Criticism of the Living History Forum and its exhibition *Middag med Pol Pot* [Dinner with Pol Pot]

**Summary of the adjudication:** The Living History Forum, which is a public authority with the task of providing information about crimes against humanity, wanted to use exhibition material to show how ideological opinions could prevent people from perceiving reality correctly.

Here one element was the production of a film to advertise the exhibition. It uses four individuals who are easy to identify because of the contexts as warning examples. This presentation held them up to ridicule.

In the exhibition individuals were also used as warning examples. One of them has complained about this to the Parliamentary Ombudsmen. The adjudication lays down that the exhibition was intended to expose the complainant to the scorn of other people. This was not justifiable.

In support of its actions the Living History Forum has referred to its mission and offered arguments that invoke the freedom of journalists and researchers. For this reason it is pointed out in the adjudication that government agencies must comply with constitutional provisions and do not have the same freedom of expression as individuals.

The Living History Forum is criticised for both the film and for the violation of integrity the complainant was subjected to. The Forum lacked understanding of the legal restrictions that apply to a public authority. Information about the adjudication was therefore forwarded to the government agency to which the authority is accountable.

**Background**

The Living History Forum is a public authority that was founded on 1 June 2003. Its mission is to function as a national forum to promote democracy, tolerance and human rights using the Holocaust as its point of departure.

At the behest of the Government, in December 2006 the authority launched a project on the crimes against humanity of communist regimes. This task included surveying and compiling the research in this area and, if necessary, initiating additional research. This was to be an outreach project with seminars, educational initiatives and exhibitions all over Sweden. Within the framework of the project the authority organised an exhibition *Middag med Pol Pot – En utställning om ideologiska skygglappar och selektivt seende* [Dinner with Pol Pot – An exhibition on ideological cloudcuckoos and selective viewing].
on ideological blinkers and selective vision]. The exhibition opened on 9 September 2009.

In the exhibition the question is posed of how it happened that Swedes who supported Pol Pot and the Red Khmers were unable to see the mass murders that were being committed. A visit to Kampuchea (today Cambodia) made by a delegation from the Sweden-Kampuchea Friendship Association in 1978 was featured. Dinner with Pol Pot alludes to an event that the delegation was purportedly invited to attend.

In connection with the exhibition a film was produced which is described on the Living History Forum’s web-site as a commercial, Mao-glåsögonen [Mao spectacles]. This film was intended by the authority to “illustrate how our expectations alter what we see”. It contains references to the 1978 visit and two Swedish participants are identified by name.

The exhibition was presented not only on the web-site but also in a printed folder, of which the front page was mainly occupied by thirty or so pictures of inmates in a notorious prison, S-21. The folder contains a group photograph of the participants of the delegation referred to with all their names.

The complaints
Complaints about the Living History Forum were submitted to the Parliamentary Ombudsmen, first by Stefan Lindgren and then by Hedvig Ekerwald.

Stefan Lindgren, who as far as it can be seen, did not himself figure in the exhibition or the film, asked the Parliamentary Ombudsmen to investigate whether the way in which the Living History Forum had in its film attacked named individuals for purported support for genocidal actions was compatible with current legislation and good public administrative practice. He also requested appraisal of whether the agency’s way of dealing with historical records could be considered to comply with the impartiality and objectivity normally required of government agencies. He referred here to the erroneous information given by the Living History Forum about the provenance of the images used in the agency’s publications.

Hedvig Ekerwald, who took part in the visit to Cambodia in 1978, submitted a complaint about the exhibition which consisted, on the whole, of the following.

She figured in the exhibition in two photographs and a posed image in which she was mocked. She was quoted twice and named in several places. In the exhibition she was linked in words and images to mass murder. Links of this kind may be made in discussions between citizens but are indefensible in the case of a public authority in the exercise of its powers. The exhibition has been organised is such a way that for her it could only result in the contempt of her fellow-beings.

Hedvig Ekerwald also submitted the following information. The exhibition took place in central Stockholm and admission was free. It was then intended to “tour”
the country. Information about the exhibition had been circulated widely through the agency’s website, the film, a folder and advertisements in newspapers.

