



A CONTINUOUS POWER IN CONSTITUTIONAL CHANGE: THE SWEDISH PARLIAMENT

Anayasa Değişikliğinde Sürekli Bir Yetki: İsveç Parlamentosu

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ABSTRACT

The Swedish Parliament (Riksdag) has played a continuous and central role in shaping the country's constitutional framework. Unlike many other countries where constitutional changes require external ratification or referendums, Sweden's system allows the Riksdag itself to initiate and approve amendments, provided they pass through a structured legislative process. This paper examines the historical development of Sweden's constitutional evolution, emphasizing the unique mechanisms that enable parliamentary sovereignty in legal transformation. By analyzing key constitutional changes, including the shift to a unicameral system in 1971 and subsequent reforms, this study highlights how the Riksdag functions as both a legislative and constitutional authority. The findings suggest that this system promotes stability while allowing for adaptability, ensuring that Sweden's governance structure remains responsive to societal needs and democratic principles.

Key Words: Amendment power, constituent assemble, parliamentary sovereignty, Riksdag, Sweden.

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ÖZET

İsveç Parlamentosu (Riksdag), ülkenin anayasal yapısının şekillendirilmesinde sürekli ve merkezi bir rol üstlenmektedir. Birçok ülkede anayasa değişiklikleri referandum gibi parlamento dışı onay mekanizmalarına ihtiyaç duyarken, İsveç sisteminde Riksdag, belirli bir yasama sürecinden geçmek koşuluyla, anayasa değişikliklerini gerçekleştirme yetkisini haizdir. Bu makale, İsveç'in anayasal sürecin tarihsel gelişimini incelemekte ve hukuki dönüşümde parlamenter egemenliği mümkün kılan özgün mekanizmaları öne çıkarmaktadır. 1971 yılında tek meclisli sisteme geçiş ve onu izleyen reformlar dâhil olmak üzere temel anayasa değişikliklerinin ele alındığı bu çalışma, Riksdag'ın hem yasama organı hem de anayasa koyucu bir otorite olarak nasıl faaliyet gösterdiği incelenmektedir. Yapılan tespitler, bu sistemin istikrarı temin ederken aynı zamanda uyumu teşvik ettiğini ve böylece İsveç'in yönetim yapısının toplumsal ihtiyaçlara ve demokratik ilkelere duyarlı kalmasının sağlandığını göstermektedir.

Anahtar Kelimeler: Anayasa değişikliği yetkisi, kurucu meclis, parlamento egemenliği, Riksdag, İsveç.

INTRODUCTION

Constituent power is the authority that creates or alters the constitution. Popular sovereignty is a widely accepted source of constitutional legitimation; however, does the bearer of the constituent power fully encompass the exercise of that power? Because the position that the role of the people is mostly dormant as a “sleeping sovereign” raises questions about the extent of their actual involvement¹. Dicey’s understanding of parliamentary sovereignty which can also be relevant with Swedish realm, assumes that constitutional authority ultimately rests on a popular foundation as a parliament².

Sweden’s constitutional framework is shaped by a unique balance of stability and adaptability, with the Swedish Parliament playing a central role in its continuous evolution. Unlike many countries where constitutional amendments require external ratification through referendums³ or special legislative bodies⁴, Sweden’s system grants the Riksdag significant authority in initiating and approving constitutional changes. This process reflects Sweden’s strong parliamentary tradition and its commitment to democratic governance.

The principle of parliamentary sovereignty stands as the apex norm of the Swedish constitutional order and shapes the functions not only of the Riksdag but also of all other constitutional institutions⁵. According to the orthodox view, the

1 Duke, G. (2023). “Can the people exercise constituent power?”, *International Journal of Constitutional Law*, Vol. 21., No. 3., p. 799-800.

2 Ibid. 801.

3 Countries like Ireland, Switzerland, France, Japan, and Australia require popular ratification through referendums as part of the constitutional amendment process.

4 In countries like the United States and Canada, constitutional amendments must be ratified by special legislative bodies, thereby ensuring that constitutional change is contingent upon federal consensus.

5 Husa, J. (2000). “Guarding the Constitutionality of Laws in the Nordic Countries: A Comparative Perspective”, *The American Journal of Comparative Law*, Vol. 48., No. 3., p. 377.

Riksdag possesses the authority to enact any legislation it deems appropriate. This implies that Parliament holds exclusive competence to approve all newly proposed or amended legislation⁶.

This paper explores the Swedish Parliament's role in constitutional change, examining key historical amendments and the mechanisms that allow for legal transformation. By analyzing Sweden's approach to constitutional reform, this study sheds light on how parliamentary sovereignty ensures both continuity and adaptability in governance, maintaining democratic legitimacy while responding to societal shifts.

This study adopts a qualitative and descriptive approach grounded in constitutional theory to examine the continuous role of the Swedish Parliament in constitutional change. Through an analysis of constitutional provisions, legislative practices, and scholarly interpretations, it explores how formal and informal mechanisms of constitutional change reflect broader theoretical debates concerning sovereignty, parliamentary supremacy, and democratic legitimacy. By situating the Swedish case within a constitutional theoretical framework, the study highlights the Riksdag's function not merely as a legislative body, but as a continuous constitutional actor shaping the evolving nature of the Swedish constitutional order.

In the first part of this article, the doctrine of constituent legislative is examined. In liberal constitutionalism people always have the inalienable right to alter or modify the form of their government⁷. So, if the parliament acts on behalf of the people, it naturally has authority to replace or totally revise

6 Legislative supremacy, also known as parliamentary sovereignty, denotes the legal doctrine whereby parliament holds the ultimate authority to enact, amend, or repeal any law without legal limitation. See Phillips, O. H. and Jackson, P. (1987). *O. Hood Phillips' Constitutional and Administrative Law*, Seventh Edition, London: Sweet & Maxwell, p. 25.

7 Eren, A. (2023). *Anayasa Hukuku Dersleri*, 5. Baskı, Seçkin, p. 59.

the constitution. The second part of the article provides the peculiarities of the Swedish Parliament. Swedish parliamentarism is based on the principle of parliamentary supremacy, with its own distinctive features. In the third part, Riksdag is evaluated. In this section, formal amendment procedure of the constitution, important constitutional reforms and the impact of parliamentary sovereignty on constitutional change are discussed. Finally, some concluding remarks are provided, drawing on the findings of the previous parts of the article.

I. THE DOCTRINE OF CONSTITUENT LEGISLATIVES

The concept of constituent power is a modern development. Although its roots can be traced back to medieval thought, it only takes on a distinct form with the rise of the modern state. The concept originates in Enlightenment thought and is grounded in two foundational conditions: the recognition that the ultimate source of political authority resides in “the people,” and acceptance of the idea of a constitution as something that is created⁸. Sieyès and Paine, as principal architects of the concept, explicitly articulate the hierarchical relationship among legislative power, constitutional authority, and the constituent power of the nation⁹.

In a more traditional sense, constituent power is understood as the raw, democratic authority of “the people” to create a constitution¹⁰. There has been a perception in liberal constitutionalism that people have an inalienable right to change the constitution¹¹. On the other hand, there needs to

8 Loughlin, M. (2014). “The concept of constituent power.” *European Journal of Political Theory*, Vol. 13., No. 2., p. 219.

