

# The elastic confines of governments in democracies: Nordic constitutional forms and discourses of 20<sup>th</sup> century

DAG MICHALSEN

## 1. *A short state history of the Nordic in the 20<sup>th</sup> century*

The constitutional-historical roles of governments in the Nordic states during the 20<sup>th</sup> century were defined through their democratic constitutions. No Nordic state became authoritarian, although the Finnish one was at times on the verge of becoming, in Lars Björne's words, «half-democratic»<sup>1</sup>. No Nordic state however became outright totalitarian. By the end of the interwar years this fact was indeed rather uncommon in Europe. Most of the new democratic governments of the post-First World War had by the end of the 1930s turned totalitarian, or authoritarian anyhow<sup>2</sup>. For the Nordic countries, this fact did not change in principle for the rest of the 20<sup>th</sup> century, although all states had different constitutional experiences, both as to Second World War and the ensuing Cold War.

The geopolitical location of the Nordic states influenced their constitutional setting and practice. Before the Second War,

the Nordic states were in relation to international law neutral<sup>3</sup>. This had been the case during the First World War, but during the interwar period all Nordic states became members of the League of Nations. To become members, they transformed their worldview and their general commitment to international peace and security<sup>4</sup>. Finland became involved in the Second World War with two wars with Soviet Union. Denmark and Norway were occupied by Nazi-Germany from 1940 until the end of the war, in 1945. Enabled by the war, Iceland gained its full constitutional independence from Denmark in 1944. The only neutral Nordic power was Sweden that (barely) kept out of the war. After 1945 there emerged different international relations and statuses of the Nordic countries. Denmark, Iceland and Norway joined NATO; in 1948 Finland and Soviet Union signed the Finno-Soviet Treaty that restricted some of Finland's international freedom and it also had repercussions in Finnish interior politics. After 1945 Sweden remained neutral in

international politics. By 2000, all Nordic states had become members of the European Union except Norway and Iceland. These states had entered the European Economic Area Treaty with European Union that overall makes both countries quasi members. The Russian attack on Ukraine led Finland (2023) and Sweden (2024) to join NATO.

Of major importance for the constitutional role of the Nordic governments is the fact that the Scandinavian states, Norway, Sweden and Denmark, were – and are – monarchies, still. Finland and Iceland are republics, but their respective presidents have different constitutional competencies. The governments of monarchical democratic constitutions are formed by traditions dating back to 19<sup>th</sup> century to which I will return; all the Nordic states share a tradition of common Christian Lutheran confession<sup>5</sup>.

The following contribution is divided into six parts. First, I give an overview of the 19<sup>th</sup> century constitutional background of the Nordic states (2). Then I describe the slow introduction of parliamentarism in these states that went on from the 1890 to 1920 and which had significant impact on the legal status and functioning of governments (3). Thirdly, I touch upon the well-known issue of vulnerable parliamentary governments during the interwar time. A particular issue that connects the Nordic experiences to a broader European setting is the way the Weimar presidential rule and role of government in the new German parliamentary democracy was critically understood in Norden, especially in Sweden (4-5). The roles of the governments during the Second World War 1940-1945 were very different from state to state (6). After 1945 there was a tendency in all Nordic countries

to form majority governments, mainly social democratic ones. This lasted far into the 1960s and 70s, and for Sweden this was even called the epoch of 'constitutional void'. This epoch was the pinnacle of strong governments in Nordic constitutional and political history, certainly this is the case in the Scandinavian countries (7). The phase from 1980s until the 2000 was formed by new geopolitical constellations, the new human right regimes and the privatisation of the social democratic state. However, the endurance of parliamentarism structured the role of governments that at times was the basis for rather weak minority governments reminiscent of the interwar periods of coalition governments (8).

