

Adrian Marino's Last Pages¹

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Abstract: This article contains the last pages written by Adrian Marino before he died. The study presents the evolution of the idea of freedom in Transylvania in the first half of the 19th century. Investigating the philosophical and political writings of scholars and thinkers like I. Budai-Deleanu, Moise Nicoară, D. Țichindeal, Petru Maior, Gh. Bariț etc. and the several petitions addressed to the Habsburg emperors, Adrian Marino outlines the way in which the basic ideas of the Enlightenment and of the French Revolution were assimilated by the Romanian political-philosophical discourse.

Because of the absolutistic regime, civil and human rights (such as the right to resistance, revolt and revolution) could not be discussed and demanded in a way that would have threatened the socio-political status quo. Therefore the entire discussion about political and social freedom was projected into the abstract sphere of concepts, ideas and purely theoretical systems. However, the notions and ideas debated penetrated the Romanian political language and prepared the ground for concrete political actions.

Politico-social freedom

By a concurrence of historical circumstances the idea of freedom went through the most spectacular and fecund evolution in Transylvania in the first half of the 19th century. From an abstract principle and an essentially practical, speculative theory, the idea of freedom became a leading idea, a forceful idea, a concept with practical, politico-social, direct and immediate efficiency. It was, actually, the first concrete demand and experience of freedom as an active socio-political principle in the Romanians, a veritable historical event. At the same time it was the centre of a constellation of adjacent meanings and the force that animated them all. And if it was yet expressed prudently, with limits, this was due to the same difficult historical circumstances. The idea of freedom could

¹ Adrian Marino was working on a book on censorship. This is an excerpt from this book.

not be expressed clearly and entirely because of the absolutistic regime and the censorship, specific to the age. In spite of all these difficulties the ideological progress of the idea of freedom was remarkable.

Personal freedom

On the level of the immediate social, pragmatic existence the freedom of thinking, religion, verbal expression written or printed was reduced to the essential and concisely defined idea of personal liberty. It was the most concentrated, direct and immediately perceptible form of freedom. By affirming, demanding and defending these ideas we are removed from the area of theoretical abstraction into the domain of immediate social realities. The idea of freedom, in this way, made the decisive leap towards politics.¹ Respectively – to reduce everything to the essential –, towards organized and legislated forms in a constitutional frame, with a democratic system of government. If we accept that I. Budai-Deleanu wrote the first version of his *Țiganiada* (The Gypsyiad) in the year 1800, we observe that the Romanians from Transylvania began, for the first time, to be aware of such new political ideas as “constitution”, “law”, “democracy”, “citizen” etc., already from the beginning of the 19th century. The ideological influence of the French Revolution was immediate and contagious.

In this respect, Canto XI from *Țiganiada* has central importance from the point of view of the idea of political liberty. Freedom granted by law is confirmed by a democratic constitution. The debate on the best system of government proposes, very much in the spirit of the 18th century, a compromising solution: “demo-aristo-monarchic” (“demo-aristo-monarhicească”) (*Țiganiada*, XI, 70). Somewhat differently formulated, the idea can be found at Montesquieu (*De l'Esprit des Lois*, XI, ch. VI), illustrating the counterbalancing of state-powers, at Baron d'Holbach (*Du Systèm social*, I.II. ch. II) and others. It was the most progressive view of the age.

The primary meaning was the elimination of class privileges and the initiation of a democratic regime. In this spirit, Moise Nicoară (in a text from 1819) assimilated the idea of “people” to “the poor” (“sărăcimea”), respectively, to the majority of the population, which is the basic principle of democracy: “By communities is understood neither the clergy, nor the nobility but the people, the poor in fact” (“Prin comunități nu se înțelege clerul, nici nobilii sau nemeșii, ci poporul adevă-

¹ D. Bojincă, *Biblioteca românească* (Romanian Library), III, 1830, p. 8.

sărăcimea.”).¹ And the “people”, respectively, “the poor” exercise their power, respectively, their sovereignty within the democratic system by deputies. The idea appeared in the same texts and context. The Transylvanian political consciousness of the age took a step forward. Evidently, the notion of law had already been known, formulated and applied in the Austro-Hungarian Empire before, but in the form of “letters patent”, “aulic decree”, “imperial decree” etc. These were the expressions of the imperial will, more or less well-meaning, as in the privileged case of Joseph II, within the limits of absolutistic authority. In the same meaning the notion did not have – and could not have – a democratic content.

We return once more to Budai-Deleanu, the first Transylvanian ideologists to define the new content of the notion “law”. He asked for “good and just laws” (*Ţiganiada*, XI, 51), meaning that “none should rule without law” (“niciunul să nu stăpânească fără numai legea”) (XI, 206). The turnabout was radical. The arbitrary supreme authority was abolished, replaced with the truly “revolutionary” new principle: the equality of “citizens” (the notion itself also appears, XI, 64, 65) before the law, this being equal for everyone. It is one of the “general rights” of “civic society”; these were considered to be fundamental by the same I. Budai-Deleanu.² Freedom or “slobozenia”³ was the first of these more and more defined rights. The idea is very clear in Moise Nicoară’s formulation: “Freedom and full will without any impediment to do what the law allows one to do, as well as total freedom without any constraint not to do what the law forbids” (“Slobozenia şi plină voie fără vreo împiedecare a şi face ceea ce legea îi dă dreptul, precum şi slobozenia întregă fără nici o silinţă, a nu face aceea la ce îl opreşte legea”).⁴

This definition of liberty – as well as its later developments – had a specifically abstract, radical character, without any reference to the immediate politico-social realities in Transylvania (as in the case of the

¹ Cornelia Bodea, “Moise Nicoară (1784–1861) şi rolul său pentru emanciparea naţional-religioasă a românilor din Banat şi Crişana” [Moise Nicoară (1784–1861) and His Role in the National-Religious Emancipation of the Romanians from Banat and Crişana], (doctoral dissertation) part I, p. 63.