She also stated that in a conversation with representatives of the Living History Forum she had consented to the exhibition’s use of a photograph she had taken and also of a quotation of her words. This consent had, however, been given before the context in which she was to be presented had been made clear to her. It was not, therefore, informed consent.

Hedvig Ekerwald declared that she had given a number of lectures about her visit and written several articles about it. After citing a number of fundamental provisions about freedom of the press and of expression she wrote:

I consider that the authority Living History Forum has violated my freedom of expression and freedom of the press in arranging the exhibition “Dinner with Pol Pot”. The entire exhibition functions as a punishment for what I have said and written on the subject of the Red Khmers in Cambodia.

The enquiry

The Living History Forum was requested to express its opinion of the substance of the complaints. Through its superintendent, Eskil Franck, the authority submitted the following on the subject of Stefan Lindgren’s complaint.

The authority Living History Forum had a film made to advertise its exhibition “Dinner with Pol Pot”. A complaint has been made about this film to the Parliamentary Ombudsmen by the author/graduate student Stefan Lindgren. The arguments below follow the order in which they can be found in Lindgren’s document.

The question of identification of individuals by name

The exhibition deals with “ideological blinkers and selective vision”. As the film is intended to reflect the exhibition as a whole, it also focuses on “ideological blinkers and selective vision”. These characteristics are not criminal. Nowhere in the film or in the exhibition is it claimed that this is the case. The reason for identifying individuals is to provide concrete examples of these blinkers and selective vision on the basis of a visit made by a delegation to what was then Kampuchea, a visit that had been made public in various ways through the media and the delegation’s own efforts in the form of films, articles etc.

The two identified are not anonymous private individuals. One is Jan Myrdal, for decades one of the most widely known participants in public debate in Sweden. Time and again, in books, articles and debates, Jan Myrdal has expressed his opinions on Kampuchea/Cambodia. He has publicly supported Pol Pot and the Red Khmers, even though they are responsible for the loss of an estimated total of at least 1.5 million lives in Cambodia in the 1970s. Today no serious researcher or historian would deny what took place in Cambodia at this time.

Not to allow an institution like the Living History Forum – within the framework of the instructions given to it by the Government to provide information about the crimes against humanity committed by communist regimes – to refer to Myrdal’s public assertions and actions would be remarkable. What instead characterises a democracy is that those involved in public debate also have to allow their statements to be subjected to critical review. Review of this kind falls within the framework of the task of the Living History Forum to “provide information” and to “promote democracy, tolerance, and human rights”.
Gunnar Bergström is included in the exhibition, which deals largely with him, at his own explicit request. Today he has a diametrically opposed view of his propaganda visit to Kampuchea in 1978. His work now focuses on asking the people of Cambodia’s pardon and illustrating the problem of ideological blinkers.

Conclusion: both Jan Myrdal and Gunnar Bergström are public figures who have actively chosen to debate Cambodia in public. Neither of them is accused of criminality in the Living History Forum’s film. Insofar as Bergström or Myrdal are accused of anything reprehensible, it must be considered justifiable to supply the information in question in view of past and current public interest in the issue. We therefore see no justification for restricting the right of museums and other state cultural institutions to exhibit history, even if this results in the discomfort of specific individuals.

The question of how the historical records were dealt with

All museums and other organisations that work with history have to contend with the problem that certain data may, however scrupulously controlled, sometimes be erroneous. The claim that errors of this kind constitute shortcomings in the “impartiality and objectivity” that can be required of public authorities is an unreasonable one in view of the nature of the material and the task of casting light on disputed and controversial subjects. In practice it is impossible in undertaking tasks of this kind to completely exclude the possibility of erroneous or dubious information.

The important question is, instead, how the discovery of such errors is dealt with. What is fundamental is that they should be acknowledged. Then they have to be rectified. The Living History Forum draws attention to errors in its lists of errata and these are corrected in subsequent editions.

The fact sheet

With regard to the errors in the fact sheet “Crimes against humanity under communist regimes” commented on by the complainant, it is correct that the work contained a few errors. These were removed from the revised version printed at the beginning of 2009. Information about these errors was also provided in a list of errata linked to the material on our web-site.