## 2. *Governments in Nordic constitutions of the 19<sup>th</sup> Century*

The constitutional institutions were central in the political life of the Nordic countries<sup>6</sup>. The first of the modern constitutions was the Swedish one of 1809 that kept the early modern estate structure of the Swedish society. However, after the constitutional reform of 1866, Swedish politics was modernized in order to handle the rapid economic growth and a more varied social life. Norway adapted its liberal constitution in 1814, and this constitution, still valid, became a vital part of Norwegian politics from then on<sup>7</sup>. From 1814, Norway and Sweden were in a personal union that had many effects on the constitutional politics of the two countries, especially from 1870s until its problematic dissolution in 1905. I will explore this as to the role of governments later. The Danish constitution of 1849 abolished roy-

al absolutism (and thus a very strong 'government') and inaugurated new forms of politics; however democratic reforms came rather slowly and from the 1870s there were much internal conflicts on this issue, almost until First World War. As Russia in 1809 created the Archdukedom of Finland in a personal union with Russian Tsar, Finland (having been the Eastern Part of Sweden since late Middle Ages) emerged as a new political entity. During the second half of the 19<sup>th</sup> century, Finland had very limited constitutional autonomy but still managed to develop new political mechanisms of her own. The Russian Revolution led Finland to declare itself as an independent republic, enacting its new constitution in 1919.

All Nordic states had as 19<sup>th</sup> century backgrounds several interrelationships between other Nordic states that was at the same time internal union law and external international law<sup>8</sup>. The Finnish arrangement with Russia enabled Finland to work for some sort of independence within the absolutist Russian empire. The complicated historical and legal relationship between Denmark and the (mostly) German speaking Dukedoms Holstein and Schleswig was the source of wars and international politics but also strengthening of a new Danish nationalism. The shadows of the old pre-1814 Danish-led union relationship between Denmark and Norway surfaced now and then in the form of unfinished constitutional businesses. After 1860, the union relationship from 1814 between Sweden and Norway became increasingly difficult, often in the legal form as to how to interpret the interconnections of treaties and constitutions from the years 1809 to 1815. This union relationship led to conflicts concerning the legal nature of the union as Norway de-

manded more national independence than Sweden would allow for. These conflicts reached their climaxes in 1895 and 1905 as war nearly broke out<sup>9</sup>. In addition, from the closing of the borders between Russia, Finland and Norway in 1852 until the complicated negotiations between Norway and Sweden after 1905, the Sami questions were a recurring legal issue. At last, for hundred years, from 1843 to 1944, the legal status of Iceland within the Danish realm was an increasingly difficult constitutional problem.

All these problematic union issues had direct effects on the business of governments. An important example was the role of the Norwegian government in the union between Norway and Sweden<sup>10</sup>. From 1814, based upon the Norwegian constitution and the unions documents, the Norwegian government was physically divided between Oslo (Christiania), the capital of Norway, and Stockholm, the capital of Sweden, as the common union king almost always resided in Stockholm. The constitutions of both countries had inaugurated a constitutional personal royal rule whereas the governments held all constitutional responsibility. The members of the governments were formally merely advisers to the king. By the end of the union time however, in 1905, the royal rule had become impersonal, and the governments had become a much more coherent collective state organ<sup>11</sup>.

This constitutional process had effects on the role of governments. The result was the understanding of the government as a collective organ, an understanding that was accomplished rather rapidly for Norway due to the simple fact that the King very seldom ruled from Oslo and thus the Norwegian government *de facto* was left on its own. As the Parliament only by around 1870 was

assembled every year and as for most of the 19<sup>th</sup> century the parliamentarism only had a rudimentary character, the Norwegian government became a very powerful independent state organ, located *between* the king and the parliament. This reached its zenith under the Prime Minister Frederik Stang (1808-1884) during the 1860s and 1870s. In Sweden this process took much longer time; a more independent Swedish government, freed from the monarch, came about perhaps as late as 1920.