9 Ibid. 221.

10 Eren, A. (2023). p. 56.

11 Key formulations of this idea are present in the work of both John Locke (Two Treatises of Government) and Emmanuel Sieyès (What is the Third Estate?). See Velasco-Rivera, M., & Colón-Ríos, J. I. (2023). “On the legal implications of a ‘permanent’ constituent power.” *Global Constitutionalism*, Vol. 12., No. 2., p. 269; Eren, A. (2023). p. 55.

be a distinction between constituent authority and constituent power. Constituent power refers to the entity that creates a constitution. It typically holds legally unrestricted or physical power. However, constituent authority ultimately stems from the people, as a constitution requires legitimacy, meaning it must be accepted by the democratic majority for its moral and value-based consistency¹². Duke also makes this distinction depending on the criteria that how the process of constitutional change has been exercised. If the process of constitutional change grounded includes plural views in round-table discussions, with open communicative channels to and from civil society then constituent power includes the constituent authority with the people as the bearers of constituent power¹³.

There is an almost consensus on temporariness of the primary constituent power that is a one-time event¹⁴. Jon Elster describes it as a “near-universal rule that constitutions are written in times of crisis and turbulence”¹⁵. Once the constitution is created, this power is typically seen as transferring into the constitutional framework itself, becoming “constituted power” (i.e., the formal legal system and institutions that operate under the constitution). In this view, constituent power is exhausted at the moment of the constitution’s creation¹⁶. These principles also imply the very concept of constitutionalism, that is the written constitution creates a hierarchy between rules and a constitutional rule prevails over ordinary legislation¹⁷. This

12 Kay, R. (2011). “Constituent Authority” *The American Journal of Comparative Law*, Vol. 59., No. 3., p. 720-722.

13 Duke, G. (2023). p. 819.

14 Velasco-Rivera, M., & Colón-Ríos, J. I. (2023). p. 269.

15 Elster, J. (2006). Legislatures as Constituent Assemblies, in Bauman, R. W. and Kahana, T. (Eds), *The Least Examined Branch: The Role of Legislatures in The Constitutional State* (pp. 181-197). New York: Cambridge University Press, p. 185.

16 Gözler, K. (2020). *Anayasa Hukukunun Genel Teorisi Cilt I*, 2. Baskı, Bursa: Ekin, p. 395-396.

17 Ruotsi, M. (2024). “A Doctrinal Approach to Unconstitutional Constitutional

understanding of constituent power, rooted in the thought of Carré de Malberg, holds that once a constitution is adopted, the constituent power ceases to exist within the juridical order of the state¹⁸. It is then replaced by the constituted powers -the state organs- established by the constitution itself¹⁹. This distinction is also reflected in the delegation theory, which holds that the power to amend the constitution is a limited authority granted to constitutional organs, while the power to adopt an entirely new constitution rests with the people. According to this theory, fundamental changes to the existing constitution necessitate the initiation of a constituent process²⁰. For the principle of constitutional supremacy rests on two foundations: the separation between constituent and constituted powers, and the notion of a rigid constitution²¹. Ordinarily, constitutional amendments that have not been enacted in accordance with the procedure set out in the constitution is invalidated because the secondary constituent power is limited²².

A more dynamic and radical interpretation of constituent power suggests that it is never entirely exhausted and can be reactivated, particularly in times of constitutional crisis, revolution, or profound political transformation. Greene distinguishes between the traditional understanding, what he terms the “closed model of constituent power” and the “open constituent power,” which is not viewed as having been depleted at the moment of a constitution’s creation²³. One of the main functions of open constituent power is to provide political le-

Amendments: Judicial Review of Constitutional Amendments in Sweden”, *European Constitutional Law Review*, Vol. 20., No. 2., p. 255.

18 Gözler, K. (2020). p. 386, 393.

19 Velasco-Rivera, M., & Colón-Ríos, J. I. (2023). p. 273.

20 Ruotsi, M. (2024). p. 249.

21 As cited in Velasco-Rivera, M., & Colón-Ríos, J. I. (2023). p. 273.

22 Ruotsi, M. (2024). p. 255.

23 Greene, A. (2020). “Parliamentary sovereignty and the locus of constituent power in the United Kingdom”, *International Journal of Constitutional Law*, Vol. 18., No. 4., p. 1181.

gitimation for the primary constituent power, often associated with the sovereign will of the people, as reflected in Schmitt's decisionist conception of sovereignty²⁴.

In this context, the relationship between constituent power (the sovereign people) and constituted power (such as the legislative body) is complex and interdependent, particularly in the context of newly adopted constitutions, such as those in Bulgaria and several Latin American countries²⁵. For instance, if the constitution gives the constituted powers to authority of total revision of constitution, then there is intertwinedness of primary and secondary constituent power²⁶. This constitutional transition contends kind of constitutional moment. As stipulated in the Bulgarian Constitution (Arts. 157–163), the enactment of a new constitution requires the convening of a Grand National Assembly specifically mandated for this task. Loughlin characterizes this development as part of a new cosmopolitan paradigm in which “the constitution no longer has ultimate authority, since it is now subject to the creative powers of judicial interpretation that render it compliant with the principles of the invisible constitution -super-legality reigns²⁷.”

Loughlin's description to “relational constituent power” includes to operate and function within established regime as an “open model of constituent power”²⁸. This approach is apart from the traditional exhausted model of constitutional moment. As a continuing constituent power, parliament

24 Ibid. 1182.

25 Çağlar, B. (1989). *Anayasa Bilimi*, İstanbul: BFS Yayınları, p. 85.

26 See contra Gözler, K. (2020). p. 400. Nevertheless, Roznai contends that the primary constituent power remains unrestricted by such procedural constraints, even if it may opt to act within them. See Roznai, Y. (2017). *Unconstitutional Constitutional Amendments: The Limits of Amendment Powers*, Oxford University Press, p. 168.

27 Loughlin, M. (2022). *Against Constitutionalism*, Cambridge, Massachusetts, & London, England: Harvard University Press, p. 200-201.

28 Greene, A. (2020). p. 1190.

which operates behalf of the people can provide politically legitimate and incremental constitutional change²⁹. The constituent legislature functions as an ordinary legislative body, but its responsibilities extend to both the drafting and adoption of a constitution³⁰.

This tension between the legitimacy of constitutional change and the authority of the body enacting it is also explored in comparative constitutional jurisprudence. According to the Supreme Court of Mexico, fundamental constitutional changes may be enacted by two distinct forms of authority: the original (or primary) constituent power and the permanent constituent power. The primary constituent power is understood as an extra-legal and foundational authority, typically associated with the creation of constitutional order itself. In contrast, the permanent constituent power refers to a constitutional organ that, while operating within the established legal framework, exercises sovereign authority to amend the constitution without being bound by ordinary constitutional constraints. As a result, neither form of constituent power is subject to constitutional review³¹, given their position above the constitutional order they create or modify. A key implication of this theory is that the permanent constituent power functions as a self-regulating body, accountable only to itself in the exercise of constitutional amendment powers³².

Traditionally, in countries such as the United Kingdom and Sweden, where parliamentary supremacy is a fundamental constitutional principle, the distinction between the role of a constituent assembly and that of an ordinary legislative body

29 Ibid. 1190.

30 Negretto, G. L. (2018). "Democratic constitution-making bodies: The perils of a partisan convention", *International Journal of Constitutional Law*, Vol. 16., No. 1., p. 259.

