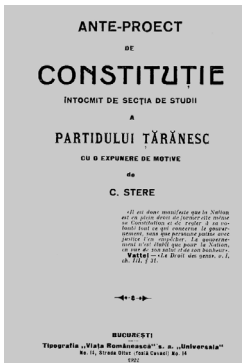


# Constantin Stere's View on the Self-Government of Romania's Sub-National Territorial Collectivities in the First Decades of the 20<sup>th</sup> Century

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## Introduction

THE IDEAL of Romanian national political unity achieved on 1 December 1918 placed new tasks and objectives on the agenda of the political elites. Greater Romania “also had to become Newer Romania, a state for all citizens, free and equal before the law.”<sup>1</sup> Under these circumstances, finding the best solutions for the administrative unification of the politically integrated provinces was one of the main issues that had to be solved. The political and intellectual elites of the integrated provinces were trying to solve this problem under the influence of the experience gathered during the foreign occupation. Being under foreign occupation for a very long time, the integrated Romanian provin-

ces took over governmental models, structures and practices imposed by those respective regimes.

The representatives of Bessarabia, together with the representatives of the other historical provinces, showed great interest in the matters pertaining to the full political, economic, legislative and governmental union, seeing them as essential to the consolidation and confirmation of the national Romanian state. One of the loudest and most representative Bessarabian political leaders was Constantin Stere, professor, writer, politician, and publicist. He was born on 1865, in Ciripcău village, Soroca County. In the late 1880s, he joined the populist movement in Russia. Suspected of affiliation to the Narodnaya Volya (People's Will) and of encouraging Romanian nationalism, C. Stere was exiled to Siberia in 1888–1892.<sup>2</sup> Following his “romantic wanderings through the Marxist and revolutionary dogmas for which he paid dearly with his exile to Siberia,” he settled in Iași in 1892, where, fairly quickly, he became a professor of constitutional law at the University of Iași, his classes being “attended, studied, commented.”<sup>3</sup> His erudition and rhetorical talent made his lectures quite appealing. He managed to gain reputation as a professor, and his Constitutional Law class was often also attended by the students of other faculties.<sup>4</sup> Iorgu Jordan, Romanian linguist, philologist, diplomat and politician (1888–1986), described his professor as follows:

*The problems he would raise could not be a matter of rhetorical exercise. They had concerned him and upset him since his early youth. He saw their fair and immediate settlement as an absolutely indispensable condition for the social and political progress of our country.*<sup>5</sup>

C. Stere decisively contributed to the union of Bessarabia with Romania, being, until he died in the summer of 1936, an important representative of the political and spiritual life in Romania. For four decades, he was a dedicated publicist, being the founder (in 1906) and editor-in-chief of the magazine *Viața Românească* (Romanian life). The writer Mihail Sadoveanu would describe Stere as a multi-faceted personality who

*expended his energy in multiple directions: stirring Bessarabia, fostering populism, speeding up the universal suffrage and the expropriation, opposing the belief of a minority to general views, in foreign policy.*<sup>6</sup>

The main purpose of this paper is to study Stere's views on the self-government of the sub-national territorial collectivities amid the emergence of a democratic

regime in unified Romania. Stere's scholarly views on the sub-national territorial collectivity's self-government are clarified and conventionally systematized in two distinct timeframes. The first period has as its starting point Stere's move to Iași in 1892 and ends with the union of the Romanian provinces in 1918. The second period includes the years 1918–1923, that is, the first years of the political and legal establishment of unified Romania, and encompasses the efforts to consolidate the Romanian political architecture. Here, I particularly refer to the drafting and adoption of a new Constitution and the administrative unification of united Romania.

To achieve the proposed objective, we first of all discuss the Constitutional Law class taught by Stere at the Law Faculty of the University of Iași in the years 1910–1911,<sup>7</sup> some articles which address various aspects of the sub-national territorial collectivity self-government published in the magazine *Viața Basarabiei* (The life of Bessarabia), and the statement of reasons to the *Draft Constitution Prepared by the Peasant Party Research Department*<sup>8</sup> which contains the theoretical government structure devised by Stere for unified Romania.

