

## Chapter 22 : Order of succession

The exact powers of the European monarchs were rarely documented - it took until the 18<sup>th</sup> century before that was the case. However, the order of succession was regulated in detail. There was a legal tradition that went back to the "Salian law".<sup>1</sup> This was a Latin record of the jurisprudence of the North French "Salian" Franks. The original document dates from about 500 but changes and additions were made until the 9<sup>th</sup> century. The Salian law specified an *agnatic* (male) order of succession: eldest son first, if no son existed, eldest brother, then eldest male cousin, etc. ever further away in the family tree. Royal persons rarely ruled for life. For example, Queen Sophie's brother William, after 1866 losing his Duchy Nassau to Prussia, unexpectedly in 1890 was appointed Grand Duke of Luxembourg. This was because Luxembourg was in a personal union with the Netherlands but the countries had different succession laws which had to be reconciled, but failed. When Queen Wilhelmina took office in the Netherlands, the union was dissolved and the countries received regents of their own.

Sweden was from 1544 a hereditary monarchy. The Salian law was introduced by the 1720 government. Prior to this, a variant was in force, *agnatic-cognatic* succession, implying that women inherited the throne if there was no male heir in the family tree. (There was also a variant - though not in Sweden - that the woman herself did not become regent but her son. In the period leading up to the day of authority, the kingdom was then ruled by a guardian.) After World War II, most remaining monarchies introduced gender-neutral *full cognatic* succession: oldest child first, if no children eldest cousin, and so forth, ever further away in the family tree. In Sweden this took place in 1980.<sup>2</sup>

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If no heir to the throne existed, a new dynasty must be created. 1809-1974 this was regulated by law, the order of succession §9. Caesar adopted Augustus. Charles XIII adopted both Charles August and Jean Baptiste Bernadotte. This made legal the genealogical side lines of the Oldenburg house. There were special provisions written in the adoption of Jean Baptiste which cut off his relatives from the succession, most notably his brother Jean Evangeliste (1754-1813) and his two sons Gustave (1800-1887) and Oscar (1807-1883).

The wording of §9 was: "Would the misfortune be that the whole royal house, within which the succession right to the kingdom is counted, either on the male side be lost, or by having disregarded what the succession order expressly prescribes, having lost their right to succession, be the throne free to new elections, and would then Parliament elect a new royal house." The repeal of §9 would imply that after the Bernadotte, the constitution would be rewritten.

The choice of a new dynasty was not regulated by law. However, strong (=numerous) Swedish families were avoided. From Gustav Vasa, Swedish elected kings were of good family, but lacked their own power base (=they depended on the Estates to get something accomplished). Sometimes they came from the provinces. Sometimes from some small German principality. The same for queens. In that respect, the choice of Christian August & Jean Bernadotte was quite normal. It was important to have a competent person, but not that this person was well known.

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<sup>1</sup> Corcus 2012; Salic Law 2015

<sup>2</sup> SOU 1977:5; Bramstång 1985; Tegenborg Falkdalen 2003.

Nor were abdications and deputies regulated by law, but was the ruler's own decision, which however had to be approved by the Parliament. Queen Ulrika Eleonora the Younger was allowed to abdicate in favour of her husband Frederick I. Gustav IV was not allowed to abdicate in favour of his son. Charles John deputized (unofficially) for Charles XIII, but this led to protests because the decision was never submitted to the Parliament. Charles XV served for several years as deputy for his father during his last illness. King Gustaf V was on duty until two days before his death, and the last year had to be carried to the cabinet. The last meeting he was not even aware of what was going on.

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The Royal Household's marriages were governed by the order of succession §5 & §6.

- In 1810, the monarch ruled supremely over the marriage of the royal house: "No Prince [or princess] of the royal house, whether crown prince, heir prince or prince of the blood only, may marry without the King's knowledge and consent. If he still does; he has forfeited the right of inheritance to the kingdom for himself, his children and descendants."
- In 1937, the ministers got a word in: "No prince [or princess] of the royal house, whether crown prince, heir prince or prince of the blood only, may marry, with less the king, *after consulting the government*, consents. If he still does; he has forfeited the right of inheritance to the kingdom for himself, his children and descendants."
- In 1979, the government was granted the right of veto: "The prince and princess of the royal house may not marry, *unless the government* at the request of the King *consents*. If he or she still does, he or she has forfeited the right of inheritance to the kingdom for self, children and descendants."