31 Velasco-Rivera, M., & Colón-Ríos, J. I. (2023). p. 281.

32 Ibid. 284.

remains unclear³³. The Swedish Constitution permits both constitutional amendments and the adoption of an entirely new constitution through the same legislative procedure. In other words, the Swedish Parliament can introduce a complete constitutional overhaul without requiring a specific provision granting such authority, as there is no explicit prohibition against replacing the constitution in its entirety. Ruotsi questions how this fits within the framework of the delegation theory, which holds that substantive constitutional change should be the prerogative of the primary constituent power³⁴. He makes a distinction between what he labels *procedural unconstitutionality* and *unconstitutional constitutional replacements*³⁵. The unconstitutional constitutional replacements refer to instances where the constitution does not make explicit how a new constitution is to be enacted while the procedural unconstitutionality refers to instances where a competent organ has failed to comply with the stipulated procedural requirements³⁶. Ruotsi argues hierarchy within the constitution between its provisions whether the constitution separates the procedure of total revision of the constitution or fundamental provision changes by adopting power (secondary constituent power)³⁷.

The authority to change the core of the constitution is a power that resides solely with the primary constituent power of the people³⁸. While the people are theoretically the bearers of constituent power, their actual involvement in constitutional change is often mediated. Duke contends that elected representatives should serve as the agents of constitutional transfor-

33 Duke, G. (2023). p. 801.

34 Ruotsi, M. (2024). p. 268.

35 Ibid. 261.

36 Ibid. 261.

37 Ibid. 259.

38 Ibid. 252.

mation, rather than relying on direct popular participation³⁹. Within liberal democracies, this sovereign will be exercised through state organs that represent the people. Among these, parliament stands as the foremost representative institution. In the case of Sweden, this principle is enshrined in Chapter 1, Article 4 of the Instrument of Government, which explicitly states that “all public power in Sweden proceeds from the people” and that the Riksdag is the primary representative of the people. So, if the parliament acts on behalf of the people, it normally has authority to replace or totally revise the constitution. In other words, Riksdag’s revision power is not constrained by the constitution. While Sweden formally possesses a written and relatively rigid constitution, its constitutional system is primarily characterized not by legal constitutionalism, but by political constitutionalism⁴⁰. That is, the functioning and limitations of public power are shaped less by judicial enforcement and entrenched constitutional norms, and more by parliamentary processes, political accountability, and democratic deliberation. The constitutional principle of parliamentary supremacy grants the Swedish Riksdag a central and authoritative role within the constitutional order. This is exemplified by the adoption of the 1974 Instrument of Government (IG), which was enacted directly by the ordinarily elected Riksdag, rather than through a separate constituent assembly or popular referendum.

This reflects a view of constituent power that is exercised through existing institutions rather than through extra-legal acts. Critics of the rigid distinction between constituent and constituted powers argue that in cases like Sweden, this dis-

39 Duke, G. (2023). p. 817-818.

40 Loughlin distinguishes between constitutionalism and constitutional government. According to Loughlin, Sweden is a constitutional government but does not adhere to the precepts of constitutionalism. Terms like popular constitutionalism or political constitutionalism are misnomers because constitutional and democratic values exist in a perpetual and productive tension with one another. See Loughlin, M. (2022). p. 7.

tion is more conceptual than real, as historical developments demonstrate gradual constitutional evolution rather than revolutionary change⁴¹. In this regard, Ran Hirschl's notion of a "*no apparent transition*" aptly captures the Swedish experience, where constitutional reforms and the establishment of judicial review were implemented without accompanying political or economic upheavals⁴². Thus, the Swedish case exemplifies how constituent authority may be exercised through ordinary legislative mechanisms, challenging the assumption that constitutional transformation requires a moment of extraordinary rupture.

The legislature, as a constituted power, exercises its authority within the limits set by the constitution. In systems adhering to legal constitutionalism, this typically means that constitutional review mechanisms -often exercised by courts- serve to constrain legislative action. However, in constitutional systems that prioritize parliamentary supremacy over the traditional separation of powers, constitutional constraints may arise through political rather than legal channels. For example, in Sweden, where there is no strong tradition of judicial constitutional review, constitutional accountability is primarily enforced through democratic processes. In such a model, violations of constitutional norms by legislators are addressed not by courts, but by the electorate at the ballot box, emphasizing political constitutionalism over judicial enforcement⁴³. On the other hand, democratic countries mostly attribute the change or replace the constitution by parliament. But parliament's role is change as "exclusive during constitution making, central when amending the constitution, and then diminishes during the application/interpretation of the

41 Ruotsi, M. (2024). p. 279.

42 Hirschl, R. (2004). *Towards Juristocracy*, Harvard University Press, p. 8.

43 Schauer, F. (2006). Legislatures as Rule-Followers, in Bauman R. W. and Kahana, T. (Eds), *The Least Examined Branch: The Role of Legislatures in The Constitutional State* (pp. 468-479). New York: Cambridge University Press, p. 475.

constitution”⁴⁴. The chicken and egg paradox is a classic example of circular causality, wherein it becomes difficult to identify which of two interdependent phenomena is the initial cause. In the context of constitutional theory, this paradox is mirrored in Jon Elster’s observation that “constitutions regulate legislatures, and legislatures sometimes create constitutions⁴⁵,” thus raising the question of whether constituted powers or constituent power comes first in the formation of political order. From this point of view, parliaments act as constituent power. Surely, if we ask this question for the country which is established democracy like Sweden, we usually respond that parliament is first. Parliament creates a constitution that also constrains itself. This question again responds with Jon Elster’s constituent legislature conceptualization that means parliament as an ordinary legislative power adopts a new constitution⁴⁶.

Generally accepted that constitutional conventions are preferable on impartiality and respond to the people’s will⁴⁷. However, it has generally result of constitutional moments such as a revolution or postwar founding of a state. Moreover, it is very possible to increase power conflict between constituent conventions and constituted powers during the constitution-making process⁴⁸. By contrast, the constituent legislature reflects a more evolutionary approach to constitution-making. This gradual and institutionalized process tends to promote greater stability in the resulting constitutional framework. Even when partisan interests significantly influence the content of the constitution, the legislative process

44 Gavison, R. (2006). Legislatures and the Phases and Components of Constitutionalism, in Bauman R. W. and Kahana T. (Eds), *The Least Examined Branch: The Role of Legislatures in The Constitutional State* (pp. 198-213). New York: Cambridge University Press, p. 198.

45 Elster, J. (2006). p. 181.

46 Ibid. 183.

47 Negretto, G. L. (2018). p. 254.

48 Ibid. 255.

typically involves extended debate, negotiation, and deliberation, which can lead to broader political consensus. Given that a constitution is inherently a political document, this method of adoption may enhance its legitimacy and durability within a pluralistic society. In other words, a constitution created by democratically elected parliament which reflects different political elements of the people can respond better rather created a constitution with little debate and imposed on a limited group of elites. The risks inherent in permitting a single branch of government -particularly the legislature- to unilaterally define the scope of its own future powers are readily apparent⁴⁹.