## 1. Topics Approached by C. Stere in the Years Prior to the Great Union

### 1.1. Parliamentarism and Local Self-Government

THE CLARIFICATION of the interdependency between the evolution of parliamentarism and the level of development of local self-government in Romania may be deemed one of the most significant scientific achievements of Professor C. Stere. In his article “Local Organization,” published in 1906, Stere showed that the vitiation of Romanian parliamentarism was lethal and it was due to the fact that when the central institutions of English constitutionalism, borrowed from the Constitution of Belgium, were introduced in 1866, the constituents did not understand that “the local organization, borrowed from France in the most detestable era of its public life, was not compatible with these central institutions,” since in England, the central institutions are “a mere development, an outgrowth of local self-government.” Specifically, for these reasons, “the Constitution of 1866 prescribes the reorganization of our local government in compliance with the principles of autonomy and decentralization (Art. 37 and 107).” But Stere regretfully noticed that the respective constitutional prescription “remained a dead letter and, thus, our parliamentarism lacks a foundation and is suspended up in the air.”<sup>9</sup>

Because of this reality, “each ‘change of regime,’ often following street riots or a backstage plot in Bucharest” had serious repercussions on local self-

government, since all local public authorities “pass into other hands,” meaning they had to comply with the requirements imposed by the new central public authorities. Under such circumstances, when the local public authorities do not have their own agenda but accomplish only the indications of the central authorities, “there can be neither any actual civic life at the basis of the body politic, nor an honest and industrious government.”<sup>10</sup> The only efficient remedy to these situations was, in Stere’s opinion, the “growth of a healthy civic life in the depths of the national body—in the vigorous local bodies.”<sup>11</sup>

Four years later, analyzing the provisions of the Constitution of 1866, in his Constitutional Law class held in the academic year 1910–1911 at the University in Iași, Stere would draw the attention of his students to article 37, which stipulated that “exclusive county or communal interests shall be regulated by the county or communal councils, following the principles established by the constitution and the special laws.”<sup>12</sup> In his opinion, from the very contents of the respective text it resulted that in the state, there was still some manifestation of sovereign power which had been entrusted to the county and communal councils.

Thus, the Constitution enunciated an essential principle—that of local self-government. By local self-government, Stere understood a governmental organization aiming to regulate certain public interests, where all exclusively local interests were settled by “the very citizens of that locality, be it directly or by their representatives.”<sup>13</sup>

C. Stere deemed it necessary to explain, in order to clarify the situation, the way in which the principle of local self-government, which in his opinion was absolutely natural, had entered the Constitution of Romania. By adopting the Belgian Constitution, Romania also adopted the principles of English constitutionalism, but what characterized the phenomenon of English constitutionalism was precisely the principle of local self-government. In his opinion,

*the entire English constitutionalism can be summed up in these words: all interests must be regulated by those concerned, either directly, or by their representatives. And those public interests start manifesting in the simplest public organization, in the cell of the political life, which is the commune, and that general principle finally starts manifesting itself in the commune. The communal interests must be regulated by the citizens themselves or by their representatives. The interests of several communes, gathered into a broader organization, the county, must be regulated by their citizens. The even higher interests of the state are regulated by the state’s citizens directly or by their representatives. This is only a logical consequence, but to England it is a historical reality.*

In Stere's view, the historical evolution of the English constitutional system was nothing but "an offshoot of the local self-government principle," and English parliamentarism was but a "coronation of those local self-government institutions." Stere considered that England's history could not be conceived without local self-government, and the communes, "which there are called townships, have a much older constitutional life, as they existed before the English state." In Stere's view,

*the primitive tribes have never ceased to exist. They have turned into nowadays' townships, and kingdoms exist as shires which correspond to our counties. And civic life, which is always bubbling, pouring out of those townships, would inexorably lead, together with the organization of the English state, to the principle of civic autonomy by endowing itself with particular central institutions, which have developed into that parliamentary system.*<sup>14</sup>

C. Stere thought that the evolution and dissemination of the English constitutionalist principles in Europe, the intimate connection between the local authorities constituted according to the principles of local self-government and central power authorities "was overlooked." Thus, Europe was seeded with "English institutions as far as the central bodies were concerned, while the old ones were kept with regard to the local organization." And only after a certain period of time, certain efforts were made to also implement the principle of local self-government. As Stere would indicate, things were being done "upside down." Thus, this situation was inevitably "felt in the falseness of the constitutional regime." In Stere's opinion,

*imagining a democratic, free state, where higher national interests are to be debated through national representation and citizens are to be called upon to elect this representation as far as their immediate interests are concerned, and for them to be unable to make use of these interests, this is but logical nonsense, and from this we sense the lack of civic education.*<sup>15</sup>

C. Stere also insists on observing the principle of national sovereignty, stating that united Romania, as a state of the entire Romanian people, had emerged precisely by stating this principle. Having in mind this important aspect, the conditions and forms in which the Constitution of the unified Kingdom of Romania would be drafted and accepted could not run contrary to the principle of national sovereignty. And so, Stere considered that the Constitution of 1866, in force in the Old Kingdom, could not be extended to the united provinces without their express and freely declared will.<sup>16</sup>

In Stere's opinion, it was precisely the lack of a "constitutional document accepted by the country, necessary to the application and forecasting of constitutional forms and norms, as well as to their enforcement," that generated a "painful contradiction between the state of law and the state of fact, which is characteristic to the chaos we are struggling with."<sup>17</sup>

## 1.2. The *Smallness–Largeness* Dilemma in Establishing the Size of Sub-National Collectivities

**I**N THE abovementioned article, "Local Organization," C. Stere expressed his opinions with regard to the projects to amend the Law for Urban and Rural Communes no. 394 of 31 March 1864, which promoted the need to increase the size of the communes in Romania.