Another variation of pre-parliamentary rather strong government we find in the conflicts resulting from the Danish constitutional amendment of 1866<sup>12</sup>. This enactment increased the democratic principle compared to the Danish constitution of 1849. However, it also triggered conflicts between the liberal political party that sought parliamentarism and the conservative party that fought for preserving the monarchical principle. Not surprisingly the conservative party was actively supported by the King. Between 1885 and 1894 the conservative Government and the liberal opposition in Parliament had different opinions on the character of the constitution, and this led the opposition – that had majority in Parliament – to boycott the constitutional task of making legislation and deciding matters of finance. Based on a constitutional provision of state of emergency, the conservative government ruled in such a way that the King himself could enact on these vital issues. Thus, the normal procedure of the constitution ceased to function during this time due to the formal role of the king, and it strengthened the power of government considerably. However, it took not long before parliamentary mechanisms were set in motion.

### 3. *Introduction of parliamentary governments in the Nordic states from the 1880s to 1920s*

The constitutional role of governments shifted with the slow decline of the personal royal rule during the second half of 19<sup>th</sup> century and the parallel slow emergence of parliamentarism<sup>13</sup>. The governments in Scandinavia had no constitutional independent basis in the constitutions; they were either connected to the king or the parliament. Their strength depended upon how to manage these two state organs. The period from 1880s to 1920s transformed the monarchical constitutions from being elite constitutions to become democratic constitutions. There were two major processes occurring. First, the political parties became more coherent, and they expanded their party-administration considerably. This would become a theme of its own at the beginning of the 20<sup>th</sup> century. Second, the system for elections to parliaments was radically changed. Partly this had to do with the rather rapid introduction of universal suffrage around 1900, including the voting rights for women (Norway 1913); partly this had to do with the introduction of the proportionality system in elections that abolished the majority system. The general idea was that the system of proportionality served the democratic principle better than the more established majority system<sup>14</sup>. These processes happened in the Nordic countries with somewhat different speed, but by 1920s the two processes converged as parliamentary governments were now elected based on universal suffrage and proportional elections. The personal royal rule did no longer exist as a constitutional reality, although still formally still surviving through the wordings of the provisions in the monarchical constitutions.

The most dramatic constitutional change took place in Norway in 1884<sup>15</sup>. The constitution of 1814 did not explicitly forbid the principle of parliamentarism, but the principle of division of power was so self-evident that no one thought in those lines. The young intellectuals in government and parliament around 1830 had the idea that the ministers should be allowed entry to the assembly of the parliament and from there, they hoped, politically would lead the more modest representatives of the parliament, but this idea came to nothing. From 1869 however, when the Parliament started to assemble every year and the coalition of liberals got a substantial majority in elections, a process towards parliamentarism commenced. During the 1870s there were harsh conflicts between the liberal opposition and the conservative government. In the end, the opposition, now with a massive majority, became rather confident that it could use the legal instruments of the constitution against the government. Thus, an impeachment case against the members of government was launched in 1882-84 that legally dealt with the issue whether the government had the right to advise the King to veto the enacted constitutional act that allowed the members of government to the proceedings of the parliament. The basic counter argument of the government was that this reform would be contrary to the principle of division of power. As the Impeachment Court decided in 1884 that the amendment was constitutional valid, there were no longer any legal or political obstacles to the introduction of parliamentarism. Gradually, this took place in the years from 1884 to 1905.

In both Norway and Sweden, the dramatic dissolution of their common union

led to strengthening of both governments. This was most obvious for Norway where the dissolution of the union did away with all forms of personal royal rule. From 1814 to 1905 the right to veto legislative acts of the Parliament was a royal prerogative that granted the monarch full discretion in its execution. From 1905 this provision was understood as being taken over by the government, but due to parliamentarism it was rather unlikely that a government would veto a legislative act by Parliament. Due to the state of emergency that lasted throughout that year of 1905, the government received a number of competencies from the parliament. In addition, the government won the two plebiscites that sanctioned the peaceful dissolution of the union and that of keeping a formal monarchy devoid of constitutional power. Thus, the strength of the government after 1905 was based upon the fact that it had a democratic basis; within the flexible parliamentary frames the government now enjoyed considerable power somewhat into the interwar years.