The 1937 formulation left a loophole for the regent himself to marry whoever he or she wanted. Current practice has transformed §5 & §6 into a formality. At the time, however, the choice for the members of the royal family was between marrying according to the "stipulated requirements" or not at all. The female counterpart would be:

- Foreign
- Preferably Lutheran
- Of noble birth

Only the first of these requirements was implied in the form of government. According to §16 the ruler and his government should be Lutherans. The Queen's religion was irrelevant. The first two Bernadotte queens, Desirée and Josephine, were Catholics. Gustaf VI's two consorts Princess Margaret 1905 & Louise 1923 belonged to the Anglican Church. Prince Wilhelm's consort in 1908 Grand Duchess Maria Pavlovna the Younger was Russian Orthodox. Not so popular but not against the law. The government's religious beliefs lost its significance over time. For example, Hjalmar Branting was 1917 approved as finance minister despite his stated atheism.

The requirement of birth was initially not felt to be unreasonable. The majority of the nobility also avoided misalliances. However, in the 19<sup>th</sup> century practice was tightened so that it was not enough for the royal house to marry nobility but the bride or groom also had to be of royal descent. There was no punishment stipulated except being removed from the succession, but

the consequences were tightened under Gustaf V & Gustaf VI to losing your title, appanage, Orders, passport and even to be excluded from the family community. As the royal house lost its real power, it was felt more and more important to emphasize exclusivity. Other countries had a construction *morganatic* marriage to deal with the conflict between birth and emotion - but not Sweden.<sup>3</sup> Five Swedish princes have thus lost their right of succession, one under Oscar II, four under Gustaf V.

This and other provisions were there to force members of the royal house into their often unpleasant political roles. Abroad, they are called "House rules" or "House Law".<sup>4</sup> One example is the British Royal Marriage Act 1772.<sup>5</sup> The Act gave the Sovereign, as head of the family, the right to decide over his relatives' marriages and had been created to raise the status of the British Royal House. In short, it meant that all royal marriages had to be approved by the regent personally to be considered valid. The British royal family was made up of descendants of George II - a considerable number over time. The law did not apply to descendants aged 25, but their marriage could be forbidden by parliament. The basic requirements for marriage were high (preferably royal) birth, Protestant religion (under the 1701 Act of Settlement) & irreproachable conduct. High birth, however, was not an absolute requirement for those further away in the succession. There were no sanctions beyond the marriage not being considered valid. The person kept his place in the line of succession, but the descendants were excluded (a so called *morganatic* marriage). However, those involved in arranging the marriage could be punished.

Similar legislation existed in other monarchies but was often secret. The German and Austrian throne laws became public only when their monarchies were abolished. The practice was often subject to state utility and the discretion of the monarch. Russia in particular was known for its arbitrary application.

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### Almanach de Gotha

Royal ancestry was defined according to the European noble calendar Almanach de Gotha (1763-1944). Before the Congress of Vienna, de Gotha recognized two groups: (1) Ruling houses of princes of any title (e.g. emperor, king, grand duke, duke, prince, elector, marquess, landgrave, count palatine & pope). (2) Other royal houses.

After the Congress of Vienna, de Gotha recognized six groups: (1) The reigning houses of higher rank (emperor, king & grand duke). (2) The reigning houses of lower rank (prince & duke). (3) Dethroned (modern) houses of any rank. (4) Historic (mediatized) houses of higher rank (with titles derived from the Holy Roman Empire 962-1806: elector & landgrave). (5) Historic (mediatized) houses of lower rank (with titles derived from the Frankish Empire and successors 481-843: marquis & count palatine.) (6) Other European nobles (count, half-count, baron, untitled) & non European nobles.

In the context of marriage the historic royal houses of higher rank were from 1877 considered as equivalent to the reigning and the dethroned royal houses. Not so the historical houses of the lower rank that de Gotha demoted to a miscellaneous-group. Additional - mostly non-German families - shared this fate.

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<sup>3</sup> Velde 2015.

<sup>4</sup> Kjellén 1890; Varenius 1924; Bramstång 1990; House Law 2015.

<sup>5</sup> "Royal Marriages act 1772", 2015.

The editorial board and the printing press of Almanach de Gotha was located in the German state of Gotha (hence the name). When the Russians occupied the state in 1945, they rallied their republican ideology by destroying the printing presses and archives. In 1998 the publication, this time by a London-based firm, was resumed. Since no new families are added and kinship is counted from the men's side, the number of European nobles is falling, but slowly.

The last time Almanach de Gotha was invoked for Swedish conditions was when Gustaf VI was to marry Louise von Battenberg. When the family changed its name to Mountbatten, her father had to relinquish the prince title and accept the lower mediatized rank of marquis. According to Almanach de Gotha, the daughter was thus not royal enough for an equal marriage. In addition her grandmother Julia von Hauke (1825-1895) was not of royal descent, but first became Princess of Battenberg by decree. This was brought to the attention by the professor of law Carl Axel Reuterskiöld and led to the ministry of foreign affairs feeling compelled to investigate the issue. King Gustaf V had already given his consent to the marriage, so it was felt as a relief that neither the ministry nor the English government had objections. Also princess Birgitta's marriage to Prince Johann Georg of Hohenzollern-Sigmaringen (who belonged to a mediatized German royal house; It was 1850 included into Prussia) was considered royal and Birgitta allowed to retain her Swedish princess title.

