THE GOOD STATE OR THE CONSTITUTIONAL INNOCENTS OF THE NORDIC SOCIETIES

Agust Thor Arnáson*

“The loving home”¹

“In a loving home exists equality, concern for others, cooperation and a helping hand. If applied to greater society this would entail the elimination of all social and economic barriers which today separate the privileged and the unprivileged, the ruling and the ruled, the rich and the poor, those with and those without, the looters and the looted.”

Per Albin Hansson (1928)

Since the days of Aristoteles philosophers and political thinkers have been thinking about good constitutional practice for different types of governing societies. With the birth of the nation-state, a special type of constitution became the standard for the liberal democratic state founded on the rule of law. This type of constitution laid the base for statehood, which limited and balanced its powers and met its citizens on the grounds of human rights and human dignity. The Nordic countries took part in this constitutional development in their own way; Sweden got its constitution in 1809, Norway in 1814, Denmark in 1849, Iceland from 1874-1918 and Finland 1918-1928. The political and scholarly interest which the Nordic countries have attracted in more recent times have nevertheless been focused on their success as democratic welfare states, rather than as strongholds of constitutional thinking. If it is possible to talk about a Nordic model it can be described as a strong social democratic state, based on the idea of a sovereign parliament with little or no limitation of its powers, with unique homogenous societies that has a moral base in national churches, liberal enough to escape the pitfalls of the catastrophic ideologies of the 20th century, such as fascism and communism. The question that I will try to answer below is whether the

* Programme Director, Lecturer of law, Akureyri University, Iceland.
¹ Translated by author from Swedish original text. Det goda hemmet: “I det goda hemmet råder likhet, omtanke, samarbete hjälpamtet. Tillämpat på det stora folk- och medborgarhemmet skulle detta betyda nedbrytandet av alla sociala och ekonomiska skrankor, som nu skilja medborgarna i privilegierade och tilbakasatte, i härskande och beroende, i rika och fattiga, besuttna och utarmade, plundrade och utplundrade.”

155
Nordic state model as such provides an acceptable way of governing from a general constitutional perspective, with focus on the status of human rights in those countries.

During the last part of the 20th century, the popularity of the written constitution has increased to a level that can only be compared with the breakthrough period of constitutionalism in the late 18th century and the first half of the 19th century. Over the last decades, more and more countries have chosen the way of constitutionalism in their attempt to lay down a framework for their political, social and economic development. This is particularly interesting, since the nation-state – an analogous phenomenon to constitutionalism – has lately been losing ground as a result of regionalisation and globalisation.

**NORDIC CONSTITUTIONS**

The development of constitutionalism in the Nordic countries is less similar from country to country than one might expect. The first wave of constitutionalism in the late 18th century did not have much effect in the Nordic countries, but changes began to take place shortly thereafter.

Actually, one cannot say that the Swedish constitution of 1809 reflects the features of the slightly older American and French constitutions. This Swedish constitution was much more traditional, and somewhat reminiscent of the (unwritten) English constitution. It was not until the Norwegian constitution of 1814 (*Grundloven*), drafted at Eidsvoll, that modern constitutionalism began to take root in the Nordic countries. Despite their being in a difficult position, the Norwegians managed to preserve essential aspects of their constitution after they lost their brief independence to the Swedes, following a centuries-long period of personal union with the Danish king. The Norwegian constitution of 1814 is still largely in force, although many provisions have been amended.

The Danes were the next to adopt a modern constitution, with the ratification of their *Grundloven* in 1849. The origins of this document may be traced to France and Britain by way of Belgium, as the Belgian

---

2 The breakthrough period of constitutionalism is occasionally marked by the American Articles of Confederation of 1776 as its beginning, and the failure to adopt the Paul Church Constitution of Germany in 1849 as its end.