

# Swedish Absolutism and the Rights of the Subjects

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It is a matter of fact, that not as much has been written about Charles XI as has been about his antecessor or successor. Though he had no carisma, he became a legend, the ‘old grey cloak’, who supposedly rode anonymously by himself around the kingdom protecting the humble and putting down the mighty.<sup>1</sup> It has often been claimed that Rule of Law prevailed during his reign, that the King, acting in the interest of the commoners, respected the Law although the King had Absolute power.<sup>2</sup> A March 1682 royal *rescriptum* to the Governer General at Narva, the Baron Martin Schultz, who among other things unjustly demanded excess tax payments from the Town of Narva and its Treasurer, has been used to support this opinion:

But, without due legal cause and in the ordinary processes authorized by Us, to make an alteration, or esteem Ourselves so above the law, that We will not allow Our subjects to enjoy and profit from it for their security and defence, that is absolutely foreign to Our royal office, and incompatible with Our subjects’ security which We have promised and sworn to them in return for their duty of faith and obedience.<sup>3</sup>

Seemingly, this *rescriptum* deals with rights and freedoms of the subjects; although Sweden was an absolutist state, the rights of the subjects should be respected. The wordings are, that is true, deeply rooted in Swedish constitutional tradition.<sup>4</sup> However, in December the same year, the Swedish Diet declared that the King could alter and remake the Law at will, and the King approved of the Diet’s declation.<sup>5</sup> In my batchelor thesis in history (Uppsala university), I have argued that the aim of the *rescriptum* not being rights and freedoms, but propaganda: it shows how the royal government was to be viewed. Rule of Law was just nice words, which were used to cover up for the Governer General’s political mistakes. The use of the *rescriptum* as royal propaganda stems from the Swedish Historiographer of the Realm, Jacob Wilde, who in 1731 wrote a highly propagandistic work in latin, in order to protect Sweden’s reputation in Europe.<sup>6</sup> Wilde’s use of the *rescriptum* has been uncritically repeated throughout the centuries.<sup>7</sup>

The Governer General at Narva not only put unduly pressure on the Town of Narva and its Treasurer but also made mistakes in administering Justice. In a conflict between a Russian Merchant, Markoff, and two English Merchants at Narva, Gilbert & Bacon, he lieuterated the judgement of the Town Court to the advantage of Markoff. Mr Bacon was put into gaol, and the English Envoyé Éxtraordinaire in Stockholm, Philip Warwick, petitioned to Charles XI asking for an explanation. Noteworthy is, that Mr. Warwick used similar rhetoric about how the royal government and the King was to be seen: *la Justice, qui regne dans Son Ame Royale*.<sup>8</sup> – The final judgment from the King, after hearing the Senate,<sup>9</sup> was wry: though the Governer General had right and duty to lieuterate, the King could not understand the Governer Generals juridical decision. Therefore the King affirmed the judgment of the Town Court and ordered the Governer General to execute that judgment.<sup>10</sup> Unluckily, when the King’s order reached Narva, the Governer General’s lieutation had already been executed, the Governer General had died and Markoff’s representative had returned to Moscow. The English Merchants, facing ruin of their credit, had in their desperate situation to petition to the Swedish King<sup>11</sup> as well as ask for English diplomatic intervention.<sup>12</sup> However, Charles II referred the matter to the Committee of Trade and Plantations; and the Committee referred the matter to Philip Warwick.<sup>13</sup>

Although this might seem to support the traditional view of the King helping the commoners (the English Merchants, the town of Narva and its Treasurer) against the rich and mighty (the Governor General), these examples also point out that the Absolutism created the possibility for the rich and mighty to oppress the poor. The King set things right, but the wrongs were caused or made possible by the Royal Absolutism. The Governor General had express orders from the King to collect unpaid taxes and to lieutate in cases concerning the Russian Trade. He was free to act at will and to use any methods he seemed fit, as long as he fulfilled the task. The way things were done created the possibilities for the propaganda. The commoners were thus linked with the Royal Government, and the Royal Government could count on their support.<sup>14</sup> – Anthony F. Upton has rightly stated: *Logically, under any system of absolute state sovereignty, there can be no meaningful rule of law.*<sup>15</sup>

These conflicts in Narva have implications for modern Sweden. Structures of the early modern time still persist: what Upton has written about the Swedish Absolutism could also be said about the modern welfare state:

It had a firm ideological base that was philosophically coherent, and fitted well within the traditional Christian value system. Beyond that it was pragmatically justifiable; it did deliver effectively those services that the mass of the population needed from government. [...] It preserved a rough equity of treatment between the different social groupings that made up the Swedish body politic.<sup>16</sup>

Also, as during Absolutism, there is nowadays no separation of powers in Sweden. Instead, we have the *Volkssuveränität*, People's Sovereignty.<sup>17</sup>

### (Footnotes)

<sup>1</sup> Anthony F. Upton, *Charles XI and Swedish Absolutism*, Cambridge 1998, p. 169; the same theme has been used in literature by – among others – William Shakespeare (*Henry IV*) and Karen Blixen (*Vinter-Eventyr*). The myth stems from the Arabian Nights. – The ‘old grey cloak’ (in Swedish: Gråkappan) was used again in the 19<sup>th</sup> century when the modern Swedish nation was constructed, cf. A.A. Afzelius: *Svenska folkets Sago-häfder*, which was published in many editions from 1839 onwards.