According to C. Stere's estimates, in the four decades since the adoption of the Law of 31 March 1864, no less than 19 projects and organic laws had been drafted in an attempt to reorganize the rural communes. Thus, on average, every two years there was a proposal for "some more or less in-depth change or a complete reorganization of the rural communes!" This fact, in Stere's opinion, was the most eloquent reason behind the thesis that the "true grounds" of the organization of local self-government had not been found yet. This truth was confirmed by the fact that problem faced by all those projects of reorganization of the local government revolved around the minimum mandatory number of taxpayers necessary to create a commune in the rural area that the law had to impose. In the abovementioned draft bills, the number of taxpayers varied between 100 (the number established by the Law for Urban and Rural Communes) and 300.<sup>18</sup>

These planned reforms were vitiated by an

*extraordinary confusion of ideas: the replacement, under the term "commune," meaning a population center, a natural and historical formation, by another administrative unit which the English called "rural district," and the Russians "voloste" and the Germans "Kreis," meaning an intermediary unit between the actual commune and a constituency (rom. *plasa*).*

In C. Stere's opinion, this result stemmed from the fact that the Romanian lawmakers, by combining the communes as dictated by their "imagination," with a number of taxpayers randomly established, had left without any legal organization the

*living cells of the social body, the villages, which, being disregarded by the law, had to spontaneously organize themselves in keeping with secular traditions—customary law, more or less randomly. . .*<sup>19</sup>

According to C. Stere, these attempts showed that the “reformers” did not know the essential principles of modern government, going by a purely bureaucratic concept which reduced “that which had to be a living work of the citizens to a mere functioning of a bureau of chinovniks of the villages.” In Stere’s view, the very argumentation of the need to combine the communes through the “annexation” of hamlets, present in almost all the proposed reorganizations, showed “amazing superficiality and disregard of reality.” The only arguments called upon by the “reformers” were limited to the “lack of means for better government in the small communes.”<sup>20</sup>

With such approaches of the “reformers,” Stere had one but natural question: “How could a communal government prove its worth?” Drawing on the legal provisions, he also indicated that among the main responsibilities imposed by the law to the rural communes was “building establishments for the town hall and the school, taking care of the church, contributing to the rural postal service, sanitary service, etc.”<sup>21</sup>

To solve the *smallness—largeness* dilemma, Stere compared two counties: Neamț and Gorj, with similar characteristics from the point of view of their geographical location, lifestyle of the inhabitants, and number of taxpayers (Neamț—32,000 taxpayers, Gorj—36,000 taxpayers), with the difference that the first encompassed 47 communes, and the latter—161 communes. Stere, after having ascertained that Gorj, having smaller communes, exceeded Neamț when looking at the results obtained with regard to accomplishing the obligations stipulated by the law, concluded as follows: “With these positive data, all a priori appreciations with regard to the necessity to increase the communes with a view to a better government are refuted.”<sup>22</sup>

Also analyzing the situation in Iași County, C. Stere noticed that in the larger communes, the distance between the villages was of 10–15 kilometers, and in some cases even longer. In these conditions,

*among the members of a commune there could not exist that intimate connection, that joint life, that moral atmosphere which is generated by the collectivity of interests closer to the people, which is an indispensable condition for a healthy and true communal life.*

In the larger communes, “many inhabitants of the same commune do not even know or meet each other”; they are connected by nothing else than the “phan-

tasy of an alderman (*praefect*) who fancies the ‘annexations and separations’ of hamlets.” As a result, the local government plunges into bureaucracy and the

*mayor, instead of being a trustworthy man of the village, turns into a master, the communal incomes are spent on their wages and wages of other mandarins, transferred from the cities into the paragraphs of the communal budget.*<sup>23</sup>

A completely different situation was attested in the small communes where “living conditions were closer to those normal in a healthy communal organization” and which “do more to satisfy the needs of the villager and for a better government.”<sup>24</sup>

C. Stere reached the conclusion that only a governmental organization having as its starting point the village,

*this center of population spontaneously created throughout history, under the pressure of economic needs, of the geographic landscape, of the distribution of arable lands, waters, forests, in a word: created naturally under the action of the entire complex of material and moral needs of the inhabitants, only such an organization would meet the requirements of public life in a modern state.*<sup>25</sup>

At the same time, C. Stere admitted the necessity and role of the intermediary level of public power, on condition it should not affect the good functioning of the primary level:

*Of course, besides these cells of the social body, a more comprehensive governmental unit could and should also be organized, like in the current communes and even larger, let’s say—counting at least 1,000 taxpayers to satisfy those needs which exceed the powers of isolated villages, but this organization cannot, without vitiating the entire public life as in the current system, take the place of the **primordial** organization of the state.*<sup>26</sup>

Rhetorically asking: “in the end, what is a commune?” Stere would give the following answer:

*it is a population center which is spontaneously created, based on certain historical conditions which could barely be noticed. There are no towns for the birth of which we could not find a historical explanation. This or that town was created because it found itself at the interflow of two water courses, another because it was located close to the major trade routes, yet another to serve as protection against enemies. And eventually, in the old times, when there were no trains or telegraphs, every man lived in the same population center where they were born.*<sup>27</sup>



In support of his reasoning, Stere resorted to the analysis of the historical evolution of the local self-government forms of organization, contending that “our old crafting of states . . . encompassed, undoubtedly, the germs of an organization superior to the one we have nowadays.” Admitting the still rudimentary character of village governance organization, Stere believed that “instead of abolishing it in 1864, by introducing the Napoleonian centralization, we have the duty to develop it, taking into account the experience of other peoples,” invoking “liberal England,” “the strong republic of America,” “the rural democracy of Switzerland” and “the Russian autocracy.”<sup>28</sup>

### 1.3. The Principles of Local Government Reform

**A**LL REFORMS, regardless of their nature, are based on certain principles. Their role is that of offering guidance towards what is desirable or what “should” happen. This guidance refers to actions, processes, structures, etc. Understood as basic rules, the principles are formulated based on scientific data on processes and social phenomena. They imply critical thinking and the ability to forecast effects and results.

The integration of the four provinces clearly entailed a reform. In designing and accomplishing it, Stere ascertained that the principles in discussion were nothing but the expression of some superficial thinking which gave birth to phrase-mongering directed against “the inference of politics into government,” and “sterile attempts to artificially create an immovable mandarinat in all public functions.”<sup>29</sup>

In Stere’s view, the sole efficient remedy to the existing situation was to create a healthy civic life in the depths of the national body—in efficient local bodies. This desiderate required, besides the reorganization of rural communes, the adoption within the county and communal councils of the following principles:

- 1) the abolition of the right of the Ministry of Home Affairs to dissolve the councils and the replacement by withdrawing the counsellor mandate in court for the cases specified by the law, “to ensure the independence of the local bodies and protect them from the interflow of political fluctuations”;
- 2) the abolition of the procedure of integral renewal of the councils and the introduction of the partial renewal principle, “one third of the members of the council every two years, to give stability and continuity to the local government”;
- 3) providing for a census of minorities in the councils, “to ensure an efficient control and further shelter the local bodies from political fluctuations.”

In C. Stere's view, only the implementation of these principles, together with a reform of the voting system, could improve the public atmosphere,

*only they can give solid grounds to our institutions and complete, in time, the political education of the masses, only they can stimulate the entire national vigor and energy, facilitating the introduction of the great economic and social reforms that we need so much.*<sup>30</sup>

Achieving the abovementioned principles would have also had as an effect the establishment of administrative functions which greatly concerned the reformers of those times and would have had as a final result "the settlement of the entire public life on healthy grounds." Or, the reforms implemented by the governing representatives "which start from the end, only repeat the old story about Penelope's cloth." Only thus, thought C. Stere, could Romania acquire a local government organization "that would not be inferior, from the point of view of democratic principles, to the one enjoyed by the Romanians in Transylvania, Bukovina, and even Bessarabia . . ." <sup>31</sup>

## **2. Topics Discussed by C. Stere in the Years Following the Great Union**

### **2.1. Administrative Unification**

**F**OLLOWING THE Union, in Romania there were four governmental models, different from the point of view of their conceptual argumentation, organizational structure, modalities of incorporation and of the applied governmental practices: the one in the Old Kingdom, the Austro-Hungarian symbiosis in Transylvania, the Austrian version in Bukovina, and the Russian-origin one in Bessarabia.

The diversity of legal regulations and governmental structures represented a considerable impediment in consolidating and developing united Romania and, from this perspective, governmental unification was an indispensable condition for the development of the Romanian nation.

The search for governmental unification solutions was one of the most important tasks of the politicians of those times. The work of unification was difficult to accomplish also due to the fact that the annexed Romanian provinces had been under foreign occupation for a very long time and had taken over foreign models, structures, institutions, and governmental practices.<sup>32</sup>

The governmental unification could be achieved by two methods: a) the expansion of the legislative, governmental and institutional system in the Old

Kingdom to Bessarabia and b) the preservation for a certain transitory period of time of the existing governmental institutions and laws in the constituent provinces, the unification being achieved by stages. Even though from the technical point of view the first method would have been much easier to achieve, the political decision-making factors deemed the second method as more advisable.

