

## Chapter 23 : Lès-majesté & High treason

The philosophers of the Enlightenment advocated a free social debate, and all the 19<sup>th</sup>-century constitutions contained more or less comprehensive guarantees of citizens' freedom of opinion and printing. One exception was criticism of the royal house, which according to the 1809 form of government §3 would "be kept in sanctity and reverence". To this end, revoking the permit to publish & certain provisions on Lèse-majesté contained in the 1810 Freedom of the Press Decree §§ 5.4 & 5.5, were included in the 1812 constitution:

4:o All manner of derogatory utterance about the High Person or deeds of the Ruling King, his consort the Queen, or the Heir apparent of the kingdom [is punishable]. The offence shall be punished according to chapter 5 of the Criminal code, and the writing confiscated.

5:o Derogatory utterances against any other member of the ruling house, who's Royal dignity is recognized within the kingdom [is punishable]. The offence is to be punished with fines of 100 Rdr, and the writing confiscated.

The law was interpreted as meaning that oral criticism was also prosecuted. Until 1864, the 1734 Criminal code §5:1 (decapitation) was also in force:

§ 5.1 Whoever speaks or writes something derogatory, against the King, the Queen, or the Heir apparent shall be beheaded.

Revoking the permit to publish was a 1772 law, abolished 1810, reintroduced 1812 by Charles John. The advantage of the law was that revoking the permit was an administrative measure, which could be implemented without a trial, and therefore need to be justified. Eventually, the definition of Lèse-majesté was liberalized to the extent that even criticism of His Majesty's government was included. This continued until the death of Karl Johan in 1844.

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1864/66, both the Freedom of the Press Act and the Criminal Code were amended:<sup>1</sup>

4:o. Any kind of derogatory statement about the high person or deeds of the reigning king, his consort the queen, or the heir apparent to the kingdom [is punishable]; the offence shall be punished by ordinary law<sup>(1)</sup> and the writing confiscated. (1865-66).  
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<sup>(1)</sup> The corresponding provision of the ordinary law is found in SL 9:5, where the queen dowager is brought into the same category as king, queen and heir to the throne. According to SL 9:6, derogatory statements against the members of the royal house may not be prosecuted by the public prosecutor without the permission of the king, which should be considered to apply also to the corresponding press freedom offence (N 1869:731). - As to fines see TF § 4:7!

5:o. Derogatory statements against any of the other persons of the reigning royal house, who enjoy royal or princely dignity within the kingdom [are punishable];

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<sup>1</sup> Malmgren 1921: s. 189.

the offence shall be punished by ordinary law<sup>(1)</sup>, and the writing confiscated.  
(1865-66).

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<sup>(1)</sup> See also SL § 9:5 [below]. See also note [above]!

The Criminal Code of 1864 § 9:5 (forced labour six months to two years) was in force until 1948:

§ 9:5. If you speak or write in a derogatory manner against the King, Queen, Queen dowager, or Heir apparent, or in any way threaten or defy them; be sentenced to hard labour from six months to two years. Does it occur against person, who is mentioned in § 3 [other person of the Royal House]; be the penalty imprisonment for a maximum of one year or fines from fifty to thousand Rdr.

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The 1949 Freedom of the Press Act was completely rewritten. Lèse-majesté was removed. The corresponding offence was prosecuted as a form high treason:<sup>2</sup>

§ 7:4.5. Blasphemy or other wrongful acts against the King<sup>(1)</sup> or other member of the royal house; insulting the government of the King, or the Parliament, its departments or committees; or Sweden's flag, coat of arms or other symbol of the kingdom [is punishable].

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<sup>(1)</sup> See also SL § 9:3; prosecution requires permission from the King, i.e. HRH in the State Council.