² Ion Budai-Deleanu, *Scriseri inedite* (Unpublished Writings), edited, introduced and annotated by Iosif Pervain, Cluj-Napoca, Dacia Publishing House, 1970, p. 82.

³ This is an obsolete form for the word ‘freedom’ in Romanian. (Translator’s note.)

⁴ Cornelia Bodea, *op. cit.*, p. 93–94.

French Revolution), but this definition was not commented on or directly referred to in contemporary situations and events. Because of this the definition of freedom maintained its doctrinal purity without disturbing the constituted politico-social order. This permitted the expression and analysis of the idea, thoroughly, in conditions of purely theoretical total freedom.

This was an important aspect as the analysis of the idea of freedom inevitably showed lights and shadows, positive and negative aspects. All the theoreticians of the idea of freedom from Transylvania were fully aware of the fact that freedom is at the same time an ambiguous and explosive reality, a constructive or destructive force, according to circumstances. In a modern formulation, it is polyvalent, polysemantic. It is a proof of real lucidity and objectivity. Freedom – we are told – has, according to the circumstances, “good” and “bad” aspects. For the pioneers of the idea, this clairvoyance was a remarkable truth.

Into the regime of total freedom, equivalent to *bellum omnium contra omnes* (we may recall Hobbes and his *Leviathan*, 1651), the law introduces a principle of order and, therefore, of general security. Its absence transforms society into a field of generalized ferocity (in the 19th century there would be talk about “social Darwinism”). D. Țichindeal, according to all indications, was the first Romanian author who signalled this negative situation in his *Filosoficești și politicești prin fabule moralnice învățături* (Philosophical and Political Thoughts by Means of Moral Fables and Lessons) (1814): “Where freedom is greater, turbulence is worse for freedom without wise laws and control is a ferocious beast.” (“Acolo unde e mai mare slobozenie, acolo e mai rea turbarea căci slobozenia fără de legile înțelepte și stăpânire e sălbatecă fiară.”)¹ The law introduces another important corrective into the relationship between the individual, the “citizen” and state authority. The former can assume the liberty not to obey the law. What is more: he can choose to bypass superior regulations, orders or interdictions. Or, in D. Țichindeal’s words, he can have an “open and free way” towards the enlightened monarch.² He can address him directly, to complain about different transgressions. And more than this, to remind him that he himself must respect the law and should not change it arbitrarily. Although he referred only to church regulations, Petru Maior invoked the principle that “not all authority is

¹ D. Țichindeal, *Fabule și moralnice învățături* (Fables and Moral Lessons), edited and introduced by Virgil Vintilescu, Timișoara, Facla Publishing House, 1975, p. 486.

² *Ibid.*, p. 326.

free to renew the law" ("nu toată puterea are volnicia a face învoire în lege").¹ Bishop Bob, for example, had no right to ignore the canons. In the most radical interpretation (Moise Nicoară), laws were recognized to be "greater and more powerful than one side or the other, even than the emperor or the priest" ("mai mari și mai puternice decât o parte sau alta, chiar decât împăratul sau popicul").²

The subversive potential of this amendment was considerable. It opened a way for the theoretico-ideological legitimation of revolt. For the first time in Romanian political thinking, the right to revolution was proclaimed and justified at the same time. The situation is extremely significant from the perspective of the history of ideas. Because of the absolutistic regime political freedom and the right to resistance, revolt and revolution could not be openly demanded. Therefore the entire discussion was projected into the abstract sphere of concepts, ideas and purely theoretical systems. They could penetrate and circulate at the height of an absolutistic regime because of the great prestige of the enlightenment ideology, illustrated by famous philosophers, authors and works, intensely translated. To this was added the policy of the "enlightened despotism", of Josephinism, realised by important reforms, being in a great measure reflected in the language. The great notoriety of the American and then of the French Revolution followed by the republican and Napoleonic wars, having political effects of primary importance, reached Transylvania too, as we have seen. The immediate political sense covered and overshadowed the ideological sense of events and direct influences. But, in a historical perspective, the new political ideology spread over and conquered, step by step, the field. It was the essential ideologico-political event in Transylvania in the first half of the 19th century.

It is instructive to follow the career made by the idea of revolution in the Transylvanian society of the age. The notion penetrated quickly and can be discovered almost everywhere: in chronicles, petitions presented to the monarch, newspaper articles (beginning with the third

¹ Petru Maior, *Istoria bisericeii românilor atât a celor din coace, precum și a celor dincolo de Dunăre* (The Ecclesiastical History of the Romanians Living on This and the Other Side of the Danube), Buda, 1813, p. 325.