For a long time, the burden of proof for the existence of the older families was modest. The Congress of Vienna provided for a first cleansing of which families should be considered legitimate and therefore have the right to issue Knights Orders of their own, etc. A second cleansing was done in 1962 by the International Commission of Knight's Orders (IKR) with Prince Bertil as chairman.

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The size of the European nobility has proved difficult to calculate. In 1789, France had between 110-400 thousand of whom only 4-4.5 thousand were wealthy "castle owners". In 1815, the terror and the wars had reduced it to between 30-200 thousand. Its proportion in relation to the population varied widely. In the 19<sup>th</sup> century: In Finland 0.1-0.2 percent. In Sweden 0.4 percent. In Poland 8-15 percent. In Spain even higher. The European de Gotha families in categories 1-4 shrank in the 19<sup>th</sup> century (reservation for poor statistics) to 2-3 thousand people, which meant about five marriage candidates per prince or princess. This seems rather low, but kinship is counted from the men's side & the men had been decimated by the wars.<sup>6</sup> The same had happened in Sweden during the Empire (1611-1718), when numerous noble ladies had to (re)marry below their station.

The limited marriage market meant that cousin marriages were common. The scope was such that there was a not insignificant risk of recessive predispositions taking precedence. The most common was that the children had hemophilia, which occurred in both the Russian and English royal houses. More spectacular were the Habsburg malformations, which even led to several cases of severe developmental dysfunction.<sup>7</sup>

Similar fears existed at the 1929 marriage between Princess Märtha of Sweden and Crown Prince Olav of Norway. Martha's father and mother were cousins. Also Märtha & Olov. The writings on the matter were perceived as so troublesome that the Norwegian court consulted

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<sup>6</sup> Wasson 2006; Caputo 2014.

<sup>7</sup> Alvarez m fl. 2009.

a geneticist Otto Lous Mohr who, fortunately, explained that the risk in their case was insignificant.

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### The Bernadotte dynasty

In 1974, the Bernadotte consisted of 128 living persons, including children and cousins two and three generations removed.<sup>8</sup> However, so many were not in the succession which was in fact the regent's sons and grandsons. In 1974, the succession was limited to King Carl Gustaf, Prince Bertil and their (possible) descendants and there was talk of this being the end.

The Royal Family recovered, however, and 2018 counted 15 people. Carl Gustaf is the head of the Bernadotte family, and rules (as best he can) over his children's private lives. The appropriateness of the in-laws has been discussed. Queen Silvia's father turned out to have been a member of the Nazi Party. Prince Daniel and Princess Sofia have a lower middle-class family background. Christopher O'Neill did not want to become a Swedish prince and renounce his profession. With so many members, the constitutional board has started an investigation into who may represent Sweden & therefore are entitled to appanage (see below).

The marriage with Daniel Westling & Sofia Hellqvist has also been discussed in political terms, as alliances between the Bernadotte and the royalist part of the bourgeoisie - Svensk Damtidning's readership. The sociologist Irene Wennemo of the LO tradeunion expressed it after the wedding as the Westling family was middle class but not an old evil submissive bourgeois middle class but a new self-conscious social democratic middle class that accepted Victoria as one of them.<sup>9</sup> Whatever the case, all the royal children have it in common that their previous relationships failed because the partner did not want to submit to the demands. Daniel Collert believed that the court life had made Silvia empty-headed & Victoria sick. In addition, he did not want to play second fiddle in the marriage. Emma Pernald and Jonas Bergström wanted to continue their professional careers. The next in line considered the marriage an honour (Westling), a career move (Hellqvist) or declined the title (O'Neill).

In 2019, King Carl Gustaf decided that Prince Carl Philip and Princess Madeleine's children belonged to the royal family but not the royal house. As they were allowed to keep their titles, some confusion spread about the consequences. The consequences were that the children: (1) Were excluded from the order of succession. (2) Not eligible for an appanage. (3) Not allowed to represent the royal house in its official capacity (=duties related to the Head of State). (4) But were allowed to represent the royal house in a private capacity (=honorary duties). For once, the Royal House and the Republican Association (RepF) were in agreement. Both RepF, Prince Carl Philip and Princess Madeleine found it positive that the children regained their civil right to a life of their own choice.<sup>10</sup> The enthusiasm of the Royal House is hard to understand. Limiting its size also limits its influence.

