



Fundamental laws

The Swedish constitution consists of four separate acts, in Swedish called "grundlagar", literally Fundamental Laws.

This peculiar system of four separate laws can't be explained by rational reasons. The reason why Sweden has four separate laws is purely historical.

The Instrument of Government ("Regeringsformen") comes closest to what is normally understood as a "constitution". It contains the basic principles of democratic government based on the rule of law.

The first Instrument of Government, in the 17th century, was primarily a set of administrative rules for the growing state machinery at a time when the Swedish monarchy was a European great power.

The Act of Succession regulates the monarchy and the order of succession to the crown.

The first Freedom of the Press Act was introduced in the middle of the 18th century and was the first act to be called a Fundamental Law. Its distinguishing feature was a special amendment procedure, a procedure that remains until today. A Fundamental Law can only be enacted and amended after two identical decisions in Parliament, both taken by simple majority, and separated by a general election.

The Fundamental Law on Freedom of Expression was later added for new media forms such as film, radio, and television.

The four fundamental laws have the same legal status.

The old constitution from 1809 gradually lost its relevance following the introduction of parliamentary government and general suffrage.

The old constitution was characterized by a form of constitutional monarchy and certain separation of powers, which was common in Europe during the 19th century.

After several years of discussion the old Instrument of Government was replaced by a new constitution.

It was enacted in 1974 and came into force the following year.

The old name, "Regeringsformen"/The Instrument of Government, was retained but the text was completely rewritten.

The basic principles of the new constitution were popular sovereignty, parliamentary democracy and majority rule.

The old two-chamber system was abolished so the new parliament had only one chamber.

The old upper house, the First chamber, was indirectly elected and renewed gradually.

In the new unicameral system popular will would have a direct impact on the parliamentary majority and consequently for the composition of the cabinet.

It didn't take long before the inadequacies of the new constitution became obvious.

Many amendments were introduced in the following decades in order to patch up gaps and adjust the constitutional text to new demands.

The catalog of rights and freedoms was revised and expanded several times.

Budget rules and fiscal control were tightened up.

Then, Sweden became a member of the European Union in 1995.

The independence of the courts of law was strengthened

An independent national audit office was established.

In 2010, the whole Instrument of Government was given a complete make-over.

The language and disposition of the text were made more accessible and several minor revisions were added.

Today, few of the articles from 1974 remain unaltered.

The Instrument of Government in force today consists of 15 chapters.

The contents corresponds broadly with most modern constitutions of contemporary Europe.

Popular sovereignty is expressed in the first sentence of the first article of the first chapter.

Democracy is founded on the free formation of opinion and on universal and equal suffrage.

The Swedish form of representative democracy means that referendums and other forms of direct democracy play a very peripheral role.

Sweden is a parliamentary, not a presidential, democracy.

Local self-government is important. Historically the Swedish power structure is characterized by a combination of strong central state power and strong local self-government.

This introductory article is concluded by stating the principle of the rule of law. The second chapter, on rights and freedoms, now consists of 25 articles.

Five chapters are devoted to the central state institutions: parliament, king, and cabinet.

The next six chapters detail the distribution of powers among the central state institutions:

Legislation

Decisions on taxation and budget

Treaty powers and diplomacy

The judiciary

Public administration

Political, economic, and legal control exercised by parliament

A new chapter on municipalities and regions was introduced in 2010

Emergency powers, to be used in wartime, are defined in the concluding chapter of the Instrument of Government.

A political compromise in the early 1970's meant that the monarchy was preserved but that the king would only be a powerless figurehead.

Succession to the throne is regulated in a separate fundamental law.

The Act of Succession stems from 1810 and is valid for the Bernadotte family, descendants of King Carl XIV John.

From 1980 the Act of Succession is gender neutral.

The King's eldest heir, regardless of gender, inherits the throne.

Presently, the King has three children and seven grandchildren. So there are 10 heirs in the line of succession.

Next in line is the King's oldest daughter, Crown Princess Victoria.

The first Freedom of the Press Act was enacted in 1766, during the Age of Liberty. Some of the basic principles, such as the ban on censorship and public access to information, have survived until today.

This proud tradition explains why Sweden still has a separate Fundamental Law for books, newspapers and other printed material.

Freedom of the press is defined as the right to publish "written" matter, which is to be understood as printed matter.

The addition “without prior hindrance” is a way of formulating the ban on censorship.

Offences against the freedom of press are strictly defined.

Authors and publishers can only be held accountable after publication.

One important requirement is that one sole person is responsible for publication.

In a newspaper only the responsible editor, not the individual journalist, could be taken to court.

The court process in freedom of the press cases follow a special procedure, involving a jury.

In case of doubt, courts are instructed to acquit rather than convict.

Journalistic sources enjoy a special protection. Anonymity is guaranteed. A public official may not inquire into the sources of leaks and published information.

The Freedom of the Press Act also contains the general rules granting public access to information held by government institutions.

Rather than including new media forms in the old Freedom of the Press Act a new, parallel act was introduced in the early 1990's.

The principles laid down in the two Fundamental Laws are equivalent.

The Fundamental Law on Freedom of Expression covers most, but not all, non-print media formats, such as:

- Radio

- Television

- Film

- Sound recordings

Some but not all internet sites: All web sites run by news media are automatically covered. Also web sites registered with a public authority (these web sites must have one responsible editor) are covered by a stronger protection than unregistered web sites.

Media forms not covered by The Freedom of the Press Act or The Fundamental Law on Freedom of Expression enjoy some protection, but not as strong as those that are.

Freedom of speech in general is mentioned among the rights and freedoms listed in The Instrument of Government and The European Convention on Human Rights.

But legal protection for these other forms of expression is not as strong.

Handwritten messages, public speeches, demonstrations, exhibitions, theaters, and museums only have this weaker type of protection.

In these cases, offences are tried by a criminal court, with a higher likelihood of being found guilty compared to the privileged procedure used in freedom of the press cases.

The strength of protection for free speech in Sweden is heavily dependent on media technology.

For example, a pamphlet containing a handwritten message is not considered as printed matter and will be tried by a criminal court.

If the exact same paper is photocopied (assuming that the text includes the name of the publisher as well as place and year of publication) it is considered as a printed publication.

This means that the same message can lead to different outcomes.

The handwritten version might lead to fines or prison whereas the printed version (perhaps distributed far more widely) might be found acceptable.

A further three laws have a legal position somewhere between Fundamental Laws and regular laws.

Before 1975 The Riksdag Act was one of the fundamental laws.

Today The Riksdag Act can either be amended in the same way as the fundamental laws or by a faster procedure demanding one vote by a qualified majority.

The same goes for two laws which were enacted when The Church of Sweden was separated from the state in the year 2000.

So four fundamental laws plus three semi-constitutional laws make up the total picture of the constitution of Sweden.

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