² Cf. Emanuel Turczynski, *De la iluminism la liberalismul timpuriu. Vocile politice și revendicările lor în spațiul românesc* (From the Enlightenment to the Early Liberalism. The Political Voices and Their Demands in the Romanian Region), Bucharest, the Publishing House of the Romanian Cultural Foundation, 2002, p. 130.

decade) etc. In an absolutistic context this circulation – at first sight – is paradoxical. But if we look attentively, we observe that the subversive force of the idea was confined, prudently, only to allusions, the direct references to immediate political situations being carefully avoided. Not always, however. In the founding manifesto of the *Society for the Cultivation of Romanian Language* (April 1808) great “messianic” hopes were placed in a revolution: “If an unfortunate revolution humiliated us, one more fortunate may raise us”.¹ So it was perceived as a veritably forceful idea. Moise Nicoară (1819) had the same conviction. Revolution *in spe* gives an explanation and, at the same time, a more [illegible word] solution to the politico-social crisis: “These evils cannot be cured unless by *revolution* and *revolt*” (“Răutățile acestea nu se pot vindeca decât prin *revoluție* și *răscoală*”).² We may remember that Nicolae Stoica of Hăteș, a traditional chronicler, used the word “revolt” (“rebelie”) as well. Meanwhile political language evolved: it was permeated by ideology and adapted to the contemporary western vocabulary.

The word evolved from “turbulence” (“tulburare”), “rebellious against the state” (accusation made against Șincai³), against the politico-social order, from being at the impulse of civic and political disobedience, to the supreme sacrifice in the name of freedom. Freedom (slobozia) was the basic motivation, evident echo of the French Revolution. The idea had already appeared in *Țiganiada*, XII, 115, by demanding the right: “Either to freedom or to death” (“Ori la slobozie sau la moarte”). Then it assumed the form of a popular movement and enthusiasm as in Andrei Mureșanu’s poems, *Un răsunet* (An Echo) (1839), *Glasul unui român* (The Voice of a Romanian) (1843). The idea was made national in order to become the expression of the famous French device, *liberty, equality, fraternity*, which got generalized;⁴ in order to become, in February 1848, a non-violent, but radical change of the entire legal order of the society. A very explicit text belongs to Gh. Bariț. His essential preoccupation to clear up all confusion related to the

¹ Cf. Mircea Popa, *Aspecte și interferențe iluministe* (Enlightenment Aspects and Interferences), Timișoara, Western Publishing House, 1997, p. 205.

² Cornelia Bodea, *op. cit.*, p. 75.

³ Gheorghe Hou, “1796 Ancheta lui Gheorghe Șincai acuzat de rebeliune” (1796 The Inquiry in the Case of Gheorghe Șincai Accused of Rebellion), *Vatra* (The Hearth), VI, 56, 1976, p. 581.

⁴ George Bariț, *Scrieri social-politice* (Socio-Political Writings), study and anthology by Victor Chereșteșiu, Camil Mureșan and George Em. Marica, Bucharest, Political Publishing House, 1962, p. 190.

term itself is to be remembered. This proves that for many people the notion was still doubtful and compromising (1848).

“First of all, let us explain the term revolution thoroughly. When we say revolution [revolution: evident proof of French influence – our note] we are far from understanding this as bloody revolts, frightening turbulences, civil wars, repelling the state into anarchy. God forbid! Revolution means none of these, on the contrary; this word is understood only as a total change of those laws and governments, which could not be suffered anymore because of their injustice oppressing peoples who, though groaning under them, were not able to shake them off unless by a miracle...”¹

Until this stage of conceptual clarification, still elementary, the idea of revolution had gone through several stages. It had been the object of some analysis, summary at first, but more and more conclusive. It had been explained and justified by invoking a right little known and cultivated as yet, the right to revolution. Arguments had been brought up in the favour of this right, whose content widened quite quickly. It became at the same time civil, politic and democratic. The accent shifted more and more towards the ideas like individual, man, citizen, democracy, equality. This was an important ideological moment: for the first time Romanian political consciousness began to assimilate and to demand the liberty of an alternative political right, besides, beyond or against the constituted legal order.

Human rights

If, in 1785, a Dutch newspaper sympathising with the uprising led by Horea, Cloșca and Crișan (also defended by the future Girondist revolutionary J.-P. Brissot²) demanded the abolition of serfdom in the name of “the sacred rights of mankind”, the same rights were to be claimed by the Romanians from Transylvania as well. The memorandum submitted to the emperor Leopold II in March 1791, known as *Supplex Libellus Valachorum*, opened a new way for an entire series of petitions. They illustrated tacitly a fundamental right come into use, that of addressing petitions and reclamations to supreme state authorities. The

¹ George Bariț, *op. cit.*, p. 127–128.

