Divided After All: The Survival of Dualism in the Swedish State

1718 -1987

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Abstract

The organization of the Swedish central government administration is, in international comparison, probably unique. The model adopted is often referred to as the ‘dualism’ of the Swedish state. This ‘dualism’ is expressed in the organizational division between a set of quite small ministries and a large number of autonomous government agencies in combination with the constitutional prohibition of individual ministers to issue authoritative orders to the agencies. The main research question in this paper is: Why has this model been able to survive for such a long period despite the recurring critique that has been levelled at it? Through analyses of the public debate on the issue of ‘dualism’, a systematic picture is provided of both the participants and the argument of the debates. The answer to the question of why the political institution of dualism has persisted may be summarized in the statement that it has survived by changing. In theoretical terms, the paper is inspired by historical institutionalism, a tradition which has so far mostly contributed to our understanding of institutional stability. Recently, however, theoretical developments in historical institutionalism have rather aimed at an improved analysis of change. This paper appropriates these new ideas in the analysis. It is argued that new analytical tools are indeed instrumental in understanding and explaining institutional change but also that further elaboration seems necessary. Using a both longitudinal and process-oriented approach, this paper contributes to an elaboration of the tools for the analysis of change in this theoretical tradition.

The paper is a summary of the authors dissertation.
Introduction

On May 1, 1720 the Swedish parliament took a decision that was to have great significance for the organization of the state administration during the coming centuries. At the time, the decision was considered to be rather marginal. It was taken in the shadow of an issue deemed to be of greater importance - the role of the monarchy in the political system. However, this decision came to have extremely important consequences. It involved so-called dualism, that is the relatively independent position of public administrative organs in relation to the ministries. When dualism is spoken of today, two conditions are usually emphasized: the constitutional regulation of the independent decision-making powers of administrative organs together with a prohibition on ministerial rule as well as the organizational division between relatively small ministries in charge of the preparatory stage of decision-making and large administrative organs in charge of implementation.

This organizational arrangement, unique to Sweden¹, has been called “one of the greatest mysteries in Swedish public life”.² One aspect of the mystery is the fact that this arrangement has been established in Sweden as opposed to most other western European states. The dualism also entails that the Government has limited

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¹ During the last decade “a wave of agentification” has been sweeping across the Western world. This including for example the US, the UK, the Netherlands, Japan and Australia, see Molander P, Nilsson J-E and Schick Allen, *Does Anyone Govern? The Relationship between the Government Office and the Agencies in Sweden*, 20002, p. 5. 
possibilities for influencing the administration, which has been viewed as questionable - in certain circumstances - from a democratic point of view.\(^3\) Thus, another aspect of the “mystery” involves how this administrative dualism has been able to persist within a democratic form of government in which it seems at the same time to create tensions.

The purpose of the dissertation was, therefore, to describe the origin and historical development of this dualism as well as to explain its durability.

**Theoretical Perspective**

In the dissertation the origin and development of this political institution is analyzed on the basis of an historical-institutional perspective. The choice of perspective is occasioned by the claim that it is particularly appropriate for understanding institutional stability, or the durability of institutions. In addition, it offers certain tools for dealing with the kind of long history that is studied in this dissertation. Briefly stated, the view of stability and change from this perspective involves long periods of relative stability interrupted by revolutionary periods during which comprehensive changes can occur. These revolutionary periods, or *critical junctures*\(^4\), are considered to be essential for the future development of an institution from the point of view of this perspective. One of the points of departure for the perspective is that initial choices and decisions are significant in determining the direction of and limiting choices in relation to future decisions. Since great significance is attributed to these early choices, it becomes essential to study them in order to understand the logic according to which institutions develop.

A critical juncture is commonly followed by a new long period of stability, what has been called path dependence. This involves certain mechanisms coming

\(^3\) This dualism is today – as earlier in history – questioned. For example, it is argued that the division of responsibilities between the Government Office and the agencies leads to problems concerning political accountability.