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<sup>8</sup> Rosvall 2010.

<sup>9</sup> Irene Wennemo. Olle Westling är en seger för den svenska modellen. Newsmill, 2010-06-23.

<sup>10</sup> Madeleines och Carl Philips barn kommer inte att tillhöra kungahuset. <svt.se> (2019-10-07).

## Female succession

A gender neutral succession was introduced in two stages according to foreign examples: In 1936, Britain introduced a cognatic succession. Elisabeth II's accession led to corresponding Swedish-Danish-Norwegian discussions. Sweden abstained, Denmark introduced a cognatic succession in 1953 and Norway in 1971. Sweden introduced gender-neutral succession in 1980, Norway in 1990, Denmark in 2009 and Britain in 2011. The Danes voted on the 1953 decision. In 1980, the Swedish Social Democratic Party abstained. It is unclear what took place in Norway.

In Sweden, there were from 1952 parliamentary motions<sup>11</sup> & debate post<sup>12</sup> on the subject. All parties were positive about the gender equality aspect of female succession, but the Republicans were negative about approving a proposal that meant that the monarchic system of government would last for a long time and also be an indirect recognition of the monarchy as a system. By 151-148, however, an inquiry into the matter was decided. This was completed in 1977.<sup>13</sup> The investigation pointed out that:

- A marriage to a foreign dynasty entails the risk of a de facto personal union between the countries. There should therefore be a provision that the princess consort should be a Swedish citizen. (No such provision was ever made, but the government was given the right of veto).
- The order of succession should be changed so that the heir to the throne can marry an individual Swedish man or daughter, even at the risk of weakening the royal house's character. (Introduced)
- Gender-neutral succession should not be applied retroactively, but begins with Carl XVI Gustaf's descendants. (Introduced)
- Only royal and princely children (Queen & Princess children) shall be included in the succession. Not in-laws or their relatives. (De facto.)
- In the future, the family tree must be pruned. Only the immediate relatives of the Sovereign shall enjoy special status under the laws of the State. (De facto.)

Since the order of succession is part of the constitution, it must be approved by two successive Parliaments. In 1978 it was approved for the first time. In 1979 it was approved for the 2<sup>nd</sup> time. Meanwhile Prince Carl Philip was born. As Carl Philip was born before the new order of succession came into effect, there were protests that it was he who was the legal heir to the throne. Not Victoria. In 1985, 25 per cent of the population would rather have Carl Philip as heir to the throne.<sup>14</sup> In 2009, however, the support had fallen to 12 per cent.<sup>15</sup> Carl Gustaf did not help the situation by publicly complaining about the change in the law & its retroactive application. He alternated between accepting cognatic succession as in Britain-Denmark-Norway & that "the job is too hard for a girl".<sup>16</sup>

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*"Weakness, your name is woman!"*

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<sup>11</sup> Ingrid Gärde Widemar (fp) & Elis Håstad (h). Om införande av arvsrätt till tronen för kvinnliga medlemmar av konungahuset. Motion 1952:320, 2:a kammaren.

<sup>12</sup> Herlitz 1963; Lagerroth 1966; Tarras-Wahlberg & Treslow 1968.

<sup>13</sup> SOU 1977:5.

<sup>14</sup> Hänt i Veckan, 1986:6.

<sup>15</sup> Johanna Hellsten. Abdikera, Kungen! Aftonbladet, 2009-02-27, s. 8.

<sup>16</sup> Kirstio Kallio. Kvinnan ska stanna vid spisen. Svensk Damtidning, 1972:31.

In 2003, Karin Tegenborg Falkdalen published a dissertation "The King is a woman" about our two female regents Kristina & Ulrika Eleonora. Both had obtained their offices as "last reserve" & both abdicated. Tegenborg interprets it as the expectations of the office were too male-coded for it to be possessed by a woman. Today's queens would have an easier time:<sup>17</sup>

"It is in the nature of things that this new role, without concrete powers but with the greater media charisma and with associations to both royalist radiance and national motherhood, is easier to reconcile with the traditional office of a queen than with that of a king. Add to this the fairytale atmosphere associated with princesses, which is so common among little girls, and it seems quite logical that the era of queens predicted by the Prime Minister will benefit the monarchy."<sup>18</sup>

My own humble opinion, backed up by a number of incidental findings, is that our female royalties were ill prepared for the challenges. Royalty are neither male, nor female, but rulers and should be educated accordingly.

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<sup>17</sup> Fransson 2012.

<sup>18</sup> Dick Harrison. Perspektiv [på] kvinnliga regenter. Svenska Dagbladet, 2012-02-25, s. 9.

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