The governmental unification by extending the governmental legislation to the annexed territories could not be achieved for the following reasons:

a) the governmental legislation in the Old Kingdom stipulated a centralized type of governmental organization, and the annexed provinces had a decentralized local governmental organization;

b) as the annexed provinces had been under different political and governmental regimes, a centralized regime would not have been adequate to the existing realities;

c) the governmental legislation of the Old Kingdom required an assessment and update in compliance with the new scientific and governmental developments of the time.<sup>33</sup>

The political and governmental elites of the annexed Romanian provinces had their own vision of the governmental unification of united Romania. To identify the best solution to this problem, Stere started from the idea that unified Romania included several provinces, which were authentic historical formations, each having “a centuries-long past of a special lifestyle, mentality, morals, special cultural and economic conditions,” shaping thus a well-defined uniqueness.<sup>34</sup> Namely, based on these considerations, an “honest and serious governmental organization,” according to C. Stere, could not avoid taking into account the existing realities, having to rely, as much as possible, on the living bodies and not on “some randomly and artificially combined mechanisms, without a spirit of their own.” Only in this way could one “engender a rich national energy and sources of civic activity.” What would be more natural, said Stere, than the future organization of Romania using the provinces as governmental units?<sup>35</sup>

C. Stere subjected to harsh criticism the reform projects that ignored the natural population centers constituted throughout historical evolution. Some “reformers” would propose the creation of some artificial regions, resulted from combining territorial fractions of the distinct historical provinces, such as, for instance, parts of Bessarabia, Moldavia, Wallachia, and Dobruja, without taking into account the lack of the means of communication among them. To support such “governmental tailoring,” they could invoke “the interest of unification.” But a unification of this kind, thought Stere, could not be associated with the Union. Stere explained his position accordingly:

*we do not need only a mechanical unification, but an intimate union in thought and feeling, which could only result from respecting all particularities and natural characteristics and from a truly free activity. Real power could never spring from the monotony of outside mechanization, but only from **organic diversity**, full of life.*<sup>36</sup>

Debating with his opponents, C. Stere would ask rhetorically:

*the chimera of a mechanical unification is natural to rise in the souls desolated by long-time despotism, from the contempt for public liberties and for civic life, but under the regime of a Constitution based on the principle of national sovereignty, how could this evil mentality appear, thanks to which, for the emancipated provinces, the union had as an effect the disappearance of the very signs of local self-government which they enjoyed under foreign oppression?*

The respective phenomenon, C. Stere believed, was a

*natural and necessary result of the fact that the parliamentary superstructure, under the regime of the Constitution of 1866, remained without guaranties of freedom and justice, without hotbeds of civic life in the depths of the national body,*

the Romanian constitutional regime being thus “distorted from the root.”<sup>37</sup>

And, in the statement of reasons to the *Draft Constitution Prepared by the Peasant Party Research Department*, Stere criticized the fact that the new Draft Constitution for the governmental organization of Romania had not considered the provinces, which were natural population centers, as governmental units.<sup>38</sup>

Subsequently, after the adoption of the new Constitution, C. Stere raised objections in the session of the Chamber of Deputies of 21 November 1923, stating that it had been voted “without the approval of a strong party in Transylvania and without the approval of the majority of Parliament members in Bessarabia . . .”<sup>39</sup>

## 2.2. Ensuring Human Rights and Local Self-Government

**C** STERE TREATED the problem of local self-government in close connection to the issue of civic rights and liberties. When examining this subject, Stere looked at the emergence and functioning of the English model. In Stere’s vision, English constitutionalism, based on the “rule of

law,” was characterized by two defining dimensions: “completely ensuring civic rights and liberties and local self-government.”<sup>40</sup>

Stere believed that Romania could serve as a classic example of a country that limited itself to just copying the central institutions of English parliamentarism. The model copied by the Romanian lawmakers was a perfect one—the Belgian Constitution, which Professor Dicey<sup>41</sup> described as the most successful attempt to draft in writing the essential principles of English constitutionalism.<sup>42</sup> Undoubtedly, the Romanian Constitution of 1866 was, at the time of its adoption, one of the most progressive in Europe, acclaiming in abstracto all the liberties and individual rights, as well as “governmental decentralization” and “communal independence.” But, as Stere noticed, the problem was that, in fact, it was followed “neither by real guarantees of the civil rights and liberties, nor by the local self-government institutions.”<sup>43</sup>

In Stere’s opinion, the secret of the “English institutional vitality and of the triumphant energy of the English people” was due to the fact that the English state, born from the gradual fusion of local collectivities, “not only did not suffocate their own life, but built the entire political structure on this ground.”<sup>44</sup> Thus, the central institutions of English parliamentarism emerged as an offshoot of local self-government. The countries which introduced the English central institutions, but which did not take into account the defining premises of English constitutionalism, “do not follow the road which could lead to a healthy constitutional and democratic life.”<sup>45</sup>