The Criminal Code of 1864 continued to apply mutatis mutandis until January 1, 1965, when it was replaced by the Criminal Code of 1962 (prison six months to six years). Lèse-majesté was punished as a form of high treason:

§ 18:2. If the offence referred to in chapters 3-5 [crimes against life and health, crimes against freedom and peace & defamation] amounts to an offence against the King or another member of the King's House or against anyone who, in his capacity as regent, fulfils the functions of the Head of State, may be sentenced to imprisonment for a maximum of four years; if the offence can otherwise follow imprisonment for a maximum of six months; and for a maximum of six years, if the offence can otherwise follow imprisonment for more than six months but not more than four years. Act (1974:565).

§ 18:8. Acts referred to in chapters 3-5 which constitute an offence against the King or other persons mentioned in § 2 may not without the authority of the Government be prosecuted by prosecutors, with less anyone died as a result of the act. The same shall apply in respect of attempts, preparation or conspiracy to commit, or failure to disclose, such acts. Act (1974:565).

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<sup>2</sup> Malmgren 1951: ss. 226-227.

Under Charles John, two people were convicted of Lèse-majesté but had the death penalty reduced to three years in prison. During Oscar II, two people were convicted and under Gustaf V three people were sentenced to short prison sentences or fines. Further people (several hundred) have been prosecuted, but acquitted or sentenced under some other category of offence.

The 1948 law on Lèse-majesté as high treason - crimes relating to threats to the survival of the State or physical attacks on the Head of State - has never been applied. Recent crimes - stalking, symbolic death threats, vandalism, blasphemy and slander - have been punished under the ordinary law. In the 2012 media campaign about Queen Silvia's father and his Nazi sympathies, there was a minor debate about why. Professor Emerita in Criminal Law Madeleine Leijonhufvud argued that no individual - not even a member of the royal house - could bring public charges. Only the government could do so at the instigation of the Attorney General. The members of the royal family had to prosecute as private citizens.<sup>3</sup>

The objection has been that the Royal House has such a position that it can petition the government or that the government itself can initiate prosecution if only the will exists. In the cases that have been written about - Aftonbladet's posthumous Charles John-campaign (1855-56), Kurt Haijby's book about Gustaf V (1947), the close press coverage of the relationship between Princess Margaretha & Englishman Robin Douglas-Home (1956-58), Peter Dahl's nude painting of Sibylla (1970), King Carl Gustaf's "love nests" (1974) & sex purchase (1977), "the caking" (2001), the Brunei affair (2003), "The Reluctant Monarch" (2010) - the Royal House has however not wanted to prosecute, despite being so urged by the Attorney General. A public trial would only spread the slander further. However, this has not prevented the Royal House from contacting the Public Opinion Board (PO) and private citizens from contacting the Parliamentary Ombudsman & the Review Board. There is also informal pressure. I describe three of the lesser known attacks on the royal house: The Charles John campaign (1855), a piece from the youth program "dares with the telephone" (1982) & "the caking" (2001).

In the case of Carl Gustaf, there is unverified evidence that his sense of "fair play" was a factor when he refused to prosecute. If he himself was immune from prosecution, he did not want to prosecute others.

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The Charles John-campaign (at least 16 articles 1855-56) was described about halfway through in an anonymous article in Malmö Snällpost on 25 October 1855 as follows:

"Aftonbladet continues its long articles about Charles Joan, in a way that can only arouse resentment from every reader, who loves truth and a modicum of sense. These articles neither honour its authors [Johan Johansson et al.], nor those who have moral responsibility for its publication. They contain a mass of inappropriate accusations, of which not one is accompanied by any evidence; they lack all inner contexts and bear only the witness of frenetic anger, which is despicable in all circumstances, but even more so when the object of it is not more among the living. You do not write the biography of a dead man in this way. Death should end the enmity against a person, that has been created and fostered by artifice rather than deeds. To show those readers,

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<sup>3</sup> Madeleine Leijonhufvud. Kungabilden är vuxenmobbing. Svenska Dagbladet, 2012-10-06, s. 5; Ibid. Nej, kungen kan inte väcka åtal. 2012-11-20, s. 5; Lagboken som kalejdoskop. <journalisten.se> (2012-11-14).