II. PECULIARITIES OF SWEDISH PARLIAMENTARISM AND CONSTITUTIONALITY REVIEW

Sweden celebrates its democracy over a hundred-year age. Although two world wars and enormous political crises, totalitarian and authoritarian waves around, Sweden accomplished to save its representative democracy and party government⁵⁰.

The Swedish constitution comprises four constitutional acts: the Instrument of Government (*Regeringsform*) of 1974; the Freedom of the Press Act (*Tryckfrihetsförordningen*) of 1949 (a history dating back to 1766); the Freedom of Speech Act (*Yttrandefrihetsgrundlagen*) of 1991, regulating media other than the printed media; and the Act of Succession of 1810 (*Successionsordningen*), regulating the right to the throne⁵¹. These laws collectively establish the principles of governance, the role of the monarchy, and the rights of citizens.

49 Elster, J. (2006). p. 182.

50 Spencer, R. C. (1945). "Party Government and The Swedish Riksdag", *The American Political Science Review*, Vol. 39., No. 3., p. 437.

51 Nergelius, J. (2019). "The Constitution of Sweden and European Influences: The Changing Balance Between Democratic and Judicial Power", in *National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law*, p. 316.

The Swedish parliament, Riksdag, dates from 1435⁵². From the Things of medieval freemen to Gustav Vasa's first national assemblies which included representatives from all four Estates -Nobility, Clergy, Burghers and Peasantry- the Riksdag has gradually developed into what it is today⁵³. In 1866 a representative reform was implemented, marking the end of the Riksdag of the Estates and its replacement with a bicameral system. In 1909 the suffrage was extended to all men and in 1919 woman also admitted to the suffrage⁵⁴. In 1971 the unicameral system was adopted. The Swedish Parliament functions as the country's legislative body, responsible for making laws and shaping government policy. As a "constituent legislature", it plays a key role in constitutional matters.

Swedish parliamentarism exhibits distinctive features, including the rapid formation of cabinets, the tendency for governments to remain in office until the next election, and the high success rate of government bills in the Riksdag⁵⁵. These outcomes are largely attributable to two interrelated elements: negative parliamentarism and a tradition of consensus-oriented politics. Negative parliamentarism -where a government does not require explicit majority support to assume or remain in office, but merely the absence of a majority against it- contributes to the procedural stability and longevity of Swedish cabinets. Meanwhile, the substantive dimension of Swedish politics is characterized by a culture of consensus-building, which facilitates legislative cooperation and policy continuity

52 Some scholars have argued that the origin of the Riksdag is to be traced to the assemblies of freemen of the Things. See. Bellquist, E. C. (1935). "Foreign Governments and Politics: The Five Hundredth Anniversary of the Swedish Riksdag", *The American Political Science Review*, Vol. 29., No. 5., p. 858.

53 Yıldız, A. (2025). "Dynamics of Swedish Political Constitutionalism: Towards a Transition to Legal Constitutionalism", *Annales de la Faculté de Droit d'Istanbul*, Advance Online Publication, p. 3.

54 Spencer, R. C. (1945). p. 443.

55 Lindvall et al. (2020). "Sweden's Parliamentary Democracy at 100", *Parliamentary Affairs*, Vol. 73., No. 3., p. 478.

across party lines. Although the Westminster model is commonly thought “an acquiescent legislature”, legislatures control the executive which is the basic specialty of parliamentarism has validated in Sweden⁵⁶. Swedish parliamentarism is also excluded from cabinet formation process that a candidate for a prime minister proposed by the Speaker of the Riksdag. Then the prime minister is free to appoint other ministers with his will, no necessity to be approved by King.

The Swedish conception of parliamentary sovereignty is primarily concerned with the relationship between the legislature and the judiciary, closely resembling Dicey’s classical formulation, in which courts lack the authority to override or invalidate acts of Parliament⁵⁷. Parliamentary sovereignty thus injuncts the courts against finding a parliamentary statute invalid on the basis that Parliament acted *ultra vires* its constitutional mandate⁵⁸. This is also valid for constitutional change according to legal constitutionalism with the doctrine of unconstitutional constitutional amendments: This refers to the idea that even constitutional amendments can be struck down if they violate fundamental principles of the constitution. This doctrine is most applied in jurisdictions with rigid constitutions and strong judicial review, such as Germany. Sweden has a less rigid constitutional structure compared to these countries. Similarly Swedish constitutional law does not recognize strong-form judicial review in the way that, for example, the U.S. Supreme Court does⁵⁹. On the other hand, a

56 Russel, M. and Cowley, P. (2016). “The Policy Power of the Westminster Parliament: The “Parliamentary State” and the Empirical Evidence”, *Governance: An International Journal of Policy, Administration, and Institutions*, Vol. 29., No. 1., p. 121.

57 Dicey, A. V. (1982). *Introduction to the Study of the Law of the Constitution*, 8th Edition, Indianapolis: Liberty Classics, p. 3-4.

58 Greene, A. (2020). p. 1169.

59 Tushnet, M. (2008). *Weak Courts, Strong Rights: Judicial Review and Social Welfare Rights in Comparative Constitutional Law*, United States of America: Princeton University Press, p. 18.

doctrine of unconstitutional constitutional amendments could be applied in Sweden⁶⁰.

Although the annulment of legislation remains rare in Sweden, the growing influence of external legal frameworks -such as the European Union and the European Convention on Human Rights- has contributed to a process that may be described as the judicialization of politics⁶¹. Recent rulings by the Supreme Court (*Högsta domstolen*) and the Supreme Administrative Court (*Högsta förvaltningsdomstolen*) demonstrate an increasingly assertive role for the judiciary in areas traditionally regarded as part of the political domain, including aspects of policymaking⁶². As Ghavanini and others have noted, this shift is driven not only by exogenous pressures but

60 It could apply in the following ways: First, according to Instrument of Government (Chapter 2 Article 19), no act of law (it should cover fundamental/constitutional acts) may be adopted which contravenes the European Convention for the Protection of Human Rights and Fundamental Freedoms. Second, the Constitutional Committee (*Konstitutionsutskottet*) in the Riksdag could play a role in assessing whether a proposed amendment undermines basic principles of Swedish constitution. Alongside the Finance Committee and the Foreign Affairs Committee, the Constitutional Committee is regarded as one of the most prestigious committees in the Swedish Riksdag, entrusted with the important task of scrutinizing the government's actions and ensuring constitutional compliance. See Bergman, T. (2003). "Sweden: From Separation of Power to Parliamentary Supremacy and Back Again?", in Strøm, K., Müller, W. C. and Bergman T. (Eds), *Delegation and Accountability in Parliamentary Democracies*, Comparative Politics, online edition, Oxford: Oxford Academic, p. 601. Contra, Husa, J. (2000). p. 376. Moreover, although Swedish courts generally avoid reviewing constitutional amendments, they could develop a doctrine similar to India's "basic structure doctrine," where courts refuse to apply amendments that violate core democratic principles. Instrument of Government (Chapter 11 Article 14 and Chapter 12 Article 10) allows courts to disregard laws that clearly violate the constitution, and a creative judicial interpretation could extend this to unconstitutional amendments.

61 Holmström, B. (1994). "The Judicialization of Politics in Sweden", *International Political Science Review / Revue internationale de science politique*, Vol. 15., No. 2., p. 153.