C. Stere was convinced that

*without the rule of law and without local self-government, that is, without ensuring individual liberties and communal liberties, no matter how perfect the central government apparatus of these countries, their constitutionalism would remain a mere façade behind which the fiercest vacuity and despotism could hide. Also, no matter how rudimentary its central apparatus, a country having fully secured civil rights and liberties and local self-government would surely have a good and democratic government, because the people who can rely on these guarantees would know how to derive from them the necessary strength to overcome all the deficiencies of the central institutions.*<sup>46</sup>

According to C. Stere, in the field of local self-government, the second essential condition of a democratic regime, the situation in Romania was no less bleak. Since the Constitution did not specify the norms of local self-government organization, “based on more complete decentralization and communal independence,” and the subsequent laws and draft bills in the field of governmental organization, adopted or proposed after 1866,

*not only completely ignored the constitutional prescriptions, but came to mystify within our dominant class the very idea of local self-government, as in the case of civil liberties.*<sup>47</sup>

In this sense, the most relevant proof, for C. Stere, was the precarious situation imposed on the rural population. Starting from the premise that in Romania peasants “do not live scattered on their lands, as in many countries in the West, but gather in villages and hamlets,” from the perspective of instituting a vital local self-government, “the starting point of governmental organization” should be exactly those “natural population centers where the overwhelming majority of the nation lives.”<sup>48</sup>

But, in Romania’s legislation, the villages and hamlets did not have the status of a territorial-governmental unit. The governmental organization was based on an “artificial territorial-governmental unit, the ‘rural commune,’ which each ‘reformer’ felt entitled to ‘combine’ and reshuffle at will.” C. Stere exemplified the situation stating that in Romania there were “communes encompassing villages as far as 20 and 30 kilometers apart, the inhabitants of which could not even know one another.” Under these circumstances, the rural population remained an “amorphous mass, since in the natural hotbeds of national life, in villages and hamlets, there could not emerge and develop any centers of civic activity, 80 percent of the citizens being excluded from public life.” The communal and county councils created on this constitutional ground had a fictitious existence, without actual duties of civic government, being mere offices receiving the commands of the central authorities.<sup>49</sup>

If the future Constitution of Romania, in Stere’s opinion,

*did not bring efficient remedies in this respect, if it did not make available to the citizens the actual means of protection for the individual rights and liberties, if it did not create centers of delivery of civic activities, in the villages, towns, counties and provinces, then whichever the adopted central apparatus, we would not have a real constitutional regime, we would not have a democratic state, we would not even have the rule of law, in the true sense of the word.*<sup>50</sup>

### **2.3. The Establishment of Protection Mechanisms for the Rights and Liberties of Citizens**

**T**HE SOLUTION to protect the rights and liberties of the citizens from the abuse committed by the public authority entailed, according to C. Stere, the creation of an institution of Contentious Administrative Matters. In the *Draft Constitution*, as opposed to the other conceptual design proj-

ects, an important emphasis was on organizing the means of legal protection of the civil rights and liberties, which should have been the “center of mass of the entire constitutional system.”<sup>51</sup>

To identify a solution, argued Stere, we should answer the following question: “which is the legal protection system of the civil rights and liberties against governmental abuse that could or should be adopted in Romania”?<sup>52</sup> The answer to this question, as offered by Stere, is a clear one:

*The Romanian citizens must have not only the possibility to ask the judiciary for reparations for the abuse committed, damages and the punishment of the guilty parties, but also the legal means to impose the making or remaking even of governmental acts, in keeping with the law. In this sense, it is necessary to create certain jurisdictions with an area of competence well-separated from the ordinary courts of law.*<sup>53</sup>

To achieve this desiderate it was necessary to set up provincial administrative Courts of Law and a State Council, such as stipulated by articles 116—123 of the *Draft Constitution*. Thus, the citizens would have had the right to appeal in the governmental jurisdictions, independent from the government, against any governmental decision or act issued by the public governmental body, on grounds of illegality. Also, the citizen could submit complaints to the respective courts of law in the case when the public authority representatives did not fulfil their legal duties, as well as in the case when these would refuse or neglect taking decisions according to the competence assigned by the law. The conflicts of assignment would be the competence of the Court of Cassation, in compliance with the principles of the separation of powers.<sup>54</sup>

Following the adoption of the new Constitution, which did not take into account the proposals regarding the necessity to institute mechanisms of protection of the rights of the citizens, C. Stere, in his speech held in the session of the Chamber of Deputies on 21 November 1923, stated that Romania had not set up a constitutional regime, but a police regime, because the new Constitution “did not sufficiently guarantee individual freedom and in no way did it specify the responsibility of the executive power.”<sup>55</sup>