² Pompiliu Teodor, “L’esprit de la révolution démocratique; J.-P. Brissot et la revolt de Horea”, *Cahiers Roumains d’Études Littéraires*, 2/1977, pp. 30-43; formerly: Nicolae Edroiu, *Răsunetul european al răscoalei lui Horea (1784–1785)* [The European Echo of Horea’s Uprising (1784–1785)], Cluj, Dacia Publishing House, 1971.

bureaucratic structure of the Habsburg Empire favoured this pre-democratic practice. Being, first of all, the expression of some deep interior unrest, but also the ideological reflection of the French Revolution then in full development, *Supplex Libellus Valachorum*, signed by "the clergy, nobility, military and citizen class of the whole Romanian nation from Transylvania", had its ideological base clearly in the Enlightenment. This fact can also be explained by the intellectual formation of its new animators: Samuil Micu, Ioan Piuariu Molnar, Iosif Meheși, Petru Maior, Gh. Șincai, Petru Pană and others. Each of them was extremely receptive to the idea that in addition to historical rights existed the rights of the "civil society" in general. This is why "both the rights of each man apart and of the community of citizens" ("drepturile și a omului fieștecăruia deosebi și a însoțirii cetățenești"), in the sense of *juribus civilis*, as it was written in the *Supplex*, was referred to.¹

In the Latin version, printed by Piuariu Molnar in 1791 at Iași as a fictive place, human and civil rights were announced as: *jura et simplicita, tum hominis, tum civis jura*. Both expressions sanctioned the first Romanian formulation of the (French) *Declaration* from 1789, being understood according to its spirit and its letter. It had enjoyed a certain audience since then and it had been largely spread in the progressive Romanian circles having ideological preoccupations. This proves that "civil rights" were not talked about only in the *Supplex*, but in other petitions of the age as well, that from 1st March and 12th September 1791, where there were demanded insistently "the creation of the civil community" ("izvodirile însoțirii cetățenești"), "the essential rights due to the community of citizens" ["cuviniicioasele conțivilitașului esențial(e) drepturi"] etc. A supplication from 1st July 1792 formulated once more some demands for the Romanians "as equity and justice demands" ("după cum cere echitatea și dreptatea"). A. Papiu Ilarian was therefore not wrong when he wrote, in 1869, talking about Gh. Bariț's works and ideas, that the Romanians from Transylvania "claimed alone in the east of Europe [that year – our note] the human and civil rights". Unfortunately,

¹ D. Prodan, *Supplex Libellus Valachorum. Din istoria formării națiunii române* (Supplex Libellus Valachorum. From the History of the Formation of the Romanian Nation), new revised and enlarged edition, București, Scientific and Encyclopaedic Publishing House, 1984; *Supplex Libellus Valachorum or the Political Struggle of the Romanians in Transylvania during the 18th Century*, Bucharest, Publishing House of the Academy of the Socialist Republic of Romania, 1971.

the history of ideas had not been cultivated in Romania in order to contextualize and emphasize this principle.

The mentioned memorandum from 1792 was unsuccessful; however, the idea upon which it had been based did not die. On the contrary, it circulated intensely, being revived and reconfirmed even at the height of the Napoleonic era when "human and civil rights", without being theoretically denied, had practically been suppressed in their country by the emperor's authoritarian regime. But in the outside the principle always radiated and I. Budai-Deleanu in *Țiganiada* (XI, 49) noted doctrinairely: "All the people who are in this world are born alike; neither does their nature differentiate them at their birth. Therefore, according to their nature they all are the same and they all have the same rights." ("Oamenii toți câți sunt pe lume se nasc asemenea; nici firea din sineși îi osebește la nașterea lor. Așa dar din fire toți sunt de potrivă și toți au aceleași drepturi.") In his turn, in 1814, in his *Fabule* (Fables) (112), D. Țichindeal wrote: "Sacred justice demands that everyone should be given his due" ("Sfânta dreptate cere ca fieștecăruia să i se de ce i se cuvine."). In 1815, the same Țichindeal submitted petitions to Emperor Francis I, in his capacity as (the order is totally significant) "man, citizen, priest and subject" ("als Mann, Bürger, Priester und Unterthan"). He also invoked "the most sacred right to self-defence" ("Das geheiligste Recht der Selbstvertheidigung"). The notions had entered, as we can see, in the language of the age and our enlightened writers were not afraid to use them before the authorities.

The invoked firmness inscribed a date into the ideological consciousness of the age. For the first time a fundamental political principle had a thought-out formulation, expressed in all its consequences. A new idea in pure, abstract, absolute state made its apparition. It initiated an innovative conception of the relationship between individual and state, between laic, rational, individual conscience and dominant religious mentality. The breach was considerable and without precedent in Romanian history. It is almost amazing to learn that I. Budai-Deleanu expressed this notion very categorically at the end of his life, about 1818: "Man's natural rights can be prescribed by no positive law... Any law has to be just first of all... It is unjust to deprive someone of his freedom, of his civil and political existence." ("Drepturile naturale ale omului nu pot fi prescrise prin nici o lege pozitivă... Orice lege trebuie să fie în primul rând dreaptă... Este

