup>44</sup> *Ibidem*, pp. 4-5.

<sup>45</sup> *Ibidem*, p. 5.

<sup>46</sup> *Ibidem*, p. 11.

<sup>47</sup> *Ibidem*, p. 13.

<sup>48</sup> *Ibidem*, p. 14.

privilege (not knowing Hungarian, it was deprived of any defense); deprived of schooling, Romanians were serfs, condemned to ignorance and illiteracy; and priests had no powers.

Religious union with Rome introduces a new relationship between Romanians and Hungarians which, far from being useful and beneficial to the Hungarians, offers a number of material advantages to the Romanians (“some material means now run towards the Romanians”): the privilege of Romanian priests to be judged only for personal faults, and only by a Church Council; the establishment and operation of the Blaj Schools, symbol of the Roman and Latin origin of the Romanian people and language: “Rome, from where our early memory and our blood were brought, and who sowed the ancestral virtues in the land of Dacia”; the awakening of Romanians from their bondage lethargy, from humility and resignation; the instilling of a spirit of dignity; the advent of a new combativeness for the fulfillment of their own destiny<sup>49</sup>. Vulnerabilities resulting from the Union also appear in the balance, being nothing but chains, hindrances or fears.

While acknowledging Inocențiu Micu as a model of patriotism engaged in decisive action, or an example of a hero sacrificed for national ideals, Bărnăuțiu’s oath is focused on combating injustices and deceit, on the rejection of foreign bullying, violence and bellicose actions which threaten peace and concord among peoples or nations (felt from the direction of Serbian monks, Jesuits, Esztergom missionaries, foreign nations or agencies). At the same time, he expresses belief in the final victory and in the nation, an aim achievable through brotherly love and unity, as well as through an offensive against “the devils of hell”<sup>50</sup>.

Simion Bărnăuțiu denounces and criticizes the arbitrary Hungarian prerogative of building a strong nation through forced addition of a conglomeration of nations (“melting all nations under the Hungarian Crown and forcibly making one big and strong nation out of them”), under the primacy of forced Magyarization, “transforming everyone into Hungarians”<sup>51</sup>, commenting and clarifying the goal, significance and consequences of the Union, as reported to a doubly revealing interrogation: what is the Union for Hungarians, and what does it represent for Romanians? Bărnăuțiu analyzes its consequences for Romanians, from arrogating the Hungarian right of ownership over Romanian land (no war conqueror has an inborn right to the conquered property), following the arbitrary policy of uniting the “two small Hungarian motherlands” into a bigger one.

Bărnăuțiu’s verdict is one firmly and clearly stated: the true freedom of all nations can only be national; human freedom is individual and belongs to one’s person, as personal property; the nation’s freedom is strictly limited to the specifics of its individuality, and showcasing the type of nation, with particular forms, is recognized in its values: dignity, honor, property, non-restricted exercise of human rights<sup>52</sup>. Reported to the Romanian nature, Hungarian proposals use the most selfish and radical processes, forcing tyrannical impositions, aiming to deprive a

<sup>49</sup> *Ibidem*, p. 20.

<sup>50</sup> *Ibidem*, p. 24.

<sup>51</sup> *Ibidem*, pp. 24-25.

<sup>52</sup> *Ibidem*, p. 31.

nation of liberty, to condemn it to slavery and dehumanization. Through the operational tools offered by the school, the Church and the law, people could be transformed into an amorphous, docile, manipulated mass, like a “herd of cattle, a flock of sheep, to be clipped, milked and killed”<sup>53</sup>.

The absurd union between two nations, whose intent is to deprive the first of its own nationality and culture, avoiding just proportion and ignoring the logical dimension ratio (“one nation cannot be more personal than another” and thus dictate to other nations), brings, through the lack of access to national language (as regulator of all walks of life) the nation to a barbarous state, blocking its freedom “in all parts of state life.”