62 See Wallerman Ghavanini et al. (2023). "Institutions that define the policymaking role of courts: A comparative analysis of the supreme courts of Scandinavia", *International Journal of Constitutional Law*, Vol. 21., No. 3., p. 771.

also by endogenous developments, such as the institutional evolution of the courts and a transformation in judicial interpretative approaches, which have contributed to a more autonomous judiciary⁶³. Analyses of these developments often frame them as marking Sweden's transition from a political to a legal constitution, reflecting a broader paradigmatic shift in constitutional culture⁶⁴. This transition invites comparison with common law constitutionalism, particularly the British model, with which Swedish parliamentarism has long shared significant similarities⁶⁵. The evolving Swedish constitutional discourse increasingly mirrors the British experience, wherein the traditional doctrine of parliamentary sovereignty has undergone reinterpretation⁶⁶. This change aligns with the notion of a "living constitution", famously articulated by Walter Bagehot, suggesting that constitutional systems are continuously evolving in response to political, legal, and institutional dynamics⁶⁷.

Recent developments -particularly the 2021 government crisis- have illustrated that the dynamics of Swedish parliamentary politics are undergoing significant transformation. It mostly depends on the changing party system in government which also depends on economic and social changes such as migration and populism⁶⁸. Swedish party system has changed

63 See Ghavanini, et al. (2023). p. 794.

64 Yıldız, A. (2025). p. 16-18.

65 Greene, A. (2020). p. 1175.

66 Schwartz, A. (2022). "The Changing Concepts of the Constitution", *Oxford Journal of Legal Studies*, Open Access, p. 25.

67 Bagehot, W. (1888). *The English Constitution*, 5th edn, London: Kegan Paul, Trench & Co., p. vii.

68 Swedish parties are example of disciplined system. Sweden political parties historically has located in two wings: Left-right dimension (Bergman, T. (2003). p. 597). Eight parties now represented in Riksdag and the third of them are the Social Democratic Party (S), the Left Party (V) and the Green Party (MP) which represents the left wing while the Sweden Democrats (SD), the Moderate Party (M), the Centre Party (C), the Christian Democrats (KD), and the Liberal Party (L) are the right-wing parties in the parliament. M, KD and L reached an agreement to form a government on 14 October 2022 after 2022 election which called Tidö Agreement (*Tidöavtalet*).

since the 2000s and parties compete over several issues such as immigration and security⁶⁹. At the same time, social changes so on represented by political parties in Parliament reveal the necessity to evolve into traditional judicial protection for democratic/political control of legislative⁷⁰. For instance, the increasing instability of coalition governments, coupled with their often deficient and negligent approach toward the Council on Legislation's opinions, has given rise to new risks that may undermine the effectiveness of judicial checks⁷¹.

III. SWEDISH PARLIAMENT AS A CONSTITUENT POWER

A. FORMAL AMENDMENT PROCESS

There exists an inherent tension between the people and the parliament when it comes to the concept of constituent power. It can be argued that parliament is not the fundamental source of political authority but instead exercises a derived form of constituent power⁷². This tension is often exacerbated by the conflation of parliamentary sovereignty with constituent power. The Swedish Constitution addresses this tension in a particularly effective manner. Notably, it states that “all public power in Sweden proceeds from the people” and that “the Riksdag is the foremost representative of the people.” These provisions affirm the Parliament’s primacy while simultaneously delineating the separation of powers among the legislative, executive and judicial branches. However, this raises a critical question: does the Riksdag’s authority extend

69 Lindvall et al. (2020). p. 479.

70 See Valguarnera, F. (2015). “Judicial Policymaking in Sweden: A Comparative Perspective”, *Scandinavian Studies in Law*, Vol. 61., p. 210. See also Bergman, T. (2003). p. 616.

71 Bull T. and Cameron I., (2023). “The Evolution and Gestalt of the Swedish Constitution’ in A. von Bogdandy et al. (eds), *The Max Planck Handbooks in European Public Law: Volume II Constitutional Foundations*, Oxford University Press, p. 621.

72 Greene, A. (2020). p. 1185.

to exercising constituent power in the form of constitutional amendment? It is widely recognized that secondary constituent power -such as that possessed by parliament- is inherently limited by the constitution itself.

Sweden has well-developed legislative process. This process also covers the constitutional amendment process⁷³. On the other hand, this process is characterized by often unwritten and quite well-hidden constitutional practices rather than on clear and explicit constitutional provisions⁷⁴.

The first phase of the lawmaking process is proposing a law. This is taking place more commonly by government and rarely by a single member of Parliament or via a proposal by a parliamentary committee⁷⁵. Committees in Riksdag have the authority to propose a law that other things to make relatively effective working committee system⁷⁶.

The inquiry stage lays the groundwork for legislative proposals by clarifying the issue and outlining the problems to be addressed. Though ministries may handle this internally, governments frequently appoint expert committees to conduct a more in-depth analysis. These committees often include a mix of experts, civil servants, academics, political representatives, and private sector stakeholders⁷⁷. The legislative process often begins when a parliamentary committee identifies a societal, legal, or economic issue that necessitates regulatory intervention. This recognition may stem from various sources, including public discourse, political priorities, judicial decisions highlighting legal ambiguities, international commitments (such as European Union directives), technological develop-

73 Bull T. and Cameron I. (2023). p. 606.

74 Zamboni, M. (2023). "The Legislative Drafting in Sweden: Its Informal and Non-Linear Nature", *Förvaltningsrättslig tidskrift*, p. 82.

75 Zamboni, M. (2023). p. 84.

76 Bergman, T. (2003). p. 601.

77 sns-research-brief-nr-59-english-summary.pdf (Accessed: 22/3/2025)

ments, or broader social transformations. Following this, the committee conducts a comprehensive analysis to define the scope and implications of the issue, ensuring that any subsequent proposal is appropriately targeted and effective. Based on this analysis, terms of reference are formulated to guide a structured inquiry. This systematic approach ensures that legislative proposals are grounded in rigorous research, informed by expert knowledge, and responsive to stakeholder input. Ultimately, the committee of inquiry publishes its findings and recommendations in a formal report, including the inquiry's terms of reference, all of which are made publicly accessible⁷⁸.

The referral or consultation phase of a legislative proposal is a crucial component of the preparatory process, as outlined in Chapter 7, Article 2 of the Instrument of Government. This provision states: "In preparing Government business the necessary information and opinions shall be obtained from the public authorities concerned. Information and opinions shall be obtained from local authorities as necessary. Organizations and individuals shall also be given an opportunity to express an opinion as necessary." In practice, this means that complex legislative matters are often referred to relevant public agencies, private organizations, and other stakeholders. This inclusive approach facilitates the development of more effective and broadly supported policies. By incorporating diverse perspectives and expertise, the consultation process enhances both the legitimacy and the practical efficacy of proposed legislation, fostering public trust and democratic consensus⁷⁹.