nedrept să răpești altuia libertatea sa, existența cetățenească și politică.”¹ A shift can be observed from the generally speaking “anthropological” notion of “man” to the notion of humanity; a moral and social category as well as a new notion, which appeared in the Romanian ideological vocabulary of the age. It was invoked by Aron Budai “the spirit of this age praised for the humanity, which demands that everyone should be given his right” (“spiritul acestui veac lăudat pentru umanitatea care cere ca fiecăruia să i se dea dreptul său”).² For Moise Nicoară – with the same conviction – there was no other guarantee for respecting justice: “Without which all human and imperial laws are only illusions.” (“Fără de care toate legile omenești și împărătești sunt numai amăgiri.”) From here originates “justice, resistance to oppression, the right to petitions” (“dreptatea, rezistența la opresiune, dreptul la petiție”)³ and others. We do not pretend to have made a complete inventory of the texts, which eulogized “human rights”. But all indices lead to the conclusion of a principle unanimously accepted (in this ideological sphere), of a veritable axiom. To mention a concluding example: even an honest spirit, a rigid theologian as Timotei Cipariu subscribed to it. He cited with eulogy on several occasions “human rights”. He mentioned – who would have expected? – even the “Jacobins”.⁴ The regeneration and enrichment of the politico-ideological vocabulary is evident.

Natural rights

We were going through a period of quick and radical modernization of the ideological language, a process which directly enriched the national language. A new notion, specific to the 18th century, penetrated suddenly: *the law of nature*. It was invoked as fundamental argument in the legitimation of human rights in the two essential interpretations of the age: the Montesquieu phase (*De l'Esprit des Lois*), “necessary rapports which derive from the nature of things” (Voltaire can be mentioned too

¹ Ion Budai-Deleanu, *De originibus populorum Transylvaniae. Despre originile popoarelor din Transilvania* (On the Origin of the Peoples of Transylvania), edited by Ladislau Gyémánt, introduced by Ștefan Pascu and Ladislau Gyémánt, annotated and translated by Ladislau Gyémánt, Bucharest, Encyclopaedic Publishing House, 1991, I, p. 320.

² D. Prodan, *op. cit.*, p. 387.

³ Cornelia Bodea, *op. cit.*, p. 299.

⁴ Mircea Popa, *Timotei Cipariu. Ipotezele enciclopedismului* (Timotei Cipariu. The Aspects of Encyclopaedianism), Bucharest, Minerva Publishing House, 1993, pp. 56, 67.

writing in the *Dictionnaire philosophique*: “natural law independent of all human conventions”); and the scientific phase: natural causes, causes-effects scientifically studied in the sense of the German definition: *Naturlehre*.

Thus the first Romanian writers of the Enlightenment began to assimilate it too, the first one being Gh. Șincai in *Învățătura firească spre surparea superstițiilor norodului* (Elementary Education Designed to Erase People’s Superstition). The science of nature or the “natural teaching” (“învățătura firească”) is “the teaching that speaks about the populations, powers and things of the ages” (“învățătura care vorbește despre populațiile, puterile și lucrurile timpurilor”).¹ A translation and adaptation of I. H. Helmuth’s book, *Volksnaturlehre zur Dämpfung des Aberglaubens* (several editions published between 1786 and 1800), Șincai’s text, penetrated by an evident polemic spirit, unfortunately, remained unpublished. Petru Maior was also familiar with the idea; he used the notion of “natural right”. There was a different situation in the case of Samuil Micu’s adaptation, *Filozofia cea lucrătoare a rânduielilor dreptului firei* (Practical Philosophy of the Order of Natural Law) (printed in Sibiu, 1800). “By «natural law» is meant that teaching... through which natural laws or those laws, which are showed by our mind concerning the desire for good things and the avoidance of bad ones, are arranged” (“Prin «dreptul firei» se înțelege acea învățătură...prin care legile cele firești sau celea ce ne arată mintea despre poftirea lucrurilor celor bune și despre fugirea de cele rele se ticluiesc.”)² Nature is submitted to a double observation: the objective study of natural phenomena and the moral exigencies of natural common sense. The wind of the conception of the “naturally good man”, widely spread as well, also appeared [I. Budai-Deleanu, *Țiganiada*, VI, 31 “good nature” (“firea bună”)]. Step by step, the notion of “nature” became more and more discursive, polemic, politicised. Its assimilation, more and more extended and intense, became a veritable commonplace of the age.

The fundamental interpretation was permanently political, therefore polemical, vindicative, defensive (justification of individual rights), but also offensive (against the laws which ignored these rights or which were repressive). However, the different contexts in which “natural

¹ Gheorghe Șincai, *Învățătura firească spre surparea superstițiilor norodului*, Bucharest, Scientific Publishing House, 1964, p. 67.

² Cf. Lucian Blaga, *Gândirea românească în Transilvania în secolul al XVIII-lea* (The Romanian Thought in Transylvania in the 18th Century), in *Opere* (Works), 12, Bucharest, Minerva Publishing House, 1995, p. 116.

rights” were invoked introduced new nuances and specifications, permanently actualizing them: a *Supplex* from 1st March 1791 referred directly to “natural justice” (“dreptatea firii”).