Starting from observations with regard to the health of the state and the dependence of the organic body in relation to the proportion between the parties and the whole, Bărnăuțiu involves Savigny (from whom he borrows, as D. D. Roșca insists, only ideas subordinated, without contradiction, to the doctrine of natural law) in an argument denouncing the counter-naturalness whereby the citizen, the state, the city or the province forget their own country, as an expression of the feeling of relief and abandon designed to answer nature’s own being through non-imposition<sup>54</sup>. Thus, freedom of religion, as well as intellectual and political freedom provided by civil and social reforms, must be based on “natural right” and must consecrate the principle of national sovereignty, clarifying and representing the foundation of any social contract, but also the prevalence of the concept of Justice.

The historical mission (to follow the model and parables of ancestors and not to bequeath “a heavy inheritance” to future generations) lies in mobilization for the achievement of the National Union of all Romanians (meaning “freedom above all”), an act which denotes the existence of free will and faith, and ensures a people’s right to happiness and peace. Regaining respect and value in the world, Romanians can demonstrate clairvoyance, maturity in thought and good synchronization of facts and decisive actions with contemporary events, belonging to “the best days of our Nation.”

Historical debt is placed by Bărnăuțiu under the sign of the three essential requirements fit to arraign the practical advice and concrete solutions that Romanians, in specific circumstances, are required to manage properly. The first would cover the recognition of liberty, through the establishment and organization of the nation on the basis of freedom; the second is based on reaffirming the “condition of freedom” through the proclamation of the liberty and independence of the Romanian Nation, so that, through the third conjugate argument, the Assembly can take a sacred oath, sworn on behalf of the whole nation. It provides eternal faith in relation to their nationality to all members of the Assembly, and the obligation to defend it with united powers, acting for its life, honor and happiness<sup>55</sup>.

<sup>53</sup> *Ibidem*, p. 36.

<sup>54</sup> *Ibidem*, p. 42 and p. 43.

<sup>55</sup> *Ibidem*, pp. 51-53.

It thus reaffirms the essential ideas of the *Discourse* Bărnuțiu presented in Blaj, identified in the Statute (conditions and grounds) of freedom, and in the structure of “rights for all,” illustrated, in a representation of “law and decorum” by the Union itself, reinforced by the festive oath uttered on behalf of the whole nation: “the freedom of every nation is its highest good, and Nationality is the final liberty”<sup>56</sup>. Only in this way can the revival of the nation be confirmed and felt in one united conscience, by keeping unaltered (un-Hungarianized, un-Germanized, un-Russianized) the national ideals: defending freedom, serving the nation with faith, cultivating national language and the observance of religion.

### *The National Philosophy of Bărnuțiu’s Manifesto*

Extracting its consistency from the inheritance of European civilization and being marked by “spiritual high voltage,” Bărnuțiu’s *Discourse* is considered by D. D. Roșca a text-manifesto that popularizes European principles inside the Transylvanian space, recognizing that this part of Europe, integrated into European consciousness, is also open to mainland principles and ideals. “The lawful idea” to which Bărnuțiu adheres is not a hazardous ideological invention, but the result of lengthy philosophical elaborations (traversing the route: Socrates – Stoics – doctrinal Christian Church). The specification pleads in favor of allowing European horizons to have their own opinionated character, in which Bărnuțiu’s political thinking was firmly entrenched, surpassing “nearby” sources and documentation resources and investigating “distant” information flows, proposed by the West’s research spaces.

To his innate spiritual structure and intellectual formation, to his “teaching removed from history” – all considered purely intellectual qualities – D. D. Roșca adds “the practical novelty” which this “non-practical person” (a “stranger to life” and, thus, a visionary rather than a realistic or cautious ruler), the author of the *Discourse*, entered into the history of Romanian civilization in Transylvania. With an elevated and progressive spirit, responsive to the universal ideatic circuit and an enthusiastic patriot, linked to the national panel of 1848 revolutionary values, Simion Bărnuțiu was the first thinker who “asked philosophy to give him arguments” and thus “linked his fate to the eternal board of cultural values.”

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