In Sweden, the process towards parliamentarism proceeded somewhat differently<sup>16</sup>. There, the indignation of Norway's unilateral dissolution of the union channeled much nationalistic flavor and this gave the government widely sympathy. The political maneuvering in Sweden in 1905 also led to a reluctant beginning of parliamentarism as the governments needed the backing of Parliament in the negotiations with Norway. The liberal part of the Swedish public had sympathy for Norway and soon the liberal party with the charismatic Karl Staaff (1860-1915) formed a liberal quasi-parliamentarian government (1911) that would have been unthinkable before 1905. All in all, there was now in Sweden a

new focus on the role of governments, its members, its constitutional character, its political appearance and not least, its collective way of dealing with political issues at hand. The Swedish king's personal views on politics, especially that of defense and foreign affairs, still mattered, as far as into the 1940s, but the king refrained in general from influencing politics in a way that most certainly would have led to political backlash.

#### 4. *Nordic governments in the interwar period*

Between 1919 and 1939 there were no radical constitutional breaks or eruptions in the constitutional lives of the Nordic states. As mentioned, there were no real fascist or communist threats to the social-liberal constitutional states, perhaps with the exception of fascist "The Lapua Movement" in Finland (1929-1932). Finland also had in 1918 its brutal civil war between "the reds and the whites" that was won by the conservatives. This outcome shaped Finnish politics for many decades<sup>17</sup>. For the Scandinavian monarchical states, the interwar years were formed by economic hardships of different kinds, ideological tensions with the progression of the parties on the far left, but there was less fascism. Through the 1920s there were rapid shifts of governments mainly due to the new principle of parliamentarism and the system of electoral proportionality that created many political parties in parliament. Thus, the increased channeling of democracy on many levels and forms certainly made it rather difficult to ensure stable governments. In principle the system of parliamentarism

could very well lead to strong governments (as would happen after 1945), but the first effects of the introduction of proportionality in elections tended to weaken the governments – as was experienced in many European countries at the time. The system of proportionality was introduced more of the concern for what may be called a mathematical just democracy than for the concern for establishing stable governments.

Also, the new election system, parliamentarism and added ideological conflicts were connected to new images of mass democracy. This idea of the "masses" soon took shape on the right side of politics, as Fascist Italy from 1922. Whatever: Politics now was – as it had always been on a more elitist scale – about mobilizing the masses, as they said: But how was that issue connected to constitutional frameworks of electoral laws in the rather stable constitutional democracies in the high north?<sup>18</sup>

Crisis emerged as a central word. And the legal discourse that came of the ideology of crisis somehow strengthened the roles of governments and weakened that of parliaments. Especially in Sweden there were many anti-democratic ideological voices advocating this line of thoughts, but there were no comparable far right public opinions as in Italy or Germany. However, the constitutional effects of the new crisis became a theme of its own.

The First World War had introduced massive, delegated legislation from Parliament to the governments<sup>19</sup>. This represented certainly one of the most radical changes for the liberal constitutions during the interwar years. The paramount example was the Weimar Constitution article 48 that gave the president (and by effect the German government) wide competen-

cies to derogate legislation and bypass the Parliament's legislative competence. To different degree this constitutional practice took place in different forms all over the democratic world. In 1926, the Swedish professor Herbert Tingsten published *Konstitutionelle fullmaktslagar i modern parlamentarism*, which was the first international comparative analysis of the massive transfers of legislative competence that occurred from the national assemblies to the executive branch in contemporary parliamentary democracies<sup>20</sup>. The weakening of the principle of separation of powers was much debated, but in most political camps the new delegation practice was considered necessary and inevitable. The shift of legislative authority was implemented in different ways. The fundamental question was the constitutional connection between these delegated competences and the new roles of governments. An illustrative example was the proposal for emergency legislation of 1918 in Norway where it was determined that the government could issue provisions that were required «for the maintenance of public order and the internal and external security of the realm»<sup>21</sup>.