<sup>2</sup> Chr. Naumann, *Sveriges statsförfattningsrätt. Del 1*, Stockholm 1879, p. 288, Fredrik Lagerroth, *Frihetstidens författning*, Stockholm 1915, p. 228 and *Två svenska regeringsformer*, Lund 1970, p. 10; Jacob W.F. Sundberg, *Fr. Eddan t. Ekelöf*, p. 99–100

<sup>3</sup> Swedish National Archive, Riksregistraturet, vol. 469, fol. 98, Charles XI to Schultz, March 8<sup>th</sup>, 1682; translation by Upton, op. cit. p. 243.

<sup>4</sup> Cf Ch. 5, 2 & 3 §§ of the Land Law of King Magnus (around 1350), Ch. 4, 2 & 3 §§ of the Land Law of King Christoffer (1442), as well as 2 § of the constitutions of 1719 and 1720, 2 § of the constitution of 1772 and 16 § of the constitution of 1809. This tradition was broken during the 20<sup>th</sup> century, and therefore no similar section is to be found in the constitution of 1973.

<sup>5</sup> The so-called *second declaration of sovereignty (andra suveränitetsförklaringen)*, Sveriges ridderskaps och adels protokoll, part XIV, p. 229; ; English translation of the so-called first declaration of sovereignty at Public Records Office, SP 95/11 p. 156; on the translation is annotated: “Rec<sup>d</sup> 14. March [16]80/1”.

<sup>6</sup> Jacob Wilde, *Sueciae historia pragmatica* etc., Stockholm 1731, partly translated into Swedish in 1742 as *Det så kallade oinskränkta enväldet [...]*.

<sup>7</sup> Wilde, op. cit. p. 708 and *Det så kallade oinskränkta enväldet etc.*, Stockholm 1742, p. 22, Anders Schönberg, *Historiska bref om det svenska regeringssättet i äldre och nyare tider*, Stockholm [1778] 1851, p. 122, Naumann, op. cit., p. 288; Lagerroth, op. cit. p. 227; Erik Fahlbeck, Stig Jägerskiöld och Halvar G.F. Sundberg, *Medborgarrätt*, Stockholm 1947, p. 8; Henrik A. Olsson, Karl XI och lagen. Några synpunkter mot bakgrund av 1693 års s.k. suveränitetsförklaring, *Karolinska förbundets årsskrift* 1969, p. 103–104; Jacob W.F. Sundberg, op. cit., p. 99–100.

<sup>8</sup> Swedish National Archive, Diplomatica, Anglica, vol. 522. Warwick to Charles XI, Febr. 2<sup>nd</sup>, 1681/2

<sup>9</sup> The Senate functioned *inter alia* as the Supreme Court. But after Absolutism was established, all sentences were given by the King, after hearing the Senate, Swedish National Archive, Rådets handlingar och brev, vol. 33, Senate to Charles XI, Febr. 17<sup>th</sup>, 1682.

<sup>10</sup> Swedish National Archive, Riksregistraturet, vol 468, fol. 702r, Charles XI to Schultz, Febr. 12<sup>th</sup>, 1682.

<sup>11</sup> Swedish National Archive, Livonica II, vol 733, Gilbert & Bacon to Charles XI, undated [after March 22<sup>nd</sup>, 1682]. The wordings of the letter is desperate: “mehr alß unersetzlicher Schade, intolerable beschimpfung und ein unschätzbar verlust unsere hirhevor florirenden Credits”.

<sup>12</sup> Calendar of State Papers, vol. 23 (1682), p. 182, April 26<sup>th</sup>, 1682; Public Records Office, CO 388/1 p. 219, Alexander Gilbert & Richard Bacon to Charles II, undated [before April 26<sup>th</sup> 1682]

<sup>13</sup> Public Records Office, CO 391/4 p. 14-15; British Library, Additional Manuscripts 35104, fol. 64r, Conway to Warwick, June 20<sup>th</sup> 1682.

<sup>14</sup> Cf Upton’s discussion on pp. 251-261. Already in early modern times, concensus was prevalent in Sweden.

<sup>15</sup> Upton, op. cit. p. 243.

<sup>16</sup> Upton, op. cit. p. 260.

<sup>17</sup> Ch. 1 sec. 1 of the Constitution of 1973. The Constitution of 1809, on the contrary, stated that powers should be separated in a Montesquieu-like way.