Once the consultation bodies have submitted their comments on the inquiry report, the responsible ministry processes the feedback and drafts the bill that will be submitted to the Parliament. The ministry analyzes the feedback from govern-

78 The Swedish Law-Making Process (Accessed: 17/3/2025)

79 Zamboni, M. (2023). p. 84.

ment agencies, interest groups, municipalities, experts, and other stakeholders. The responsible ministry starts drafting the formal bill based on the inquiry report and consultation feedback. The Government discusses and approves the final version of the bill before submitting it to the Riksdag. The Government is obliged – in principle – to refer major items of draft legislation to the Council on Legislation (*Lagrådet*). Not all bills are sent to the Lagrådet, if the law is complex or has major constitutional implications or it affects individual rights, economic regulations, or the judicial system than it has to refer the Lagrådet. The Lagrådet plays a crucial role in reviewing proposed legislation before it is submitted to the Riksdag⁸⁰. This phase ensures that new laws comply with the Swedish Constitution and legal system. Its purpose is to provide legal scrutiny of proposed laws before they are debated in Parliament⁸¹. It does not have the power to veto laws but gives expert opinions on constitutional and legal consistency. After the Lagrådet review, the final bill is prepared and submitted to the Riksdag for debate and voting⁸².

Once the government bill reaches the Riksdag, it undergoes several key steps before it can become law. The Speaker of the Riksdag assigns the bill to the relevant parliamentary committee, depending on the subject matter. Especially the Committee on the Constitution holds a special position regarding fundamental laws⁸³. The committee writes a report summarizing its analysis and making a recommendation such as approving the bill as is, amend the bill or reject the bill. Any member of the parliament can submit counter-proposals. The bill is debated in a plenary session, where members of parliament discuss its merits. MPs from different parties present their positions, argue for or against amendments, and

80 Nergelius, J. (2019). p. 334-335.

81 Yıldız, A. (2025). p. 10-11.

82 The Swedish Law-Making Process (Accessed: 17/3/2025)

83 Akıncı, M. (2010). *İsveç İdare Hukuku*, Ankara: Yetkin, p. 49.

challenge the government's reasoning if necessary. Then the Riksdag votes on the bill. If approved, the bill is sent to the government, which is responsible for enforcing the new law. Laws, other than fundamental laws, are normally enacted by a simple majority decision of Parliament⁸⁴.

According to Swedish constitution (Chapter 8 Article 14) "fundamental law is enacted by means of two decisions of identical wording...The second decision may not be taken until elections to the Riksdag have been held throughout the country following the first decision, and the newly elected Riksdag has convened... At least nine months shall elapse between the first submission of the matter to the Chamber of the Riksdag and the date of the election." This rule applies to all four Swedish constitutional acts, not only to the Instrument of Government⁸⁵.

Under the Instrument of Government, the amendment of fundamental laws does not require a qualified majority or a specific quorum. As stipulated in Chapter 8, Article 14 of the Instrument of Government, such amendments may be enacted through two identically worded decisions by the Riksdag, separated by a general election. A simple majority suffices for both votes, as no supermajority threshold is prescribed. Chapter 8, Article 18 affirms that the same procedure applies to proposals to repeal or modify a fundamental law.

In contrast, Chapter 8, Article 16 introduces a mechanism for subjecting proposed constitutional amendments to a referendum. If at least one-tenth of the Riksdag's members propose a referendum and one-third support the motion, the amendment is submitted to a popular vote held concurrently with the general election mentioned in Article 14. If a majority of the electorate votes against the proposal, and the number of 'no' votes exceed half the number of valid ballots cast in

84 Makes laws | Sveriges riksdag (Accessed: 17/3/2025)

85 Nergelius, J. (2019). p. 318.

the parliamentary election, the amendment is rejected. If these conditions are not met, the amendment proceeds to the Riksdag for final approval after the election. Notably, this referendum mechanism has never been employed in practice⁸⁶.

Sweden's system ensures that constitutional changes are deliberate and reflective of long-term democratic values. The requirement of two parliamentary approvals with an intervening election allows for public scrutiny and prevents rapid shifts based on temporary political majorities. As a result, Sweden has maintained a stable yet adaptable constitutional framework that evolves in response to societal and political developments.

B. HISTORICAL CONSTITUTIONAL REFORMS

Sweden's constitutional history is marked by significant reforms that reflect its evolving political landscape and commitment to democratic governance⁸⁷. While the fundamental laws provide stability, the Riksdag has played a crucial role in updating and adapting the constitution to meet contemporary needs. This section examines key constitutional changes, highlighting the role of the Riksdag in shaping Sweden's modern governance structure.

1. The Transition to a Unicameral Parliament (1971)

One of the most significant constitutional reforms in Sweden's history was the transition from a bicameral to a unicameral parliament in 1971. Prior to this reform, Riksdag was a bicameral parliament which was established in 1867: Upper Chamber and Lower Chamber. The Upper Chamber (*Första*

86 Ruotsi, M. (2023). "Defending Democracy: Sweden's Constitutional Reform Proposals in Response to Democratic Backsliding in Europe", *ConstitutionNet*, International IDEA, <https://constitutionnet.org/news/defending-democracy-swedens-constitutional-reform-proposals-response-democratic-backsliding> (Accessed: 20/3/2025)

87 Altuğ, Y. (2011). "İsveç'te Demokrasinin Kurulması ve Gelişmesi", *Journal of Istanbul University Law Faculty*, Vol. 21., p. 49-50.

kammaren) was an aristocratic character because it was composed of estate owners, high officials and financiers. Additionally, the voting system which the Upper Chamber was elected by county councils made the Chamber more aristocratic⁸⁸. The Upper Chamber was highly influential and central to the political debate. During the twentieth century, Upper Chamber lost its role and eventually became almost insignificant⁸⁹.

The reform process began in the 1950s with parliamentary debates and committee investigations⁹⁰. The Riksdag ultimately approved the shift to a unicameral system in 1969, with the final implementation occurring in 1971. It was abolished without protests, strong passions or solemn ceremonies in 1970⁹¹. The change simplified the legislative process, making lawmaking more efficient and increasing democratic accountability by ensuring that all representatives were directly elected by the people⁹².

2. The Instrument of Government Reform (1974)

A significant milestone in Swedish constitutional history occurred with the adoption of the 1809 Instrument of Government⁹³. It marked a pivotal moment in Sweden's transition towards a more modern and democratic form of governance while still affecting constitutional thinking in Sweden⁹⁴. This act codified the separation of powers and established a consti-

88 Nilsson, T. (2019). "9 The Swedish Senate, 1867–1970 From elitist moderniser to democratic subordinate" in Bijleveld, N. H., Grittner, C., Smith, D. E., & Versteegen, W. (Eds.), *Reforming Senates: Upper Legislative Houses in North Atlantic Small Powers 1800-present*, Routledge Studies in Modern History, p. 135.

89 Ibid. 133. See also, Altuğ, Y. (2011). p. 57.

90 Bull T. and Cameron I. (2023). p. 606.

91 Nilsson, T. (2019). p. 133.

92 Molin, B. (1972). "Sweden: The First Year of the One-Chamber Riksdag", *Scandinavian Political Studies*, Bind 7 (Accessed: 19/3/2025)

93 Yıldız, A. (2025). p. 4.

94 Wenander, H. (2020). "Administrative Constitutional Review in Sweden: Between Subordination and Independence" 26 *European Public Law*, p. 991.

tutional monarchy with parliamentary representation⁹⁵. The 1809 Instrument of Government was based on Montesquieu's philosophy of the separation and balancing of powers⁹⁶. The 1809 Instrument of Government gives executive power to the king and the legislative power is shared between the King and the Riksdag. It was based on a formal division between the king and his cabinet and the Riksdag⁹⁷.