\(^4\) See for example, Mahoney, James, who defines critical junctures as a “moment of relative structural indeterminism when willful actors shape outcomes in a more voluntaristic fashion than normal circumstances permits”, *The Legacies of Liberalism. Path Dependence and Political Regimes in Central America*, 2001, p. 7.
into play that maintain and reproduce the institution and sustain a given path of development. This leads to the institution becoming increasingly difficult to change; the costs of deviating from the path embarked on during the critical juncture increases the longer that path is followed. At the same time, the reverse is true - the advantages of following the path increase the longer it is followed.

The primary strength of the historical-institutional perspective is in explaining institutional reproduction or stability. However, it has been criticized for its weakness in understanding and explaining institutional change. Political scientist Kathleen Thelen claims that political institutions seldom develop in accordance with the pattern prescribed by the perspective - the empirical examples simply do not support the view of history expressed in the perspective. It is not uncommon for institutions to survive precisely the kinds of conditions, in terms of fundamental societal changes, that should lead to institutional breakdown and a new critical juncture. This is also true for dualism in the Swedish state; this institution survived even though it at same has been exposed to serious challenges, as, for example the democratization in the beginning of 20th century

Institutional survival by institutional change

These empirical observations have inspired Thelen to develop the perspective in relation to change. Simply put, Thelen’s thesis is that institutions survive by changing. In order to analyze these changes, Thelen has developed two analytical tools that are tested in the dissertation. Institutional conversion involves an assumption that previously marginalized actors take control of institutions and use them for new purposes or functions. Institutional layering is to be understood as new institutional arrangements being placed on top of already exiting ones and achieving change, or, put another way, as ”the partial renegotiation of some elements of some elements of

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a given set of institutions while leaving others in place”.6 Then, institutional layering could mean that new coalitions of actors “may design novel institutional arrangement but lack the support, or perhaps the inclination, to replace preexisting institutions established to pursue other ends”. Schickler, for example, argues that the historical development of the U.S Congress can be understood and analyzed as institutional layering; the institution builders worked around opposition by adding new institutions rather than dismantling old.7

Thelen argues, using her tools in analyzing institutional stability and change “(...) calls for injecting somewhat more agency and strategy ...by emphasizing the way in which institutions operate not just as constraints but as strategic resources for actors as they respond to changes in the political and economic contexts that presents that present new opportunities or throw up new challenges.8

Empirical Analysis

In addition to the critical juncture of the dualism in focus, which I contend should be dated to the early part of the Age of Liberty in the beginning of the 1700s, four periods in Swedish history are studied. During these periods the dualism was the object of intense discussion and of public inquiries and debate, that is; the 1820’s, 1905-20, 1965-72 and the beginning of the 1980’s. The focus was on the actors defending and challenging dualism, and the argument used in this – as it turned out to be - power struggle. The focus was also, of course, on the changes accepted.

At the time of dualisms origination, this was not the case – it was then not an object of intense discussion or power struggle - and there were only sporadic discussions of the proposal to separate the members of the king’s cabinet from posts

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6 Thelen, Kathleen, ”How Institutions Evolve”, in Mahoney and Rueschmeyer, eds., Comparative Historical Analysis in the Social Sciences, 2002, p. 225
8 Thelen, 2002, p. 213
as heads of public administrative organs (*Collegiums*, as they were then called). The proposal was presented by the burghers and the justification primarily of a practical nature. A separation of these roles could provide “gains in efficiency”. The proposal was approved by all of the estates. A necessary precondition for the adoption of the proposal by the important nobility estate was that this estate had undergone a radical internal change in which the gentry had been strengthened at the expense of the previously very powerful high nobility. The gentry, working in the administrative agencies, had an interest in being separated from the king’s cabinet, which was comprised of representatives of the high nobility.