The film

Just as the complainant alleges, in the film advertising the exhibition Dinner with Pol Pot, we used an incorrect picture. The image depicts undernourished children in Cambodia in the 1970s but was taken after the invasion by Vietnam. When this error was disclosed we immediately added the following information to our web-site:

Error in the film

We have used an incorrect archive picture in the film. The picture depicting two starving children was taken after Vietnam had invaded the country. The children’s hunger cannot therefore be traced to the reign of terror of the Red Khmers.

The authority also accounted for further corrections and other measures resulting from errors or obscurities in its material.

With regard to Hedvig Ekerwald’s complaint the following was included.

The exhibition

Ekerwald figures in the exhibition with two quotations and in two photographs. The two quotations have previously been published in two separate books. The first photograph was taken when the delegation was grouped in front of a palace and figured on the back cover of the book published by the delegation after its journey. The second photograph depicts three of the four Swedes together with four other
individuals, one of them a member of Cambodia’s Ministry for Foreign Affairs. The pictures come from the Documentation Center of Cambodia.

What is described by Ekerwald in her complaint as “a posed image in which she is mocked” is a recent arranged photograph of actors taken in present-day Cambodia by a collective of international artists as a comment on the visit made by the Swedes during the Pol Pot regime. The picture therefore reflects the historical fact of the journey and that the Swedes dined with Pol Pot and his closest associates but it is not possible to determine which of the women in the picture is intended to represent Ekerwald.

Ekerwald claims in her complaint that “In the exhibition my name is linked in words and images to mass murder”. This is correct only in the sense that Ekerwald was one of the four participants in the visit to Cambodia in 1978 at the personal invitation of Pol Pot, and therefore figures in the exhibition. There is no link to mass murder but to the visit to Pol Pot’s Cambodia. Ekerwald’s name is used only with the quotation and under the picture in which she is depicted.

Although the authority does not consider that it has any legal obligation to seek anybody’s permission before quoting them, it did contact Ekerwald in advance in a spirit of transparency and dialogue. Here the authority would like to add the following comment. The exhibition opened in September 2009 and in May of the same year contact had already been made with Hedvig Ekerwald by the project manager for the exhibition. A meeting was booked for 10 June, but was, however, cancelled by Ekerwald. It was decided that Ekerwald would then get in touch, which she never did. The intention of this early contact was to enable Ekerwald to add a comment or a repudiation concerning the visit to Cambodia in 1978.

The Living History Forum rejected the complainant’s opinion that the exhibition violated her freedom of expression. The authority stated, for instance:

Moreover, freedom of the press and of opinion never constitutes a right to unchallenged expression. It is rather a fact that the right to discuss and argue against opinions openly is a fundamental aspect of freedom of the press and of opinion. The exhibition does not form part of the exercise of power against individuals in the sense in which it used in the Administrative Procedure Act.

Nor could the exhibition be viewed as constituting slander or an affront to her. The authority concluded its statement as follows:

Finally, it can be said that the exhibition is a natural undertaking within the framework of the task given by the Government to the Living History Forum: “The special task of the authority is to provide information about the Holocaust and the crimes of Communism against humanity. The authority is to strive to enhance human endeavours to act for the equal value of all individuals” as it is worded for instance in the instructions included in its mandate from the Government for 2009.

Stefan Lindgren and Hedvig Ekerwald each submitted their rejoinder to the statements made about their complaints by the Living History Forum. Hedvig Ekerwald also attached letters that had been exchanged. These show, for instance, that she was contacted on 1 May 2009 by a representative of the authority who wanted to present the exhibition to her and later shown some of the manuscripts for the exhibition but that she subsequently wrote to the authority on 7 September 2009 requesting the removal of her name from the exhibition. The project manager, Erika Aronowitz, rejected her request in an e-mail dated 8 August 2008, in which, among other things, she answered that “unfortunately it is impossible to make changes in the exhibition now”.


The law

Public authority shall be exercised with respect for the freedom and dignity of the individual (first paragraph of Article 2 of Chapter 1 of the Instrument of Government). The public administration shall protect the private life of the individual (fourth paragraph of Article 2 of Chapter 1 of the Instrument of Government). Those who discharge duties in the public administration shall observe in their work the equality of all persons before the law and shall maintain objectivity and impartiality (Article 9 of Chapter 1 of the Instrument of Government).