There was a conviction that such an argument would soften the severity of the authorities and would guarantee individual freedom. This was a typical ideal and illusion of the Enlightenment. Another hope was that it would be transformed into a legal principle and actually formulated as a concrete law. For D. Țichindeal “natural goodwill” (“fireasca omenie”), “natural law” (“legea cea firească”) was a central notion, recognized and proclaimed prior to and superior to any “civil” law. The distinction opened a way for the contestation of the actual “imperial” political legislation: “natural law... is much older, wiser and more perfect than civil law and this (is) the eternal law” [“legea cea firească... cu mult mai bătrână, mai înțeleaptă și mai perfectă iaste decât legea cea cetățenească și aceasta (este) legea vecinică”]. It guarantees individual, natural rights, and its is superior to any “privilege”: “that each and every person to be esteemed as he should and ought to be and as he deserves” (“ca toate și fiește care să se prețuiască atât cât trebuie și i se cuvine și e vrednic”).¹ Moise Nicoară had the same thoughts in a text which may be termed at least nonconformist, actually being subversive, an *Appeal* addressed to Emperor Francis I (1819): “Everyone should be given back his natural right, which he had before the Empire, in order to be able to defend himself strongly against oppression, persecution and injustice.” (“Dee-se tot insului înapoi dreptul fireasc sau al naturii, care l-a avut înainte de Împărăție ca să se poată apăra după puterea sa de asupririi, de gonimir și nedreptate.”)² There was at the same time the conviction that such an argument would soften the severity of the authorities and would guarantee the individual freedom. This was a typical ideal and illusion of the Enlightenment. Another hope was that it would be formulated into a law principle and actually into a concrete law. This expectation had not been fulfilled at that time. But at least nothing hindered its study in a university course, as in Damaschin Bojincă’s course, *Despre dritul persoanelor* (On Civil Law) (1834).³ Simion Bărnăuțiu would resume the discussion in the university lectures he held at Iași.

¹ D. Țichindeal, *op. cit.*, p. 393.

² Cornelia Bodea, *op. cit.*, p. 70.

³ Nicolae Bocșan, „Cursul de drept al lui Damaschin Bojincă (1834)” (Damaschin Bojincă’s law course), in *Studia Universitatis Babeș-Bolyai*, 23, 1978, *Historia* 4, pp. 23–31.

Political freedom

The ground is cleared for highlighting and evaluating the most important principle of the politico-social consciousness of the age: political freedom. This is all the more important as it represented a veritable leading idea, an exemplary paradigmatic formula for the entire ideological ensemble of the discussed period. Its status was the more specific, the more exemplar as the objective conditions – the entire historical context of the age – allowed only a purely abstract, entirely theoretical reflection and definition, far from any direct practical implication. In an absolutistic regime, even if tolerant in some aspects, political freedom could not be considered unless as a pure abstraction, as an eminently theoretico-ideological principle. This conferred clarity, rigour and efficiency to the idea, but purely demonstrative, because all such formulas met with the political restrictions of the age. Freedom was admitted as an essential natural right, but not as an inspirator of new politico-social institutions, immediately applicable, which may disturb or change the existing order.

Other innovative ideological principles, enounced for the first time in Transylvania had the same abstract, purely theoretical status – inoffensive on the immediate socio-political level, with great consequences in the long run. The idea of progress, typical for the 18th century Enlightenment, with prolongations into the next century, was interpreted extensively in a liberal sense: “Through progress and freedom” (1844).¹ This was an important and daring innovation in an absolutistic regime. The same is true about “crime against humanity” (E. Murgu, 1840),² the radical accusation of the infringement of human rights, ideology getting affirmed in this period. The moment was emblematic for the entire evolution of the politico-social thinking of the age: from the theory of natural right to the liberal doctrine.

The most important aspect of this evolution was that free expression was politicized and openly claimed, officially sanctioned, legalized. The idea was implicit in all the articles written in the defence of free expression and formerly surveyed.

The freedom of press

The radicalization was progressive. The most conclusive formulas occurred beginning with the fourth decade: “Press must be free”

¹ Emanuel Turczynski, *op. cit.*, p. 197.

² Eftimie Murgu, *Scieri* (Writings), edited and introduced by I. D. Suci, Bucharest, Encyclopaedic Publishing House, 1969, p. 21.

("Tiparul terbuie să fie liber") (Gh. Bariț, 1845). The moment was important. It consecrated effectively the passage from the ideological principle to the text of law, in the purely theoretical perspective, for the time being, of some new constitutions. The new stage was equivalent to a true change of the politico-social regime. The equally important distinction between "ecclesiastic" laws and laic laws (respectively civil, political, laic ones) dated from this same period. Religious dogma lost ground before laic principle. The most conclusive example of this change of mentality was offered by T. Cipariu, otherwise sever and rigid clergyman. He rose to Gh. Bariț's defence and affirmed that a "journalist" can express such an idea "only where press is free" ("numai unde e presul liber"). Essentially, free press is the expression of the freedom of personal will [{"each man should follow the way he likes best"}] ("meargă tot omul pe calea care-i mai place").¹ It is the basic principle of any liberty and, according to modern terminology, of liberalism.

In spite of all the historical relativism of political ideas (especially in an underdeveloped culture), it can be asserted that the transition from the affirmation of free will to that of political will took place in Transylvania beginning with the second decade of the 19th century. The situation is equivalent to the transition from natural rights to democratic [{"civil", "laic"}] ("cetățenești" "mirenești") rights, respectively to the discovery of the idea of constitution. In the strict terms of the age Petru Maior spoke of "nature, mother of all, who commands that the understanding and will of every man should be fulfilled" ("natură, mama tuturor, care poruncește a se deplini înțelegerea și voința fieștecăruia om").² Budai Deleanu continued this idea and formulated it in democratic spirit. In the *Țiganiada* (X, 62, 63) he associated the idea of "natural rights" ("drepturi firești") with that of "democratic laws" ("legilor democratice"); important direct influence of the French Revolution.