During the 1918-1921 Sweden witnessed the democratic breakthrough especially with the universal suffrage⁹⁸. As mentioned above, the Riksdag transitioned to a unicameral structure in 1971. The Instrument of Government of 1809 was seen as outdated, particularly in its provisions on monarchy and executive power. To clarify the roles of the monarchy, government, and parliament and solidify Sweden's commitment to democratic values, there need to adopt a new constitution which occurred in 1974 with the replacement of the Instrument of Government⁹⁹. According to Jon Elster's classification of constitutional-making bodies¹⁰⁰, the Riksdag functioned as an authority to draft a constitution in 1974, fitting *self-created constituent legislatures* best¹⁰¹.

The 1974 reform formally redefined the role of the Swedish monarchy, making Sweden a fully parliamentary democracy. Under the new system, the King's political powers were abol-

95 Bull T. and Cameron I. (2023). p. 603.

96 Pierre, J. (1993). "Legitimacy, Institutional Change, and the Politics of Public Administration in Sweden". *International Political Science Review / Revue Internationale de Science Politique*, Vol. 14., No. 4., p. 389.

97 Bergman, T., & Bolin, N. (2011). "Swedish Democracy: Crumbling Political Parties, a Feeble Riksdag, and Technocratic Power Holders?" in Bergman, T. and Strøm, K. (Eds.), *The Madisonian Turn: Political Parties and Parliamentary Democracy in Nordic Europe*, p. 251.

98 Nilsson, T. (2019). p. 141-142.

99 Yıldız, A. (2025). p. 5.

100 Elster, J. (2009). "Bir Kurucu Meclisin İdeal Tasarımı", Saygın, E. (Çev.), *Ankara Üniversitesi Hukuk Fakültesi Dergisi*, Vol. 58., No. 2., p. 421.

101 Elster, J. (2006). p. 183.

ished, and he became a purely symbolic head of state. Even the role of leading the formation of government was given to the Speaker of the *Riksdag*, which was the result of an agreement in 1971¹⁰². Executive power was officially transferred to the government, led by the Prime Minister.

The new Instrument of Government proclaims that all public power proceeds from the people and it declares that the *Riksdag* is the foremost representative of the people. The *Riksdag* legislates and approves the national budget, and it is the political basis for the cabinet. In this constitutional design, there are few constraints on nationally elected politicians and the political parties that are central to representative democracy¹⁰³.

3. EU Membership and Constitutional Adjustments (1994-1995)

Sweden's decision to join the European Union (EU) in 1995 required significant constitutional adjustments to align Swedish law with EU regulations. Before joining, Sweden held a national referendum in 1994, in which a majority of voters supported EU membership¹⁰⁴. The *Riksdag* then approved the necessary constitutional amendments to enable Sweden to transfer certain legislative powers to the EU while maintaining national sovereignty. These constitutional changes included the recognition of EU law's primacy over Swedish law in areas covered by EU treaties, adjustments to the legislative process to accommodate EU directives and regulations and strengthening Sweden's constitutional commitment to international cooperation¹⁰⁵.

102 Bull T. and Cameron I. (2023). p. 607.

103 Bergman, T., & Bolin, N. (2011). p. 251.

104 1994 Swedish European Union membership referendum - Wikipedia (Accessed: 19/3/2025)

105 Nergelius, J. (2019). p. 318-319.

4. Recent Constitutional Amendments

In recent years, Sweden has continued to update its constitution to address new political and societal challenges. Notable amendments include the 2010 Constitutional Reform, which modernized election laws, clarified the responsibilities of the Prime Minister, and strengthened individual rights¹⁰⁶. Moreover, the regulation of the judicial review authority of courts extended such no need “manifest conflict” with the constitution¹⁰⁷. The 2022 Amendment that made it possible to pass tougher anti-terror laws, a key demand from Türkiye to approve Sweden's NATO membership bid¹⁰⁸. These reforms highlight Sweden's commitment to maintaining a constitutional framework that evolves in response to contemporary needs while upholding democratic principles.

The democratic backslide can also be seen as abusive constitutionalism¹⁰⁹. Nowadays, kind of constitutional amendments such as citizenship revocation¹¹⁰ and press ordinance section of constitution to include criminalization of Holocaust denial¹¹¹ are all that kind of degenerative changes. To prevent that kind of degeneration and enhance the democracy, the Swedish Committee of Inquiry on the Constitution presented its final report in March 2023, titled “*Strengthening the protection of democracy and the independence of the judiciary*” (Förstärkt skydd

106 Ekiz, S. (2018). “İsveç Anayasası Üzerine Notlar”, *Dokuz Eylül Üniversitesi Hukuk Fakültesi Dergisi*, Vol. 20., No. 1., p. 75.

107 Yıldız, A. (2025). p. 16.

108 Sweden changes constitution to strengthen its anti-terror law and meet Turkey's NATO membership objections | ConstitutionNet (Accessed: 23/3/2025)

109 Landau, D. (2013). “Abusive constitutionalism”, *UC Davis Law. Review*, Vol. 47., No. 1., pp. 189-260.

110 In Sweden, government considers amending constitution to allow citizenship revocation | ConstitutionNet (Accessed: 20/3/2025)

111 Sweden amends press ordinance section of constitution to include criminalization of Holocaust denial | ConstitutionNet (Accessed: 20/3/2025)

för demokratin och domstolarnas oberoende)¹¹². The report was a response to concerns about democratic backsliding in Europe and sought to strengthen constitutional safeguards in Sweden. Proposals include introducing a quorum requirement and increased voting threshold for constitutional amendments (of two-thirds of the members of the Riksdag), requiring legal review of amendments (by Council on Legislation) impacting fundamental rights, and enhancing judicial independence in the administration of courts¹¹³.

C. THE IMPACT OF PARLIAMENTARY SOVEREIGNTY ON CONSTITUTIONAL CHANGE

The Swedish model of constitutional change is fundamentally grounded in the principle of parliamentary sovereignty. "Parliamentary sovereignty means that Parliament can pass laws on any topic, and there are no fundamental laws which Parliament cannot amend or repeal in the same way as ordinary legislation¹¹⁴."

The first factor reinforcing the sovereignty of Parliament is the relative ease with which the Swedish Constitution can be amended. By vesting primary authority over constitutional amendments in the Riksdag, Sweden maintains a flexible constitutional framework that contrasts with the more rigid models adopted by many other democracies where referendums or high supermajority requirements often serve as significant barriers to legal reform. This institutional design has enabled Sweden to enact substantial constitutional transformations with relative procedural ease, including the transition from a bicameral to a unicameral legislature in 1971 and the comprehensive revision of the Instrument of Government

112 Förstärkt skydd för demokratin och domstolarnas oberoende - Regeringen. se (Accessed: 20/3/2025)

113 Ruotsi, M. (2023).

114 Phillips, O. H. and Jackson, P. (1987). p. 49.

in 1974¹¹⁵. The country's constitutional laws have been modified with notable frequency. Between the adoption of the 1974 Instrument of Government and the year 2003, nearly half of its provisions were subject to amendment¹¹⁶.