Article 8 of the European Convention on Human Rights stipulates that the individual has the right to respect for his private life. This includes the right to protection from slander or defamatory information (Danelius, Mänskliga rättigheter i europeisk praxis [Human rights in European praxis], 3rd ed. 2007, p. 308).

Chapter 5 of the Criminal Code contains provisions on defamation. The penalties for slander protect the individual against the presentation of information by others that is intended to expose her or him to the disrespect of other people. This protection does not apply when there is an obligation to make a statement or when it is otherwise justifiable to provide the information on the matter and the one making the statement can show that the information was true or there were reasonable grounds for making it.

The regulations on freedom of the press and of expression can be found in the Freedom of the Press Act and the Fundamental Law on Freedom of Expression. These lay down that those who express themselves in a presentation that is covered by these constitutional enactments may not be subjected to punishment or other sanctions by the public administration unless the constitution provides support for this (what is known as the prohibition of reprisals). The Instrument of Government contains a general provision that guarantees every individual freedom of expression (clause 1 of Article 1 of Chapter 2 of the Instrument of Government). This provision means, for instance, that the prohibition of reprisals must be considered to apply even when an individual has made use of her or his freedom of expression in forms other than those covered by the special constitutional enactments (for more details see the adjudication of the Parliamentary Ombudsmen in case no. 149-2009 in the Annual Report for 2010/2011 p. 605).

According to the Ordinance with Instructions for the Living History Forum (2007:1197) the following applies in principle.

The task of the authority is to be a national forum to promote activities for democracy, tolerance and human rights using the Holocaust as its point of departure. Its task in particular is to provide information about the Holocaust and the crimes of Communism against humanity and it is to endeavour to enhance the desire of individuals to work actively for the equal rights of all individuals.
The authority is to work proactively with a focus on knowledge, culture and education. Its operations are to be conducted in close contact with current research, other cultural and educational institutions, as well as public authorities, organisations and associations whose activities involve similar issues. The authority is to promote increased knowledge based on research and collaboration with others, such as higher education institutions, and to communicate knowledge with the area in which it operates.

Appraisal

Erroneous information

Stefan Lindgren has pointed out that the presentations from the Living History Forum contain erroneous factual information.

The information provided by a public authority must be correct. This is laid down, if nowhere else, by the requirement in the Instrument of Government that in their operations authorities shall maintain objectivity. It must therefore be ensured that information provided by the public administration is trustworthy and carefully checked. Deviation from this can be criticised on legal grounds, particularly if the information is detrimental for individuals (see the adjudication of the Parliamentary Ombudsmen dated 16 February 2010, case no. 4935-2009, Annual Report 2010/11 p. 616).

It has been made clear that there was erroneous information about historical documents. In activities of the kind the Living History Forum is to undertake, errors of fact can be made even though high standards of accuracy have been stringently observed. When this comes to light, the errors discovered must, as the authority points out in its submission to the Parliamentary Ombudsmen, be dealt with.

The Living History Forum is reminded of the requirements that apply. It is obviously of the greatest importance that the public is not given grounds to doubt that a document used by the authority to provide information is authentic. In the light of the remedial action reported by the authority in its submission to the Parliamentary Ombudsmen there are, however, no adequate grounds for any other criticism of the authority on this point, apart from this observation.

The film

The “commercial” is about two minutes long. It consists of the presentation by an actor of a monologue on the purported benefits of Mao spectacles:

Are you also tired of mass-murder, torture, dictators who persecute, oppress and annihilate? Then you should try 1978’s major innovation – Mao spectacles.

Be like Gunnar Bergström and Jan Myrdal, visit a country called Democratic Kampuchea. A country where 1.7 million people are dying as a result of famine and torture and outright executions. All you can see is happiness, the happiness of the people, all thanks to Mao spectacles.

Look at these people, the regime has forced them to leave their homes and their jobs to work in the rice paddies. No, they do not look particularly happy, but with Mao
spectacles they will seem happy to you! Volunteers working together on equal terms, all for the revolution.