Romanian civil consciousness may never have been penetrated by more numerous abstract, universal, fundamentally subversive principles – beyond any preoccupation with deep and extensive assimilation – than in the "democratic laws". Even "civil rights" fall into this category. And these were the direct expression of "mankind" ("neamului omenesc"), a leap into universality in which Romanian

¹ Mircea Popa, *op. cit.*, pp. 47, 210.

² Petru Maior, *Scrieri* (Writings), critical edition edited by Florea Fugariu, preface, chronological table by Maria Protase, Bucharest, Minerva Publishing House, B.P.T., 1976, II, p. 242.

consciousness participated; not only through I. Budai-Deleanu, but also through D. Țichindeal, D. Bojincă, Moise Nicoară (and we are not convinced that the list is complete). D. Țichindeal was a great apologist of the consciousness of mankind: "Listen to the voice of humanity" ("Ascultați glasul omenirii"). He was convinced that "what is better for all people, and not to one person alone; only that is useful for the entire mankind" ("ce e mai bine pentru toate noroadele, decât pentru un singur norod, singur aceia a neamului omenesc de comun folositoriu").¹ He was not alone, of course. D. Bojincă invoked in the same sense "the liberty... of all man" ("libertatea tuturor oamenilor").² The implicit or explicit subject of this principle was that the Romanian people should not be an exception to the general rule. Therefore all should develop, logically, by way of direct consequence. It was for the first time that an acute political controversy of great European actuality was taken over on the highest level of abstraction in the Romanian countries as well. All the principles of political freedom had, in the same way, an identically high degree of generalization. All the invoked principles fell under the widely circulating general formula of: "the rights of both man and civil society" ("drepturile atât ale omului, cât și ale societății civile").

It is evident that the entire theoretical substantiation and organization had a specific aim in the circumstances of an absolutistic age: the promulgation of a law or constitution which should accord rights to the Romanians. Meanwhile they formed an outlaw category, a discrimination they could not accept. This was proved by the fact that the idea of "justice" had already been present and insistently underlined in all the petitions and the *supplexes* addressed to the Habsburg crown since the previous century. The first one was the *Supplex* from 1804: "For the burdens of the People never speak of joy. But lightening the People's difficulties and giving them justice is the basis of sovereignty." ("Pentru că greutatea Norodului niciodată nu vestește bucurie. Dar ușurarea și dreptatea Norodului iaste temelul stăpânirii.")³

The painful lack of a law or a constitution that would have defined and guaranteed the rights of the Romanians explains the insistence on – we could even say the obsession with – the thought that the idea of "justice" was being infringed. The most typical example may be I. Budai-Deleanu. He invoked "justice" in his literary work, the

¹ D. Țichindeal, *op. cit.*, pp. 44, 90, 128.

² D. Bojincă, *op. cit.*, p. XCVIII.

³ D. Prodan, *Încă un Supplex Libellus românesc, 1804* (Another Romanian *Supplex Libellus*, 1804), Cluj, Dacia Publishing House, 1970, p. 81.

Figaniada [version B. 9–14: “Placing in power all his rights” (“Punând tot dreptul în putere”)], as well as in his ideologico-historical studies: “a nation has no right to harm another nation” (“un neam nu are dreptul să pricinuiască vătămarea altui neam”).¹ The idea that Romanians would be only... “tolerated” in Transylvania was rejected for the same reason.² The answer to the question asked by Gh. Bariț in 1846, *Ce este barbaria* (What Barbarism Is), was “the club-law” (“dreptul pumnului”) and “clerical anathema” (“anathema popească”).³ There are two major obstacles against justice and political freedom. Justice cannot be obtained unless in liberty. The two notions therefore intermingle. This was the answer of the age to the essential question, conclusion of the entire thinking and assimilation process of a political principle: *Is liberty useful or not?*⁴ The answer was naturally in the affirmative; with the specification that an “indigenous” reflection of the idea of political liberty should be initiated as an accompaniment. Because this idea was less known at that time, an attentive survey was necessary.

In a transitional period of great ideological interaction the motivation of justice and implicitly that of political freedom, inevitably, had different sources. Some of them were even contradictory. The theological argument still maintained its authority: “Does not the wakening voice of God, nature and mankind resound that the free man should not oppress his likes... when the sacred voice of freedom and justice resounds all over the enlightened world” (“Nu răsună oare glasul deșteptător al lui Dumnezeu, al naturii și al omenirii ca omul liber să nu apese pe semenul său... când în toată lumea luminată sună sfântul glas al libertății și dreptății”) (1842).⁵ Afterwards, the argument became simpler, was “laicized” and Moise Nicoară invoked only “the unwritten law present in everyone’s heart” (“legea nescrisă, dar prezentă în toate inimile”). It is prior to all human laws; it is a “primitive”, “natural” law, urging the human being to oppose “the usurpation of his rights”

¹ Ion Budai-Deleanu, *De originibus populorum Transilvaniae*, I, pp. LIV–LV.