But there were novel developments that located governments in new constitutional settings. An interesting constitutional issue was the practice and debates on judicial review. Here there were substantial differences between the Nordic countries<sup>22</sup>. Norway had for a long-time accepted mechanism of judicial review. During most of the 19<sup>th</sup> century this was practiced, partly on the basis of a provision in the 1814-Constitution (article 94), partly on the doctrine of rule of law. At the heights of conflicts between liberals and conservatives at the turn of century, the Norwegian Supreme

Court had a conservative majority, and in effect this majority restricted some of the legislation of the liberal dominated Parliament (1890-1914)<sup>23</sup>. However, in 1918 the pressure from Parliament on the Court was considerable and by a narrow majority the Court formulated a more moderate view on the scope of judicial review. In other Nordic countries there was no correspondingly established doctrine of judicial review. However, debates were going on that dealt with the political and legal dimensions of the practice of the court's review of legislative acts that came out of the parliamentary system. This debate continued after 1945.

Among the most important issues that courts considered according to the judicial review were the new radical legislation that concerned the new social law intervening in property law and industrial relations. As the forms of coalitions between social democratic and radical liberal parties came about in 1920s, this kind of legislation became common in the Nordic countries. Early in the interwar years the courts abandoned classical liberal economic ideals and accepted the emergence of what has been called the Nordic "age of social democracy" (Francis Sejersted)<sup>24</sup>. That resulted in new social goals and collective ideals about the organization of society. That strengthened both the parliament and government – or rather – made them more dependent on each other. This was also aimed at the court: The notion of a politically strong court without democratic legitimacy became increasingly difficult to uphold, especially in Sweden and Finland, but also in Denmark and even Norway. All in all, the combined power of parliaments and parliamentary governments did not meet much resistance from the courts (contrary to what happened

in United States at the time, another judicial review country).

The constitutional stability in the Scandinavian countries during the interwar years was manifest, even though there were difficulties with the many minority governments during the 1920s. The cue words were, however, both crisis and understanding. The non-socialist political parties had a slight majority through the 1920s, but these were parties of many political and cultural contrasts and therefore often had difficulties in forming stable coalition governments. Thus, as an effect, there came about Social Democratic minority governments in all three countries on an irregular basis during the 1920s. From 1930s this pattern became more stable. As the Social Democratic parties increasingly moved to the center of politics, the party soon became the largest in all three Scandinavian states. The big leap so to speak was the establishing of majority coalition governments between the Social Democratic and one or more non-socialist parties during the 1930s. Contrary to the experiences of the late Weimar time, the communist parties remained rather weak: This might also have to do with the geopolitical position of Norden vis a vis Soviet Union. As mentioned, the Fascist movements and parties had anyhow limited influence in the Scandinavian countries. The most important example of a fascist party in Scandinavia was the movement of Vidkun Quisling (1887-1945) that became the political party *Nasjonal Samling* (National Unity) in latter half of the 1930s. But this party never reached parliament or government. This would change in the year 1940, after the German invasion of Norway.

Finland had a more complicated story of parliamentary governments. The major

difference to Scandinavia was the popular election of presidents (comparable to that of Weimar) that influenced the party politics and the running of governments to a considerable degree. Between 1918 and 1940 there were 14 governments in Finland, and only very seldom did the Social Democratic party lead the government. Overall, the outcome of the Finnish civil war in 1918 had led to a deep marginalization of the left side of Finnish politics and this lasted throughout the interwar years. During the 1930s, a new fascist party became rather strong and influenced politics to a considerable degree even though it soon lost much support through its use of physical violence at the end of the 1930s.