One century later, in the beginning of the 1800s and in conjunction with the adoption of a new instrument of government, the dualism in the state administration was introduced, though criticized at the same time. It was to be the object of public inquiries and discussion for the next thirty years. The main problem with the dualism was discussed in terms of responsibility and efficiency. The independent position of the administrative organs meant that the king’s cabinet lacked the means to control implementation. It was also claimed that the dualism was incompatible with the newly adopted constitution, being a threat to the rule of law, and that it was inefficient. As a consequence, the introduction of ministerial responsibility, in line with models from Great Britain and France, was proposed. Defenders of the dualism argued in a quite opposite fashion: the dualism was a guarantee for the rule of law, and the introduction of ministerial responsibility would not only threaten the king’s predominant position but would also be in direct conflict with the constitution. Furthermore, it was repeatedly argued that ministerial responsibility was incompatible with “the character of the nation” ‑ lofty titles not being suitable for a poor country. While the critics of the dualism were comprised of a homogenous group of liberal representatives from the burgher estate and the aristocracy (and of the king himself), the defenders were comprised of a significantly more heterogeneous collection of (even here) liberals, conservative representatives and representatives of the peasant estate.

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10 Protocoll from the Aristocracy, 1828, no 14, p. 45.
The result of the discussions during the 1800s was the ministerial reform of 1840, which strengthened the cabinet to some extent without really changing the relationship to the administrative organs. Furthermore, the work of the administrative organs was “streamlined”. The judicial functions that the administrative organs had were taken away from them. The streamlining was a precondition for the introduction of ministerial responsibility, which, however, was not introduced. In the dissertation, these changes is analyzed as institutional layering, understood as the “grafting of new elements onto an otherwise stable institutional framework”.\textsuperscript{11}

At the beginning of the 1900s and in conjunction with democratization, the next period of criticism of the manner in which the state administration was organized began. The dualism was argued to be incompatible with the new democratic form of government. The administration should be subordinate to politics and have as its sole task the implementation of political decisions.\textsuperscript{12} It was also argued that the role of the state should be more interventionist and supportive of business. For that reason, the state would need direct control of its instruments, that is the administration. The defenders of the dualism argued, once again, in an opposite fashion. Politics and democracy were basically suspect and should as far as possible be prevented from developing further. An independent administration comprised a necessary counterweight to politics. In addition, politics poses a direct threat to the values that the state administration stands for: impartiality, expertise and objectivity. Those challenging the dualism included politicians with liberal or socialist values, while the those defending it were the administrative organs themselves and academics - primarily political scientists and experts in administrative law.

As during the previous period, the discussions were characterized by considerable uncertainty as to what the dualism really entailed and how it was in fact

\textsuperscript{11} Thelen, 2004, \textit{How Institutions Evolve. The Political Economy of Skills in Germany, Britain, the United States, and Japan}, p. 35

\textsuperscript{12} This criticism was formulated by a public committee, the so called \textit{Departementalkommitterade}, in 1913.
regulated in the constitution. The proposal to introduce ministerial responsibility was rejected this time as well. Instead, there was an attempt to solve the problems of the dualism with a proposal to utilize the mechanism of commissions of inquiry to a greater extent than previously.

Even the challengers argued that the time might not be right for abolishing the dualism: perhaps it was better to wait until parliamentarism was fully established.

Thus, the third period studied, the years 1965-72 during which parliamentarism was formalized in the constitution, comprises a period that could potentially have meant the end of the dualism. This was, in fact, proposed, even if in vague terms, by a first commission of inquiry. The subordinate role of the administration in relation to the government was emphasized by it being regulated in the same chapter in the constitution. This met with strong opposition, primarily from legal experts, arguing that the Swedish administration had more functions than merely implementation - the functions were also judicial. A new commission of inquiry and new round of opinions gathered on the report led in the end to the constitutional regulation of the position of administrative organs that we now recognize in the much discussed paragraph in the Form of Government, RF 11:7. This was the first real formal regulation of the dualism to have been achieved in the course of almost 300 years. Those that had hoped that the paragraph would clarify matters were mistaken. Rather, it became very vague and soon the object of renewed discussion.