² Al. Ciorănescu, *Opera istorică a lui Budai-Deleanu* (Budai-Deleanu’s Historical Works), Bucharest, Monitorul Oficial (Official Monitor), 1938, p. 106.

³ *Texte privind dezvoltarea gândirii social-politice în România* (Texts on the Development of Social-Political Thinking in Romania), Bucharest, Academic Publishing House, 1954, p. 259.

⁴ (C. Negruzzi), *Elemente de dreptul politic după mai mulți autori de un filoromân* (The Elements of Political Law after Several Authors by a Philo-Romanian), Brașov, in Ioan Gott’s press, 1846, p. 72.

⁵ D. Prodan, *Supplex Libellus Valachorum*, p. 142.

(“uzurparea drepturilor sale”).¹ According to the seducing, idealized view of the age, it had a radical, absolute aspect, typical to any firm adhesion of principles. However, experience corrected this exalted vision.

Compiling some sources of the age, Samuil Micu retained also the idea that freedom must be regulated, limited in order to reach an acceptable practical stage of national and social existence: “... In order that practice and freedom should remain, the good must many times be diminished for the benefit of all people” (“... Ca să se ție practica și slobozenia de multe ori trebuie ca binele în folosul tuturor oamenilor să se împuțineze”).² The explication was given by D. Țichindeal, shortly afterwards, in a simple and direct language: “Freedom without wise laws is a wild beast” (“Slobozenia fără de legile înțelepte e sălbatecă fiară”).³ This implies restrictions and exigencies, regulations of principle defined by a democratic constitution. This is (or would be) its fundamental justification. A new, innovative, “revolutionary” notion, initiated at the height of an absolutistic regime. It was the most characteristic aspect of the age: the appearance of some new, radical, purely abstract political concepts. Political freedom is, essentially, constitutional or it does not exist.

Against this background, the idea of political freedom – central ideal of Romanian civic consciousness – unfolded thoroughly and with all its energy. It was derived from the invocation of the mentioned fundamental, constitutional principles, as well as from an immediate politico-social exigency, imperatively felt. First of all, the right to free expression was demanded, and therefore the right to defence, protest and reclamation as well, this being the first important manifestation of political freedom. All the petitions of the age, the different *supplex*-es were inspired from and supposed the invocation of this right to protest, direct confrontation with state authority by insistent and repeated allusions. Things went as far as violent insubordination, armed revolt.

Horea's uprising (1784) was inspired from these principles. A proof to this is its international echo, the propagandistic support displayed by the contemporary theoreticians of the right to revolt. The best-known, the Girondist J.-P. Brissot de Warville was very explicit, especially in his text from 1785: *Seconde lettre d'un défenseur du peuple concernant l'émigration, et principalement sur la revolt des Valaques où l'on discute à fond le droit de revolt du peuple* (Dublin-Paris).

¹ Cornelia Bodea, *op. cit.*, p. 142.

² Lucian Blaga, *op. cit.*, p. 164.

³ D. Țichindeal, *op. cit.*, p. 131.

Favourable or neutral echoes were also identified in the English press and the German newspapers and magazines from Transylvania.¹ The idea that natural rights may confront or even contest state authority – a generally little-known fact – was present in Samuil Micu's first philosophical-political writings. He has the notion [*Legile Firei...* (Natural Laws...), 1800] that the "Emperor's" powers can and must be limited when they are "against natural law or against the law of God" ("împotriva legii firești sau împotriva legii lui Dumnezeu").² In a passage [*Învățătura metafizicii* (The Doctrine of Metaphysics), § 65], which seems to have been introduced as an allusion, it was specified that "the people rise up against the emperor" ("norodul se scoală împotriva împăratului") when this "becoming terribly wild, falls upon the people's goods and life" ("sălbătăcindu-se cumplit, tăbărește în averile și în viața norodului").³ The perturbation of the public ("obștești") tranquillity and peace originates from here. The – decisive – argument was taken over from the 1791 *Supplex*. The rights of the Romanians were openly acknowledged and it was stated the inevitable succession of their "rebellion" ("rebeliei") in the case "the emperor does not give justice" ("împăratul nu face dreptate").⁴ Naturally, the idea became radical in the ultimate stage. The right to revolt was justified, in identical terms, also by Moise Nicoară in a text from 1819.⁵ These are the well-attested Romanian beginnings of the idea of revolution.⁶

¹ Nicolae Edroiu, *op. cit.*, pp. 54, 108, *passim*.

² Lucian Blaga, *op. cit.*, p. 120.

³ Samuil Micu, *Scrieri filozofice* (Philosophical Writings), introduced by Pompiliu Teodor and Dumitru Ghișe, Bucharest, State Publishing House, 1966, p. 102.

⁴ D. Prodan, *op. cit.*, pp. 52, 89.

⁵ Cornelia Bodea, *op. cit.*, pp. 56, 57, 306–307.

⁶ An overall view, Adrian Marino, "Începuturile ideii de revoluție" (The Beginnings of the Idea of Revolution), *Lumea* (The World), III, 25, 17 June 1965.