Child labour? No, no, no! This is education. Yes, indeed the clay is easiest to shape when it is soft, as Pol Pot and the Red Khmers often say. Yes, look at the diligent small children. How happy they are to learn.

These are the spectacles that help you to correct your vision. And if you look after them carefully they will go on working for more than 30 years!

So why wait? Be like the Swedish delegation – see what you want to see. Order your Mao spectacles today!

[inaudible conclusion]

The monologue is illustrated by pictures depicting mass graves, victims of torture, historically famous dictators and individuals wearing “Mao spectacles”.

As can be seen, the message of the film is ironic. The genre to which it belongs can best be classified as satire. Neither the basic constitutional provisions on the requirement of objectivity in the actions of the public administration nor any other general principles prohibit, in my opinion, the use of different stylistic devices by a public authority in providing information. There is however a difference between using satire to deride a phenomenon and deriding an identifiable individual (Cf. JO 1990/91 p. 144, in which the Parliamentary Ombudsmen accepted the inclusion in official information on tobacco of a number of statements that could be considered one-sided and tinged with subjectivity but criticised the omission of important facts and the depiction of an individual in a way that offered a negative conception of his personality and character.)

The contents of the film are linked to the group of four individuals who visited Kampuchea (“Be like the Swedish delegation – see what you want to see”). Two of the participants are mentioned in the film itself. The exhibition material of which it formed part named all of them. Even if the film is intended to illustrate a phenomenon it nevertheless singles out four easily identifiable individuals.

It is obvious that the state may not use identified individuals in some way as warning examples in an otherwise praiseworthy information measure. This stems from the obligation incumbent on public authorities to both respect the freedom and dignity of individuals and to safeguard the name and reputation of each and every one person. The provisions on defamation only offer the state extremely limited scope to include disparaging information about individuals in its provision of information or guidance to the general public. The scope that exists probably applies to those who have particular historical or contemporary significance because of the positions they hold or in some other way. If this scope is to be made use of, however, it has to be done in a justifiable manner. In addition, the provisions on objectivity and impartiality apply. Providing facts about well-known historical or contemporary figures may, in other words, be acceptable even when these facts are to their discredit, but not – as was the case here – in ways that are intended to ridicule them.
The rest of the exhibition

It has been made clear that the exhibition had the 1978 visit as its starting point and that it dealt with the way in which people’s ability to perceive reality can be obstructed by ideological blinkers: both these elements can already be seen in the name of the exhibition. It has also been shown that Hedvig Ekerwald is identified as one of the individuals used to illustrate the exhibition’s argument. Its claim is that because of ideological convictions she failed or was unable to react to the crimes against humanity that were taking place when she visited what was then Kampuchea. This is intended to expose Ekerwald to the contempt of others.

As has already been said, it is not acceptable for the state to use identified individuals as warning examples for information purposes. The Living History Forum has not claimed that Hedvig Ekerwald is a “public figure”. Nor has anything else come to light to show that there could otherwise have been scope for the public administration to provide derogatory information about her in a context like this. For this reason there are no grounds for going any more closely into the manner in which the information was presented.

In her complaint to the Parliamentary Ombudsmen Hedvig Ekerwald has stated that she regards the exhibition as a punishment for the opinions she expressed. On this point I would agree with her to some extent. As has been shown, the exhibition focused on her actions and statements on political issues and used them as warning examples. The prohibition against reprisals in the Freedom of the Press Act has, for instance, been cited in practice as a ground for criticism of public authorities that have admonished members of their staff for taking advantage of their freedom of expression. What occurred here is not totally unlike a reprisal of this kind.

It has become clear that the Living History Forum was in contact with Hedvig Ekerwald during its work with the exhibition. Ekerwald has said that she first consented to the use of a photograph and a quotation but that at that time she was unaware of what she was consenting to and that when she later became aware of this she requested the removal of what applied to her.

The authority has stated in its response to the Parliamentary Ombudsmen that it does not consider it is obliged to ask the permission of anyone before quoting them but that nevertheless it contacted Hedvig Ekerwald in advance in a spirit of transparency and dialogue. According to its response the “intention was to enable Ekerwald to add a comment or a repudiation concerning the visit to Cambodia in 1978”.