Stere proved that the constitutional mechanism of democratic states relies on the following fundamentals: a guarantee of civil rights and liberties, local self-government, and fair elections. Only if these conditions are guaranteed, can a people “ensure that *self-government*, without which, by the modern concept of world order, it cannot even constitute itself as a Nation.”<sup>56</sup>

When speaking in the plenary session of the Chamber of Deputies, on 21 November 1923, Stere submitted to a critical analysis the voting regime stipu-

lated by the new Constitution, considering that by waving the idea that the election results should be validated by the Court of Cassation, no constitutional guarantee was offered to parliamentary elections. Stere believed that any elections not guaranteed by the constitutional text undermine

*the trust of the masses in their leaders, since what confidence could the villagers have when they go voting in groups, they know how they vote, and see that the result is different from what they voted? In such circumstances, we have the right to wonder not how long the Constitution will last, but if we actually have a Constitution.<sup>57</sup>*

#### **2.4. Local Self-Government in the *Draft Constitution Prepared by the Peasant Party Research Department***

**F**OLLOWING THE Union, the politicians of those times (Ion I. C. Brătianu, Vintilă V. Brătianu, Ion G. Duca, Iuliu Maniu, Virgil Madgearu, and others), as well as the scientists in various fields (N. Iorga, D. Gusti, Mihail Manoilescu, Constantin Rădulescu-Motru) believed it was necessary to adopt a new Constitution, with applicability on the entire territory of united Romania, to have thus a legal confirmation of the national unity of the Romanians.<sup>58</sup>

In the process of drafting the new Constitution, there arose the problem of configuring the governmental system of unified Romania, starting from the premise that the new provinces had their own governmental systems resulted from the long period spent under foreign occupation. The opposition parties balanced their own visions against the draft Constitution of the Liberal Party.<sup>59</sup> Four drafts of the fundamental law were prepared: the draft of the National Liberal Party Study Group (1921), with an argument by D. Ioanițescu; the draft of the Romanian National Party in Transylvania, prepared by Professor Romul Boilă (1921); the draft of Professor Constantin Berariu in Cernăuți (1922), and the draft of the Peasant Party (1922).<sup>60</sup>

As far as the last draft is concerned, although the published document was prepared by the Research Department of the Peasant Party, and only the statement of reasons would belong to C. Stere, in reality, the actual version of the text of the draft was also written by Stere, professor of constitutional law at the University of Iași.<sup>61</sup>

In the statement of reasons to the *Draft Constitution*, Stere said:

*Unfortunately, the absence of a constitutional act formally accepted by the country, necessary to applying and specifying the constitutional forms and norms, as well as to ensuring their observance, could give birth to that painful contradiction*



*between the state of law and the state of fact, which is characteristic to the chaos we are struggling with.*<sup>62</sup>

Also here, Stere reaffirms his convictions with regard to the necessary essential conditions to the emergence of a democratic regime: the rule of law and local self-government, which include ensuring individual liberties and communal liberties.<sup>63</sup> Local self-government, according to Stere, as also previously presented in his university lectures, as well as in his works as a publicist, was a governmental organization tasked to regulate certain public interests, in which all interests, exclusively local, were in connection with the very citizens of the locality, be it directly or through their representatives. And

*these public interests start manifesting themselves in the simplest public organization, in the cell of state life which is the commune, and that general principle finally starts manifesting itself in the commune. The communal interests must be regulated by the citizens themselves or by their representatives. The interests of several communes gathered into a more extended organization, the county, must be regulated by their citizens.*<sup>64</sup>

Starting from the premise that the peasants in Romania “do not live scattered on their lands, as in many countries in the West, but gather in villages and hamlets,” Stere believed that these “natural population centers where the overwhelming majority of the nation lives,” from the local self-government point of view, should represent the starting point of the governmental organization of the state.<sup>65</sup>

The most important task of the future Constitution of united Romania was, in Stere’s vision, to effectively ensure the conditions of “freedom and intense civic life.” And if the future Constitution did not make available to the citizens efficient means of protection for their individual rights and liberties, if it did not support the civic emancipation centers in the villages, towns, counties and historical provinces, then regardless of the structure, duties and competence of the central authorities, it would be impossible to set up a functional and democratic constitutional regime. An essential condition for the emergence of a democratic constitutional regime, besides ensuring the citizens’ liberties and local self-government, was to ensure free and fair elections.<sup>66</sup>

Article 137 in chapter IV (On Local Self-Government Institutions) of title III (On State Powers) of the *Draft Constitution* defined the status of the local self-government institutions. It stipulated that the activity of the provincial, county, communal and village institutions was to be regulated by laws based on the principles of decentralization and local self-government.