who have not been able to suffer the articles, what they have been missing I quote from the last two. Charles John is accused of character weakness, habitual suspicion, anxiety, indecision, (which words appear 7 times and are occasionally reproduced with "irresolution"), fearful indecision, habitual indecision, rapturous passion and passionate rapture, profit mongering, greed, whims, laxity, arbitrariness, stupidity, vehemence, haste, fear, half-heartedness, disregard for law, and finally, the king is accused of undermining the foundations of social order, and encourage dissolution and anarchy!!

... That Charles John had his human weaknesses, as well as everyone else, no one would deny, but his great and excellent qualities were so preponderant, that only a small number of mortals possess the like. ... The contemporaries have also recognized what history will confirm, that Sweden has Carl Johan to thank for the fact that this kingdom is a free state and that during his spire the country has developed in all directions in order and peace, and thus his memory will live through the ages as both respected and blessed."<sup>4</sup>

Johnson's articles never led to any charges. There is a possible explanation. Oskar I's reorientation of Sweden's foreign policy towards the west during the Crimean War of 1852-56 made it necessary for him to distance himself from the politics of 1812. This involved spreading unfavourable information about how his father betrayed Sweden's interests for his own benefit. Such a portrayal, diplomat Gustaf Lallerstedt's "Scandinavia, its fears and hopes", was published in 1856 in French, English & Swedish. According to Holmberg<sup>5</sup>, the book was originally intended to be published as an anonymous brochure, with Crown Prince Charles (XV) as fictional author, but Lallerstedt's ambition grew. The semi-official nature of the book, many cock-sure but unverifiable claims & lack of sources meant that it was considered a party submission - unclear, however, by which party. At the same time, Schinkel's "Memories of Sweden's modern history" was also published.

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From 1967 to 2013, the Swedish Broadcasting Authority sentenced eight programs related to the Royal Family. The crudest was a piece from the youth program "Dares with the telephone" 1982-05-03 in P3 where you could call in contributions to an answering machine. The entry began with the words "The telephone theme: but I guess you can't broadcast this kind of thing." Then the following chant:

"Hell society is shit. Hell, society is shit. The Reichstag building is going to blow. Palme is gay and everyone else too. I hate everything like satan, and I don't have any money. Put explosive in the king's mouth, put explosive in the king's mouth, put explosive in the king's mouth, put explosive in the king's mouth. The king is a fucking loser. Put explosive in his mouth. Blow the shit up. Wallenberg is brain dead. Society is a damn dungeon. I sleep in a pisser. Put explosive in the king's mouth, put explosive in the king's mouth, put explosive in the king's mouth, put explosive in the king's mouth. Fucking pensioners they're not good for anything. Put them on an ice floe so they can drift away and die. Fucking bastards. Insulation cell for Bohman. Put explosive in the king's mouth, put explosive in the king's mouth and blow the whole shit. Bang."

<sup>4</sup> Malmö Snällpost, 1855-10-25. I: Post- och Inrikes Tidning, nr 270, 1855-11-05: s. 2.

<sup>5</sup> Holmberg 1977.

The program makers defended themselves by saying that it was satire.

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“Caking” is about throwing a cream cake or the equivalent in the face of the person, much as in a Mack Sennet farce. The pioneer of this form of political protest was the Belgian Noël Godin, who in 1968 personally caked one of his teachers. Later he formed an organization called Pâtissiers sans Frontières. 95% of their attacks are reported to have succeeded despite bodyguards and everything. Perhaps not so strange after all because sometimes up to 30 people have cooperated. The bodyguards have been very upset and for example at one point tried to drown two female cakers by forcing their heads down the toilet.<sup>6</sup> In 2001 Swedish politicians Leif Pagrotsky, Bo Ringholm and Marit Paulsen were caked. On Wednesday, September 5, 2011, also CG. This is how it happened:

It was late afternoon. CG and Silvia were at a national tour in Halland County. They had completed a visit to Getterön Nature Center (located on a peninsula outside Varberg) where they inspected a bird station and various nesting sites. They were on their way to the car, for the day a limo, but stopped from time to time so that the spectators would get to photograph them. These were about 500, mostly pensioners because it was a working day. Bodyguard 1 held up the door for Silvia who sat down in the back seat. CG rounded the limo to step in from the other side where bodyguard 2 was waiting. Bodyguard 2 looked at CG instead of at the spectators, a cardinal error. A 16-year-old boy, after this in his circle of friends named Cake-Erik, took the opportunity to rush forward and push a strawberry cake into CG's face. The bodyguards immediately wrestled him to the ground, being quite ungentle about it. CG went forward with the jam running in his face and asked what was going on with him. No answer though. A gossip site the next day: “The king liked my home-baked strawberry cake. He actually said it was good but it needed a little more sugar, weird prick. He was angry but didn't want to stand and scream among people.”<sup>7</sup> According to an eyewitness, there was a strange mood afterwards. People were shocked and crying. The eyewitness apologized on behalf of Varberg. CG dismissed the point saying “It was nothing. That's what you have to expect.” Then he and Silvia continued to the next landmark, the radio station Grimeton, classified as a World Heritage Site. CG let it be known that he would not comment on the incident. Neither the bodyguards wanted to speak about it.

The 16-year-old youth lived in Varberg. He was taken to the police station there and arrested for high-treason. On the way there, a journalist asked about his motives and received the answer “Tear down the walls. Crushing capitalism”. One acquaintance claimed to be a syndicalist. According to his lawyer, he wanted to protest against the existence of royalty and authority in society.

An attack on the Head of State is high-treason according the Criminal Code 18:2 and punishable by a maximum of six years in prison. However, the government has to give its permission first, which did not happen. Cake-Erik was sentenced to 100 daily fines and his three comrades who had helped in the planning were sentenced to 80 daily fines each for

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<sup>6</sup> Taborska 2007.

<sup>7</sup> Flashback. Kungen & min jordgubbstårta. #1, 2001-09-06.

harassment.<sup>8</sup> Afterwards he made a public apology to CG and said that his cake throwing was a prank. However, he still maintained that Swedish society needed changing. The Republicans rejected the action. Varberg's neo-Nazis, happy to provide a public service, beat him up. Cake-Erik, in non-political life, farrier and bruiser Eric Kalseth, is now classified as a terrorist with an entry ban to the USA.<sup>9</sup>

Two months later, on November 8, 2001, CG was on a state visit to Russia. Putin and his closest associates were as uncertain as ever their communist predecessors' how to behave in front of a king. The delegations sat around a meeting table and stared at each other as CG began to talk about the caking-campaign and how he himself became a member of the international cake-throwing victim club. Putin began laughing violently and the ice between the delegations was broken.

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During Carl Gustaf's tenure, the press debate has mainly been about the transparency of the royal house's activities, about the right to a protected private sphere & "the public interest" for almost anything related to the royal house. The current legislation has been difficult to apply because of the semi-public status of the royal house (see chapter 32). The Foreign Ministry sees it as its task to protect the Head of State's diplomatic activities from scrutiny. The Royal Household's employees see it as their task to hide the Head of State's policy. The Royal Household's entourage sees it as its task to protect the royal house's private life. The speeches and the public ceremonies remain, they are with few changes repeated year by year and are difficult to comment on. The press' attempts to charge the royal house's barricades have sometimes succeeded, but are hardly high treason.

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<sup>8</sup> Dom i mål B2049-01, Varbergs tingsrätt, 2001-12-03.

<sup>9</sup> Anders Eriksson. Eric Kalseth inför the zone. Fighter Magazine, 2008-09, s. 20-23.

## Referenser

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