##### 5. *Constitutional Mirrors: Nordic debates about executive power in Weimar*

An interesting debate on the role of the executive power in Swedish political thought in the interwar period was connected to the debates about the German Weimar Constitution (1919-1933). The central names were the professors Axel Brusewitz (1881-1950) and Herbert Tingsten (1896-1973). To connect to German constitutional thinking was natural as Germany had influenced Nordic constitutional thought and legal thinking since the 19<sup>th</sup> century. In addition, in many ways the Weimar constitution – with its blend of liberal and social democratic elements – resonated with the social liberal political class in the Nordic countries, when certainly not the conservatives. Of course, the constitutional differences between the Scandinavian monarchies and the German republic of 1919 were many. So even

though all the Nordic countries, including Finland, had introduced proportional election model in some form, the constitutional landscapes within which this election model functioned were very different. To some extent it had to do with the constitutional role of the people.

There can be no doubt that the Weimar constitution was – by its own admission – an extraordinary democratic constitution. But this had also its complications. The intricate interconnected system of parliament, parliamentarism, a rather strong government *and* a popular elected president with broad legislative competences, including emergency legislation, seemed to have the cumulative effect of *narrowing the role* of parliament. This reduced *de facto* the role of the people in its capacity of electing representational bodies, when not overall, as the democratic election of the federal president must be considered. But the election of the president had little to do with proportionality and equally the presidential election tended to weaken the role of political parties, both as to the exercise of power and as to that of being legitimate actors in political life.

One could say, as the Nordic debates went on, and as was evident in the texts of Axel Brusewitz, the Weimar constitutional model was, paradoxically, contrary to the formal Scandinavian monarchies where the parliaments had no competition from other state organs that represented the voters<sup>25</sup>. The same went for the very interesting system of *referendums* in the Weimar constitution, as a realizing the principle of direct democracy<sup>26</sup>. According to the Weimar constitution these types of referendums were initiated either by the people through its own initiative or the people was asked

to respond to issues, all approaching some Swiss democratic model. In the Scandinavian monarchies plebiscites were held but were kept outside the formal constitutional system and without the people having any formal legal right in this respect. The role of the plebiscites became for various reasons significant in interwar years, not only in practice, but also in ideological terms as the plebiscites might have challenging and chilling effects on the role of the democratic parliament and governments. So, the inherent tensions between a radical democratic attitude and the representational role of parliament through political parties remained a very difficult issue throughout the whole interwar period. How could parliamentary governments achieve constitutional security that would enable them to create constitutional space to do politics? This was what mostly struck Nordic observers about the Weimar parliamentary practice, not really the typical right-wing and fascist argument that parliamentarism was wrong or that governments in democracies were inherently weak – even if that also was debated.

All in all, the Nordic governments in the interwar period went from being coalition of conservative and liberal parties to increasingly being coalitions dominated by the social democratic parties. By the 1930s, the share of votes for these parties were around 40% and this made them the major coalition party in all Scandinavian countries, albeit not in Finland. The crisis of many kinds, economic, political and social ones, led to more *understanding for compromises*, particularly on the sensitive issues of labor marked that much new legislation addressed. The governments of the 1930s also managed to get through parliament much

legislation that ensured the infrastructure of the new welfare state. If the parliament had been in the constitutional forefront during the years after 1920, the governments now at the end of the 1930s seemed to have taken this position.

## 6. *Governments and Second World War 1940-1945*

All the Nordic countries were dramatically affected by World War Two, but in different ways. In all countries, this posed major challenges for the governments. For Denmark and Norway, the question was how to react to the German occupation and the Nazi rule and for Sweden how to stay out of the war. Finland had two wars with Soviet Union that shattered their way of government.

Norway had the most complicated governmental order during the war<sup>27</sup>. The German occupation began on April 9, 1940. However, as the German occupation forces were upheld by the Norwegian army the first couples of months, the Norwegian King and Government managed to stay in Norway for a while and then escape to England in June 1940. From then on, there came about a complicated structure of government in Norway. By June 1940, the exiled Norwegian government had its seat in London. Constitutionally this government had been given parliamentary authority by the Parliament on the day of the German invasion. From June 1940 this 'London'-government (as it was called) acted as the sole legitimate Norwegian government throughout the war. But it goes without saying that it had very limited possibilities to intervene in any way

in Norway. The 'London'-government was a coalition government of all political parties that partly dealt with issues concerning exiled Norwegian interest, partly it represented Norway in the coalition against the Axis. At times it also intervened in the German occupied Norway.