What has been stated by the Living History Forum in this respect can only be interpreted to mean that it was intended to use Hedvig Ekerwald in its exhibition irrespective of whether she consented or not and that the intention of trying to contact her was limited to offering her an opportunity to comment on or repudiate her own actions. The conclusion is that her consent was not requested.
The Living History Forum’s arguments

A public authority has to act within the parameters laid down by legislation for its operations (the principle of legality). In this context the response from the Living History Forum can be understood to claim that what has been challenged by the complainants forms part of the authority’s task.

The task entrusted to it is worded in general terms and there are, in my opinion, grounds for doubting that the intention was to give the authority the kind of freedom that it has adopted in this context. But irrespective of the circumstances in this respect, the authority’s instructions are also set down in an ordinance issued by the Government. Ordinances of this kind are subordinate to what has been enacted by the Riksdag as legislation and constitutional provisions. Its task must therefore be undertaken within the parameters of the constitutional provisions accounted for above, which the authority is obliged to comply with of its own accord.

In its defence, the Living History Forum has also used arguments that invoke the concept of the freedom of journalists and researchers. This kind of freedom does not apply, however, to statements made by an agency on behalf of the public administration and with the authority that this includes. More concretely, the Living History Forum has argued as if it enjoyed a right similar to the freedom of expression of citizens to appraise and criticise individuals. This is not the case. A public authority may not derive powers from provisions made to guarantee citizens freedom of expression vis-à-vis the public administration. Instead, for instance, the requirements of objectivity and impartiality apply and these manifestly restrict the possibilities of what can be expressed on behalf of the public administration. Public agencies do not, in other words, have freedom of expression in the way that it is enjoyed by individuals. (Cf. Parliamentary Ombudsmen adjudication 2010-02-16, reg. no. 4935-2009, Parliamentary Ombudsmen Annual Report 2010/11 p. 616.)

What has been said here does not, of course, prevent an agency with a task of the kind entrusted to the Living History Forum from providing scope for individual participants in the course of its operations to express opinions etc. and giving them great freedom to do so. Provided that it is made clear that what is expressed is not the statement of any stance adopted by the agency, the requirements of objectivity and impartiality impose no restrictions on this freedom apart from the agency’s overall responsibility for ensuring balance and validity.

To avoid misunderstanding it should also be added that what is said here applies to the Living History Forum as a public authority. As citizens, the individual members of its staff have freedom of expression and can of course take advantage of their right to provide information unhindered by the restrictions that apply to statements made on behalf of the public administration. Nothing of this kind has, however, been involved here.

Conclusions

The Living History Forum merits criticism for the use of identified individuals as warning examples in its film. The Living History Forum is also to be criticised for
the violation of the integrity of Hedvig Ekerwald inflicted by the exhibition as a whole.

The film was deliberately designed in a way that was intended to ridicule the four individuals who took part in the visit to Kampuchea. This is therefore incompatible with the requirement that the public administration is to protect the freedom and dignity of individuals, even if one or more of those identified were to declare that they have no objection to the way in which they are depicted. For the same reason their position in contemporary history is of no significance.

Hedvig Ekerwald complained to the Parliamentary Ombudsmen about the exhibition in its entirety. As has been shown, its basic message contained derogatory information about her. Ekerwald’s integrity has been violated in this way. With some justification she has in addition experienced the exhibition as a punishment for what she has said and written, i.e. infringement of her freedom of expression. She did not participate voluntarily nor did the Living History Forum request her consent. She cannot be considered a public figure by virtue of her position or on any other grounds but must be regarded as a private individual. Nothing else has otherwise been disclosed that can justify the authority’s treatment of Ekerwald.

The events themselves as well as the arguments presented by the Living History Forum in its defence to the Parliamentary Ombudsmen show that the authority lacks insight about the legal restrictions that apply to the provision of information by a public agency. This is serious – not least when, as here, the individual bears the brunt. This adjudication is therefore being sent as information to the authority to which the Living History Forum is accountable.