These new discussions gained momentum during the 1980s, the last period studied in the dissertation. In two commissions of inquiry the matter of how the new regulation in the constitution should be interpreted was discussed. In the first inquiry in particular, it was stressed that the independence of the administrative organs was severely limited and the dualism between the administrative organs and the government was not so substantial. This interpretation was strongly criticized: once again, it was primarily legal experts that questioned the commission. First, the

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13 SOU 1983:39, Politisk styrning – administrativ självständighet (Political governance – administrative autonomy), and SOU 1985:40, Regeringen, myndigheterna och myndigheternas ledning (The government, the agencies and agency management).
interpretation of the constitution was considered to be in error. Secondly, it was pointed out that the dualism was comprised of something more than a regulation in the constitution. The interpretation made by the commission would, furthermore, have consequences for the court system. It was argued that the border between administrative and judicial competence in the Swedish context and a weakening of the independence of the administration risked weakening the courts at the same time. These arguments were made primarily by legal experts. Critical voices were also heard from a new group of actors - primarily at departments of economics at the universities. This criticism was based on a strong disdain for politicians among the general public. Because of this disdain, it deemed strategically unsound for politicians to assume the increased responsibility that a stronger steering of the administration would entail. It would probably just lead to more disdain. The administrative organs themselves were, however, most positive to an interpretation that would undermine the dualism. They sought closer contact with the government, which would lead to clearer directives for their own work.

Today, dualism is challenged by forces outside the Swedish state. As a consequence of the EU membership there is growing demand for a closer cooperation between the Government Office and the agencies, which could lead to a weakening of the institution.

Final Analysis

In the final analysis of the dissertation, the empirical material is analyzed from an historical-institutional perspective. The author finds the theoretical developments aiming at improving the ability of the perspective to deal with institutional change to be of help in understanding and explaining the survival of the dualism focused on here. The basic thesis that institutions survive by changing is supported by this study. However, the notions involved in change require modification in order to explain institutional change in this case.

Firstly, advocates of the perspective presuppose that institutions are dominated by one actor - and this has consequences for how institutional change is analyzed. According to this perspective, the actor that comes to dominate during the critical juncture has a stabilizing effect on the institution. The institution is then changed - or comes to an end, as some advocates of the perspective claim - if a new powerful actor challenges it. In the case studied here, this does not seem to apply. Even if an actor takes the initiative in establishing the institution, the institution includes two actors. Thus, there is a tension built into the institution from its very inception. An important change that occurs later involves the power relations between these actors over time. The notion that institutional change is explained by pressure from outside, for example from actors in the environment, has to, at the very least, include more nuances. In the case of the dualism, we also see that new actors approach this institution with the aim of changing it, but these actors are not sufficient for understanding the changes that occur.

Thelen and other advocates of the perspective have assumed that new actors in relation to an institution function as agents of change. However, in the case analyzed we find that the new actors additionally - and primarily - have a stabilizing effect. These new actors were much more important for the survival of the dualism and provided the institution with renewed legitimacy. In the discussions during the 1960s and 1970s, it was almost exclusively the new actors that defended the institution and helped prevent constitutional regulation from weakening the dualism. The two actors inside the institution - the government and agencies - seem rather to have contributed to change. There were several examples of the agencies attempting to move closer to the government, which resulted in the institution changing and becoming weaker. On the other hand, it can be argued that new actors seeking out an institution contribute to expanding or at least stabilizing it. In other words: processes of change can be initiated from “inside” an institution, and stabilizing forces can come from “outside”.

Another weakness with the perspective that has been used and, more precisely, with the analytical tools that Thelen has developed is that they lead to a
static analysis and understanding of institutional change. Changes are, as mentioned, not merely a result of the actions of an actor but a consequence of a power struggle between forces of stability and forces of change. In the dissertation, emphasis is placed on the importance of analyzing these processes of change and of stabilization.

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