In Norway proper, there were both civil and military administration. First, during the 1940, as the constitutional government left Oslo, there came about a Norwegian civil administration without government functions. However, as German occupation powers forced this administration to act contrary to its aims, it was soon dissolved. From 1941, Vidkun Quisling became 'president' and formed a Norwegian Nazi government that ruled in coalition with the real power, the German occupation forces and the German civil government (*Reichskommissariat Norwegen*)<sup>28</sup>. In consequence, there was no legitimate Norwegian government in Norway proper during the war. In Denmark the story was different as the king and government remained in Denmark during the occupation and thus continued to govern in a kind of concert with the Nazi occupants.

In Sweden there was yet another story. The Social Democratic party had already during the 1930s become the dominant party. Its aim was to build a social welfare state and keep solid economics in the heavy industrialized Sweden. Sweden was in a very precarious geopolitical position as Finland in the east fought with Soviets from 1939 and the west, the Nazi invasion of both Norway and Denmark in 1940 had dramatic effects: Thus, Sweden was surrounded by totalitarian powers. From 1939 until 1945 there was a national coalition government consisting of three parties to the right in

addition to Social Democrats to center left. A national government dissolved party politics and in order to keep Germany happy the government had to make concessions of many kinds. The role of government however was strengthened during the war as Sweden survived as neutral country and there was very little opposition.

7. *Parliamentary governmental majority rule in post war Norden*

Between 1945 and the 1980s, there have been for the most part parliamentary majority governments in the Nordic countries<sup>29</sup>. The stability after 1945 was particularly evident as the Social Democratic party continued to have governmental power in the three Scandinavian countries for decades. The constitutional basis for this stability was all in all the same as that before the war. Even though Denmark renewed its constitution in 1953 and the Sweden enacted a modern constitution in 1976, these constitutional changes had little to do with the continued governmental stability. This stability related to a strong sense of parliamentarism. The many debates whether parliamentarism was to be understood as constitutional practice or just political conventions was of no consequence in this sense. The effects of the debates from interwar years, the coalition experiences from the war 1940-1945 and not least the common idea of establishing a well-functioning welfare state – all this contributed to the perceived need for a robust governmental style and ruling. This constitutional and political understanding also related to the strong administrative build-up of the

Nordic states that eventually strengthened the governments. Undoubtedly, the Nordic parliamentary-based governments led the way in building up new administrative states.

Without doubt Swedish politics was the most radical in the Nordic countries, also as it led to certain de-constitutionalizing process of the role of parliament and government. This result has even been called the "half-century of non-constitution"<sup>30</sup>. The idea behind this term is that the Swedish society to a large extent after 1945 was governed more by political understandings than by any reference to the formal constitution – and that this way of governing certainly strengthened the role of the government. The combination of the construction and the extension of the welfare state and the continuous rule through several decades of the Swedish Social Democratic party gave meaning to that term<sup>31</sup>. Even though the post-war stories in the other Nordic countries varied somewhat, Sweden may stand for the idea of a radical state aiming at social reforms headed by an ideological committed government.

During the late 1940s and up to the 1960s, the Cold War had its impact on the political life and – often with mechanism of emergency legislation – consolidated the rule of the governments. To take Norway as an example. As Norway (and Denmark) became member of NATO in 1948 and was recipient of the Marshall resources, the conflict with Soviet Union became integral part of the internal political life in Norway. This again resulted in marginalisations of political parties left of the ruling Social Democratic party. Thus, and differently from the interwar years, the post war years were formed by the debates on the

implementation of the new security legislation (1950). This kind of legislation was (as research has shown) often also utilised for the sake of governmental agencies and governmental control. During the 1960s a reaction from the political left emerged that called for more transparency in these matters. There can be no doubt that this security legislation (and by its outcome certain traits of a security state) gave the government competences that were not anchored in the constitution. This trend goes for all Nordic countries.