The villages and hamlets deemed natural populated centers would form a governmental unit. The villages and hamlets with a population of up to 500 inhabitants were to be led by the Society of the village, and those with a larger population—by an elected council. But in these villages, the decisions which entailed financial duties and expenditures were to be also confirmed by the vote of the community. The villages with a population below 500 inhabitants, but which had at the most 100 villagers, could also elect, with the approval of the county council, a village council. It was stipulated that the executive bodies be elected.

The villages and hamlets were to be grouped into rural communes, with a total population of at least 10,000 inhabitants. The deliberative body of the rural commune was the elected communal council, which would elect its executive bodies. The villages and small towns with a population of at least 8,000 inhabitants could also form a rural commune, organized along the same principles.

The towns with a population of up to 50,000 inhabitants would form urban communes, and those with a larger population—municipalities. The elective communes and municipalities were to be governed by communal or municipal elective councils which elected their executive bodies. The urban communes were included in the counties, and the municipalities would form a governmental unit equal in rank to the county.

The counties and provinces were to be governed by their elective councils, which elected their executive bodies. The county and municipal councils were given the possibility to send delegates to the provincial council to represent and protect their interests.

All councils and local councils had to be elected by universal, equal, direct, secret, and mandatory vote, based on proportional representation. The right to vote belonged to all the citizens of the respective governmental unit, included on the electoral lists for the Assembly of Deputies.

It was stipulated that the village, communal, county, and provincial authorities are responsible for all matters of local, village, communal, county, or provincial interest, under the reserve of the potential approval of their acts, in the cases and manners determined by the law with a view to observing the general interest.

The possibility of association was stipulated for the village councils or the communal, county or provincial councils, under the conditions established by the law, to regulate and pursue the matters of common interest.

As far as control and governmental wardship were concerned, the county councils and their executive bodies were to be the first court of law for the village and communal governments, and the provincial councils and their executive bodies—the second court of law on the control and governmental wardship

for the village and communal governments, and the first for the municipality and county governments.

The police, in the rural and urban communes, was to be subordinated to the communal authorities, and in the counties and provinces, to the county and provincial authorities.<sup>67</sup>

## Conclusions

**S**TUDYING THE vast scientific and publishing creation of the illustrious scholar and politician C. Stere, I have reached the conclusion that his observations regarding the matters of sub-national territorial collectivity self-government still apply today. Knowing the opinions of the scholars at the time of the Great Union and of emergence of the unitary Romanian state, with regard to the modalities of ensuring the development of democracy at local level by providing self-government conditions, by upholding human rights and liberties, would very much help the political decision-making factors of the two Romanian states understand the logic behind the functioning of democratic mechanisms in the contemporary world and would serve as the main theoretical foundation for pragmatic and efficient decisions.

C. Stere treated the matters of sub-national territorial collectivity self-government in a pluri-dimensional manner, considering the historical, national specificity and the mainly rural character of the sub-national territorial collectivities in the Romanian lands. Also, Stere believed that the multitude of problems regarding the sub-national territorial collectivity self-government may and should be treated only by starting from the need to observe the citizens' rights and liberties, especially the right to elect and to be elected.

Studying the theoretical visions, projects, proposals with regard to the sub-national territorial collectivity self-government, the prevalence of theoretical concepts and of the hands-on experience accumulated by the scholars who actively took part in the creation and strengthening of unified Romania offers the chance to the current generation of politicians, scholars, and practitioners not to repeat the mistakes of our forefathers and to capitalize to the maximum the accumulated scientific achievements and practical experiences.

The results of C. Stere's research continue to be relevant even at the beginning of the 21<sup>st</sup> century and they could underpin any attempt to identify, research and solve the matters regarding the governance of public affairs at regional and local level in the contemporary Romanian area.



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## Abstract

### Constantin Stere’s View on the Self-Government of Romania’s Sub-National Territorial Collectivities in the First Decades of the 20<sup>th</sup> Century

Contemporary democratic states make a clear distinction between the matters of national importance and those of regional or local importance. The population of sub-national territorial collectivities, by means of the elected deliberative or executive public authorities, handle an important part of the regional- and local-interest affairs. Thus, the level of local self-government development may be deemed an index of democratic development of the contemporary states. A century ago, the professor, publicist, writer and politician Constantin Stere (1865–1936) used to treat the issues of sub-national territorial collectivity self-government considering the historical, national, and mainly rural particularities in the Romanian area. C. Stere considered that the local self-government phenomenon might and could be treated just starting from the necessity of upholding human rights and liberties, especially the right to elect and be elected within the deliberative and executive public authorities. The results of C. Stere’s research have not lost their relevance and may serve as theoretical grounds for the study and settlement of issues regarding public affairs governance at regional and local level in the contemporary Romanian space.

## Keywords

Romania, Constantin Stere, self-government, sub-national territorial collectivity