Chapter 11 Article 14 paragraph 2 of the Instrument of Government which reads "in the case of review of an act of law under paragraph one, particular attention shall be paid to the fact that the Riksdag is the foremost representative of the people, and that fundamental law takes precedence over other law." This feature shows first parliamentary supremacy that also means parliament's superior power to revise constitution. And that revise can constitute total replacement of the constitution which raises the parliament's position primary constituent power. The importance of this authority is that the Riksdag can use that authority without a clear reference by constitution. The Swedish constitution makes no distinction between the primary constituent power to create a constitution and the secondary power to amend it, as both can be exercised by the Riksdag under identical conditions¹¹⁷.

Secondly, although Sweden possesses a written constitution, the judiciary's reluctance to engage in rigorous constitutional review -a weak form of judicial review- serves to reinforce the principle of parliamentary supremacy. Unlike systems such as the United States (with its diffuse model) or Germany (with a centralized constitutional court), Sweden has historically limited the judiciary's power to review the constitutionality of legislation. Both the American and German models have faced criticism on the grounds that judicial review may undermine democratic legitimacy and contribute to the juridification of politics, whereby political questions are increasingly transferred to judicial bodies rather than re-

115 Nilsson, T. (2019). p. 144.

116 Ruotsi, M. (2024). p. 273.

117 Ibid. 278.

solved through democratic deliberation¹¹⁸.

A clear expression of the principle of parliamentary sovereignty is also found in the *Riksdag Act*, which governs the internal procedures of the Riksdag. Although it was classified as a fundamental law prior to 1974, the *Riksdag Act* now occupies an intermediate legal status between fundamental law and ordinary legislation. This unique position reflects the central role of the Riksdag in Sweden's constitutional framework.

One of the key takeaways from Sweden's constitutional model is its ability to combine stability with flexibility¹¹⁹. In systems where constitutional amendments are overly rigid, governments may struggle to enact necessary reforms. Conversely, in systems where amendments are too easy, there is a risk of instability and frequent legal changes driven by temporary political majorities. Sweden's approach provides a middle ground, ensuring that changes of legislation is slow, open (i.e. inclusive) and deliberative¹²⁰. By requiring two parliamentary approvals with an intervening election, the system ensures that constitutional changes are not made hastily or in response to short-term political pressures¹²¹. At the same time, the absence of rigid supermajority requirements or mandatory referendums allows for efficient adaptation to new political and societal challenges.

While Sweden's constitutional framework prioritizes stability, it is also highly adaptable. The parliamentary amendment process enables timely responses to evolving political and social challenges. For instance, the 1994-1995 EU membership amendments allowed Sweden to integrate smoothly

118 Tuori, K. (2020). "Constitutional Review in Finland", in Bogdandy, A., Huber, P. and Grabenwarter, C. (Eds.), *The Max Planck Handbooks in European Public Law Volume 3*, Oxford University Press, p. 207.

119 Bull T. and Cameron I. (2023). p. 618.

120 Ibid. 613.

121 Ibid. 624.

into the European Union. Similarly, the 2022 amendment addressed over Russian invasion to Ukraine. This adaptability ensures that Sweden's constitution remains relevant in a rapidly changing world. Unlike countries with rigid amendment procedures that make reforms difficult, Sweden's system allows for measured, yet effective, updates that reflect societal needs¹²².

The Swedish model of constitutional change also reinforces democratic legitimacy by ensuring that elected representatives, rather than unelected bodies or judicial authorities, have primary control over amendments. Because the general election between the two parliamentary votes allows the public to indirectly influence constitutional decisions, the system remains accountable to the electorate. However, some critics argue that the lack of mandatory referendums on constitutional changes reduces direct public participation in the process. While Sweden has held referendums on major issues like EU membership, constitutional amendments do not automatically require a public vote. This has led to debates about whether greater direct democratic involvement should be introduced for fundamental constitutional reforms¹²³.

Despite its advantages, Sweden's system also carries potential risks, particularly concerning the concentration of power in the hands of the majority party or coalition¹²⁴. The absence of a supermajority requirement means that a determined government with a parliamentary majority can push through constitutional changes without broader consensus. While the electoral process provides a safeguard, there is still a risk that major constitutional shifts could occur without sufficient public debate¹²⁵.

122 Zamboni, M. (2023). p. 83, 102.

123 Ruotsi, M. (2023).

124 Bull T. and Cameron I. (2023). p. 624.

125 Zamboni, M. (2023). p. 100.

CONCLUSION

Although Sweden practices parliamentary sovereignty, its system has checks on the Riksdag's constituent power, such as the requirement for elections and the possibility of referenda. The role of the monarchy is largely symbolic, so the Parliament holds significant legislative power. In this context, the Swedish Parliament can act as a "constituent legislature" by shaping the foundational laws of the country when necessary.

Sweden's constitutional framework demonstrates the effectiveness of a parliamentary-driven model in facilitating legal and institutional evolution while ensuring democratic stability. The Swedish Parliament plays a central role in constitutional change, enabling the country to modernize its governance structures in response to political, social, and international developments. Unlike rigid constitutional systems that require supermajorities or referendums for amendments, Sweden's process -requiring two parliamentary approvals with an intervening general election- strikes a balance between flexibility and democratic accountability.

Constitutional conventions are often regarded as more impartial and responsive to popular will. However, they typically arise in exceptional contexts -such as revolutions or post-war state-building- which may intensify tensions between constituent bodies and existing institutions. By contrast, constitution-making through a constituent legislature represents a more gradual and institutionalized process, contributing to greater stability. Although partisan influences are inevitable, legislative procedures usually involve sustained negotiation and deliberation, which can foster broader consensus. Given that constitutions are fundamentally political texts, their adoption through democratically elected and representative bodies enhances both legitimacy and durability. A constitution shaped by pluralistic parliamentary debate is more likely to reflect the diverse interests of society than one imposed by a limited elite without meaningful deliberation.

Key constitutional reforms, such as the transition to a unicameral parliament (1971), the Instrument of Government revision (1974), and adjustments for EU membership (1994-1995), illustrate how Sweden has successfully adapted to contemporary challenges while maintaining continuity. The system ensures that constitutional changes are not subject to short-term political pressures yet remains accessible when reform is necessary.

However, the Swedish model also raises important questions about the role of public participation in constitutional amendments. While the electoral process provides an indirect mechanism for public influence, the absence of mandatory referendums has sparked debates about whether direct democratic engagement should play a greater role in shaping fundamental laws. Additionally, the risk of a dominant parliamentary majority enacting significant constitutional changes without broader consensus highlights the need for safeguards against potential abuses of power.

In conclusion, the Swedish model of constitutional change offers significant insights for constitutional theory, particularly in its demonstration of how a parliamentary system can function as a continuous and autonomous agent of constitutional development without relying on judicial review or rigid amendment procedures. The Riksdag's central role in shaping and reshaping the constitutional order through ordinary legislative mechanisms challenges conventional distinctions between constitutional and ordinary law and invites a rethinking of the boundaries of constitutionalism in practice. This model is exceptional in its reliance on parliamentary sovereignty combined with political consensus, transparency, and procedural stability. As such, it provides a compelling example of how constitutional change can be both flexible and democratically anchored, positioning Sweden as a distinctive case within comparative constitutional studies.

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