On the other hand: The Nordic countries have been active champions for international law and the new systems of human rights<sup>32</sup>. As small democratic states, it was natural to adhere to international law and not great power politics. European cooperation divided the Nordic countries as Denmark became member of European Community in 1973 whereas Sweden and Finland waited until 1995. As already mentioned, Norway and Iceland have through European Economic Area a treaty with European Union from 1994<sup>33</sup>. That has meant that these states to a considerable degree accept EU-legislation in order to have access to the EU internal market. This new international setting of the Nordic countries has self-evidently had effects on the role of governments. To govern both nationally and internationally through hybrid legal-political bodies of many kinds, is more difficult than before. But that is a common experience all over modern Europe. Still, what is striking in Nordic countries, is how the constitutional tradition of each of the Nordic states continues to be important to the role of the government. Also, the parliamentary system still functions according to its political and constitutional aims.

Whether the tendencies in contemporary Europe with a somewhat more authoritarian politics will influence the Nordic countries in this respect remains to be seen.

## 8. Conclusion

To understand the constitutional role of governments in the Nordic countries there are some obvious premises. The state structure of Norden has been stable for a very long time. Since 1814 there has been no war between Nordic states. Since mid-19<sup>th</sup> century, the Scandinavian monarchies have been constitutional, and they progressed to parliamentarism and democracy after 1900. The 20<sup>th</sup> century is no exception here. There was no overturn of democratic governments during the 20<sup>th</sup> century and overall, we must speak of a remarkable constitutional stability.

Given these premises, there could never be any 'strong government' in the sense of extra-constitutional ones or constitutional outright authoritarian governments. In my view there has never been a government in the Nordic states during the 20<sup>th</sup> century (except under German occupation) that was un-constitutional in a liberal sense even though at times the government utilised the constitutional and political order to its advantage. This was the case during the 1950s and 60s, as the Social Democratic governments ruled with substantial majorities. But it has never been claimed that one deals with constitutionally illegitimate practise.

The role of the Scandinavian government was formed by the 19<sup>th</sup> century constitutionalism and under the control of the monarchs. As the royal rule declined, the

rise of parliamentarism absorbed the government within the principle of division of power and the necessities of the administration of the state. Overall, the governments were at its weakest during the early interwar years, but by 1930s majority rule became the norm. Even though there were many minority governments during the interwar years, these were at the same time so integrated in the parliamentary system that the possibilities for reaching majority solutions were many. Even though there were widespread criticism of parliamentarism and political parties in general, this never had political consequences as in the authoritarian states on the European continent.

The fundamental impact of the rule of law frameworks and ideology has led to new levels of regulations of the governmental practice in all Nordic countries. Even with majority government, this is the case. The Nordic countries also take the EU-law more seriously than many other states that contributes to the same effect. One may even speak of a meta-regulated government transcending the constitutional frameworks. Whether this will survive what seems to be a rise of international authoritarianism is another question.

<sup>1</sup> See L. Björne, *Finland 1919-1939: Halvdemokrati och politiska rättegångar*, in «Tidsskrift for rettsvitenskap», 2023, pp. 305-329. See also the comparative analysis P. Ihalainen, *The Springs of Democracy: National and Transnational Debates on Constitutional Reform in the British, German, Swedish and Finnish Parliaments, 1917-1919*, Helsinki, Studia Fennica, 2017.

<sup>2</sup> See overview from that time: K. Loewenstein, *Autocracy versus Democracy in Contemporary Europe I-II*, in «American Political Science Review», 1935, pp. 571-593 and pp. 755-784.

<sup>3</sup> M. Jonas, *Scandinavia and the Great Powers in The First World War*, London, Bloomsbury Academic, 2019, Ch 2.

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